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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO ALLOW MEMBERS WHO WERE EMPLOYED AS CERTIFIED OR OTHERWISE QUALIFIED LAW ENFORCEMENT OFFICERS IN ANOTHER STATE OR OF THE FEDERAL GOVERNMENT AND WHO ARE SUBSEQUENTLY EMPLOYED BY AN AFFILIATED PUBLIC EMPLOYER TO PURCHASE UP TO FIVE YEARS OF SERVICE CREDIT; ALLOWING CERTAIN PUBLIC SAFETY EMPLOYEES TO RETURN TO WORK UNDER CERTAIN CONDITIONS.

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

SECTION 1. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. SERVICE CREDIT--PURCHASE OF SERVICE.--

A. A member who entered a uniformed service of the United States may purchase service credit for periods of active

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1 duty in the uniformed services subject to the following
2 conditions:

3 (1) the member pays the association the
4 purchase cost determined according to Subsection ~~[E]~~ F of this
5 section;

6 (2) the member has the applicable minimum
7 number of years of service credit required for normal
8 retirement. As used in this paragraph, "service credit" means
9 only the service credit earned by the member during periods of
10 employment with an affiliated public employer;

11 (3) the aggregate amount of service credit
12 purchased pursuant to this subsection does not exceed five
13 years reduced by any period of service credit acquired for
14 military service pursuant to any other provision of the Public
15 Employees Retirement Act;

16 (4) service credit may not be purchased for
17 periods of service in the uniformed services that are used to
18 obtain or increase a benefit from another retirement program;
19 and

20 (5) the member must not have received a
21 discharge or separation from uniformed service under other than
22 honorable conditions.

23 B. A member who was a civilian prisoner of war
24 captured while in service to the United States as an employee
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the
2 period of internment as a civilian prisoner of war, provided
3 that:

4 (1) the member provides proof of employment
5 with the federal government or as a contractor to the federal
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of
8 internment in a form acceptable to the association;

9 (3) the member has the applicable minimum
10 number of years of service credit required for normal
11 retirement. As used in this paragraph, "service credit" means
12 only the service credit earned by the member during periods of
13 employment with an affiliated public employer;

14 (4) the aggregate amount of service credit
15 purchased pursuant to this subsection does not exceed five
16 years reduced by any period of service credit acquired for
17 military service pursuant to any other provision of the Public
18 Employees Retirement Act;

19 (5) service credit may not be purchased for
20 periods of service in internment as a civilian prisoner of war
21 if such periods are used to obtain or increase a benefit from
22 another retirement program; and

23 (6) the member pays the association the
24 purchase cost determined according to Subsection [E] F of this
25 section.

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1 C. A member who was a certified or otherwise
2 qualified law enforcement officer in another state or of the
3 federal government, who was a full-time employee with a duty to
4 maintain public order and to make arrests for crime, whether
5 that duty extended to all crimes or was limited to specific
6 crimes, may purchase service credit for that period of
7 employment subject to the following conditions:

8 (1) the member pays the association the
9 purchase cost determined according to Subsection F of this
10 section;

11 (2) the member has the applicable minimum
12 number of years of service credit required for normal
13 retirement. As used in this paragraph, "service credit" means
14 only the service credit earned by the member during periods of
15 employment with an affiliated public employer;

16 (3) the aggregate amount of service credit
17 purchased pursuant to this subsection does not exceed five
18 years; and

19 (4) the member provides proof of the period of
20 relevant employment in a form acceptable to the association.

21 [~~C.~~] D. A member who was employed by a utility
22 company, library, museum, transit company or nonprofit
23 organization administering federally funded public service
24 programs, which utility company, library, museum, transit
25 company or nonprofit organization administering federally

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1 funded public service programs or federally funded public
2 service programs administered by a nonprofit organization are
3 subsequently taken over by an affiliated public employer, or a
4 member who was employed by an entity created pursuant to a
5 joint powers agreement between two or more affiliated public
6 employers for the purpose of administering or providing drug or
7 alcohol addiction treatment services irrespective of whether
8 the entity is subsequently taken over by an affiliated public
9 employer, may purchase service credit for the period of
10 employment subject to the following conditions:

11 (1) the member pays the association the
12 purchase cost determined according to Subsection ~~[E]~~ F of this
13 section;

14 (2) the member has the applicable minimum
15 number of years of service credit required for normal
16 retirement. As used in this paragraph, "service credit" means
17 only the service credit earned by the member during periods of
18 employment with an affiliated public employer; and

19 (3) the aggregate amount of service credit
20 purchased pursuant to this subsection does not exceed five
21 years.

