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AN ACT

RELATING TO THE JUDICIARY; PROVIDING THAT JUSTICES OF THE STATE SUPREME COURT SHALL EACH RECEIVE AN ANNUAL SALARY EQUAL TO THE ANNUAL SALARY RECEIVED BY NEW MEXICO FEDERAL MAGISTRATE COURT JUDGES; REMOVING SALARY FORMULAS FOR MAGISTRATES; PROVIDING THAT THE LEGISLATURE SHALL ESTABLISH AND PROVIDE SALARIES FOR MAGISTRATES; REVISING STATE GENERAL MEMBER COVERAGE PLAN 3 PROVISIONS IN THE PUBLIC EMPLOYEES RETIREMENT ACT TO INCLUDE MAGISTRATES.

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 by Laws 2021, Chapter 36, Section 1 and by Laws 2021, Chapter 38, Section 1) 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;

B. "affiliated public employer" means the state and any public employer affiliated with the association as provided in the Public Employees Retirement Act, but does not include an employer pursuant to the Magistrate Retirement

1 Act, the Judicial Retirement Act or the Educational
2 Retirement Act;

3 C. "association" means the public employees
4 retirement association established under the Public Employees
5 Retirement Act;

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

11 E. "disability retired member" means a retired
12 member who is receiving a pension pursuant to the disability
13 retirement provisions of the Public Employees Retirement Act;

14 F. "disability retirement pension" means the
15 pension paid pursuant to the disability retirement provisions
16 of the Public Employees Retirement Act;

17 G. "educational retirement system" means that
18 retirement system provided for in the Educational Retirement
19 Act;

20 H. "employee" means any employee of an affiliated
21 public employer;

22 I. "federal social security program" means that
23 program or those programs created and administered pursuant
24 to the act of congress approved August 14, 1935, Chapter 531,
25 49 Stat. 620, as that act may be amended;

1 J. "final average salary" means the final average
2 salary calculated in accordance with the provisions of the
3 applicable coverage plan;

4 K. "form of payment" means the applicable form of
5 payment of a pension provided for in Section 10-11-117 NMSA
6 1978;

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

11 M. "fund" means the funds included under the
12 Public Employees Retirement Act;

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

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

24 (2) "adult probation and parole officer
25 member" means a member who is employed as a probation and

1 parole officer by the corrections department or its successor
2 agency;

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

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

11 (5) "magistrate member" means a magistrate
12 judge who is elected or appointed to an initial term of
13 office on or after July 1, 2022;

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

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

24 (8) "municipal police member" means any
25 member who is employed as a police officer by an affiliated

1 public employer, other than the state, and who has taken the
2 oath prescribed for police officers; and

3 (9) "state police member" means a member who
4 is an officer of the New Mexico state police division and who
5 has taken the oath prescribed for such officers and shall
6 include a member who is an officer of the New Mexico state
7 police division and who was certified and commissioned in the
8 former motor transportation division or the former special
9 investigations division of the department of public safety;

10 O. "membership" means membership in the
11 association;

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

15 Q. "public employer" means the state, any
16 municipality, city, county, metropolitan arroyo flood control
17 authority, economic development district, regional housing
18 authority, soil and water conservation district, entity
19 created pursuant to a joint powers agreement, council of
20 government, conservancy district, irrigation district, water
21 and sanitation district, water district and metropolitan
22 water board, including the boards, departments, bureaus and
23 agencies of a public employer, so long as these entities fall
24 within the meaning of governmental plan as that term is used
25 in Section 414(d) of the Internal Revenue Code of 1986, as

1 amended;

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

11 S. "retire" means to:

12 (1) terminate employment with all employers
13 covered by any state system or the educational retirement
14 system; and

15 (2) receive a pension from a state system or
16 the educational retirement system;

17 T. "retired member" means a person who has met all
18 requirements for retirement and who is receiving a pension
19 from the fund;

20 U. "retirement board" means the retirement board
21 provided for in the Public Employees Retirement Act;

22 V. "salary" means the base salary or wages paid a
23 member, including longevity pay, for personal services
24 rendered an affiliated public employer. "Salary" shall not
25 include overtime pay, unless the overtime payment is required

