

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 644

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT AND THE
EDUCATIONAL RETIREMENT ACT; REDUCING COST-OF-LIVING ADJUSTMENTS
AND INCREASING AGE AND SERVICE REQUIREMENTS FOR RETIREMENT OF
CERTAIN EMPLOYEES; AUTHORIZING THE PURCHASE OF SERVICE CREDIT.

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

SECTION 1. Section 10-11-26.2 NMSA 1978 (being Laws 1994,
Chapter 128, Section 3, as amended) is amended to read:

"10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE
AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

A. Under state general member coverage plan 3:

(1) for a member who is a peace officer and
for a member who is not a peace officer but was a retired
member or a member ~~[on June 30, 2010]~~ with five or more years

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1 of service credit on or before July 1, 2011, the age and
2 service credit requirements for normal retirement are:

3 (a) age sixty-five years or older and
4 five or more years of service credit;

5 (b) age sixty-four years and eight or
6 more years of service credit;

7 (c) age sixty-three years and eleven or
8 more years of service credit;

9 (d) age sixty-two years and fourteen or
10 more years of service credit;

11 (e) age sixty-one years and seventeen or
12 more years of service credit;

13 (f) age sixty years and twenty or more
14 years of service credit; and

15 (g) any age and twenty-five or more
16 years of service credit; and

17 (2) for a member who is not a peace officer
18 and was not a retired member or a member [~~on June 30, 2010~~]
19 with five or more years of service credit on or before July 1,
20 2011, the age and service requirements for normal retirement
21 are:

22 (a) age sixty-seven years or older and
23 five or more years of service credit; or

24 (b) [~~any~~] age fifty-five years or older
25 if the sum of the member's age and years of service credit

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1 equals at least eighty [~~or~~

2 ~~(c) any age and thirty or more years of~~
 3 ~~service credit].~~

4 B. As used in this section, "peace officer" means
 5 any employee of the state with a duty to maintain public order
 6 or to make arrests for crime, whether that duty extends to all
 7 crimes or is limited to specific crimes, and who is not
 8 specifically covered by another coverage plan."

9 SECTION 2. Section 10-11-45 NMSA 1978 (being Laws 1987,
 10 Chapter 253, Section 45, as amended) is amended to read:

11 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE
 12 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
 13 municipal general member coverage plan 1:

14 A. for a member who was a retired member or a
 15 member [~~on June 30, 2010~~] with five or more years of service
 16 credit on or before July 1, 2011, the age and service
 17 requirements for normal retirement are:

18 (1) age sixty-five years or older and five or
 19 more years of service credit;

20 (2) age sixty-four years and eight or more
 21 years of service credit;

22 (3) age sixty-three years and eleven or more
 23 years of service credit;

24 (4) age sixty-two years and fourteen or more
 25 years of service credit;

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1 (5) age sixty-one years and seventeen or more
2 years of service credit;

3 (6) age sixty years and twenty or more years
4 of service credit; or

5 (7) any age and twenty-five or more years of
6 service credit; and

7 B. for a member who was not a retired member or a
8 member [~~on June 30, 2010~~] with five or more years of service
9 credit on or before July 1, 2011, the age and service
10 requirements for normal retirement are:

11 (1) age sixty-seven years or older and five or
12 more years of service credit; or

13 (2) [~~any~~] age fifty-five years or older if the
14 sum of the member's age and years of service credit equals at
15 least eighty [~~or~~

16 ~~(3) any age and thirty or more years of~~
17 ~~service credit]."~~

18 SECTION 3. Section 10-11-51 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 51, as amended) is amended to read:

20 "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE
21 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
22 municipal general member coverage plan 2:

23 A. for a member who was a retired member or a
24 member [~~on June 30, 2010~~] with five or more years of service
25 credit on or before July 1, 2011, the age and service

1 requirements for normal retirement are:

2 (1) age sixty-five years or older and five or
3 more years of service credit;

4 (2) age sixty-four years and eight or more
5 years of service credit;

6 (3) age sixty-three years and eleven or more
7 years of service credit;

