

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 86

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

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO PROVIDE FOR LIMITATIONS IN THE CALCULATION OF A MEMBER'S FINAL AVERAGE SALARY; AMENDING THE EDUCATIONAL RETIREMENT ACT TO PROVIDE A LIMITATION IN THE CALCULATION OF A MEMBER'S AVERAGE ANNUAL SALARY.

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

SECTION 1. Section 10-11-14.6 NMSA 1978 (being Laws 2009, Chapter 288, Section 12) is amended to read:

"10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY--
LIMITATIONS.--

A. Under each coverage plan of the Public Employees Retirement Act, ~~the~~ a member's final average salary is equal to one thirty-sixth of the greatest aggregate amount of salary paid ~~the~~ the member for thirty-six consecutive but not

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underscored material = new
[bracketed material] = delete

1 necessarily continuous months of service credit.

2 B. On and after July 1, 2013, if a member's final
3 average salary as calculated pursuant to Subsection A of this
4 section is an amount greater than sixty thousand dollars
5 (\$60,000):

6 (1) the salary in the first twelve months of
7 the thirty-six-month period used to determine the final average
8 salary shall be adjusted to exclude any increase in salary in
9 excess of twenty percent of the salary paid in the twelve
10 consecutive but not necessarily continuous months of service
11 credit preceding the thirty-six-month period; and

12 (2) the salary in each of the two succeeding
13 twelve-month intervals of the thirty-six-month period, as
14 adjusted to exclude any increase in salary in the twelve-months
15 preceding each such succeeding twelve-month interval that is in
16 excess of the twenty-percent limitation provided in this
17 subsection, shall be used to determine if the salary paid in
18 that succeeding twelve-month interval exceeds the twenty
19 percent limitation and to adjust the salary to exclude any
20 increase in excess of that limitation in determining the final
21 average salary.

22 C. On July 1, 2014 and on each July 1 thereafter,
23 the salary threshold for applying the twenty-percent limitation
24 provided for in Subsection B of this section shall be adjusted
25 by applying an adjustment factor equal to the change in the

1 consumer price index between the next preceding calendar year
 2 and the preceding calendar year; provided, however, that the
 3 amount determined in any year shall not decrease from the
 4 amount determined the preceding year if there is a decrease in
 5 the consumer price index between the next preceding calendar
 6 year and the preceding calendar year."

7 **SECTION 2.** Section 22-11-30 NMSA 1978 (being Laws 1967,
 8 Chapter 16, Section 153, as amended by Laws 2009, Chapter 286,
 9 Section 3 and by Laws 2009, Chapter 288, Section 17) is amended
 10 to read:

11 "22-11-30. RETIREMENT BENEFITS.--

12 A. Retirement benefits for a member retired
 13 pursuant to the Educational Retirement Act on or before
 14 June 30, 1967 shall be paid monthly and shall be one-twelfth of
 15 a sum equal to one and one-half percent of the first four
 16 thousand dollars (\$4,000) of the member's average annual salary
 17 and one percent of the remainder of the member's average annual
 18 salary multiplied by the number of years of the member's total
 19 service credit.

20 B. Retirement benefits for a member retired
 21 pursuant to the Educational Retirement Act on or after July 1,
 22 1967 but on or before June 30, 1971 shall be paid monthly and
 23 shall be one-twelfth of a sum equal to one and one-half percent
 24 of the first six thousand six hundred dollars (\$6,600) of the
 25 member's average annual salary and one percent of the remainder

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1 of the member's average annual salary multiplied by the number
2 of years of the member's total service credit.

3 C. Retirement benefits for a member retired
4 pursuant to the Educational Retirement Act on or after July 1,
5 1971 but on or before June 30, 1974 shall be paid monthly and
6 shall be one-twelfth of a sum equal to one and one-half percent
7 of the member's average annual salary multiplied by the number
8 of years of the member's total service credit.

9 D. Retirement benefits for a member retired
10 pursuant to the Educational Retirement Act on or before
11 June 30, 1974 but returning to employment on or after July 1,
12 1974 for a cumulation of one or more years shall be computed
13 pursuant to Subsection E of this section. Retirement benefits
14 for a member retired pursuant to the Educational Retirement Act
15 on or before June 30, 1974 but returning to employment on or
16 after July 1, 1974 for a cumulation of less than one year shall
17 be computed pursuant to Subsection A of this section if the
18 member's date of last retirement was on or before June 30, 1967
19 or pursuant to Subsection B of this section if the member's
20 date of last retirement was on or after July 1, 1967 but not
21 later than June 30, 1971 or pursuant to Subsection C of this
22 section if the member's date of last retirement was on or after
23 July 1, 1971 but not later than June 30, 1974.

