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HOUSE BILL 95

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Jim R. Trujillo

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE JUDICIAL RETIREMENT ACT AND
THE MAGISTRATE RETIREMENT ACT BY INCREASING EMPLOYER
CONTRIBUTION RATES; INCREASING AGE AND SERVICE REQUIREMENTS FOR
NORMAL RETIREMENT; DECREASING THE PENSION MULTIPLIER FOR
SERVICE CREDIT EARNED AFTER JUNE 30, 2013; DECREASING AND
DELAYING THE COST-OF-LIVING ADJUSTMENT AND INCREASING THE
MAXIMUM PENSION BENEFIT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-8 NMSA 1978 (being Laws 1992,
Chapter 111, Section 8, as amended) is amended to read:

"10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
RETIREMENT.--

A. For an individual who initially became a member
prior to July 1, 2005, the age and service credit requirements

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1 for retirement provided for in the Judicial Retirement Act are:

2 (1) age [~~sixty-four~~] sixty-five years or older
3 and five or more years of service credit; or

4 (2) age sixty years or older and fifteen or
5 more years of service credit.

6 B. For an individual who initially became a member
7 on or after July 1, 2005, the age and service credit
8 requirements for retirement provided for in the Judicial
9 Retirement Act are:

10 (1) age [~~sixty-four~~] sixty-five years or older
11 and five or more years of service credit; or

12 (2) age [~~fifty-five~~] sixty years or older and
13 [~~sixteen~~] fifteen or more years of service credit.

14 C. If a member leaves office for any reason, other
15 than removal pursuant to Article 6, Section 32 of the
16 constitution of New Mexico, before meeting the age and service
17 credit requirements for retirement pursuant to the provisions
18 of this section and if that member leaves [~~his~~] the member
19 contributions on deposit in the fund, that member may apply for
20 retirement when that member meets the age and service credit
21 requirements for retirement pursuant to the provisions of the
22 Judicial Retirement Act or provisions of the Public Employees
23 Retirement Reciprocity Act.

24 D. No member shall be eligible to receive a pension
25 pursuant to the provisions of the Judicial Retirement Act while

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1 still in office."

2 SECTION 2. Section 10-12B-9 NMSA 1978 (being Laws 1992,
3 Chapter 111, Section 9, as amended) is amended to read:

4 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
5 pension is equal to:

6 A. in the case of a former or current judge or
7 justice, an amount equal to one-twelfth of:

8 seventy-five percent
9 of salary received X number of years of
10 during last year in service, not exceeding
11 office prior to ten years, divided
12 retirement by ten;

13 B. in the case of a new judge or justice who
14 initially became a member prior to July 1, 2005:

15 (1) for service credit earned on or before
16 June 30, 2013, an amount equal to one-twelfth of:

17 seventy-five (number of years of
18 percent of salary service, not
19 received during X .05 X exceeding fifteen
20 last year in office years, plus five
21 prior to retirement years); ~~or~~ and

22 (2) for service credit earned on and after
23 July 1, 2013, an amount equal to one-twelfth of the salary
24 received during the last year in office prior to retirement
25 multiplied by the product of three and one-half percent times

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1 the sum of the number of years of service; provided that a
2 pension calculated pursuant to this subsection shall not exceed
3 eighty-five percent of one-twelfth of the salary received
4 during the last year in office; or

5 C. in the case of a new judge or justice who
6 initially became a member on or after July 1, 2005:

7 (1) for service credit earned on or before
8 June 30, 2013, an amount equal to one-twelfth of the salary
9 received during the last year in office prior to retirement
10 multiplied by the product of three and seventy-five hundredths
11 percent times the sum of the number of years of service;
12 provided that a pension calculated pursuant to this subsection
13 shall not exceed seventy-five percent of one-twelfth of the
14 salary received during the last year in office; and

15 (2) for service credit earned on and after
16 July 1, 2013, an amount equal to one-twelfth of the salary
17 received during the last year in office prior to retirement
18 multiplied by the product of three and one-half percent times
19 the sum of the number of years of service; provided that a
20 pension calculated pursuant to this subsection shall not exceed
21 eighty-five percent of one-twelfth of the salary received
22 during the last year in office."

