

1 AN ACT

2 RELATING TO THE PUBLIC EMPLOYEES RETIREMENT ACT; CREATING A
3 STATE FIRE MEMBER; PROVIDING A DEFINITION FOR A "STATE FIRE
4 MEMBER"; CHANGING THE NAME OF STATE POLICE MEMBER,
5 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER
6 MEMBER COVERAGE PLAN 1 TO STATE PUBLIC SAFETY MEMBER COVERAGE
7 PLAN 1; INCLUDING STATE FIRE MEMBERS UNDER STATE PUBLIC
8 SAFETY MEMBER COVERAGE PLAN 1; PROVIDING FOR AN ELECTION
9 PERTAINING TO THE ADOPTION OF STATE PUBLIC SAFETY MEMBER
10 COVERAGE PLAN 1; MAKING TECHNICAL CHANGES.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 2, as amended) is amended to read:

15 "10-11-2. DEFINITIONS.--As used in the Public Employees
16 Retirement Act:

17 A. "accumulated member contributions" means the
18 amounts deducted from the salary of a member and credited to
19 the member's individual account, together with interest, if
20 any, credited to that account;

21 B. "affiliated public employer" means the state
22 and any public employer affiliated with the association as
23 provided in the Public Employees Retirement Act, but does not
24 include an employer pursuant to the Magistrate Retirement
25 Act, the Judicial Retirement Act or the Educational

1 Retirement Act;

2 C. "association" means the public employees
3 retirement association established under the Public Employees
4 Retirement Act;

5 D. "coverage plan funded ratio" means the ratio of
6 the actuarial value of the assets of a coverage plan to the
7 actuarial accrued liability of the association for payments
8 from the coverage plan, as determined by the association's
9 actuaries;

10 E. "disability retired member" means a retired
11 member who is receiving a pension pursuant to the disability
12 retirement provisions of the Public Employees Retirement Act;

13 F. "disability retirement pension" means the
14 pension paid pursuant to the disability retirement provisions
15 of the Public Employees Retirement Act;

16 G. "educational retirement system" means that
17 retirement system provided for in the Educational Retirement
18 Act;

19 H. "employee" means any employee of an affiliated
20 public employer;

21 I. "federal social security program" means that
22 program or those programs created and administered pursuant
23 to the act of congress approved August 14, 1935, Chapter 531,
24 49 Stat. 620, as that act may be amended;

25 J. "final average salary" means the final average

1 salary calculated in accordance with the provisions of the
2 applicable coverage plan;

3 K. "form of payment" means the applicable form of
4 payment of a pension provided for in Section 10-11-117 NMSA
5 1978;

6 L. "former member" means a person who was
7 previously employed by an affiliated public employer, who has
8 terminated that employment and who has received a refund of
9 member contributions;

10 M. "fund" means the funds included under the
11 Public Employees Retirement Act;

12 N. "member" means a currently employed,
13 contributing employee of an affiliated public employer, or
14 a person who has been but is not currently employed by an
15 affiliated public employer, who has not retired and who has
16 not received a refund of member contributions; "member" also
17 includes the following:

18 (1) "adult correctional officer member"
19 means a member who is employed as an adult correctional
20 officer or an adult correctional officer specialist by a
21 state correctional facility of the corrections department
22 or its successor agency;

23 (2) "adult probation and parole officer
24 member" means a member who is employed as a probation and
25 parole officer by the corrections department or its successor

1 agency;

2 (3) "juvenile correctional officer member"
3 means a member who is employed as a juvenile correctional
4 officer by the children, youth and families department or its
5 successor agency;

6 (4) "juvenile probation and parole officer
7 member" means a member who is employed as a probation and
8 parole officer by the children, youth and families department
9 or its successor agency;

10 (5) "municipal detention officer member"
11 means a member who is employed by an affiliated public
12 employer other than the state and who has inmate custodial
13 responsibilities at a facility used for the confinement of
14 persons charged with or convicted of a violation of a law or
15 ordinance;

16 (6) "municipal fire member" means any member
17 who is employed as a full-time nonvolunteer firefighter by an
18 affiliated public employer, other than the state, and who has
19 taken the oath prescribed for firefighters;

20 (7) "municipal police member" means any
21 member who is employed as a police officer by an affiliated
22 public employer, other than the state, and who has taken the
23 oath prescribed for police officers;

24 (8) "state fire member" means any member
25 who is employed as a nonvolunteer firefighter of the state

1 and who has taken the oath prescribed for firefighters; and

2 (9) "state police member" means a member who
3 is an officer of the New Mexico state police division and who
4 has taken the oath prescribed for such officers and shall
5 include a member who is an officer of the New Mexico state
6 police division and who was certified and commissioned in the
7 former motor transportation division or the former special
8 investigations division of the department of public safety;

9 O. "membership" means membership in the
10 association;

11 P. "pension" means a series of monthly payments to
12 a retired member or survivor beneficiary as provided in the
13 Public Employees Retirement Act;

14 Q. "public employer" means the state, any
15 municipality, city, county, metropolitan arroyo flood control
16 authority, economic development district, regional housing
17 authority, soil and water conservation district, entity
18 created pursuant to a joint powers agreement, council of
19 government, conservancy district, irrigation district, water
20 and sanitation district, water district and metropolitan
21 water board, including the boards, departments, bureaus and
22 agencies of a public employer, so long as these entities fall
23 within the meaning of governmental plan as that term is used
24 in Section 414(d) of the Internal Revenue Code of 1986, as
25 amended;

