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BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC EMPLOYEES; EXEMPTING CERTAIN EDUCATIONAL
RETIREMENT BOARD EMPLOYEES FROM THE PERSONNEL ACT; ALLOWING THE
EDUCATIONAL RETIREMENT DIRECTOR TO EMPLOY AND FIX THE SALARIES
OF CERTAIN EMPLOYEES; PROVIDING THAT THE BOARD FIX THE
DIRECTOR'S SALARY.

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

SECTION 1. Section 10-9-4 NMSA 1978 (being Laws 1961,
Chapter 240, Section 4, as amended) is amended to read:

"10-9-4. COVERAGE OF SERVICE.--The Personnel Act and the
service cover all state positions except:

A. officials elected by popular vote or appointed
to fill vacancies to elective offices;

B. members of boards and commissions and heads of
agencies appointed by the governor;

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1 C. heads of agencies appointed by boards or
2 commissions;

3 D. directors of department divisions;

4 E. those in educational institutions and in public
5 schools;

6 F. those who are employed by state institutions and
7 by state agencies providing educational programs and who are
8 required to hold valid certificates as certified school
9 instructors as defined in Section 22-1-2 NMSA 1978 issued by
10 the public education department;

11 G. the chief investment officer of the educational
12 retirement board and those employed in the investment division
13 of the board as portfolio managers, investment analysts or
14 supervisors;

15 [~~G.~~] H. those in the governor's office;

16 [~~H.~~] I. those in the state militia or the
17 commissioned officers of the New Mexico state police division
18 of the department of public safety;

19 [~~I.~~] J. those in the judicial branch of government;

20 [~~J.~~] K. those in the public defender department,
21 upon implementation of personnel policies and rules by the
22 public defender commission;

23 [~~K.~~] L. those in the legislative branch of
24 government;

25 [~~L. not more than~~] M. up to two assistants and one

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1 secretary in the office of each official listed in Subsections
2 A [B] and C of this section [~~excluding members of boards and~~
3 ~~commissions in Subsection B of this section~~] and in the office
4 of each head of an agency appointed by the governor;

5 [M-] N. those of a professional or scientific
6 nature that are temporary in nature;

7 [N-] O. those filled by patients or inmates in
8 charitable, penal or correctional institutions;

9 [O-] P. state employees if the board in its
10 discretion decides that the position is one of policymaking;
11 and

12 [P-] Q. disadvantaged youth under twenty-two years
13 of age who are regularly enrolled or to be enrolled in a
14 secondary educational institution approved by the public
15 education department or in an accredited state institution of
16 advanced learning or vocational training and who are to be
17 employed for not more than seven hundred twenty hours during
18 any calendar year:

19 (1) the term "disadvantaged youth" shall be
20 defined for purposes of this exemption by regulation duly
21 promulgated by the board; and

22 (2) the board shall:

23 (a) require that all the criteria of
24 this subsection have been met;

25 (b) establish employment lists for the

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1 certification of the highest-standing candidates to the
2 prospective employers; and

3 (c) establish the pay rates for such
4 employees."

5 SECTION 2. Section 10-9-5 NMSA 1978 (being Laws 1978,
6 Chapter 96, Section 1, as amended) is amended to read:

7 "10-9-5. PUBLIC OFFICERS AND PUBLIC EMPLOYEES--EXECUTIVE
8 BRANCH--ANNUAL EXEMPT SALARIES PLAN.--

9 A. The department of finance and administration
10 shall prepare, by December 1 of each year, an exempt salaries
11 plan for the governor's approval [~~the plan shall specify~~] that
12 specifies salary ranges for the following public officer and
13 public employee positions of the executive branch of
14 government:

15 (1) members of boards and commissions
16 appointed by the governor;

17 (2) heads of agencies or departments appointed
18 by the governor;

19 (3) heads of agencies or departments appointed
20 by the respective boards and commissions of the agencies;

21 (4) directors of department divisions;

22 (5) employees in the governor's office;

23 (6) positions in the state militia and the
24 commissioned officers of the New Mexico state police division
25 of the department of public safety;

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1 (7) assistants and secretaries in the offices
2 of each official covered by Paragraphs (2) and (3) [~~and (10)~~]
3 of this subsection;

4 (8) temporary positions of a professional or
5 scientific nature [~~which are temporary in nature~~]; and

6 (9) state employees whose positions the
7 [~~personnel~~] board has classified as [~~policy-making~~]
8 policymaking positions and exempt employees of elective public
9 officials [~~and~~

10 (~~10~~) ~~secretaries of departments appointed by~~
11 ~~the governor~~].

12 B. Excluded from the provisions of this section
13 are:

14 (1) employees of the [~~commission on~~] higher
15 education department and employees of state educational
16 institutions named in Article 12, Section 11 of the
17 constitution of New Mexico; and

18 (2) the chief investment officer of the
19 educational retirement board and those employed in the
20 investment division of the board as portfolio managers,
21 investment analysts or supervisors.

22 C. The exempt salaries plan for the ensuing fiscal
23 year, as prepared by the department of finance and
24 administration and approved by the governor, shall be published
25 as a part of the executive budget document presented to the

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1 legislature at its next regular session following the
2 preparation of the plan.

3 D. Upon the governor's approval, the plan shall
4 take effect at the beginning of the subsequent fiscal year."

5 SECTION 3. Section 22-11-7 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 131) is amended to read:

7 "22-11-7. EDUCATIONAL RETIREMENT DIRECTOR--BOND--
8 EMPLOYEES OF THE DIRECTOR.--

9 A. The board shall employ [~~an educational~~
10 ~~retirement~~] and fix the salary of a director. The director
11 shall be the administrative officer for the board in carrying
12 out the provisions of the Educational Retirement Act and shall
13 have those additional duties provided in the regulations of the
14 board.

15 B. Before assuming the duties of office, the
16 director shall obtain an official bond payable to the fund and
17 conditioned upon the faithful performance of [~~his~~] the
18 director's duties during [~~his~~] the director's term of office.
19 The bond shall be executed by a corporate surety company
20 authorized to do business in this state. The amount of the
21 bond shall be not less than twenty-five thousand dollars
22 (\$25,000). The board may elect to obtain a schedule or blanket
23 corporate surety bond covering the director and employees of
24 the [~~division~~] board for any period not exceeding four years.
25 The cost of a bond obtained pursuant to this section shall be

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1 paid from the fund. Any bond obtained shall be approved by the
2 board and filed with the secretary of state.

3 C. The director may employ a chief investment
4 officer, portfolio managers, investment analysts and investment
5 division supervisors to serve at the director's pleasure. The
6 director shall, within budget allowances and appropriation
7 limits, fix the salary of an employee serving in any of those
8 positions."

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