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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO RETIREE HEALTH CARE; AMENDING CERTAIN DEFINITIONS
IN THE RETIREE HEALTH CARE ACT TO CONFORM TO THE FEDERAL
PATIENT PROTECTION AND AFFORDABLE CARE ACT; REPEALING
PROVISIONS OF LAW RELATING TO THE DISCOUNT PRESCRIPTION DRUG
PROGRAM.

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

SECTION 1. Section 10-7C-4 NMSA 1978 (being Laws 1990,
Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health
Care Act:

A. "active employee" means an employee of a public
institution or any other public employer participating in
either the Educational Retirement Act, the Public Employees
Retirement Act, the Judicial Retirement Act, the Magistrate

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1 Retirement Act or the Public Employees Retirement Reciprocity
2 Act or an employee of an independent public employer;

3 B. "authority" means the retiree health care
4 authority created pursuant to the Retiree Health Care Act;

5 C. "basic plan of benefits" means only those
6 coverages generally associated with a medical plan of benefits;

7 D. "board" means the board of the retiree health
8 care authority;

9 E. "current retiree" means an eligible retiree who
10 is receiving a disability or normal retirement benefit under
11 the Educational Retirement Act, the Public Employees Retirement
12 Act, the Judicial Retirement Act, the Magistrate Retirement
13 Act, the Public Employees Retirement Reciprocity Act or the
14 retirement program of an independent public employer on or
15 before July 1, 1990;

16 F. "eligible dependent" means a person obtaining
17 retiree health care coverage based upon that person's
18 relationship to an eligible retiree as follows:

19 (1) a spouse;

20 (2) [~~an unmarried~~] a child under the age of
21 [~~nineteen~~] twenty-six who is:

22 (a) a natural child;

23 (b) a legally adopted child;

24 (c) a stepchild living in the same

25 household who is primarily dependent on the eligible retiree

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1 for maintenance and support;

2 (d) a child for whom the eligible
3 retiree is the legal guardian and who is primarily dependent on
4 the eligible retiree for maintenance and support, as long as
5 evidence of the guardianship is evidenced in a court order or
6 decree; or

7 (e) a foster child living in the same
8 household;

9 ~~[(3) a child described in Subparagraphs (a)~~
10 ~~through (e) of Paragraph (2) of this subsection who is between~~
11 ~~the ages of nineteen and twenty-five and is a full-time student~~
12 ~~at an accredited educational institution; provided that "full-~~
13 ~~time student" shall be a student enrolled in and taking twelve~~
14 ~~or more semester hours or its equivalent contact hours in~~
15 ~~primary, secondary, undergraduate or vocational school or a~~
16 ~~student enrolled in and taking nine or more semester hours or~~
17 ~~its equivalent contact hours in graduate school;~~

18 ~~(4)]~~ (3) a dependent child over [nineteen]
19 twenty-six who is wholly dependent on the eligible retiree for
20 maintenance and support and who is incapable of self-sustaining
21 employment by reason of [~~mental retardation~~] intellectual
22 disability or physical handicap; provided that proof of
23 incapacity and dependency shall be provided within thirty-one
24 days after the child reaches the limiting age and at such times
25 thereafter as may be required by the board;

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1 [~~(5)~~] (4) a surviving spouse defined as
2 follows:

3 (a) "surviving spouse" means the spouse
4 to whom a retiree was married at the time of death; or

5 (b) "surviving spouse" means the spouse
6 to whom a deceased vested active employee was married at the
7 time of death; or

8 [~~(6)~~] (5) a surviving dependent child who is
9 the dependent child of a deceased eligible retiree and whose
10 other parent is also deceased;

11 G. "eligible employer" means either:

12 (1) a "retirement system employer", which
13 means an institution of higher education, a school district or
14 other entity participating in the public school insurance
15 authority, a state agency, state court, magistrate court,
16 municipality, county or public entity, each of which is
17 affiliated under or covered by the Educational Retirement Act,
18 the Public Employees Retirement Act, the Judicial Retirement
19 Act, the Magistrate Retirement Act or the Public Employees
20 Retirement Reciprocity Act; or

