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HOUSE BILL 195

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PENSIONS; AMENDING THE STATUTORY PROVISIONS
GOVERNING PENSION PAYMENTS TO SURVIVOR BENEFICIARIES PURSUANT
TO THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT
ACT TO PROVIDE THAT THEY ARE THE SAME AS THE PROVISIONS
APPLICABLE TO SUCH PAYMENTS UNDER THE PUBLIC EMPLOYEES
RETIREMENT ACT.

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

SECTION 1. Section 10-12B-14 NMSA 1978 (being Laws 1992,
Chapter 111, Section 14) is amended to read:

"10-12B-14. ~~[SURVIVOR'S]~~ ELECTION OF FORM OF PENSION
PAYMENT.--

~~[A. Unless a member has designated a survivor
beneficiary in accordance with Subsection B of this section, a
survivor pension shall be paid for life to a member's or~~

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1 ~~retired member's surviving spouse.~~

2 ~~B. A member may designate, in writing in a form~~
3 ~~prescribed by the association, a survivor beneficiary to~~
4 ~~receive the survivor's pension described in this section. If~~
5 ~~the member is married, a designation of survivor beneficiary~~
6 ~~other than the member's spouse may only be made with the~~
7 ~~written consent of the member's spouse. Marriage subsequent to~~
8 ~~a designation of survivor beneficiary shall automatically~~
9 ~~revoke the designation of survivor beneficiary. A designation~~
10 ~~of survivor beneficiary made pursuant to a court order issued~~
11 ~~under Section 7 of the Judicial Retirement Act shall not~~
12 ~~require the consent of the member's spouse, if any, and shall~~
13 ~~not be revoked by the subsequent remarriage of the member. A~~
14 ~~designation of survivor beneficiary may be revoked by the~~
15 ~~member at any time prior to the member's retirement. If the~~
16 ~~member is married, a revocation of designation of survivor~~
17 ~~beneficiary may only be made with the written consent of the~~
18 ~~member's spouse.~~

19 ~~C. If there is no surviving spouse and no~~
20 ~~designated survivor beneficiary or if the surviving spouse dies~~
21 ~~while there are still minor and dependent children of the~~
22 ~~member, the survivor's pension shall be paid to all minor and~~
23 ~~dependent children, if any, of the member, in equal shares, so~~
24 ~~long as each child remains a minor or dependent child. As each~~
25 ~~child ceases to be a minor or dependent child, the number of~~

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1 ~~shares shall be reduced and the amount payable to each~~
2 ~~remaining child increased proportionately so that the total~~
3 ~~survivor's pension remains unchanged as long as there is any~~
4 ~~such child.~~

5 ~~D. The survivor's pension is equal to seventy-five~~
6 ~~percent of the member's pension.~~

7 ~~E. Survivor beneficiaries shall be eligible for~~
8 ~~other benefits provided pursuant to the provisions of the~~
9 ~~Judicial Retirement Act, including cost-of-living adjustments~~
10 ~~and continuation of group insurance benefits.~~

11 ~~F. If a member dies while receiving a disability~~
12 ~~retirement pension, the survivor beneficiary shall receive the~~
13 ~~survivor pension provided pursuant to the provisions of the~~
14 ~~Judicial Retirement Act.]~~

15 A. Except as otherwise provided in Section 10-12B-7
16 NMSA 1978, a member may elect to have pension payments made
17 under any one of the forms of payment provided in Section
18 10-12B-14.1 NMSA 1978. The election of form of payment and
19 naming of survivor pension beneficiary shall be made on a form
20 furnished by and filed with the association prior to the date
21 the first pension payment is made. An election of form of
22 payment may not be changed after the date the first pension
23 payment is made. If the member is married, the association
24 shall obtain the consent of the member's spouse to the election
25 of the form of payment and any designation of survivor pension

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1 beneficiary before the election or designation is effective.
2 Except as provided in Subsection C, D or E of this section, a
3 named survivor pension beneficiary may not be changed after the
4 date the first pension payment is made if form of payment B or
5 C is elected. Except as otherwise provided in Section 10-12B-7
6 NMSA 1978, payment shall be made:

7 (1) under form of payment A if the member is
8 not married at the time of retirement and if there is not a
9 timely election of another form of payment; or

10 (2) under form of payment C with the member's
11 spouse as survivor pension beneficiary if the member is married
12 at the time of retirement and there is not a timely election of
13 another form of payment.

