

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 147

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

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT
ACT TO CHANGE THE REQUIREMENTS FOR RETURNING TO PUBLIC
EMPLOYMENT AFTER RETIREMENT.

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

SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the
following requirements prior to the selected date of
retirement:

(1) a written application for normal
retirement, in the form prescribed by the association, is filed
with the association;

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underscoring material = new
[bracketed material] = delete

1 (2) employment is terminated with all
2 employers covered by any state system or the educational
3 retirement system;

4 (3) the member selects an effective date of
5 retirement that is the first day of a calendar month; and

6 (4) the member meets the age and service
7 credit requirement for normal retirement specified in the
8 coverage plan applicable to the member.

9 B. The amount of normal retirement pension is
10 determined in accordance with the coverage plan applicable to
11 the member.

12 C. Except as provided in Subsection D of this
13 section, on or after July 1, ~~[2010]~~ 2013, a retired member may
14 be subsequently employed by an affiliated public employer [~~only~~
15 ~~pursuant to the following provisions~~]; provided that the
16 retired member's pension shall be suspended effective the first
17 day of the month following the month in which the previously
18 retired member has earned fifteen thousand dollars (\$15,000) or
19 more in any calendar year as a result of the subsequent
20 employment. Upon suspension of the member's pension, the
21 following shall apply:

22 (1) the retired member [~~has not been employed~~
23 ~~as an employee of~~] who is subsequently employed by an
24 affiliated public employer [~~or retained as an independent~~
25 ~~contractor by the affiliated public employer from which the~~

1 ~~retired member retired for at least twelve consecutive months~~
 2 ~~from the date of retirement to the commencement of employment~~
 3 ~~or reemployment with an affiliated public employer] shall~~
 4 become a member and, as such, shall make the required employee
 5 contributions, and the member's employer shall make the
 6 required employer contributions pursuant to the Public
 7 Employees Retirement Act;

8 (2) the ~~[retired member's pension shall be~~
 9 ~~suspended upon commencement of the employment]~~ retired member
 10 shall accrue service credit beginning the first day of the
 11 month that the member and the member's employer make the
 12 required contributions as provided in Paragraph (1) of this
 13 subsection; and

14 ~~[(3) except as provided in Subsection F of~~
 15 ~~this section, the previously retired member shall not become a~~
 16 ~~member and thus the previously retired member shall accrue no~~
 17 ~~service credit and the previously retired member and that~~
 18 ~~person's affiliated public employer shall make no contributions~~
 19 ~~under any coverage plan pursuant to the Public Employees~~
 20 ~~Retirement Act; and~~

21 ~~(4)]~~ (3) upon termination of the subsequent
 22 employment, the previously retired member's pension shall
 23 resume in accordance with the provisions of Subsection A of
 24 this section, except that if the previously retired member
 25 accrues less than thirty-six months of service credit as a

1 result of the subsequent employment, the recalculation of the
2 previously retired member's pension shall:

3 (a) employ the form of payment selected
4 at the time of the first retirement;

5 (b) use the provisions of the coverage
6 plan applicable on the date of the first retirement; and

7 (c) not be an amount less than the
8 amount of the pension that was suspended.

9 D. The provisions of Subsection C of this section
10 do not apply to:

11 (1) a retired member employed by the
12 legislature for legislative session work;

13 (2) a retired member employed temporarily as a
14 precinct board member for a municipal election or an election
15 covered by the Election Code; or

16 (3) a retired member who is elected to serve a
17 term as an elected official; provided that:

18 (a) the retired member files an
19 irrevocable exemption from membership with the association
20 within thirty days of taking office; and

21 (b) the irrevocable exemption shall be
22 for the elected official's term of office.

23 E. A retired member who returns to employment
24 during retirement pursuant to Subsection D of this section is
25 entitled to receive retirement benefits but is not entitled to

1 accrue service credit or to acquire or purchase service credit
2 in the future for the period of the previously retired member's
3 reemployment with an affiliated public employer.

4 ~~[F. At any time during a previously retired~~
5 ~~member's subsequent employment pursuant to Subsection C of this~~
6 ~~section, the previously retired member may elect to become a~~
7 ~~member and the following conditions shall apply:~~

8 ~~(1) the previously retired member and the~~
9 ~~subsequent affiliated public employer shall make the required~~
10 ~~employee and employer contributions, and the previously retired~~
11 ~~member shall accrue service credit for the period of subsequent~~
12 ~~employment; and~~

13 ~~(2) when the previously retired member~~
14 ~~terminates the subsequent employment with an affiliated public~~
15 ~~employer, the previously retired member shall retire according~~
16 ~~to the provisions of the Public Employees Retirement Act,~~
17 ~~subject to the following conditions:~~

18 ~~(a) payment of the pension shall resume~~
19 ~~in accordance with the provisions of Subsection A of this~~
20 ~~section;~~

21 ~~(b) unless the previously retired member~~
22 ~~accrued at least three years of service credit on account of~~
23 ~~the subsequent employment, the recalculation of pension shall:~~
24 ~~1) employ the form of payment selected by the previously~~
25 ~~retired member at the time of the first retirement; and 2) use~~

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1 ~~the provisions of the coverage plan applicable to the member on~~
2 ~~the date of the first retirement; and~~

3 ~~(c) the recalculated pension shall not~~
4 ~~be less than the amount of the suspended pension.~~

5 ~~G.] F.~~ A previously retired member who returned to
6 work with an affiliated public employer prior to July 1, 2010
7 shall be subject to the provisions of this section in effect on
8 the date the previously retired member returned to work;
9 provided that, on and after July 1, 2010, the previously
10 retired member shall pay the employee contribution in an amount
11 specified in the Public Employees Retirement Act for the
12 position in which the previously retired member is employed.

13 ~~[H.] G.~~ The pension of a member who has three or
14 more years of service credit under each of two or more coverage
15 plans shall be determined in accordance with the coverage plan
16 that produces the highest pension. The pension of a member who
17 has service credit under two or more coverage plans but who has
18 three or more years of service credit under only one of those
19 coverage plans shall be determined in accordance with the
20 coverage plan in which the member has three or more years of
21 service credit. If the service credit is acquired under two
22 different coverage plans applied to the same affiliated public
23 employer as a consequence of an election by the members,
24 adoption by the affiliated public employer or a change in the
25 law that results in the application of a coverage plan with a

1 greater pension, the greater pension shall be paid a member
2 retiring from the affiliated public employer under which the
3 change in coverage plan took place regardless of the amount of
4 service credit under the coverage plan producing the greater
5 pension; provided that the member has three or more years of
6 continuous employment with that affiliated public employer
7 immediately preceding or immediately preceding and immediately
8 following the date the coverage plan changed. The provisions
9 of each coverage plan for the purpose of this subsection shall
10 be those in effect at the time the member ceased to be covered
11 by the coverage plan. "Service credit", for the purposes of
12 this subsection, shall be only personal service rendered an
13 affiliated public employer and credited to the member under the
14 provisions of Subsection A of Section 10-11-4 NMSA 1978.
15 Service credited under any other provision of the Public
16 Employees Retirement Act shall not be used to satisfy the
17 three-year service credit requirement of this subsection."

18 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
19 provisions of this act is July 1, 2013.

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