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SENATE BILL 403

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

INTRODUCED BY

David M. Gallegos

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING EMERGENCY
DISPATCHERS AS POLICE MEMBERS UNDER THE PUBLIC EMPLOYEES
RETIREMENT ACT; PROVIDING FOR ELECTIONS PERTAINING TO THE
ADOPTION OF THE POLICE MEMBER COVERAGE PLANS FOR CURRENT
EMERGENCY DISPATCHERS.

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

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

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1 B. "affiliated public employer" means the state and
2 any public employer affiliated with the association as provided
3 in the Public Employees Retirement Act, but does not include an
4 employer pursuant to the Magistrate Retirement Act, the
5 Judicial Retirement Act or the Educational Retirement Act;

6 C. "association" means the public employees
7 retirement association established under the Public Employees
8 Retirement Act;

9 D. "coverage plan funded ratio" means the ratio of
10 the actuarial value of the assets of a coverage plan to the
11 actuarial accrued liability of the association for payments
12 from the coverage plan, as determined by the association's
13 actuaries;

14 E. "disability retired member" means a retired
15 member who is receiving a pension pursuant to the disability
16 retirement provisions of the Public Employees Retirement Act;

17 F. "disability retirement pension" means the
18 pension paid pursuant to the disability retirement provisions
19 of the Public Employees Retirement Act;

20 G. "educational retirement system" means that
21 retirement system provided for in the Educational Retirement
22 Act;

23 H. "employee" means any employee of an affiliated
24 public employer;

25 I. "federal social security program" means that

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1 program or those programs created and administered pursuant to
2 the act of congress approved August 14, 1935, Chapter 531, 49
3 Stat. 620, as that act may be amended;

4 J. "final average salary" means the final average
5 salary calculated in accordance with the provisions of the
6 applicable coverage plan;

7 K. "form of payment" means the applicable form of
8 payment of a pension provided for in Section 10-11-117 NMSA
9 1978;

10 L. "former member" means a person who was
11 previously employed by an affiliated public employer, who has
12 terminated that employment and who has received a refund of
13 member contributions;

14 M. "fund" means the funds included under the Public
15 Employees Retirement Act;

16 N. "member" means a currently employed,
17 contributing employee of an affiliated public employer, or a
18 person who has been but is not currently employed by an
19 affiliated public employer, who has not retired and who has not
20 received a refund of member contributions; "member" also
21 includes the following:

22 (1) "adult correctional officer member" means
23 a member who is employed as an adult correctional officer or an
24 adult correctional officer specialist by a state correctional
25 facility of the corrections department or its successor agency;

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1 (2) "adult probation and parole officer
2 member" means a member who is employed as a probation and
3 parole officer by the corrections department or its successor
4 agency;

5 (3) "juvenile correctional officer member"
6 means a member who is employed as a juvenile correctional
7 officer by the children, youth and families department or its
8 successor agency;

9 (4) "juvenile probation and parole officer
10 member" means a member who is employed as a probation and
11 parole officer by the children, youth and families department
12 or its successor agency;

13 (5) "municipal detention officer member" means
14 a member who is employed by an affiliated public employer other
15 than the state and who has inmate custodial responsibilities at
16 a facility used for the confinement of persons charged with or
17 convicted of a violation of a law or ordinance;

18 (6) "municipal fire member" means any member
19 who is employed as a full-time nonvolunteer firefighter by an
20 affiliated public employer and who has taken the oath
21 prescribed for firefighters;

22 (7) "municipal police member" means any member
23 who is employed as:

24 (a) a police officer by an affiliated
25 public employer, other than the state, and who has taken the

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1 oath prescribed for police officers; ~~and~~ or

2 (b) an emergency dispatcher by an
3 affiliated public employer, other than the state; and

4 (8) "state police member" means a member who
5 is an:

6 (a) officer of the New Mexico state
7 police and who has taken the oath prescribed for such officers,
8 except that a state police member shall not include a member
9 who is an officer of the New Mexico state police division and
10 who was certified and commissioned as of June 30, 2015 in the
11 former motor transportation division or the former special
12 investigations division of the department of public safety; or

13 (b) emergency dispatcher employed by the
14 state;

