

1 SENATE BILL 312

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 David M. Gallegos

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10 AN ACT

11 RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING PUBLIC SAFETY
12 TELECOMMUNICATORS AS POLICE MEMBERS UNDER THE PUBLIC EMPLOYEES
13 RETIREMENT ACT; PROVIDING FOR ELECTIONS PERTAINING TO THE
14 ADOPTION OF THE POLICE MEMBER COVERAGE PLANS FOR CURRENT PUBLIC
15 SAFETY TELECOMMUNICATORS.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 2, as amended by Laws 2021, Chapter 36,
20 Section 1 and by Laws 2021, Chapter 38, Section 1) is amended
21 to read:

22 "10-11-2. DEFINITIONS.--As used in the Public Employees
23 Retirement Act:

24 A. "accumulated member contributions" means the
25 amounts deducted from the salary of a member and credited to

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1 the member's individual account, together with interest, if
2 any, credited to that account;

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

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

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

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

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

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

25 H. "employee" means any employee of an affiliated

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1 public employer;

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

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

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

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

16 M. "fund" means the funds included under the Public
17 Employees Retirement Act;

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

24 (1) "adult correctional officer member" means
25 a member who is employed as an adult correctional officer or an

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1 adult correctional officer specialist by a state correctional
2 facility of the corrections department or its successor agency;

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

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

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

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

20 (6) "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 (7) "municipal police member" means any member
25 who is employed as a:

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1 (a) police officer by an affiliated
2 public employer, other than the state, and who has taken the
3 oath prescribed for police officers; ~~and~~ or

4 (b) public safety telecommunicator by an
5 affiliated public employer, other than the state; and

6 (8) "state police member" means a member who
7 is:

8 (a) an officer of the New Mexico state
9 police division and who has taken the oath prescribed for such
10 officers and shall include a member who is an officer of the
11 New Mexico state police division and who was certified and
12 commissioned in the former motor transportation division or the
13 former special investigations division of the department of
14 public safety; or

15 (b) a public safety telecommunicator
16 employed by the state;

17 O. "membership" means membership in the
18 association;

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

22 Q. "public employer" means the state, any
23 municipality, city, county, metropolitan arroyo flood control
24 authority, economic development district, regional housing
25 authority, soil and water conservation district, entity created

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1 pursuant to a joint powers agreement, council of government,
2 conservancy district, irrigation district, water and sanitation
3 district, water district and metropolitan water board,
4 including the boards, departments, bureaus and agencies of a
5 public employer, so long as these entities fall within the
6 meaning of governmental plan as that term is used in Section
7 414(d) of the Internal Revenue Code of 1986, as amended;

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

17 S. "retire" means to:

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

21 (2) receive a pension from a state system or
22 the educational retirement system;

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

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1 U. "retirement board" means the retirement board
2 provided for in the Public Employees Retirement Act;

3 V. "salary" means the base salary or wages paid a
4 member, including longevity pay, for personal services rendered
5 an affiliated public employer. "Salary" shall not include
6 overtime pay, unless the overtime payment is required for a
7 regular scheduled tour of duty as set forth in Section 207(k)
8 of Title 29 of the United States Code and is made on the
9 regular payroll for the period represented by that payment,
10 allowances for housing, clothing, equipment or travel, payments
11 for unused sick leave, unless the unused sick leave payment is
12 made through continuation of the member on the regular payroll
13 for the period represented by that payment, and any other form
14 of remuneration not specifically designated by law as included
15 in salary for Public Employees Retirement Act purposes. Salary
16 in excess of the limitations set forth in Section 401(a)(17) of
17 the Internal Revenue Code of 1986, as amended, shall be
18 disregarded. The limitation on compensation for eligible
19 employees shall not be less than the amount that was allowed to
20 be taken into account under the state retirement system acts in
21 effect on July 1, 1993. For purposes of this subsection,
22 "eligible employee" means an individual who was a member of a
23 state system before the first plan year beginning after
24 December 31, 1995;

25 W. "state system" means the retirement programs

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1 provided for in the Public Employees Retirement Act, the
2 Magistrate Retirement Act and the Judicial Retirement Act;

3 X. "state retirement system acts" means
4 collectively the Public Employees Retirement Act, the
5 Magistrate Retirement Act, the Judicial Retirement Act and the
6 Volunteer Firefighters Retirement Act; and

7 Y. "survivor beneficiary" means a person who
8 receives a pension or who has been designated to be paid a
9 pension as a result of the death of a member or retired
10 member."

11 SECTION 2. TEMPORARY PROVISION--MUNICIPAL POLICE MEMBER
12 COVERAGE PLAN 5--PUBLIC SAFETY TELECOMMUNICATORS--ELECTION.--On
13 or before December 30, 2023, the retirement board provided for
14 in the Public Employees Retirement Act shall conduct an
15 election to submit to municipal police members currently
16 contributing under a municipal general member coverage plan the
17 question of adopting municipal police member coverage plan 5.
18 The election shall be conducted in accordance with procedures
19 adopted by the retirement board, and the retirement board shall
20 certify the results of the election to the secretary of state
21 on or before January 1, 2024.

22 SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBER,
23 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER
24 MEMBER COVERAGE PLAN 1--PUBLIC SAFETY TELECOMMUNICATORS--
25 ELECTION.--On or before December 30, 2023, the retirement board

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1 provided for in the Public Employees Retirement Act shall
2 conduct an election to submit to state police members currently
3 contributing under state general member coverage plan 3 the
4 question of adopting state police member, correctional officer
5 member and probation and parole officer member coverage plan 1.
6 The election shall be conducted in accordance with procedures
7 adopted by the retirement board, and the retirement board shall
8 certify the results of the election to the secretary of state
9 on or before January 1, 2024.