

1 AN ACT

2 RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC
3 EMPLOYEES RETIREMENT ACT TO CHANGE THE REQUIREMENTS FOR
4 RETURNING TO PUBLIC EMPLOYMENT AFTER RETIREMENT; REQUIRING A
5 WAIT PERIOD BEFORE RETURNING TO WORK; ADDRESSING INDEPENDENT
6 CONTRACTORS; SUSPENDING A RETIRED MEMBER'S PENSION IF THE
7 RETIRED MEMBER RETURNS TO WORK WITH AN AFFILIATED PUBLIC
8 EMPLOYER; ADDRESSING CONTRIBUTIONS AND SERVICE CREDITS;
9 ELIMINATING CERTAIN EXCEPTIONS FROM THE PENSION SUSPENSION
10 REQUIREMENT; ADDRESSING THE STATUS OF CURRENTLY RETIRED
11 MEMBERS WHO ARE RECEIVING A PENSION AND HAVE RETURNED TO WORK
12 WITH AN AFFILIATED PUBLIC EMPLOYER.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 8, as amended) is amended to read:

17 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
18 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

19 A. A member may retire upon fulfilling the
20 following requirements prior to the selected date of
21 retirement:

22 (1) a written application for normal
23 retirement, in the form prescribed by the association, is
24 filed with the association;

25 (2) employment is terminated with all

1 employers covered by any state system or the educational
2 retirement system;

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

5 (4) the member meets the age and service
6 credit requirement for normal retirement specified in the
7 coverage plan applicable to the member.

8 B. The amount of normal retirement pension is
9 determined in accordance with the coverage plan applicable to
10 the member.

11 C. Except as provided in Subsection D of this
12 section, on or after July 1, 2010, a retired member may be
13 subsequently employed by an affiliated public employer only
14 pursuant to the following provisions:

15 (1) the retired member has not been employed
16 as an employee of an affiliated public employer or retained
17 as an independent contractor by the affiliated public
18 employer from which the retired member retired for at least
19 twelve consecutive months from the date of retirement to the
20 commencement of employment or reemployment with an affiliated
21 public employer;

22 (2) the retired member's pension shall be
23 suspended upon commencement of the employment;

24 (3) except as provided in Subsection F of
25 this section, the previously retired member shall not become

1 a member and thus the previously retired member shall accrue
2 no service credit and the previously retired member and that
3 person's affiliated public employer shall make no
4 contributions under any coverage plan pursuant to the Public
5 Employees Retirement Act; and

6 (4) upon termination of the subsequent
7 employment, the previously retired member's pension shall
8 resume in accordance with the provisions of Subsection A of
9 this section.

10 D. The provisions of Subsection C of this section
11 do not apply to:

12 (1) a retired member employed by the
13 legislature for legislative session work; or

14 (2) a retired member who is elected to serve
15 a term as an elected official; provided that:

16 (a) the retired member files an
17 irrevocable exemption from membership with the association
18 within thirty days of taking office; and

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

21 E. A retired member who returns to employment
22 during retirement pursuant to Subsection D of this section is
23 entitled to receive retirement benefits but is not entitled
24 to accrue service credit or to acquire or purchase service
25 credit in the future for the period of the previously retired

1 member's reemployment with an affiliated public employer.

2 F. At any time during a previously retired
3 member's subsequent employment pursuant to Subsection C of
4 this section, the previously retired member may elect to
5 become a member and the following conditions shall apply:

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

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

16 (a) payment of the pension shall resume
17 in accordance with the provisions of Subsection A of this
18 section;

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

1 and

2 (c) the recalculated pension shall not
3 be less than the amount of the suspended pension.

4 G. A previously retired member who returned to
5 work with an affiliated public employer prior to July 1, 2010
6 shall be subject to the provisions of this section in effect
7 on the date the previously retired member returned to work;
8 provided that, on and after July 1, 2010, the previously
9 retired member shall pay the employee contribution in an
10 amount specified in the Public Employees Retirement Act for
11 the position in which the previously retired member is
12 employed.

13 H. The pension of a member who has three or more
14 years of service credit under each of two or more coverage
15 plans shall be determined in accordance with the coverage
16 plan that produces the highest pension. The pension of a
17 member who has service credit under two or more coverage
18 plans but who has three or more years of service credit under
19 only one of those coverage plans shall be determined in
20 accordance with the coverage plan in which the member has
21 three or more years of service credit. If the service credit
22 is acquired under two different coverage plans applied to the
23 same affiliated public employer as a consequence of an
24 election by the members, adoption by the affiliated public
25 employer or a change in the law that results in the

1 application of a coverage plan with a greater pension, the
2 greater pension shall be paid a member retiring from the
3 affiliated public employer under which the change in coverage
4 plan took place regardless of the amount of service credit
5 under the coverage plan producing the greater pension;
6 provided the member has three or more years of continuous
7 employment with that affiliated public employer immediately
8 preceding or immediately preceding and immediately following
9 the date the coverage plan changed. The provisions of each
10 coverage plan for the purpose of this subsection shall be
11 those in effect at the time the member ceased to be covered
12 by the coverage plan. "Service credit", for the purposes of
13 this subsection, shall be only personal service rendered an
14 affiliated public employer and credited to the member under
15 the provisions of Subsection A of Section 10-11-4 NMSA 1978.
16 Service credited under any other provision of the Public
17 Employees Retirement Act shall not be used to satisfy the
18 three-year service credit requirement of this subsection."

19 Section 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2010. _____

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