22 ~~[D.]~~ E. A member who was appointed to participate
23 in a cooperative work study training program established
24 jointly by a state agency and a state post-secondary
25 educational institution may purchase service credit for the

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1 period of participation subject to the following conditions:

2 (1) the member pays the association the full
3 actuarial present value of the amount of the increase in the
4 employee's pension as a consequence of the purchase as
5 determined by the association;

6 (2) the member pays the full cost of the
7 purchase within sixty days of the date the member is informed
8 of the amount of the payment;

9 (3) the member has the applicable minimum
10 number of years of service credit required for normal
11 retirement. As used in this paragraph, "service credit" means
12 only the service credit earned by the member during periods of
13 employment with an affiliated public employer; and

14 (4) the aggregate amount of service credit
15 purchased pursuant to this subsection does not exceed five
16 years.

17 ~~[E.]~~ F. Except for service to be used under a state
18 legislator coverage plan, the purchase cost for each month of
19 service credit purchased pursuant to the provisions of this
20 section is equal to the member's final average salary
21 multiplied by the sum of the member contribution rate and
22 employer contribution rate, determined in accordance with the
23 coverage plan applicable to the member at the time of the
24 written election to purchase. The purchase cost for each year
25 of service credit to be used under a state legislator coverage

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1 plan is equal to three times the normal member contribution per
2 year of service credit under the state legislator coverage plan
3 applicable to the member. Full payment shall be made in a
4 single lump sum within sixty days of the date the member is
5 informed of the amount of the payment. The portion of the
6 purchase cost derived from the employer contribution rate shall
7 be credited to the employer's accumulation fund and shall not
8 be paid out of the association in the event of cessation of
9 membership. In no case shall a member be credited with a month
10 of service for less than the purchase cost as defined in this
11 section.

12 ~~[F.]~~ G. A member shall be refunded, upon written
13 request filed with the association, the portion of the purchase
14 cost of service credit purchased pursuant to this section that
15 the association determines to have been unnecessary to provide
16 the member with the maximum pension applicable to the member.
17 The association shall not pay interest on the portion of the
18 purchase cost refunded to the member.

19 ~~[G.]~~ H. A member of the magistrate retirement
20 system who during the member's service as a magistrate was
21 eligible to become a member of the public employees retirement
22 system and elected not to become a member of that system may
23 purchase service credit pursuant to the public employees
24 retirement system for the period for which the magistrate
25 elected not to become a public employees retirement system

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1 member by paying the amount of the increase in the actuarial
2 present value of the magistrate pension as a consequence of the
3 purchase as determined by the association. Full payment shall
4 be made in a single lump-sum amount in accordance with
5 procedures established by the retirement board. Except as
6 provided in Subsection [F] G of this section, seventy-five
7 percent of the purchase cost shall be considered to be employer
8 contributions and shall not be refunded to the member in the
9 event of cessation of membership.

10 ~~[H.]~~ I. At any time prior to retirement, any member
11 may purchase service credit in monthly increments, subject to
12 the following conditions:

13 (1) the member has the applicable minimum
14 number of years of service credit required for normal
15 retirement. As used in this paragraph, "service credit" means
16 only the service credit earned by the member during periods of
17 employment with an affiliated public employer;

18 (2) the aggregate amount of service credit
19 purchased pursuant to this subsection does not exceed one
20 year;

21 (3) the member pays full actuarial present
22 value of the amount of the increase in the employee's pension
23 as a consequence of the purchase as determined by the
24 association;

25 (4) the member pays the full cost of the

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1 purchase within sixty days of the date the member is informed
2 of the amount of the payment; and

3 (5) the purchase of service credit under this
4 subsection cannot be used to determine the final average salary
5 or the pension factor or be used to exceed the pension maximum.

6 ~~[F.]~~ J. A member receiving service credit under
7 this section who enrolls in the retiree health care authority
8 shall make contributions pursuant to Subsection C of Section
9 10-7C-15 NMSA 1978."