8 (4) age sixty-two years and fourteen or more
9 years of service credit;

10 (5) age sixty-one years and seventeen or more
11 years of service credit;

12 (6) age sixty years and twenty or more years
13 of service credit; or

14 (7) any age and twenty-five or more years of
15 service credit; and

16 B. for a member who was not a retired member or a
17 member ~~[on June 30, 2010]~~ with five or more years of service
18 credit on or before July 1, 2011, the age and service
19 requirements for normal retirement are:

20 (1) age sixty-seven years or older and five or
21 more years of service credit; or

22 (2) ~~[any]~~ age fifty-five years or older if the
23 sum of the member's age and years of service credit equals at
24 least eighty ~~[or~~

25 ~~(3) any age and thirty or more years of~~

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1 ~~service credit]."~~

2 SECTION 4. Section 10-11-55.2 NMSA 1978 (being Laws 1993,
3 Chapter 58, Section 2, as amended) is amended to read:

4 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
5 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
6 municipal general member coverage plan 3:

7 A. for a member who was a retired member or a
8 member [~~on June 30, 2010~~] with five or more years of service
9 credit on or before July 1, 2011, the age and service
10 requirements for normal retirement are:

11 (1) age sixty-five years or older and five or
12 more years of service credit;

13 (2) age sixty-four years and eight or more
14 years of service credit;

15 (3) age sixty-three years and eleven or more
16 years of service credit;

17 (4) age sixty-two years and fourteen or more
18 years of service credit;

19 (5) age sixty-one years and seventeen or more
20 years of service credit;

21 (6) age sixty years and twenty or more years
22 of service credit; or

23 (7) any age and twenty-five or more years of
24 service credit; and

25 B. for a member who was not a retired member or a

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1 member [~~on June 30, 2010~~] with five or more years of service
 2 credit on or before July 1, 2011, the age and service
 3 requirements for normal retirement are:

4 (1) age sixty-seven years or older and five or
 5 more years of service credit; or

6 (2) [~~any~~] age fifty-five years or older if the
 7 sum of the member's age and years of service credit equals at
 8 least eighty [~~or~~

9 ~~(3) any age and thirty or more years of~~
 10 ~~service credit]."~~

11 SECTION 5. Section 10-11-55.8 NMSA 1978 (being Laws 1998,
 12 Chapter 106, Section 2, as amended) is amended to read:

13 "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
 14 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
 15 municipal general member coverage plan 4:

16 A. for a member who was a retired member or a
 17 member [~~on June 30, 2010~~] with five or more years of service
 18 credit on or before July 1, 2011, the age and service
 19 requirements for normal retirement are:

20 (1) age sixty-five years or older and five or
 21 more years of service credit;

22 (2) age sixty-four years and eight or more
 23 years of service credit;

24 (3) age sixty-three years and eleven or more
 25 years of service credit;

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1 (4) age sixty-two years and fourteen or more
2 years of service credit;

3 (5) age sixty-one years and seventeen or more
4 years of service credit;

5 (6) age sixty years and twenty or more years
6 of service credit; or

7 (7) any age and twenty-five or more years of
8 service credit; and

9 B. for a member who was not a retired member or a
10 member ~~[on June 30, 2010]~~ with five or more years of service
11 credit on or before July 1, 2011, the age and service
12 requirements for normal retirement are:

13 (1) age sixty-seven years or older and five or
14 more years of service credit; or

15 (2) ~~[any]~~ age fifty-five years or older if the
16 sum of the member's age and years of service credit equals at
17 least eighty ~~[or~~

18 ~~(3) any age and thirty or more years of~~
19 ~~service credit]."~~

20 SECTION 6. Section 10-11-118 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 118, as amended) is amended to read:

22 "10-11-118. COST-OF-LIVING ADJUSTMENTS.--

23 A. For the purposes of this section:

24 (1) "adjustment factor" means a multiplicative
25 factor computed to provide a pension adjustment pursuant to the

1 provisions of Subsection C of this section;

2 (2) "consumer price index" means the average
 3 of the monthly consumer price indexes for a calendar year for
 4 the entire United States for all items as published by the
 5 United States;

