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SENATE BILL 172

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

George K. Munoz and Joy Garratt

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; ALLOWING CERTAIN RETIREES
TO RETURN TO WORK WITHOUT A SUSPENSION OF RETIREMENT BENEFITS.

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

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001,
Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS--
CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B,
F, [~~and~~] H and I of this section, until January 1, 2024, a
retired member who begins employment with a local
administrative unit at a level greater than one-quarter full-
time employee, regardless of salary level, is required to
suspend the member's retirement benefits until the end of that
employment unless the member has not rendered service to a

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1 local administrative unit for at least twelve consecutive
2 months after the date of retirement.

3 B. Until January 1, 2024, a retired member who
4 retired on or before January 1, 2001, has not suspended or been
5 required to suspend retirement benefits pursuant to the
6 Educational Retirement Act and returns to employment with a
7 local administrative unit is not required to suspend the
8 member's retirement benefits.

9 C. A retired member who returns to employment with
10 a local administrative unit in accordance with this section is
11 entitled to receive retirement benefits during that employment
12 but is not entitled to acquire or purchase service credit for
13 that employment.

14 D. A retired member may return to employment with a
15 local administrative unit only if the member submits an
16 application to return to work, on a form prescribed by the
17 board, the board approves the application and the applicant
18 complies with other application rules promulgated by the board.

19 E. A retired member who returns to employment
20 pursuant to Subsection A, B, ~~[or]~~ F or I of this section shall
21 make nonrefundable contributions to the fund as would be
22 required by Section 22-11-21 NMSA 1978 if the retired member
23 were a non-retired employee. The local administrative unit
24 employing the retired member shall likewise make contributions
25 as would be required by that section.

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1 F. Until January 1, 2024, a retired member who
2 retired on or before January 1, 2001, who suspended or was
3 required to suspend retirement benefits under the Educational
4 Retirement Act is not required to suspend the member's
5 retirement benefits if the retired member has not rendered
6 service to a local administrative unit for an additional twelve
7 or more consecutive months, not including any part of a summer
8 or other scheduled break or vacation period, after the initial
9 date of retirement.

10 G. A retired member who returns to employment with
11 a local administrative unit shall make contributions to the
12 retiree health care fund during the period of that employment
13 and in the amount specified in Section 10-7C-15 NMSA 1978. The
14 local administrative unit employing the retired member shall
15 likewise make contributions during the period of that
16 employment and in the amount specified in that section.

17 H. A retired member may return to employment with a
18 local administrative unit without a suspension of the member's
19 retirement benefits; provided that:

20 (1) the retired member has not rendered
21 service to a local administrative unit for at least ninety days
22 after the date of retirement;

23 (2) prior to the date of retirement, or within
24 ninety days after the date of retirement, the retired member
25 did not enter into any formal or informal agreement with a

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1 local administrative unit or with any contractor providing
2 services to a local administrative unit to return to
3 employment; and

4 (3) the retired member earns a salary of less
5 than fifteen thousand dollars (\$15,000) per year.

6 I. A retired member may return to employment with a
7 local administrative unit without a suspension of the member's
8 retirement benefits; provided that:

9 (1) the retired member has not rendered
10 service to a local administrative unit for at least ninety days
11 after the date of retirement; and

12 (2) the retired member returns to employment
13 for a period of no more than thirty-six consecutive or
14 nonconsecutive months pursuant to this subsection.

15 [~~F.~~] J. As used in this section:

16 (1) "rendered service" includes employment,
17 whether full or part time; substitute teaching; voluntarily
18 performing duties that would otherwise be, or in the past have
19 been, performed by a paid employee or independent contractor;
20 and performing duties as an independent contractor or an
21 employee of an independent contractor; and

22 (2) "local administrative unit" includes any
23 entity incorporated, formed or otherwise organized by, or
24 subject to the control of, a local administrative unit,
25 regardless of whether the entity is created for profit or

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nonprofit purposes."