10 SECTION 2. Section 10-11-8 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 8, as amended) is amended to read:

12 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
13 BENEFITS CONTINUED--CONTRIBUTIONS.--

14 A. A member may retire upon fulfilling the
15 following requirements prior to the selected date of
16 retirement:

17 (1) a written application for normal
18 retirement, in the form prescribed by the association, is filed
19 with the association;

20 (2) employment is terminated with all
21 employers covered by any state system or the educational
22 retirement system;

23 (3) the member selects an effective date of
24 retirement that is the first day of a calendar month; and

25 (4) the member meets the age and service

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1 credit requirement for normal retirement specified in the
2 coverage plan applicable to the member.

3 B. The amount of normal retirement pension is
4 determined in accordance with the coverage plan applicable to
5 the member.

6 C. Except as provided in ~~[Subsection]~~ Subsections
7 D, J and K of this section, on or after July 1, 2010, a retired
8 member may be subsequently employed by an affiliated public
9 employer only pursuant to the following provisions:

10 (1) the retired member has not been employed
11 as an employee of an affiliated public employer or retained as
12 an independent contractor by the affiliated public employer
13 from which the retired member retired for at least twelve
14 consecutive months from the date of retirement to the
15 commencement of subsequent employment or reemployment with an
16 affiliated public employer;

17 (2) the retired member's pension shall be
18 suspended upon commencement of the subsequent employment;

19 (3) except as provided in Subsection F of this
20 section, the retired member shall not become a member and shall
21 not accrue service credit, and the retired member and that
22 person's subsequent affiliated public employer shall not make
23 contributions under any coverage plan pursuant to the Public
24 Employees Retirement Act; and

25 (4) upon termination of the subsequent

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1 employment, the retired member's pension shall resume in
2 accordance with the provisions of Subsection A of this section.

3 D. The provisions of Subsections C, G, ~~[and]~~ H, J
4 and K of this section do not apply to:

5 (1) a retired member employed by the
6 legislature for legislative session work;

7 (2) a retired member employed temporarily as a
8 precinct board member for a municipal election or an election
9 covered by the Election Code; or

10 (3) a retired member who is elected to serve a
11 term as an elected official in an office covered pursuant to
12 the Public Employees Retirement Act; provided that:

13 (a) the retired member files an
14 irrevocable exemption from membership with the association
15 within thirty days of taking office; and

16 (b) the irrevocable exemption shall be
17 for the elected official's term of office.

18 E. A retired member who returns to employment
19 during retirement pursuant to Subsection D of this section is
20 entitled to receive retirement benefits but is not entitled to
21 accrue service credit or to acquire or purchase service credit
22 in the future for the period of the retired member's subsequent
23 employment with an affiliated public employer.

24 F. At any time during a retired member's subsequent
25 employment pursuant to Subsection C of this section, the

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1 retired member may elect to become a member and the following
2 conditions shall apply:

3 (1) the previously retired member and the
4 subsequent affiliated public employer shall make the required
5 employee and employer contributions, and the previously retired
6 member shall accrue service credit for the period of subsequent
7 employment; and

8 (2) when the previously retired member
9 terminates the subsequent employment with an affiliated public
10 employer, the previously retired member shall retire according
11 to the provisions of the Public Employees Retirement Act,
12 subject to the following conditions:

13 (a) payment of the pension shall resume
14 in accordance with the provisions of Subsection A of this
15 section;

16 (b) unless the previously retired member
17 accrued at least three years of service credit on account of
18 the subsequent employment, the recalculation of pension shall:
19 1) employ the form of payment selected by the previously
20 retired member at the time of the first retirement; and 2) use
21 the provisions of the coverage plan applicable to the member on
22 the date of the first retirement; and

23 (c) the recalculated pension shall not
24 be less than the amount of the suspended pension.

25 G. A retired member who returned to work with an

1 affiliated public employer prior to July 1, 2010 shall be
2 subject to the provisions of this section in effect on the date
3 the retired member returned to work; provided that on and after
4 July 1, 2010, the retired member shall pay the employee
5 contribution in an amount specified in the Public Employees
6 Retirement Act for the position in which the retired member is
7 subsequently employed.

8 H. Effective July 1, 2014, if a retired member who,
9 subsequent to retirement, is employed and covered pursuant to
10 the provisions of the Magistrate Retirement Act or Judicial
11 Retirement Act, during the period of subsequent employment:

12 (1) the member shall be entitled to receive
13 retirement benefits;

14 (2) the retired member's cost-of-living
15 pension adjustment shall be suspended upon commencement of the
16 employment; and

17 (3) upon termination of the employment, the
18 retired member's suspended cost-of-living pension adjustment
19 shall be reinstated as provided under Section 10-11-118 NMSA
20 1978.