21 (2) an "independent public employer", which
22 means a municipality, county or public entity that is not a
23 retirement system employer;

24 H. "eligible retiree" means:

25 (1) a "nonsalaried eligible participating

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1 entity governing authority member", which means a person who is
2 not a retiree and who:

3 (a) has served without salary as a
4 member of the governing authority of an employer eligible to
5 participate in the benefits of the Retiree Health Care Act and
6 is certified to be such by the executive director of the public
7 school insurance authority;

8 (b) has maintained group health
9 insurance coverage through that member's governing authority if
10 such group health insurance coverage was available and offered
11 to the member during the member's service as a member of the
12 governing authority; and

13 (c) was participating in the group
14 health insurance program under the Retiree Health Care Act
15 prior to July 1, 1993; or

16 (d) notwithstanding the provisions of
17 Subparagraphs (b) and (c) of this paragraph, is eligible under
18 Subparagraph (a) of this paragraph and has applied before
19 August 1, 1993 to the authority to participate in the program;

20 (2) a "salaried eligible participating entity
21 governing authority member", which means a person who is not a
22 retiree and who:

23 (a) has served with salary as a member
24 of the governing authority of an employer eligible to
25 participate in the benefits of the Retiree Health Care Act;

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1 (b) has maintained group health
2 insurance through that member's governing authority, if such
3 group health insurance was available and offered to the member
4 during the member's service as a member of the governing
5 authority; and

6 (c) was participating in the group
7 health insurance program under the Retiree Health Care Act
8 prior to July 1, 1993; or

9 (d) notwithstanding the provisions of
10 Subparagraphs (b) and (c) of this paragraph, is eligible under
11 Subparagraph (a) of this paragraph and has applied before
12 August 1, 1993 to the authority to participate in the program;

13 (3) an "eligible participating retiree", which
14 means a person who:

15 (a) falls within the definition of a
16 retiree, has made contributions to the fund for at least five
17 years prior to retirement and whose eligible employer during
18 that period of time made contributions as a participant in the
19 Retiree Health Care Act on the person's behalf, unless that
20 person retires on or before July 1, 1995, in which event the
21 time period required for employee and employer contributions
22 shall become the period of time between July 1, 1990 and the
23 date of retirement, and who is certified to be a retiree by the
24 educational retirement director, the executive secretary of the
25 public employees retirement board or the governing authority of

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1 an independent public employer;

2 (b) falls within the definition of a
3 retiree, retired prior to July 1, 1990 and is certified to be a
4 retiree by the educational retirement director, the executive
5 secretary of the public employees retirement association or the
6 governing authority of an independent public employer; but this
7 paragraph does not include a retiree who was an employee of an
8 eligible employer who exercised the option not to be a
9 participating employer pursuant to the Retiree Health Care Act
10 and did not after January 1, 1993 elect to become a
11 participating employer; unless the retiree: 1) retired on or
12 before June 30, 1990; and 2) at the time of retirement, did not
13 have a retirement health plan or retirement health insurance
14 coverage available from the retiree's employer; or

15 (c) is a retiree who: 1) was at the
16 time of retirement an employee of an eligible employer who
17 exercised the option not to be a participating employer
18 pursuant to the Retiree Health Care Act, but which eligible
19 employer subsequently elected after January 1, 1993 to become a
20 participating employer; 2) has made contributions to the fund
21 for at least five years prior to retirement and whose eligible
22 employer during that period of time made contributions as a
23 participant in the Retiree Health Care Act on the person's
24 behalf, unless that person retires prior to the eligible
25 employer's election to become a participating employer or less

