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HOUSE BILL 111

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Matthew McQueen and Mark Moores

AN ACT

RELATING TO ELECTED OFFICIALS; REQUIRING AN ELECTED OFFICIAL WHO IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A CORRUPTION OFFENSE TO FORFEIT CERTAIN SERVICE CREDIT.

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

**SECTION 1.** A new section of the Public Employees

Retirement Act is enacted to read:

"[NEW MATERIAL] ELECTED OFFICIALS--FORFEITURE OF SERVICE CREDIT ACCRUED--DEFINITIONS.--

A. Service credit accrued during all time served as an elected official shall be forfeited if the elected official is convicted of or pleads guilty or nolo contendere to a corruption offense committed while campaigning for or during a term of elected office.

B. The provisions of this section apply to

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1 corruption offenses committed on or after July 1, 2018.

2 C. Only service credit accrued during time served  
3 as an elected official shall be forfeited as provided in this  
4 section.

5 D. The provisions of this section do not apply to  
6 the Judicial Retirement Act or the Magistrate Retirement Act.

7 E. Service credit accrued, if any, by the elected  
8 official during employment by an affiliated public employer in  
9 a capacity other than as an elected official shall not be  
10 forfeited.

11 F. Service credit forfeited pursuant to this  
12 section shall not be reinstated.

13 G. If the elected official has retired and the  
14 pension is based solely on service credit accrued during  
15 service as an elected official, the pension shall be  
16 permanently terminated effective on the first day of the month  
17 following the receipt by the public employees retirement  
18 association of the written notice from the prosecutor as  
19 provided in Subsection L of this section and:

20 (1) if the retired elected official has not  
21 been paid an aggregate amount of pension payments equal to the  
22 amount of the retired elected official's accumulated member  
23 contributions, the difference between the amount of accumulated  
24 member contributions and the aggregate amount of pension paid  
25 shall be refunded, subject to the provisions of Subsection K of

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1 this section; or

2 (2) if the retired elected official has been  
3 paid an amount in pension payments equal to or greater than the  
4 amount of accumulated member contributions paid, no accumulated  
5 member contributions shall be refunded.

6 H. If the elected official has retired and the  
7 pension is based in part on service credit accrued during  
8 employment by an affiliated public employer in a capacity other  
9 than as an elected official, the pension shall be recalculated  
10 without the forfeited service credit effective on the first day  
11 of the month following the receipt by the public employees  
12 retirement association of the written notice from the  
13 prosecutor as provided in Subsection L of this section and:

14 (1) if the retired elected official has not  
15 been paid an aggregate amount of pension payments equal to the  
16 amount of the retired elected official's accumulated member  
17 contributions paid during time served as an elected official,  
18 the difference between the amount of accumulated member  
19 contributions paid during time served as an elected official  
20 and the aggregate amount of pension payments paid shall be  
21 refunded subject to the provisions of Subsection K of this  
22 section; or

23 (2) if the retired elected official has been  
24 paid an amount in pension payments equal to or greater than the  
25 amount of accumulated member contributions paid during time

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1 served as an elected official, no accumulated member  
2 contributions shall be refunded.

3 I. If the elected official has retired and the  
4 pension is based on a final average salary that includes  
5 concurrent salaries from public employment and elected office,  
6 the pension shall be recalculated without the salary from  
7 elected office.

8 J. A retired elected official shall not be required  
9 to pay back any pension payments received.

10 K. Any portion of a pension that is subject to  
11 court-ordered child support or satisfaction of the community  
12 interest in the pension incident to a decree of dissolution of  
13 marriage that was entered before the offense was committed  
14 shall not be affected by forfeiture of service credit pursuant  
15 to this section.

16 L. Within thirty days after an elected official is  
17 convicted of, or pleads guilty or nolo contendere to, a  
18 corruption offense, the prosecutor shall notify the public  
19 employees retirement association in writing of the conviction  
20 or plea.

21 M. As used in this section:

22 (1) "corruption offense" means any of the  
23 following offenses committed while campaigning for or serving a  
24 term as an elected official:

25 (a) a first, second or third degree

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1 felony conviction for: 1) fraud, as provided in Section  
2 30-16-6 NMSA 1978; 2) embezzlement, as provided in Section  
3 30-16-8 NMSA 1978; 3) extortion, as provided in Section 30-16-9  
4 NMSA 1978; 4) forgery, as provided in Section 30-16-10 NMSA  
5 1978; 5) bribery of public officer or public employee, as  
6 provided in Section 30-24-1 NMSA 1978; 6) demanding or  
7 receiving bribe by public officer or public employee, as  
8 provided in Section 30-24-2 NMSA 1978; 7) bribery or  
9 intimidation of a witness or retaliation against a witness, as  
10 provided in Section 30-24-3 NMSA 1978; 8) racketeering, as  
11 provided in the Racketeering Act; 9) a computer crime, as  
12 provided in the Computer Crimes Act; and 10) money laundering,  
13 as provided in the Money Laundering Act; and

14 (b) any conviction for: 1) perjury, as  
15 provided in Section 30-25-1 NMSA 1978; 2) soliciting or  
16 receiving a kickback, bribe or rebate, as provided in Section  
17 30-41-1 NMSA 1978; 3) offering or paying a kickback, bribe or  
18 rebate, as provided in Section 30-41-2 NMSA 1978; and 4)  
19 conspiracy to commit any of the offenses set forth in this  
20 paragraph, as provided in Section 30-28-2 NMSA 1978; and

21 (2) "elected official" means a person  
22 campaigning for or elected or appointed to an office in any  
23 primary, general or statewide special election, including  
24 county elections but not including judicial, municipal, school  
25 board or special district elections."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.