15 O. "membership" means membership in the
16 association;

17 P. "pension" means a series of monthly payments to
18 a retired member or survivor beneficiary as provided in the
19 Public Employees Retirement Act;

20 Q. "public employer" means the state, any
21 municipality, city, county, metropolitan arroyo flood control
22 authority, economic development district, regional housing
23 authority, soil and water conservation district, entity created
24 pursuant to a joint powers agreement, council of government,
25 conservancy district, irrigation district, water and sanitation

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1 district, water district and metropolitan water board,
2 including the boards, departments, bureaus and agencies of a
3 public employer, so long as these entities fall within the
4 meaning of governmental plan as that term is used in Section
5 414(d) of the Internal Revenue Code of 1986, as amended;

6 R. "refund beneficiary" means a person designated
7 by the member, in writing, in the form prescribed by the
8 association, as the person who would be refunded the member's
9 accumulated member contributions payable if the member dies and
10 no survivor pension is payable or who would receive the
11 difference between pension paid and accumulated member
12 contributions if the retired member dies before receiving in
13 pension payments the amount of the accumulated member
14 contributions;

15 S. "retire" means to:

16 (1) terminate employment with all employers
17 covered by any state system or the educational retirement
18 system; and

19 (2) receive a pension from a state system or
20 the educational retirement system;

21 T. "retired member" means a person who has met all
22 requirements for retirement and who is receiving a pension from
23 the fund;

24 U. "retirement board" means the retirement board
25 provided for in the Public Employees Retirement Act;

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1 V. "salary" means the base salary or wages paid a
2 member, including longevity pay, for personal services rendered
3 an affiliated public employer. "Salary" shall not include
4 overtime pay, allowances for housing, clothing, equipment or
5 travel, payments for unused sick leave, unless the unused sick
6 leave payment is made through continuation of the member on the
7 regular payroll for the period represented by that payment, and
8 any other form of remuneration not specifically designated by
9 law as included in salary for Public Employees Retirement Act
10 purposes. Salary in excess of the limitations set forth in
11 Section 401(a)(17) of the Internal Revenue Code of 1986, as
12 amended, shall be disregarded. The limitation on compensation
13 for eligible employees shall not be less than the amount that
14 was allowed to be taken into account under the state retirement
15 system acts in effect on July 1, 1993. For purposes of this
16 subsection, "eligible employee" means an individual who was a
17 member of a state system before the first plan year beginning
18 after December 31, 1995;

19 W. "state system" means the retirement programs
20 provided for in the Public Employees Retirement Act, the
21 Magistrate Retirement Act and the Judicial Retirement Act;

22 X. "state retirement system acts" means
23 collectively the Public Employees Retirement Act, the
24 Magistrate Retirement Act, the Judicial Retirement Act and the
25 Volunteer Firefighters Retirement Act; and

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1 Y. "survivor beneficiary" means a person who
2 receives a pension or who has been designated to be paid a
3 pension as a result of the death of a member or retired
4 member."

5 **SECTION 2. TEMPORARY PROVISION--MUNICIPAL POLICE MEMBER**
6 **COVERAGE PLAN 5--EMERGENCY DISPATCHERS--ELECTION.**--On or before
7 December 30, 2021, the retirement board provided for in the
8 Public Employees Retirement Act shall conduct an election to
9 submit to municipal police members currently contributing under
10 a municipal general member coverage plan the question of
11 adopting municipal police member coverage plan 5. The election
12 shall be conducted in accordance with procedures adopted by the
13 retirement board, and the retirement board shall certify the
14 results of the election to the secretary of state on or before
15 January 1, 2022.

16 **SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBER,**
17 **CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER**
18 **MEMBER COVERAGE PLAN 1--EMERGENCY DISPATCHERS--ELECTION.**--On or
19 before December 30, 2021, the retirement board provided for in
20 the Public Employees Retirement Act shall conduct an election
21 to submit to state police members currently contributing under
22 state general member coverage plan 3 the question of adopting
23 state police member, correctional officer member and probation
24 and parole officer member coverage plan 1. The election shall
25 be conducted in accordance with procedures adopted by the

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2 results of the election to the secretary of state on or before
3 January 1, 2022.

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