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1 than five years after the date participation begins when the
2 participation date begins before July 1, 2009, in which event
3 the time period required for employee and employer
4 contributions shall become the period of time, if any, between
5 the date participation begins and the date of retirement or
6 when the participation date begins on or after July 1, 2009, in
7 which event the person and employer shall contribute to the
8 fund an amount equal to the full actuarial present value of the
9 accrued benefits as determined by the authority; and 3) is
10 certified to be a retiree by the educational retirement
11 director, the executive director of the public employees
12 retirement board or the governing authority of an independent
13 public employer;

14 (4) a "legislative member", which means a
15 person who is not a retiree and who served as a member of the
16 New Mexico legislature for at least two years, but is no longer
17 a member of the legislature and is certified to be such by the
18 legislative council service; or

19 (5) a "former participating employer governing
20 authority member", which means a person, other than a
21 nonsalaried eligible participating entity governing authority
22 member or a salaried eligible participating entity governing
23 authority member, who is not a retiree and who served as a
24 member of the governing authority of a participating employer
25 for at least four years but is no longer a member of the

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1 governing authority and whose length of service is certified by
2 the chief executive officer of the participating employer;

3 I. "fund" means the retiree health care fund;

4 J. "group health insurance" means coverage that
5 includes but is not limited to life insurance, accidental death
6 and dismemberment, hospital care and benefits, surgical care
7 and treatment, medical care and treatment, dental care, eye
8 care, obstetrical benefits, prescribed drugs, medicines and
9 prosthetic devices, medicare supplement, medicare carveout,
10 medicare coordination and other benefits, supplies and services
11 through the vehicles of indemnity coverages, health maintenance
12 organizations, preferred provider organizations and other
13 health care delivery systems as provided by the Retiree Health
14 Care Act and other coverages considered by the board to be
15 advisable;

16 K. "ineligible dependents" includes:

17 (1) those dependents created by common law
18 relationships;

19 (2) dependents while in active military
20 service;

21 (3) parents, aunts, uncles, brothers, sisters,
22 grandchildren and other family members left in the care of an
23 eligible retiree without evidence of legal guardianship; and

24 (4) anyone not specifically referred to as an
25 eligible dependent pursuant to the rules adopted by the board;

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1 L. "participating employee" means an employee of a
2 participating employer, which employee has not been expelled
3 from participation in the Retiree Health Care Act pursuant to
4 Section 10-7C-10 NMSA 1978;

5 M. "participating employer" means an eligible
6 employer who has satisfied the conditions for participating in
7 the benefits of the Retiree Health Care Act, including the
8 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
9 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

10 N. "public entity" means a flood control authority,
11 economic development district, council of governments, regional
12 housing authority, conservancy district or other special
13 district or special purpose government; and

14 O. "retiree" means a person who:

15 (1) is receiving:

16 (a) a disability or normal retirement
17 benefit or survivor's benefit pursuant to the Educational
18 Retirement Act;

19 (b) a disability or normal retirement
20 benefit or survivor's benefit pursuant to the Public Employees
21 Retirement Act, the Judicial Retirement Act, the Magistrate
22 Retirement Act or the Public Employees Retirement Reciprocity
23 Act; or

24 (c) a disability or normal retirement
25 benefit or survivor's benefit pursuant to the retirement

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1 program of an independent public employer to which that
2 employer has made periodic contributions; or

3 (2) is not receiving a survivor's benefit but
4 is the eligible dependent of a person who received a disability
5 or normal retirement benefit pursuant to the Educational
6 Retirement Act, the Public Employees Retirement Act, the
7 Judicial Retirement Act, the Magistrate Retirement Act or the
8 Public Employees Retirement Reciprocity Act."

9 SECTION 2. REPEAL.--Sections 10-7C-17 through 10-7C-19
10 NMSA 1978 (being Laws 2002, Chapter 75, Section 2 and Laws
11 2002, Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3
12 and Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter
13 75, Section 4 and Laws 2002, Chapter 80, Section 4, as amended)
14 are repealed.

15 SECTION 3. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2021.