6 (3) "next preceding calendar year" means the
 7 full calendar year immediately prior to the preceding calendar
 8 year; and

9 ~~[(1)]~~ (4) "preceding calendar year" means the
 10 twelve-month period ending on the December 31 preceding the
 11 July 1 in which pensions are being adjusted [and

12 ~~(2) "second preceding calendar year" means the~~
 13 ~~full calendar year prior to the preceding calendar year].~~

14 B. The amount of pension payable to a qualified
 15 pension recipient who had five or more years of service credit
 16 on or before July 1, 2011 shall be increased three percent each
 17 July 1. The amount of the increase shall be determined by
 18 multiplying the amount of pension inclusive of all prior
 19 adjustments by three percent.

20 C. The amount of pension payable to a qualified
 21 pension recipient who did not have five or more years of
 22 service credit on or before July 1, 2011 shall be increased
 23 annually and cumulatively each July 1. The amount of the
 24 increase shall be determined by applying an adjustment factor
 25 that results in an adjustment equal to three-fourths of the

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1 percentage increase of the consumer price index between the
2 next preceding calendar year and the preceding calendar year,
3 except that the adjustment shall not exceed three percent nor
4 shall it be less than zero percent. The amount of pension
5 payable shall not be decreased in the event that there is a
6 decrease in the consumer price index between the next preceding
7 calendar year and the preceding calendar year.

8 ~~[G-]~~ D. A qualified pension recipient is:

9 (1) a normal retired member who had five or
10 more years of service credit on or before July 1, 2011 and who
11 has been retired for at least two full calendar years from the
12 effective date of the latest retirement prior to July 1 of the
13 year in which the pension is being adjusted;

14 (2) a normal retired member who has attained
15 age sixty-five years and been retired for at least one full
16 calendar year from the effective date of the latest retirement
17 prior to July 1 of the year in which the pension is being
18 adjusted;

19 (3) a disability retired member who has been
20 retired for at least one full calendar year from the effective
21 date of the latest retirement prior to July 1 of the year in
22 which the pension is being adjusted;

23 (4) a survivor beneficiary who has received a
24 survivor pension for at least two full calendar years; or

25 (5) a survivor beneficiary of a deceased

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1 retired member who otherwise would have been retired at least
 2 two full calendar years from the effective date of the latest
 3 retirement prior to July 1 of the year in which the pension is
 4 being adjusted.

5 ~~[D-]~~ E. A qualified pension recipient may decline
 6 an increase in a pension by giving the association written
 7 notice of the decision to decline the increase at least thirty
 8 days prior to the date the increase would take effect."

9 SECTION 7. Section 22-11-23 NMSA 1978 (being Laws 1981,
 10 Chapter 293, Section 2, as amended by Laws 2009, Chapter 286,
 11 Section 1 and by Laws 2009, Chapter 288, Section 14) is amended
 12 to read:

13 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
 14 PRIOR TO JULY 1, 2010.--

15 A. The retirement eligibility for a member who
 16 either was a member on June 30, 2010, or was a member at any
 17 time prior to that date and had not, on that date, been
 18 refunded all member contributions pursuant to Subsection A of
 19 Section 22-11-15 NMSA 1978, is as follows:

20 (1) a member shall be eligible for retirement
 21 benefits pursuant to the Educational Retirement Act when
 22 ~~[either]~~ any of the following conditions occurs:

23 (a) for a member who has acquired five
 24 or more years of contributory employment before July 1, 2011,
 25 the sum of the member's age and years of earned service credit

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1 equals seventy-five; [~~or~~]

2 (b) the member is at least fifty-five
3 years of age and the sum of the member's age and earned service
4 credit equals seventy-five; or

5 (c) upon completion of five years of
6 earned service credit and upon becoming sixty-five years of
7 age;