1 for a regular scheduled tour of duty as set forth in
2 Section 207(k) of Title 29 of the United States Code and is
3 made on the regular payroll for the period represented by
4 that payment, allowances for housing, clothing, equipment or
5 travel, payments for unused sick leave, unless the unused
6 sick leave payment is made through continuation of the member
7 on the regular payroll for the period represented by that
8 payment, and any other form of remuneration not specifically
9 designated by law as included in salary for Public Employees
10 Retirement Act purposes. Salary in excess of the limitations
11 set forth in Section 401(a)(17) of the Internal Revenue Code
12 of 1986, as amended, shall be disregarded. The limitation on
13 compensation for eligible employees shall not be less than
14 the amount that was allowed to be taken into account under
15 the state retirement system acts in effect on July 1, 1993.
16 For purposes of this subsection, "eligible employee" means an
17 individual who was a member of a state system before the
18 first plan year beginning 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
25 the Volunteer Firefighters Retirement Act; and

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. Section 10-11-26.1 NMSA 1978 (being
6 Laws 1994, Chapter 128, Section 2, as amended) is amended to
7 read:

8 "10-11-26.1. STATE GENERAL MEMBER COVERAGE
9 PLAN 3--APPLICABILITY.--State general member coverage plan 3
10 is applicable to:

11 A. peace officer members and is applicable to
12 state general members in the first full pay period after
13 July 1, 1995 if the retirement board certifies to the
14 secretary of state that a majority of the members voting of
15 those members to be covered under state general member
16 coverage plan 3 has voted to approve adoption of this plan at
17 an election conducted pursuant to Laws 1994, Chapter 128,
18 Section 17; and

19 B. magistrate members."

20 SECTION 3. Section 10-12C-2 NMSA 1978 (being Laws 1992,
21 Chapter 118, Section 2, as amended by Laws 2014, Chapter 39,
22 Section 2 and by Laws 2014, Chapter 43, Section 2) is amended
23 to read:

24 "10-12C-2. DEFINITIONS.--As used in the Magistrate
25 Retirement Act:

1 A. "association" means the public employees
2 retirement association provided for in the Public Employees
3 Retirement Act;

4 B. "board" means the retirement board provided for
5 in the Public Employees Retirement Act;

6 C. "dependent child" means a natural or adopted
7 child who is physically or mentally incapable of financial
8 self-support, regardless of age;

9 D. "educational retirement system" means the
10 retirement system provided for in the Educational Retirement
11 Act;

12 E. "effective date of retirement" means the first
13 day of the month following the month in which the member met
14 all requirements for retirement;

15 F. "final average salary" means the amount that is
16 one-sixtieth of the greatest aggregate amount of salary paid
17 a member for sixty consecutive, but not necessarily
18 continuous, months of service credit;

19 G. "former member" means a person no longer in
20 office who was previously covered pursuant to the provisions
21 of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has
22 not retired pursuant to the provisions of the Magistrate
23 Retirement Act and who has received a refund of member
24 contributions pursuant to the provisions of Sections 10-12C-1
25 through 10-12C-18 NMSA 1978;

- 1 H. "fund" means the magistrate retirement fund;
- 2 I. "magistrate" means a magistrate judge;
- 3 J. "member" means any magistrate who was in office
4 prior to July 1, 2022 and covered pursuant to the provisions
5 of the Magistrate Retirement Act, or any person no longer in
6 office who was previously a magistrate covered pursuant to
7 the provisions of the Magistrate Retirement Act, who has not
8 retired and who has not received a refund of member
9 contributions from the fund;
- 10 K. "member contributions" means the amounts
11 deducted from the salary of a member and credited to the
12 member's individual account, together with interest, if any,
13 credited thereto;
- 14 L. "minor child" means a natural or adopted child
15 who has not reached the child's eighteenth birthday and who
16 has not been emancipated by marriage or otherwise;
- 17 M. "pension" means a series of monthly payments to
18 a retired member or survivor beneficiary pursuant to the
19 provisions of the Magistrate Retirement Act;
- 20 N. "refund beneficiary" means a person designated
21 by the member, in writing in the form prescribed by the
22 association, as the person who would be refunded the member's
23 accumulated member contributions payable if the member dies
24 and no survivor pension is payable, or as the person who
25 would receive the difference between pension paid and

1 accumulated member contributions if the retired member dies
2 before receiving in pension payments the amount of the
3 accumulated member contributions;

4 O. "retire" means to:

5 (1) terminate employment with all employers
6 covered by any state system or the educational retirement
7 system; and

8 (2) receive a pension from one state system
9 or the educational retirement system;

10 P. "retired member" means a person who has met all
11 requirements for retirement and who is receiving a pension
12 from the fund;