24 E. Retirement benefits for a member age sixty years
25 or ~~over~~ older, retired pursuant to the Educational Retirement

1 Act on or after July 1, 1974 but not later than June 30, 1987,
 2 shall be paid monthly and shall be one-twelfth of a sum equal
 3 to:

4 (1) one and one-half percent of the member's
 5 average annual salary multiplied by the number of years of
 6 service credit for:

7 (a) prior employment; and

8 (b) allowed service credit for service
 9 performed prior to July 1, 1957, except United States military
 10 service credit purchased pursuant to Paragraph (3) of
 11 Subsection A of Section 22-11-34 NMSA 1978; plus

12 (2) two percent of the member's average annual
 13 salary multiplied by the number of years of service credit for:

14 (a) contributory employment;

15 (b) allowed service credit for service
 16 performed after July 1, 1957; and

17 (c) United States military service
 18 credit for service performed prior to July 1, 1957 and
 19 purchased pursuant to Paragraph (3) of Subsection A of Section
 20 22-11-34 NMSA 1978.

21 F. Retirement benefits for a member age sixty
 22 years or [~~over~~] older, retired pursuant to the Educational
 23 Retirement Act on or after July 1, 1987 but not later than June
 24 30, 1991, shall be paid monthly and shall be one-twelfth of a
 25 sum equal to two and fifteen hundredths percent of the member's

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1 average annual salary multiplied by the number of years of the
2 member's total service credit; provided that this subsection
3 shall not apply to any member who was retired in any of the
4 four quarters ending on June 30, 1987 without having
5 accumulated not less than 1.0 years earned service credit after
6 June 30, 1987.

7 G. Retirement benefits for a member age sixty
8 years or [~~over~~] older, retired pursuant to Section 22-11-23
9 NMSA 1978 on or after July 1, 1991, shall be paid monthly and
10 shall be one-twelfth of a sum equal to two and thirty-five
11 hundredths percent of the member's average annual salary
12 multiplied by the number of years of the member's total service
13 credit; provided that this subsection shall not apply to any
14 member who was retired in any of the four consecutive quarters
15 ending on June 30, 1991 without having accumulated at least one
16 year earned service credit beginning on or after July 1, 1991.

17 H. Retirement benefits for a member, retired
18 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid monthly
19 and shall be one-twelfth of a sum equal to two and thirty-five
20 hundredths percent of the member's average annual salary
21 multiplied by the number of years of the member's total service
22 credit; provided that the benefit for a member retiring
23 pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1
24 NMSA 1978 shall be reduced by:

- 25 (1) six-tenths of one percent for each one-

1 fourth, or portion thereof, year that retirement occurs prior
2 to the member's sixty-fifth birthday but after the sixtieth
3 birthday; and

4 (2) one and eight-tenths percent for each one-
5 fourth, or portion thereof, year that retirement occurs prior
6 to the member's sixtieth birthday.

7 I. A member's average annual salary, pursuant to
8 this section, shall be computed on the basis of the last five
9 years for which contribution was made or upon the basis of any
10 consecutive, but not necessarily continuous, five years for
11 which contribution was made by the member, whichever is higher,
12 provided, however that lump-sum payments made after July 1,
13 2010 of accrued sick leave or annual leave shall be excluded
14 from the calculation of salary.

15 J. On and after July 1, 2013, if the member's
16 average annual salary is greater than sixty thousand dollars
17 (\$60,000):

18 (1) the salary in the first twelve months of
19 the five-year period used to determine the average annual
20 salary shall be adjusted to exclude any increase in salary in
21 excess of twenty percent of the salary in the twelve
22 consecutive but not necessarily continuous months of service
23 credit preceding the five-year period; and

24 (2) the salary in each of the four succeeding
25 twelve-month intervals of the five-year period, as adjusted to

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1 exclude any increase in salary in the twelve months preceding
2 each such succeeding twelve-month interval that is in excess of
3 the twenty-percent limitation provided in this subsection,
4 shall be used to determine if the salary in that succeeding
5 twelve-month interval exceeds the twenty-percent limitation and
6 to adjust the salary to exclude any increase in excess of that
7 limitation in determining the average annual salary.

8 K. On July 1, 2014 and on each July 1 thereafter,
9 the salary threshold for applying the twenty-percent limitation
10 provided for in Subsection J of this section shall be adjusted
11 by applying an adjustment factor equal to the change in the
12 consumer price index between the next preceding calendar year
13 and the preceding calendar year; provided, however, that the
14 amount determined in any year shall not decrease from the
15 amount determined the preceding year if there is a decrease in
16 the consumer price index between the next preceding calendar
17 year and the preceding calendar year.

18 [~~J.~~] L. Unless otherwise required by the provisions
19 of the Internal Revenue Code of 1986, members shall begin
20 receiving retirement benefits by age seventy and six months, or
21 upon termination of employment, whichever occurs later."

22 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
23 provisions of this act is July 1, 2013.