23 SECTION 3. Section 10-12B-10 NMSA 1978 (being Laws 1992,
24 Chapter 111, Section 10, as amended) is amended to read:

25 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

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1 A. On and after July 1, 2013, members, while in
2 office, shall contribute nine percent of salary to the member
3 contribution fund [~~pursuant to the following schedule:~~

4 ~~(1) prior to July 1, 2005, five and one-half~~
5 ~~percent of salary;~~

6 ~~(2) from July 1, 2005 through June 30, 2006,~~
7 ~~six and one-half percent of salary; and~~

8 ~~(3) on and after July 1, 2006, seven and one-~~
9 ~~half percent of salary, except that for members whose annual~~
10 ~~salary is greater than twenty thousand dollars (\$20,000):~~

11 ~~(a) from July 1, 2009 through June 30,~~
12 ~~2011, the member contribution rate shall be nine percent of~~
13 ~~salary;~~

14 ~~(b) from July 1, 2011 through June 30,~~
15 ~~2012, the member contribution rate shall be ten and three-~~
16 ~~fourths percent of salary; and~~

17 ~~(c) from July 1, 2012 through June 30,~~
18 ~~2013, the member contribution rate shall be nine percent of~~
19 ~~salary].~~

20 B. Upon implementation, the state, acting as
21 employer of members covered pursuant to the provisions of the
22 Judicial Retirement Act, shall, solely for the purpose of
23 compliance with Section 414(h) of the Internal Revenue Code of
24 1986, pick up for the purposes specified in that section member
25 contributions required by this section for all annual salary

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1 earned by the member. Member contributions picked up pursuant
2 to the provisions of this section shall be treated as employer
3 contributions for purposes of determining income tax
4 obligations under the Internal Revenue Code of 1986; however,
5 such picked-up member contributions shall be included in the
6 determination of the member's gross annual salary for all other
7 purposes under federal and state laws. Member contributions
8 picked up pursuant to the provisions of this section shall
9 continue to be designated member contributions for all purposes
10 of the Judicial Retirement Act and shall be considered as part
11 of the member's annual salary for purposes of determining the
12 amount of the member's contribution. The provisions of this
13 section are mandatory, and the member shall have no option
14 concerning the pickup or concerning the receipt of the
15 contributed amounts directly instead of having the amounts paid
16 by the employer to the retirement system. Implementation
17 occurs upon authorization by the board. In no event may
18 implementation occur other than at the beginning of a pay
19 period applicable to the member."

20 SECTION 4. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 A. On and after July 1, 2013, the member's court
24 shall contribute [~~the following amounts~~] fifteen percent of
25 salary for each member in office to the fund

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1 ~~[(1) prior to July 1, 2005, nine percent of~~
2 ~~salary for each member in office;~~

3 ~~(2) from July 1, 2005 through June 30, 2006,~~
4 ~~ten and one-half percent of salary for each member in office;~~
5 ~~and~~

6 ~~(3) on and after July 1, 2006, twelve percent~~
7 ~~of salary for each member in office, except that for members~~
8 ~~whose annual salary is greater than twenty thousand dollars~~
9 ~~(\$20,000):~~

10 ~~(a) from July 1, 2009 through June 30,~~
11 ~~2011, the member's court contribution rate shall be ten and~~
12 ~~one-half percent of salary for each member in office;~~

13 ~~(b) from July 1, 2011 through June 30,~~
14 ~~2012, the member's court contribution rate shall be eight and~~
15 ~~three-fourths percent of salary for each member in office; and~~

16 ~~(c) from July 1, 2012 through June 30,~~
17 ~~2013, the member's court contribution rate shall be ten and~~
18 ~~one-half percent of salary for each member in office].~~

19 B. Thirty-eight dollars (\$38.00) from each civil
20 case docket fee paid in the district court, twenty-five dollars
21 (\$25.00) from each civil docket fee paid in metropolitan court
22 and ten dollars (\$10.00) from each jury fee paid in
23 metropolitan court shall be paid by the court clerk to the
24 employer's accumulation fund."

