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HOUSE BILL 341

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

BOBBIE K. MALLORY

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS RETIREMENT; PROVIDING THAT
RETIREES FROM ANOTHER STATE PROGRAM MAY ALSO BE MEMBERS UNDER
THE VOLUNTEER FIREFIGHTERS RETIREMENT ACT; PROVIDING THAT
MEMBERS UNDER THE EDUCATIONAL RETIREMENT ACT MAY ALSO BE
MEMBERS UNDER THE VOLUNTEER FIREFIGHTERS RETIREMENT ACT;
MAKING AN APPROPRIATION.

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

Section 1. Section 10-11A-2 NMSA 1978 (being Laws 1983,
Chapter 263, Section 2) is amended to read:

"10-11A-2. DEFINITIONS. -- As used in the Volunteer
Firefighters Retirement Act:

A. "association" means the public employees
retirement association;

B. "board" means the retirement board of the

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1 public employees retirement association;

2 C. "fire department" means any volunteer fire
3 department certified by the state fire marshal's office;

4 D. "fund" means the volunteer firefighters
5 retirement fund; and

6 E. "member" means any volunteer nonsalaried
7 firefighter who is listed as an active member on the rolls of
8 a fire department and whose first year of service credit was
9 accumulated during or after the year he attained the age of
10 sixteen and no later than during the year in which he attained
11 the age of forty-five. [~~Excluded from membership is any~~
12 ~~volunteer nonsalaried firefighter who has been retired by or~~
13 ~~is receiving an annuity from any other retirement, pension or~~
14 ~~annuity plan created and established by the state or any of~~
15 ~~its political subdivisions, except the state police pension~~
16 ~~fund established under the provisions of Sections 29-4-1-~~
17 ~~through 29-4-11 NMSA 1978.-]~~

18 Section 2. Section 10-11A-3 NMSA 1978 (being Laws 1983,
19 Chapter 263, Section 3, as amended) is amended to read:

20 "10-11A-3. VOLUNTEER FIREFIGHTERS RETIREMENT FUND--
21 CREATION--TRANSFER OF FUNDS FROM THE FIRE PROTECTION FUND.--

22 A. There is created the "volunteer firefighters
23 retirement fund" in the state treasury. All annuities and
24 benefits in lieu of annuities shall be paid from the fund as
25 provided in the Volunteer Firefighters Retirement Act.

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1 B. [~~Beginning~~] In fiscal year 1998, the state
2 treasurer shall transfer [~~annually~~] on or before the last day
3 of July seven hundred fifty thousand dollars (\$750,000) plus
4 an additional two hundred fifty thousand dollars (\$250,000)
5 for fiscal year 1998 plus an additional two hundred fifty
6 thousand dollars (\$250,000) for fiscal year 1999 [~~plus an~~
7 ~~additional five hundred thousand dollars (\$500,000) for fiscal~~
8 ~~year 2000~~] from the fire protection fund to the credit of the
9 volunteer firefighters retirement fund.

10 C. In July of fiscal year 2000 and in July of each
11 year thereafter, the executive director of the association
12 shall calculate the amount necessary to amortize the unfunded
13 actuarial accrued liability of the firefighters retirement
14 fund. Upon certification by the executive director to the
15 state treasurer, the state treasurer shall transfer the amount
16 from the fire protection fund to the firefighter retirement
17 fund. Amounts to be transferred pursuant to this subsection
18 are appropriated. "

19 Section 3. Section 10-13A-4 NMSA 1978 (being Laws 1992,
20 Chapter 116, Section 16, as amended) is amended to read:

21 "10-13A-4. NORMAL RETIREMENT--PENSION BENEFIT.--If a
22 member has one month or more of eligible reciprocal service
23 credit under each of two or more state systems, the following
24 provisions shall apply, together with the applicable
25 provisions of the Public Employees Retirement Reciprocity Act,

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1 the Educational Retirement Act, the Public Employees
2 Retirement Act, the Judicial Retirement Act, the Magistrate
3 Retirement Act and the rules and regulations for those acts
4 promulgated by the board:

5 A. a member's total eligible reciprocal service
6 credit under all state systems shall be used in satisfying the
7 service credit requirements for normal retirement under the
8 state system from which the member retires;

9 B. when a member with eligible reciprocal service
10 credit retires, the member shall receive a pension that is
11 equal to the sum of the pensions attributable to the service
12 credit the member has accrued under each state system, subject
13 to the following restrictions:

14 (1) the salary used in calculating each
15 component of the pension shall be the salary, average annual
16 salary or final average salary, as those terms are defined
17 under the applicable act, earned while the member was covered
18 under the state system calculating that component as follows:

19 (a) the member's entire salary history
20 under the public employees retirement system and the
21 educational retirement system shall be used to determine the
22 final average salary and annual average salary under each
23 state system if the member has eligible reciprocal service
24 credit under both state systems;

25 (b) the member's entire salary history

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1 under the educational retirement system and the judicial
2 retirement system or the magistrate retirement system, or
3 both, shall be used to determine the average annual salary
4 under the Educational Retirement Act if the member has
5 eligible reciprocal service credit under those state systems,
6 but has less than five years of service credit under the
7 educational retirement system;