21 I. The pension of a member who has earned service
22 credit under more than one coverage plan shall be determined as
23 follows:

24 (1) the pension of a member who has three or
25 more years of service credit earned on or before June 30, 2013

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1 under each of two or more coverage plans shall be determined in
2 accordance with the coverage plan that produces the highest
3 pension;

4 (2) the pension of a member who has service
5 credit earned on or before June 30, 2013 under two or more
6 coverage plans but who has three or more years of service
7 credit under only one of those coverage plans shall be
8 determined in accordance with the coverage plan in which the
9 member has three or more years of service credit. If the
10 service credit is acquired under two different coverage plans
11 applied to the same affiliated public employer as a consequence
12 of an election by the members, adoption by the affiliated
13 public employer or a change in the law that results in the
14 application of a coverage plan with a greater pension, the
15 greater pension shall be paid a member retiring from the
16 affiliated public employer under which the change in coverage
17 plan took place regardless of the amount of service credit
18 under the coverage plan producing the greater pension; provided
19 that the member has three or more years of continuous
20 employment with that affiliated public employer immediately
21 preceding or immediately preceding and immediately following
22 the date the coverage plan changed;

23 (3) the pension of a member who has service
24 credit earned on or before June 30, 2013 under each of two or
25 more coverage plans and who has service credit earned under any

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1 coverage plan on or after July 1, 2013 shall be equal to the
2 sum of:

3 (a) the pension attributable to the
4 service credit earned on or before June 30, 2013 determined
5 pursuant to Paragraph (1) or (2) of this subsection; and

6 (b) the pension attributable to the
7 service credit earned under each coverage plan on or after July
8 1, 2013;

9 (4) the pension of a member who has service
10 credit earned only on and after July 1, 2013 shall be equal to
11 the sum of the pension attributable to the service credit the
12 member has accrued under each coverage plan; and

13 (5) the provisions of each coverage plan for
14 the purpose of this subsection shall be those in effect at the
15 time the member ceased to be covered by the coverage plan.
16 "Service credit", for the purposes of this subsection, shall be
17 only personal service rendered an affiliated public employer
18 and credited to the member under the provisions of Subsection A
19 of Section 10-11-4 NMSA 1978. Service credited under any other
20 provision of the Public Employees Retirement Act shall not be
21 used to satisfy the three-year service credit requirement of
22 this subsection.

23 J. The following retired members may be
24 subsequently employed pursuant to the provisions of Subsection
25 K of this section; provided that the retired member has not

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1 been employed as an employee of an affiliated public employer
2 or retained as an independent contractor by the affiliated
3 public employer from which the retired member retired for at
4 least ninety consecutive days from the date of retirement to
5 the commencement of subsequent employment or reemployment with
6 an affiliated public employer:

7 (1) a retired member who was a certified law
8 enforcement officer under any municipal police member coverage
9 plan;

10 (2) a retired member who was a certified law
11 enforcement officer under the state police member, correctional
12 officer member and probation and parole officer member coverage
13 plan 1; or

14 (3) a retired member who was a municipal
15 detention officer member.

16 K. For a retired member provided in Subsection J of
17 this section, the:

18 (1) retired member's pension, including any
19 cost-of-living adjustment, shall continue to be paid during the
20 period of subsequent employment;

21 (2) retired member shall not become a member
22 during the period of subsequent employment;

23 (3) retired member shall not accrue service
24 credit for any portion of the period of subsequent employment;

25 (4) retired member and the retired member's

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1 subsequent affiliated public employer shall make the
2 contributions that would be required for members and employers
3 under the applicable coverage plan during the entire period of
4 subsequent employment;

5 (5) contributions paid by or on behalf of the
6 retired member during the term of subsequent employment shall
7 not be refundable at the termination of the subsequent
8 employment;

9 (6) retired member shall have no limitation on
10 the length of time that the retired member can be subsequently
11 employed or reemployed by an affiliated public employer;

12 (7) retired member shall have no limitation on
13 the salary paid to the retired member during subsequent
14 employment or reemployment by an affiliated public employer;
15 and

16 (8) subsequent employment occurs prior to July
17 1, 2027."

18 SECTION 3. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2024.