25 SECTION 5. Section 10-12B-15 NMSA 1978 (being Laws 1992,
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1 Chapter 111, Section 15) is amended to read:

2 "10-12B-15. COST-OF-LIVING ADJUSTMENT.-- ~~[A yearly cost-~~
3 ~~of living adjustment shall be made to each pension]~~

4 A. A qualified pension recipient is eligible for a
5 cost-of-living adjustment payable pursuant to the provisions of
6 the Judicial Retirement Act [as provided in the Public
7 Employees Retirement Act] as follows:

8 (1) beginning July 1, 2013 and continuing
9 through June 30, 2015, there shall not be a cost-of-living
10 adjustment applied to a pension payable pursuant to the
11 Judicial Retirement Act; and

12 (2) beginning on May 1, 2015 and no later than
13 each May 1 thereafter, the board shall certify to the
14 association the actuarial funded ratio of the fund as of June
15 30 of the preceding calendar year. On each July 1 following
16 the board's certification of the funded ratio, the
17 cost-of-living adjustment, if any, applied to a pension payable
18 pursuant to the Judicial Retirement Act shall be determined as
19 follows:

20 (a) if the funded ratio of the fund, as
21 certified by the board pursuant to this subsection, is greater
22 than or equal to seventy percent, the amount of pension payable
23 shall be increased two percent. The amount of the increase
24 applied pursuant to this subparagraph shall be determined by
25 multiplying the amount of the pension inclusive of all prior

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1 adjustments by two percent; and

2 (b) if the funded ratio of the fund, as
3 certified by the board pursuant to this subsection, is less
4 than seventy percent, the amount of pension payable shall not
5 include a cost-of-living increase.

6 B. Pursuant to the Judicial Retirement Act, a
7 qualified pension recipient is:

8 (1) a normal retired member who:

9 (a) retires before June 30, 2014 and has
10 been retired for at least two full calendar years from the
11 effective date of the latest retirement prior to July 1 of the
12 year in which the pension is being adjusted;

13 (b) retires between July 1, 2014 and
14 June 30, 2015 and has been retired for at least three full
15 calendar years from the effective date of the latest retirement
16 prior to July 1 of the year in which the pension is being
17 adjusted;

18 (c) retires between July 1, 2015 and
19 June 30, 2016 and has been retired for at least four full
20 calendar years from the effective date of the latest retirement
21 prior to July 1 of the year in which the pension is being
22 adjusted; or

23 (d) retires after July 1, 2016 and has
24 been retired for at least seven full calendar years from the
25 effective date of the latest retirement prior to July 1 of the

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1 year in which the pension is being adjusted;

2 (2) a normal retired member who is at least
3 sixty-five years of age and has been retired for at least one
4 full calendar year from the effective date of the latest
5 retirement prior to July 1 of the year in which the pension is
6 being adjusted;

7 (3) a disability retired member who has been
8 retired for at least one full calendar year from the effective
9 date of the latest retirement prior to July 1 of the year in
10 which the pension is being adjusted;

11 (4) a survivor beneficiary who has received a
12 survivor pension for at least two full calendar years; or

13 (5) a survivor beneficiary of a deceased
14 retired member who otherwise would have been retired at least
15 two full calendar years from the effective date of the latest
16 retirement prior to July 1 of the year in which the pension is
17 being adjusted.

18 C. A qualified pension recipient may decline an
19 increase in a pension by giving the association written notice
20 of the decision to decline the increase at least thirty days
21 prior to the date the increase would take effect."

22 SECTION 6. Section 10-12C-8 NMSA 1978 (being Laws 1992,
23 Chapter 118, Section 8) is amended to read:

24 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
25 RETIREMENT.--

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1 A. On and after July 1, 2013, the age and service
2 credit requirements for retirement provided for in the
3 Magistrate Retirement Act are:

4 (1) age [~~sixty-four~~] sixty-five years or older
5 and five or more years of service credit;

6 (2) age sixty years or older and fifteen or
7 more years of service credit; or

8 (3) any age and twenty-four or more years of
9 service credit.

10 B. If a member leaves office for any reason, other
11 than removal pursuant to Article 6, Section 32 of the
12 constitution of New Mexico before meeting the age and service
13 credit requirements for retirement pursuant to the provisions
14 of this section and if that member leaves [~~his~~] the member
15 contributions on deposit in the fund, that member may apply for
16 retirement when that member meets the age and service credit
17 requirements for retirement pursuant to the provisions of the
18 Magistrate Retirement Act or provisions of the Public Employees
19 Retirement Reciprocity Act [~~if enacted by the second session of~~
20 ~~the fortieth legislature of the state of New Mexico~~].

21 C. No member shall be eligible to receive a pension
22 pursuant to the provisions of the Magistrate Retirement Act
23 while still in office."