14 B. The amount of pension under forms of payment B,
15 C and D shall have the same actuarial present value, computed
16 as of the effective date of the pension, as the amount of
17 pension under form of payment A.

18 C. A retired member who is being paid a pension
19 under form of payment B or C with the member's spouse as the
20 designated survivor pension beneficiary may, upon becoming
21 divorced from the named spouse and subject to an order of a
22 court as provided for in Section 10-12B-7 NMSA 1978, elect to
23 have future payments made under form of payment A.

24 D. A retired member who was previously being paid a
25 pension under form of payment B or C but, because of the death

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1 of the designated survivor pension beneficiary, is currently
2 receiving a pension under form of payment A may exercise a one-
3 time irrevocable option to designate another individual as the
4 survivor pension beneficiary and may select either form of
5 payment B or form of payment C; provided that:

6 (1) the amount of the pension under the form
7 of payment selected shall be recalculated and have the same
8 actuarial present value, computed on the effective date of the
9 designation, as the amount of pension under form of payment A;

10 (2) the designation and the amount of the
11 pension shall be subject to a court order as provided for in
12 Section 10-12B-7 NMSA 1978; and

13 (3) the retired member shall pay one hundred
14 dollars (\$100) to the board to defray the cost of determining
15 the new pension amount.

16 E. A retired member who is being paid a pension
17 under form of payment B or C with a living designated survivor
18 pension beneficiary other than the retired member's spouse or
19 former spouse may exercise a one-time irrevocable option to
20 deselect the designated beneficiary and elect to:

21 (1) designate another survivor pension
22 beneficiary; provided that:

23 (a) the retired member shall not have an
24 option to change from the current form of payment;

25 (b) the amount of the pension under the

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1 form of payment shall be recalculated and shall have the same
2 actuarial present value, computed as of the effective date of
3 the designation, as the amount of pension under form of payment
4 A; and

5 (c) the retired member shall pay one
6 hundred dollars (\$100) to the board to defray the cost of
7 determining the new pension amount; or

8 (2) have future payments made under form of
9 payment A."

10 SECTION 2. A new section of the Judicial Retirement Act,
11 Section 10-12B-14.1 NMSA 1978, is enacted to read:

12 "10-12B-14.1. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

13 A. Straight life pension is form of payment A. The
14 retired member is paid the pension for life under form of
15 payment A. All payments stop upon the death of the retired
16 member, except as provided by Subsection E of this section.
17 The amount of pension is determined in accordance with the
18 coverage plan applicable to the retired member.

19 B. Life payments with full continuation to one
20 survivor beneficiary is form of payment B. The retired member
21 is paid a reduced pension for life under form of payment B.
22 When the retired member dies, the designated survivor
23 beneficiary is paid the full amount of the reduced pension
24 until death. If the designated survivor beneficiary
25 predeceases the retired member, the amount of pension shall be

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1 changed to the amount that would have been payable had the
2 retired member elected form of payment A.

3 C. Life payment with one-half continuation to one
4 survivor beneficiary is form of payment C. The retired member
5 is paid a reduced pension for life under form of payment C.
6 When the retired member dies, the designated survivor
7 beneficiary is paid one-half the amount of the reduced pension
8 until death. If the designated survivor beneficiary
9 predeceases the retired member, the amount of pension shall be
10 changed to the amount that would have been payable had the
11 retired member elected form of payment A.

12 D. Life payments with temporary survivor benefits
13 for children is form of payment D. The retired member is paid
14 a reduced pension for life under form of payment D. When the
15 retired member dies, each declared eligible child is paid a
16 share of the reduced pension until death or age twenty-five
17 years, whichever occurs first. The share is the share
18 specified in writing and filed with the association by the
19 retired member. If shares are not specified in writing and
20 filed with the association, each declared eligible child is
21 paid an equal share of the reduced pension. A redetermination
22 of shares shall be made when the pension of any child
23 terminates. An eligible child is a natural or adopted child of
24 the retired member who is under age twenty-five years. A
25 declared eligible child is an eligible child whose name has

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1 been declared in writing and filed with the association by the
2 retired member at the time of election of form of payment D.
3 The amount of pension shall be changed to the amount of pension
4 that would have been payable had the retired member elected
5 form of payment A upon there ceasing to be a declared eligible
6 child during the lifetime of the retired member.

7 E. If all pension payments permanently terminate
8 before there is paid an aggregate amount equal to the retired
9 member's accumulated member contributions at the time of
10 retirement, the difference between the amount of accumulated
11 member contributions and the aggregate amount of pension paid
12 shall be paid to the retired member's refund beneficiary. If
13 no refund beneficiary survives the retired member, the
14 difference shall be paid to the estate of the retired member."