8 (c) the member's salary history under
9 the educational retirement system shall be used to determine
10 the average annual salary under that system if the member has
11 eligible reciprocal service credit under the Educational
12 Retirement Act and the Judicial Retirement Act or the
13 Magistrate Retirement Act, or both, and has five or more years
14 of service credit under the educational retirement system; or

15 (d) if a member has less than twelve
16 months of credited service under the judicial retirement
17 system or the magistrate retirement system, the final year's
18 salary shall be the aggregate amount of salary paid to the
19 member for the period of credited service divided by the
20 member's credited service times twelve;

21 (2) the member shall meet the age and service
22 credit requirements for retirement under each applicable state
23 system before the component of the pension attributable to
24 service credit accrued under that state system may be paid;
25 provided the member's total eligible reciprocal service credit

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1 under all state systems shall be used in satisfying the
2 service credit requirement for normal retirement under each
3 state system;

4 (3) the member shall terminate employment
5 under all state systems before the member may receive a
6 pension from any state system; and

7 (4) the member shall file an application for
8 retirement under the state system under which the member was
9 last employed, in accordance with the requirements of that
10 state system;

11 C. subject to the restrictions contained in this
12 section, the component of the pension attributable to each
13 state system shall be calculated based upon:

14 (1) the member's eligible reciprocal service
15 credit acquired as a member of that state system; and

16 (2) the pension calculation formula
17 applicable to the member under that state system;

18 D. the following limitations shall apply to
19 pensions calculated under the Public Employees Retirement
20 Reciprocity Act:

21 (1) in no case shall the total amount of the
22 pension, calculated under the Public Employees Retirement
23 Reciprocity Act and received by a member attributable to all
24 state systems exceed the amount allowable under Section 415 of
25 the Internal Revenue Code; and

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1 (2) where the member has less than five years
2 of service credit in one state system, the pension from that
3 state system shall not exceed six hundred twenty-five one
4 thousandths percent per month of service under that state
5 system multiplied by the following amount applicable under
6 that state system:

7 (a) one-twelfth of the member's
8 magistrate salary received during the last year in office;

9 (b) one-twelfth of the member's
10 judicial salary received during the last year in office; or

11 (c) the member's final average salary
12 as defined pursuant to the Public Employees Retirement Act;

13 E. the state system from which a member with
14 eligible reciprocal service credit retires shall be the payor
15 fund for the pension; provided that:

16 (1) each state system shall reimburse the
17 payor fund the amount of the component of the pension
18 attributable to service credit accrued under that state
19 system; and

20 (2) reimbursements shall be made in the
21 manner and frequency determined by the boards;

22 F. in no case shall any member retire from more
23 than one state system; provided that, for purposes of this
24 subsection, "state system" does not include the system
25 established for volunteer firefighters pursuant to the

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1 Volunteer Firefighters Retirement Act; and

2 G. if a member retires from any state system with
3 eligible reciprocal service credit and is subsequently
4 employed by any employer covered by a state system, the
5 retired member's eligibility to continue to receive pension
6 payments shall be governed by the retirement act governing the
7 state system from which the member retired. Subsequent
8 membership in the retirement program under which the
9 subsequent employee is covered shall be governed by that
10 retirement act. "

11 Section 4. Section 22-11-16 NMSA 1978 (being Laws 1967,
12 Chapter 16, Section 140) is amended to read:

13 "22-11-16. REGULAR MEMBERSHIP.--Except as otherwise
14 provided in the Educational Retirement Act, being a regular
15 member shall be a condition of employment and shall exclude
16 membership and participation in any other state retirement
17 program except the program established for volunteer
18 firefighters pursuant to the Volunteer Firefighters Retirement
19 Act. "

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 4, 1998
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9 Mr. Speaker:
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11 Your RULES AND ORDER OF BUSINESS COMMITTEE, to
12 whom has been referred
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15 HOUSE BILL 341
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17 has had it under consideration and finds same to be GERMANE
18 in accordance with constitutional provisions.
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21 Respectfully submitted,
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R. David Pederson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Gubbels, Hobbs, Lujan, Rodella, Ryan, Sanchez

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 12, 1998

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8 Mr. Speaker:

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10 Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
11 whom has been referred

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13 HOUSE BILL 341

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 3, lines 12 and 13, strike "amount necessary
18 to amortize the unfunded actuarial accrued liability of the" and
19 insert in lieu thereof "annual total required contributions for
20 the volunteer".

21
22 2. On page 3, line 16, strike "firefighter" and insert in
23 lieu thereof "volunteer firefighters".,

24 and thence referred to the APPROPRIATIONS AND FINANCE
25 COMMITTEE.

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 12

4 Respectfully submitted,
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8 _____
9 Lynda M. Lovejoy, Chairman

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11 Adopted _____

12 (Chief Clerk)

11 Not Adopted _____

12 (Chief Clerk)

13
14 Date _____
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16 The roll call vote was 4 For 1 Against

17 Yes: 4

18 No: Lovejoy

19 Excused: Pearce, Saavedra

20 Absent: None
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