24 SECTION 7. Section 10-12C-9 NMSA 1978 (being Laws 1992,
25 Chapter 118, Section 9) is amended to read:

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1 "10-12C-9. AMOUNT OF PENSION.--

2 A. For service credit earned on or before June 30,
3 2013, the amount of pension is equal to one-twelfth of:
4 seventy-five percent
5 of salary received (number of years of
6 during last year in X .05 X service, not exceeding
7 office prior to fifteen years, [+]
8 retirement plus five years).

9 B. For service credit earned on and after July 1,
10 2013, the amount of pension is equal to one-twelfth of the
11 salary received during the last year in office prior to
12 retirement multiplied by the product of three and one-half
13 percent times the sum of the number of years of service;
14 provided that a pension calculated pursuant to this subsection
15 shall not exceed eighty-five percent of one-twelfth of the
16 salary received during the last year in office."

17 SECTION 8. Section 10-12C-10 NMSA 1978 (being Laws 1992,
18 Chapter 118, Section 10, as amended) is amended to read:

19 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

20 A. Members, while in office, shall contribute [~~the~~
21 ~~following amounts~~] nine percent of salary to the member
22 contribution fund

23 [~~(1) through June 30, 2006, six and one-half~~
24 ~~percent of salary; and~~

25 [~~(2) on and after July 1, 2006, seven and one-~~

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1 ~~half percent of salary, except that for members whose annual~~
2 ~~salary is greater than twenty thousand dollars (\$20,000):~~

3 ~~(a) from July 1, 2009 through June 30,~~
4 ~~2011, the member contribution rate shall be nine percent of~~
5 ~~salary;~~

6 ~~(b) from July 1, 2011 through June 30,~~
7 ~~2012, the member contribution rate shall be ten and three-~~
8 ~~fourths percent of salary; and~~

9 ~~(c) from July 1, 2012 through June 30,~~
10 ~~2013, the member contribution rate shall be nine percent of~~
11 ~~salary].~~

12 B. Upon implementation, the state, acting as
13 employer of members covered pursuant to the provisions of the
14 Magistrate Retirement Act, shall, solely for the purpose of
15 compliance with Section 414(h) of the Internal Revenue Code of
16 1986, pick up for the purposes specified in that section member
17 contributions required by this section for all annual salary
18 earned by the member. Member contributions picked up pursuant
19 to the provisions of this section shall be treated as employer
20 contributions for purposes of determining income tax
21 obligations under the Internal Revenue Code of 1986; however,
22 such picked-up member contributions shall be included in the
23 determination of the member's gross annual salary for all other
24 purposes under federal and state laws. Member contributions
25 picked up pursuant to the provisions of this section shall

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1 continue to be designated member contributions for all purposes
2 of the Magistrate Retirement Act and shall be considered as
3 part of the member's annual salary for purposes of determining
4 the amount of the member's contribution. The provisions of
5 this section are mandatory, and the member shall have no option
6 concerning the pick up or concerning the receipt of the
7 contributed amounts directly instead of having the amounts paid
8 by the employer to the retirement system. Implementation
9 occurs upon authorization by the board. In no event may
10 implementation occur other than at the beginning of a pay
11 period applicable to the member."

12 SECTION 9. Section 10-12C-11 NMSA 1978 (being Laws 1992,
13 Chapter 118, Section 11, as amended) is amended to read:

14 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

15 A. The state, through the administrative office of
16 the courts, shall contribute ~~[the following amounts]~~ fifteen
17 percent of salary for each member in office to the fund

18 ~~[(1) through June 30, 2006, ten percent of~~
19 ~~salary for each member in office; and~~

20 ~~(2) on and after July 1, 2006, eleven percent~~
21 ~~of salary for each member in office, except that for members~~
22 ~~whose annual salary is greater than twenty thousand dollars~~
23 ~~(\$20,000):~~

24 ~~(a) from July 1, 2009 through June 30,~~
25 ~~2011, the state contribution rate shall be nine and one-half~~

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1 ~~percent of salary for each member in office;~~

2 ~~(b) from July 1, 2011 through June 30,~~
3 ~~2012, the state contribution rate shall be seven and three-~~
4 ~~fourths percent of salary for each member in office; and~~

5 ~~(c) from July 1, 2012 through June 30,~~
6 ~~2013, the state contribution rate shall be nine and one-half~~
7 ~~percent of salary for each member in office].~~

8 B. Twenty-five dollars (\$25.00) from each civil
9 case docket fee paid in magistrate court and ten dollars
10 (\$10.00) from each civil jury fee paid in magistrate court
11 shall be paid by the court clerk to the employer's accumulation
12 fund."