13 Q. "salary" means the base salary or wages paid a
14 member, including longevity pay, for personal services
15 rendered; provided that salary does not include overtime pay;
16 allowances for housing, clothing, equipment or travel;
17 payments for unused sick leave, unless the unused sick leave
18 payment is made through continuation of the member on the
19 regular payroll for the period represented by that payment;
20 and any other form of remuneration not specifically
21 designated by law as included in salary pursuant to the
22 provisions of the Magistrate Retirement Act;

23 R. "state system" means the retirement programs
24 provided pursuant to the provisions of the Public Employees
25 Retirement Act, the Magistrate Retirement Act and the

1 Judicial Retirement Act;

2 S. "surviving spouse" means the spouse to whom the
3 member was married at the time of the member's death;

4 T. "survivor beneficiary" means a person who
5 receives a pension or who has been designated to be paid a
6 pension as a result of the death of a member or retired
7 member; and

8 U. "years of service" means a period of time
9 beginning on the date a person commences to hold office as a
10 magistrate because of appointment or election and ending on
11 the date a person ceases to hold office as a magistrate
12 because of expiration of the magistrate's term, voluntary
13 resignation, death or disability and shall include any
14 fractions of years of service."

15 SECTION 4. Section 10-12C-4 NMSA 1978 (being Laws 1992,
16 Chapter 118, Section 4, as amended by Laws 2014, Chapter 39,
17 Section 3 and by Laws 2014, Chapter 43, Section 3) is amended
18 to read:

19 "10-12C-4. MEMBERSHIP.--Prior to July 1, 2022, every
20 magistrate while in office shall become a member and shall be
21 subject to the provisions of the Magistrate Retirement Act;
22 provided, however, that a magistrate who, prior to
23 July 1, 2014, applied for and received an exemption from
24 membership shall not become a member until such exemption
25 ends. A magistrate who is retired under any state system or

1 the educational retirement system shall:

2 A. pay the applicable member contributions and the
3 state, through the administrative office of the courts, shall
4 pay the applicable employer contributions as provided
5 pursuant to the Magistrate Retirement Act; and

6 B. not accrue a service credit and shall not be
7 eligible to purchase service credit nor to retire pursuant to
8 the Magistrate Retirement Act."

9 SECTION 5. Section 34-1-9 NMSA 1978 (being Laws 1993,
10 Chapter 278, Section 1, as amended) is amended to read:

11 "34-1-9. SALARIES OF JUSTICES, JUDGES AND
12 MAGISTRATES.--

13 A. Justices of the supreme court shall each
14 receive an annual salary in an amount equal to the annual
15 salary received by New Mexico federal magistrate court
16 judges, as provided by the legislature in an appropriations
17 act; provided that the salary shall be adjusted on a biennial
18 basis. The chief justice of the supreme court shall receive
19 an annual salary that is two thousand dollars (\$2,000) more
20 than the annual salary of a justice of the supreme court.

21 B. The chief judge of:

22 (1) the court of appeals shall receive an
23 annual salary that is ninety-five percent of the annual
24 salary of the chief justice of the supreme court;

25 (2) a district court shall receive an annual

1 salary that is ninety-five percent of the annual salary of
2 the chief judge of the court of appeals; and

3 (3) a metropolitan court shall receive an
4 annual salary that is ninety-five percent of the annual
5 salary of the chief judge of a district court.

6 C. The annual salaries of the following judges
7 shall be as follows:

8 (1) a judge of the court of appeals shall
9 receive an annual salary that is ninety-five percent of the
10 annual salary of a justice of the supreme court;

11 (2) a district court judge shall receive an
12 annual salary that is ninety-five percent of the annual
13 salary of a judge of the court of appeals; and

14 (3) a metropolitan court judge shall receive
15 an annual salary that is ninety-five percent of the annual
16 salary of a district court judge.

17 D. The annual salary for justices of the supreme
18 court, judges of the court of appeals, district court judges,
19 metropolitan court judges and magistrates shall be provided
20 by the legislature in an appropriations act.

21 E. The annual salary for magistrates shall be
22 established and provided by the legislature in an
23 appropriations act.

24 F. No additional salaries shall be paid to
25 justices, judges or magistrates on account of services

1 rendered the state. Justices of the supreme court, judges of
2 the court of appeals, district court judges, metropolitan
3 court judges and magistrates shall receive per diem and
4 mileage for necessary travel on official business of the
5 court as provided in the Per Diem and Mileage Act."

6 SECTION 6. TEMPORARY PROVISION.--Magistrates covered
7 pursuant to the Magistrate Retirement Act prior to
8 July 1, 2022 shall continue to be covered by the provisions
9 of that act.

10 SECTION 7. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2022. _____

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