15 SECTION 3. Section 10-12C-13 NMSA 1978 (being Laws 1992,
16 Chapter 118, Section 13) is amended to read:

17 "10-12C-13. [~~SURVIVOR'S PENSION~~] ELECTION OF FORM OF
18 PENSION PAYMENT.--

19 [~~A. Unless a member has designated a survivor~~
20 ~~beneficiary in accordance with Subsection B of this section, a~~
21 ~~survivor pension shall be paid for life to a member's or~~
22 ~~retired member's surviving spouse.~~

23 B. ~~A member may designate, in writing in a form~~
24 ~~prescribed by the association, a survivor beneficiary to~~
25 ~~receive the survivor's pension described in this section. If~~

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1 ~~the member is married, a designation of survivor beneficiary~~
2 ~~other than the member's spouse may only be made with the~~
3 ~~written consent of the member's spouse. Marriage subsequent to~~
4 ~~a designation of survivor beneficiary shall automatically~~
5 ~~revoke the designation of survivor beneficiary. A designation~~
6 ~~of survivor beneficiary made pursuant to a court order issued~~
7 ~~under Section 7 of the Magistrate Retirement Act shall not~~
8 ~~require the consent of the member's spouse, if any, and shall~~
9 ~~not be revoked by the subsequent remarriage of the member. A~~
10 ~~designation of survivor beneficiary may be revoked by the~~
11 ~~member at any time prior to the member's retirement. If the~~
12 ~~member is married, a revocation of designation of survivor~~
13 ~~beneficiary may only be made with the written consent of the~~
14 ~~member's spouse.~~

15 ~~G. If there is no surviving spouse and no~~
16 ~~designated survivor beneficiary or if the surviving spouse dies~~
17 ~~while there are still minor and dependent children of the~~
18 ~~member, the survivor's pension shall be paid to all minor and~~
19 ~~dependent children, if any, of the member, in equal shares, so~~
20 ~~long as each child remains a minor or dependent child. As each~~
21 ~~child ceases to be a minor or dependent child, the number of~~
22 ~~shares shall be reduced and the amount payable to each~~
23 ~~remaining child increased proportionately so that the total~~
24 ~~survivor's pension remains unchanged as long as there is any~~
25 ~~such child.~~

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1 ~~D. The survivor's pension is equal to seventy-five~~
2 ~~percent of the member's pension.~~

3 ~~E. Survivor beneficiaries shall be eligible for~~
4 ~~other benefits provided pursuant to the provisions of the~~
5 ~~Magistrate Retirement Act, including cost-of-living adjustments~~
6 ~~and continuation of group insurance benefits.~~

7 ~~F. If a member dies while receiving a disability~~
8 ~~retirement pension, the survivor beneficiary shall receive the~~
9 ~~survivor pension provided pursuant to the provisions of the~~
10 ~~Magistrate Retirement Act.]~~

11 A. Except as otherwise provided in Section 10-12C-7
12 NMSA 1978, a member may elect to have pension payments made
13 under any one of the forms of payment provided in Section
14 10-12C-13.1 NMSA 1978. The election of form of payment and
15 naming of survivor pension beneficiary shall be made on a form
16 furnished by and filed with the association prior to the date
17 the first pension payment is made. An election of form of
18 payment may not be changed after the date the first pension
19 payment is made. If the member is married, the association
20 shall obtain the consent of the member's spouse to the election
21 of the form of payment and any designation of survivor pension
22 beneficiary before the election or designation is effective.
23 Except as provided in Subsection C, D or E of this section, a
24 named survivor pension beneficiary may not be changed after the
25 date the first pension payment is made if form of payment B or

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1 C is elected. Except as otherwise provided in Section 10-12C-7
2 NMSA 1978, payment shall be made:

3 (1) under form of payment A if the member is
4 not married at the time of retirement and if there is not a
5 timely election of another form of payment; or

6 (2) under form of payment C with the member's
7 spouse as survivor pension beneficiary if the member is married
8 at the time of retirement and there is not a timely election of
9 another form of payment.

10 B. The amount of pension under forms of payment B,
11 C and D shall have the same actuarial present value, computed
12 as of the effective date of the pension, as the amount of
13 pension under form of payment A.