13 SECTION 10. Section 10-12C-14 NMSA 1978 (being Laws 1992,
14 Chapter 118, Section 14) is amended to read:

15 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--~~[A yearly~~
16 ~~cost-of-living adjustment shall be made to each pension]~~

17 A. A qualified pension recipient is eligible for a
18 cost-of-living adjustment payable pursuant to the provisions of
19 the Magistrate Retirement Act [as provided in the Public
20 Employees Retirement Act] as follows:

21 (1) beginning July 1, 2013 and continuing
22 through June 30, 2015, there shall not be a cost-of-living
23 adjustment applied to a pension payable pursuant to the
24 Magistrate Retirement Act; and

25 (2) beginning on May 1, 2015 and no later than

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1 each May 1 thereafter, the board shall certify to the
2 association the actuarial funded ratio of the fund as of
3 January 31 of the calendar year in which the board certifies
4 the funded ratio. On each July 1 following the board's
5 certification of the funded ratio, the cost-of-living
6 adjustment, if any, applied to a pension payable pursuant to
7 the Magistrate Retirement Act shall be determined as follows:

8 (a) if the funded ratio of the fund, as
9 certified by the board pursuant to this subsection, is greater
10 than or equal to seventy percent, the amount of pension payable
11 shall be increased two percent. The amount of the increase
12 applied pursuant to this subparagraph shall be determined by
13 multiplying the amount of the pension inclusive of all prior
14 adjustments by two percent; and

15 (b) if the funded ratio of the fund, as
16 certified by the board pursuant to this subsection, is less
17 than seventy percent, the amount of pension payable shall not
18 include a cost-of-living increase.

19 B. Pursuant to the Magistrate Retirement Act, a
20 qualified pension recipient is:

21 (1) a normal retired member who:

22 (a) retires on or before June 30, 2014
23 and has been retired for at least two full calendar years from
24 the effective date of the latest retirement prior to July 1 of
25 the year in which the pension is being adjusted;

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1 (b) retires between July 1, 2014 and
2 June 30, 2015 and has been retired for at least three full
3 calendar years from the effective date of the latest retirement
4 prior to July 1 of the year in which the pension is being
5 adjusted;

6 (c) retires between July 1, 2015 and
7 June 30, 2016 and has been retired for at least four full
8 calendar years from the effective date of the latest retirement
9 prior to July 1 of the year in which the pension is being
10 adjusted; or

11 (d) retires after July 1, 2016 and has
12 been retired for at least seven full calendar years from the
13 effective date of the latest retirement prior to July 1 of the
14 year in which the pension is being adjusted;

15 (2) a normal retired member who is at least
16 sixty-five years of age and has been retired for at least one
17 full calendar year from the effective date of the latest
18 retirement prior to July 1 of the year in which the pension is
19 being adjusted;

20 (3) a disability retired member who has been
21 retired for at least one full calendar year from the effective
22 date of the latest retirement prior to July 1 of the year in
23 which the pension is being adjusted;

24 (4) a survivor beneficiary who has received a
25 survivor pension for at least two full calendar years; or

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1 (5) a survivor beneficiary of a deceased
2 retired member who otherwise would have been retired at least
3 two full calendar years from the effective date of the latest
4 retirement prior to July 1 of the year in which the pension is
5 being adjusted.

6 C. A qualified pension recipient may decline an
7 increase in a pension by giving the association written notice
8 of the decision to decline the increase at least thirty days
9 prior to the date the increase would take effect."

10 SECTION 11. APPROPRIATION.--

11 A. Fifteen million dollars (\$15,000,000) is
12 appropriated from the general fund for expenditure in fiscal
13 year 2014 and subsequent fiscal years to improve the funded
14 ratios of the judicial retirement fund and the magistrate
15 retirement fund as follows:

16 (1) eleven million dollars (\$11,000,000) to
17 the judicial retirement fund; and

18 (2) four million dollars (\$4,000,000) to the
19 magistrate retirement fund.

20 B. Any unexpended or unencumbered balance remaining
21 at the end of a fiscal year shall not revert to the general
22 fund.

23 SECTION 12. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2013.