8 (2) a member under sixty years of age eligible
9 to retire under Paragraph (1) of this subsection may retire and
10 receive retirement benefits pursuant to the Educational
11 Retirement Act that the member would be eligible to receive if
12 the member were to retire at the age of sixty years reduced by
13 six-tenths of one percent for each one-fourth, or portion
14 thereof, year that retirement occurs prior to the member's
15 sixtieth birthday but after the fifty-fifth birthday and one
16 and eight-tenths percent for each one-fourth, or portion
17 thereof, year that retirement occurs prior to age fifty-five;
18 or

19 (3) a member who has acquired five or more
20 years of contributory employment before July 1, 2011 and who is
21 under sixty years of age acquiring twenty-five or more years of
22 earned and allowed service credit may retire and receive
23 retirement benefits pursuant to the Educational Retirement Act
24 computed on the same basis as if the member were sixty years of
25 age.

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1 B. A member shall be subject to the provisions of
2 Paragraphs (2) and (3) of Subsection A of this section as they
3 existed at the beginning of the member's last cumulated four
4 quarters of earned service credit, regardless of later
5 amendment."

6 **SECTION 8.** Section 22-11-23.1 NMSA 1978 (being Laws 2009,
7 Chapter 286, Section 2 and Laws 2009, Chapter 288, Section 15)
8 is amended to read:

9 "22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
10 ON OR AFTER JULY 1, 2010.--

11 A. A member who initially became a member on or
12 after July 1, 2010 or a member who was a member at any time
13 prior to that date and had, before that date, been refunded all
14 member contributions pursuant to Subsection A of Section
15 22-11-15 NMSA 1978, shall be eligible for retirement benefits
16 pursuant to the Educational Retirement Act when one of the
17 following conditions occurs:

18 (1) ~~[the member is any age and has thirty or~~
19 ~~more years of earned service credit;~~

20 ~~(2)]~~ the member is at least sixty-seven years
21 of age and has five or more years of earned service credit; or

22 ~~[(3)]~~ (2) the member is age fifty-five years
23 or older and the sum of the member's age and years of earned
24 service credit equals at least eighty; provided that a member
25 who retires pursuant to this paragraph shall be subject to the

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1 benefit reductions provided in Paragraphs (1) and (2) of
2 Subsection H of Section 22-11-30 NMSA 1978.

3 B. A member shall be subject to the provisions of
4 this section as they existed at the beginning of the member's
5 last cumulated four quarters of earned service credit,
6 regardless of later amendment."

7 SECTION 9. Section 22-11-27 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 150, as amended) is amended to read:

9 "22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

10 A. A member eligible for retirement may continue in
11 employment and shall continue to pay contributions as provided
12 by the Educational Retirement Act.

13 ~~[B. A member may terminate his employment and
14 retire at any time after his age and his earned service credit
15 equal the sum of seventy-five if the contributions he has made
16 are left in the fund.]~~

17 ~~G. A member having five years or more of earned
18 service credit may terminate his employment and retire at any
19 time after reaching the age of sixty-five years if the
20 contributions he has made are left in the fund.]~~

21 B. A member may terminate employment prior to
22 retirement and leave the member's contributions in the fund,
23 and may thereafter retire upon satisfying the retirement
24 eligibility requirements in Section 22-11-23 or 22-11-23.1 NMSA
25 1978.

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1 ~~[D-]~~ C. No member shall be on a retirement status
2 while engaged in employment unless the employment falls within
3 exceptions established by statute or rule of the board."

4 **SECTION 10.** Section 22-11-34 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 157, as amended) is amended to read:

6 "22-11-34. ALLOWED SERVICE CREDIT.--

7 A. A member shall be certified to have acquired
8 allowed service credit pursuant to the Internal Revenue Code of
9 1986 for those periods of time when the member was:

10 (1) employed prior to July 1, 1967 in a
11 federal educational program within New Mexico, including United
12 States Indian schools and civilian conservation corps camps.
13 This service credit shall be allowed without contribution;

14 (2) engaged in military service that
15 interrupted the member's employment in New Mexico if the member
16 returned to employment within eighteen months following
17 honorable discharge. This service credit shall be allowed
18 without contribution;

19 (3) engaged in United States military service
20 or the commissioned corps of the public health service from
21 which the member was honorably discharged; provided that:

22 (a) the member shall have five years or
23 more of contributory employment to be eligible to purchase
24 allowed service credit pursuant to this paragraph;

25 (b) the member shall contribute to the

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1 fund, for each year of service credit the member elects to
2 purchase, a sum equal to the member's average annual actual
3 salary for the five years preceding the date of the
4 contribution multiplied by the sum of the member contribution
5 rate and the employer contribution rate in effect at the time
6 of the member's written election to purchase, subject to the
7 federal Uniformed Services Employment and Reemployment Rights
8 Act of 1994;

9 (c) full payment shall be made in a
10 single lump sum within sixty days of the date that the member
11 is informed of the amount of the payment; and

12 (d) the portion of the purchase cost
13 derived from the employer's contribution rate shall be credited
14 to the fund and, in the event that a member requests a refund
15 of contributions pursuant to Section 22-11-15 NMSA 1978, the
16 member shall not be entitled to a refund of that portion of the
17 purchase cost derived from the employer contribution rate; or

18 (4) employed:

19 (a) in a public school or public
20 institution of higher learning in another state, territory or
21 possession of the United States;

22 (b) in a United States military
23 dependents' school operated by a branch of the armed forces of
24 the United States;

25 (c) as provided in Paragraph (1) of this

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1 subsection after July 1, 1967; or

2 (d) in a private school or institution
3 of higher learning in New Mexico whose education program is
4 accredited or approved by the department at the time of
5 employment.

6 B. Effective July 1, 2001, the member or employer
7 under Paragraph (4) of Subsection A of this section shall
8 contribute to the fund for each year of allowed service credit
9 desired an amount equal to the actuarial value of the service
10 purchased as defined by the board. Payment pursuant to
11 Paragraph (4) of Subsection A of this section may be made in
12 installments, at the discretion of the board, over a period not
13 to exceed one year and, if the sum paid does not equal the
14 amount required for any full year of allowed service credit,
15 the member shall acquire allowed service credit for that period
16 of time that is proportionate to the payment made. Half credit
17 may be allowed without contribution for not more than ten years
18 of the educational service described by Subparagraph (a) of
19 Paragraph (4) of Subsection A of this section if that service
20 was prior to June 13, 1953 and if the member was employed in
21 New Mexico prior to June 13, 1953 in a position covered by the
22 Educational Retirement Act or a law repealed by that act. No
23 allowed service credit shall be purchased pursuant to Paragraph
24 (4) of Subsection A of this section unless the member is
25 currently employed by a local administrative unit.

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1 C. At any time prior to retirement, a member may
2 purchase service credit in calendar quarterly increments,
3 subject to the following conditions:

4 (1) the member has at least five years of
5 service credit acquired as a result of employment by a local
6 administrative unit;

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

9 (3) the member pays full actuarial present
10 value of the amount of the increase in the employee's pension
11 as a consequence of the purchase as determined by the board;

12 (4) the member pays the full cost of the
13 purchase within sixty days of the date the member is informed
14 of the amount of the payment; and

15 (5) service credit purchased under this
16 subsection shall be treated as earned service credit for the
17 purposes of determining eligibility for retirement or
18 disability benefits but shall not be used to determine the
19 final average salary.

20 ~~[G.]~~ D. No member shall be certified to have
21 acquired allowed service credit:

22 (1) under any single paragraph or the
23 combination of only Paragraphs (1) and (4) or only Paragraphs
24 (2) and (3) of Subsection A of this section in excess of five
25 years; or

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1 (2) in excess of ten years for any other
2 combination of Paragraphs (1) through (4) of Subsection A of
3 this section.

4 [~~D~~] E. A member receiving service credit under
5 Subsection C or Paragraph (3) or (4) of Subsection A of this
6 section who enrolls in the retiree health care authority shall
7 make contributions pursuant to Subsection C of Section 10-7C-15
8 NMSA 1978.

9 [~~E~~] F. The provisions of this section are made
10 applicable to the services described prior to as well as after
11 the effective date of the Educational Retirement Act."

12 SECTION 11. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2011.

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