14 C. A retired member who is being paid a pension
15 under form of payment B or C with the member's spouse as the
16 designated survivor pension beneficiary may, upon becoming
17 divorced from the named spouse and subject to an order of a
18 court as provided for in Section 10-12C-7 NMSA 1978, elect to
19 have future payments made under form of payment A.

20 D. A retired member who was previously being paid a
21 pension under form of payment B or C but, because of the death
22 of the designated survivor pension beneficiary, is currently
23 receiving a pension under form of payment A may exercise a one-
24 time irrevocable option to designate another individual as the
25 survivor pension beneficiary and may select either form of

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1 payment B or form of payment C; provided that:

2 (1) the amount of the pension under the form
3 of payment selected shall be recalculated and have the same
4 actuarial present value, computed on the effective date of the
5 designation, as the amount of pension under form of payment A;

6 (2) the designation and the amount of the
7 pension shall be subject to a court order as provided for in
8 Section 10-12C-7 NMSA 1978; and

9 (3) the retired member shall pay one hundred
10 dollars (\$100) to the board to defray the cost of determining
11 the new pension amount.

12 E. A retired member who is being paid a pension
13 under form of payment B or C with a living designated survivor
14 pension beneficiary other than the retired member's spouse or
15 former spouse may exercise a one-time irrevocable option to
16 deselect the designated beneficiary and elect to:

17 (1) designate another survivor pension
18 beneficiary; provided that:

19 (a) the retired member shall not have an
20 option to change from the current form of payment;

21 (b) the amount of the pension under the
22 form of payment shall be recalculated and shall have the same
23 actuarial present value, computed as of the effective date of
24 the designation, as the amount of pension under form of payment
25 A; and

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1 (c) the retired member shall pay one
2 hundred dollars (\$100) to the board to defray the cost of
3 determining the new pension amount; or

4 (2) have future payments made under form of
5 payment A."

6 SECTION 4. A new section of the Magistrate Retirement
7 Act, Section 10-12C-13.1 NMSA 1978, is enacted to read:

8 "10-12C-13.1. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

9 A. Straight life pension is form of payment A. The
10 retired member is paid the pension for life under form of
11 payment A. All payments stop upon the death of the retired
12 member, except as provided by Subsection E of this section.
13 The amount of pension is determined in accordance with the
14 coverage plan applicable to the retired member.

15 B. Life payments with full continuation to one
16 survivor beneficiary is form of payment B. The retired member
17 is paid a reduced pension for life under form of payment B.
18 When the retired member dies, the designated survivor
19 beneficiary is paid the full amount of the reduced pension
20 until death. If the designated survivor beneficiary
21 predeceases the retired member, the amount of pension shall be
22 changed to the amount that would have been payable had the
23 retired member elected form of payment A.

24 C. Life payment with one-half continuation to one
25 survivor beneficiary is form of payment C. The retired member

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1 is paid a reduced pension for life under form of payment C.
2 When the retired member dies, the designated survivor
3 beneficiary is paid one-half the amount of the reduced pension
4 until death. If the designated survivor beneficiary
5 predeceases the retired member, the amount of pension shall be
6 changed to the amount that would have been payable had the
7 retired member elected form of payment A.

8 D. Life payments with temporary survivor benefits
9 for children is form of payment D. The retired member is paid
10 a reduced pension for life under form of payment D. When the
11 retired member dies, each declared eligible child is paid a
12 share of the reduced pension until death or age twenty-five
13 years, whichever occurs first. The share is the share
14 specified in writing and filed with the association by the
15 retired member. If shares are not specified in writing and
16 filed with the association, each declared eligible child is
17 paid an equal share of the reduced pension. A redetermination
18 of shares shall be made when the pension of any child
19 terminates. An eligible child is a natural or adopted child of
20 the retired member who is under age twenty-five years. A
21 declared eligible child is an eligible child whose name has
22 been declared in writing and filed with the association by the
23 retired member at the time of election of form of payment D.
24 The amount of pension shall be changed to the amount of pension
25 that would have been payable had the retired member elected

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1 form of payment A upon there ceasing to be a declared eligible
2 child during the lifetime of the retired member.

3 E. If all pension payments permanently terminate
4 before there is paid an aggregate amount equal to the retired
5 member's accumulated member contributions at the time of
6 retirement, the difference between the amount of accumulated
7 member contributions and the aggregate amount of pension paid
8 shall be paid to the retired member's refund beneficiary. If
9 no refund beneficiary survives the retired member, the
10 difference shall be paid to the estate of the retired member."

11 SECTION 5. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2014.