

AN ACT

RELATING TO RETIREMENT OF LEGISLATORS; CHANGING STATE
LEGISLATOR RETIREMENT COVERAGE; AUTHORIZING FORMER
LEGISLATORS TO PURCHASE GROUP HEALTH INSURANCE COVERAGE
PURSUANT TO THE RETIREE HEALTH CARE ACT; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990,
Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS. --As used in the Retiree Health
Care Act:

A. "active employee" means an employee of a
public institution or any other public employer
participating in either the Educational Retirement Act, the
Public Employees Retirement Act, the Judicial Retirement
Act, the Magistrate Retirement Act or the Public Employees
Retirement Reciprocity Act or an employee of an independent
public employer;

B. "authority" means the retiree health care
authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those
coverages generally associated with a medical plan of
benefits;

D. "board" means the board of the retiree health
care authority;

E. "current retiree" means an eligible retiree who is receiving a disability or normal retirement benefit under the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the Public Employees Retirement Reciprocity Act or the retirement program of an independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care coverage based upon that person's relationship to an eligible retiree as follows:

- (1) a spouse;
- (2) an unmarried child under the age of

nineteen who is:

- (a) a natural child;
- (b) a legally adopted child;
- (c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;

- (d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or

- (e) a foster child living in the same household;

- (3) a child described in Subparagraphs (a)

through (e) of Paragraph (2) of this subsection who is between the ages of nineteen and twenty-five and is a full-time student at an accredited educational institution; provided that "full-time student" shall be a student enrolled in and taking twelve or more semester hours or its equivalent contact hours in primary, secondary, undergraduate or vocational school or a student enrolled in and taking nine or more semester hours or its equivalent contact hours in graduate school;

(4) a dependent child over nineteen who is wholly dependent on the eligible retiree for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;

(5) a surviving spouse defined as follows:

(a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or

(b) "surviving spouse" means the spouse to whom a deceased vested active employee was married at the time of death; or

(6) a surviving dependent child who is the dependent child of a deceased eligible retiree whose other

parent is also deceased;

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(2) an "independent public employer", which means a municipality, county or public entity that is not a retirement system employer;

H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and

offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible under Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(2) a "salaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served with salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act;

(b) has maintained group health insurance through that member's governing authority, if such group health insurance was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible under Subparagraph (a) of this paragraph applies before August 1,

1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(3) an "eligible participating retiree", which means a person who:

(a) falls within the definition of a retiree, has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(b) falls within the definition of a retiree, retired prior to July 1, 1990 and is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement association or the governing authority of an independent public employer; but this paragraph does not include a retiree who was an employee of an eligible employer who exercised the option not to be a participating employer

pursuant to the Retiree Health Care Act and did not after January 1, 1993 elect to become a participating employer; unless the retiree: 1) retired on or before June 30, 1990; and 2) at the time of retirement did not have a retirement health plan or retirement health insurance coverage available from his employer; or

(c) is a retiree who: 1) was at the time of retirement an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act, but which eligible employer subsequently elected after January 1, 1993 to become a participating employer; 2) has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires less than five years after the date participation begins, in which event the time period required for employee and employer contributions shall become the period of time between the date participation begins and the date of retirement; and 3) is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer; or

(4) a "legislative member", which means a person who is not a retiree and who is certified by the

legislative council service to have served as a member of the New Mexico legislature for at least four years, but is no longer a member of the legislature;

I. "fund" means the retiree health care fund;

J. "group health insurance" means coverage that includes but is not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices, medicare supplement, medicare carveout, medicare coordination and other benefits, supplies and services through the vehicles of indemnity coverages, health maintenance organizations, preferred provider organizations and other health care delivery systems as provided by the Retiree Health Care Act and other coverages considered by the board to be advisable;

K. "ineligible dependents" include but are not limited to:

(1) those dependents created by common law relationships;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers, sisters, grandchildren and other family members left in the care of an eligible retiree without evidence of legal guardianship; and

(4) anyone not specifically referred to as an eligible dependent pursuant to the rules and regulations adopted by the board;

L. "participating employee" means an employee of a participating employer, which employee has not been excluded from participation in the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

M. "participating employer" means an eligible employer who has satisfied the conditions for participating in the benefits of the Retiree Health Care Act, including the requirements of Subsection M of Section 10-7C-7 NMSA 1978 and Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

N. "public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit under the Educational Retirement Act;

(b) a disability or normal retirement benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the

Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act. "

Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990, Chapter 6, Section 13, as amended) is amended to read:

"10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS. --

A. Each eligible retiree shall pay a monthly premium for the basic plan in an amount set by the board not to exceed fifty dollars (\$50.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed nine percent in any fiscal year. In addition to the monthly premium for the basic plan, each current retiree and nonsalaried eligible participating entity governing authority member who becomes an eligible retiree shall also pay monthly an additional participation fee set by the board. That fee shall be five dollars (\$5.00) plus the amount, if any, of the compounded

annual increases authorized by the board, which increases shall not exceed nine percent in any fiscal year. The additional monthly participation fee paid by the current retirees and nonsalaried eligible participating entity governing authority members who become eligible retirees shall be a consideration and a condition for being permitted to participate in the Retiree Health Care Act. A legislative member shall pay a monthly premium for any selected plan equal to one-twelfth of the annual cost of the claims and administrative costs of that plan allocated to the member by the board. In addition, a legislative member shall pay the additional monthly participation fee set by the board pursuant to this subsection as a consideration and condition for participation in the Retiree Health Care Act. Eligible dependents shall pay monthly premiums in amounts that with other money appropriated to the fund shall cover the cost of the basic plan for the eligible dependents.

B. Eligible retirees and eligible dependents shall pay monthly premiums to cover the cost of the optional plans that they elect to receive, and the board shall adopt rules for the collection of additional premiums from eligible retirees and eligible dependents participating in the optional plans. An eligible retiree or eligible dependent may authorize the authority in writing to deduct the amount of these premiums from the monthly annuity payments, if applicable.

C. The participating employers, active employees and retirees are responsible for the financial viability of the program. The overall financial viability is not an additional financial obligation of the state."

Section 3. Section 10-11-39 NMSA 1978 (being Laws 1987, Chapter 253, Section 39) is amended to read:

"10-11-39. STATE LEGISLATOR MEMBER COVERAGE PLAN 1-- APPLICABILITY.--State legislator member coverage plan 1 is applicable to state legislators and lieutenant governors whose service ended before January 1, 1999."

Section 4. Section 10-11-41 NMSA 1978 (being Laws 1987, Chapter 253, Section 41) is amended to read:

"10-11-41. STATE LEGISLATOR MEMBER COVERAGE PLAN 1-- AMOUNT OF PENSION--FORM OF PAYMENT A.--

A. Under state legislator member coverage plan 1, the annual amount of pension under form of payment A is equal to two hundred fifty dollars (\$250) multiplied by credited service as a legislator or lieutenant governor, if the member served as legislator or lieutenant governor after December 31, 1959 and his service ended prior to January 1, 1999.

B. Under state legislator member coverage plan 1, the annual amount of pension under form of payment A is equal to forty dollars (\$40.00) multiplied by credited service as a legislator or lieutenant governor, if all service as a legislator or lieutenant governor is prior to

January 1, 1960. "

Section 5. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2-- APPLICABILITY.--State legislator member coverage plan 2 is applicable to state legislators and lieutenant governors who are serving terms of office after December 31, 1998. "

Section 6. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under state legislator member coverage plan 2, the age and service requirements for normal retirement are:

A. age sixty-five years or older and five or more years of credited service; or

B. any age and twelve or more years of credited service. "

Section 7. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state legislator member coverage plan 2, the annual amount of pension under form of payment A is equal to the sum of the following amounts calculated by multiplying the member's contributions for the applicable years of credited service as a legislator or lieutenant governor by the applicable factor as follows:

A. for service ending prior to January 1, 2001:

(1) an amount equal to the member's contributions for the first twelve years of credited service multiplied by a factor of 2.5; and

(2) an amount equal to the member's contributions for the years of credited service in excess of twelve years multiplied by a factor of 1.0; and

B. for service ending after January 1, 2001:

(1) an amount equal to the member's contributions for the first twelve years of credited service multiplied by a factor of 2.5;

(2) an amount equal to the member's contributions for the next eight years of credited service multiplied by a factor of 1.0; and

(3) an amount equal to the member's contributions for the years of credited service in excess of twenty years multiplied by a factor of .25. "

Section 8. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE. --A member under state legislator member coverage plan 2 shall contribute four hundred dollars (\$400) for each year of credited service. "

Section 9. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--STATE

CONTRIBUTION RATE. --The state shall contribute amounts sufficient to finance the membership of members under state legislator member coverage plan 2 on an actuarial reserve basis. "

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Section 10. A new section of the Public Employees Retirement Act is enacted to read:

"STATE LEGISLATOR MEMBER COVERAGE PLAN 2--CONTRIBUTIONS FOR SERVICE PRIOR TO 1999. --To be eligible for state legislator member coverage plan 2, a state legislator or lieutenant governor shall make the necessary contributions for years of credited service earned prior to January 1, 1999 in an amount that totals four hundred dollars (\$400) for each year of credited service. "

Section 11. APPROPRIATION. --Six hundred thirty thousand dollars (\$630,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2000 for the purpose of carrying out the provisions of Sections 3 through 10 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall not revert to the general fund. _____