1 R. "refund beneficiary" means a supplemental needs
2 trust or a natural person designated by the member, in
3 writing, in the form prescribed by the association, as the
4 trust or person that would be refunded the member's
5 accumulated member contributions payable if the member dies
6 and no survivor pension is payable or that would receive the
7 difference between pension paid and accumulated member
8 contributions if the retired member dies before receiving in
9 pension payments the amount of the accumulated member
10 contributions;

11 S. "retire" means to:

12 (1) terminate employment with all employers
13 covered by any state system or the educational retirement
14 system; and

15 (2) receive a pension from a state system or
16 the educational retirement system;

17 T. "retired member" means a person who has met all
18 requirements for retirement and who is receiving a pension
19 from the fund;

20 U. "retirement board" means the retirement board
21 provided for in the Public Employees Retirement Act;

22 V. "salary" means the base salary or wages paid a
23 member, including longevity pay, for personal services
24 rendered an affiliated public employer. "Salary" shall not
25 include overtime pay, unless the overtime payment is required

1 for a regular scheduled tour of duty as set forth in Section
2 207(k) of Title 29 of the United States Code and is made on
3 the regular payroll for the period represented by that
4 payment, allowances for housing, clothing, equipment or
5 travel, payments for unused sick leave, unless the unused
6 sick leave payment is made through continuation of the member
7 on the regular payroll for the period represented by that
8 payment, and any other form of remuneration not specifically
9 designated by law as included in salary for Public Employees
10 Retirement Act purposes. Salary in excess of the limitations
11 set forth in Section 401(a)(17) of the Internal Revenue Code
12 of 1986, as amended, shall be disregarded. The limitation on
13 compensation for eligible employees shall not be less than
14 the amount that was allowed to be taken into account under
15 the state retirement system acts in effect on July 1, 1993.
16 For purposes of this subsection, "eligible employee" means an
17 individual who was a member of a state system before the
18 first plan year beginning after December 31, 1995;

19 W. "state system" means the retirement programs
20 provided for in the Public Employees Retirement Act, the
21 Magistrate Retirement Act and the Judicial Retirement Act;

22 X. "state retirement system acts" means
23 collectively the Public Employees Retirement Act, the
24 Magistrate Retirement Act, the Judicial Retirement Act and
25 the Volunteer Firefighters Retirement Act;

1 Y. "supplemental needs trust" means a valid
2 third-party irrevocable trust that is authorized by the
3 federal Social Security Act, as amended, for the sole benefit
4 and lifetime of a trust beneficiary who is disabled and is
5 created for the purpose of providing, accounting for or
6 receiving supplemental assets that do not supplant, impair or
7 diminish any benefits or assistance of any federal, state or
8 other government entity for which the beneficiary would
9 otherwise be eligible; and

10 Z. "survivor beneficiary" means a supplemental
11 needs trust or a natural person that receives a pension or
12 that has been designated to be paid a pension as a result of
13 the death of a member or retired member."

14 SECTION 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 27, as amended) is amended to read:

16 "10-11-27. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
17 --APPLICABILITY--CREDITED SERVICE.--

18 A. State public safety member coverage plan 1 is
19 applicable to:

20 (1) state police members who are not
21 specifically covered by another coverage plan;

22 (2) adult correctional officer members;

23 (3) adult probation and parole officer
24 members;

25 (4) juvenile probation and parole officer

1 members; and

2 (5) state fire members.

3 B. The credited service of a state police member
4 who was a retired member or a member on or before June 30,
5 2013 or of an adult correctional officer member shall have
6 actual credited service increased by twenty percent for the
7 purposes of state public safety member coverage plan 1.

8 C. The credited service, accrued after July 1,
9 2021, of an adult probation and parole officer or a juvenile
10 probation and parole officer shall be increased by twenty
11 percent for the purposes of state public safety member
12 coverage plan 1.

13 D. The credited service, accrued after July 1,
14 2024, of a state fire member shall be increased by twenty
15 percent for the purposes of state public safety member
16 coverage plan 1.

17 E. The increase of twenty percent to accrued
18 credited service provided by this section shall only apply to
19 a state public safety member who was a retired member or a
20 member on or before June 30, 2013.

21 F. Except as provided in Subsections B through E
22 of this section, the credited service of a member covered
23 under state public safety member coverage plan 1 shall be
24 credited as provided in Section 10-11-4 NMSA 1978.

25 G. State public safety member coverage plan 1 is

1 applicable to adult probation and parole officer members and
2 juvenile probation and parole officer members in the first
3 full pay period after July 1, 2021 if the retirement board
4 certifies to the secretary of state that, of those adult
5 probation and parole officer members and juvenile probation
6 and parole officer members to be covered under state public
7 safety member coverage plan 1, a majority of the respective
8 members voting have voted to approve adoption of that plan at
9 an election conducted pursuant to Laws 2020, Chapter 11,
10 Sections 63 through 66.

11 H. State public safety member coverage plan 1 is
12 applicable in the first full pay period after July 1, 2024
13 for:

14 (1) state fire members who begin employment
15 as a state fire member on or after July 1, 2024; and

16 (2) state fire members who were employed in
17 a position and were subject to the definition of a "state
18 fire member" prior to July 1, 2024, if the retirement board
19 certifies to the secretary of state that, of those state fire
20 members to be covered under state public safety member
21 coverage plan 1, a majority of the respective members voting
22 have voted to approve the adoption of that plan at an
23 election conducted pursuant to Section 8 of this 2024 act."

24 SECTION 3. Section 10-11-27.1 NMSA 1978 (being Laws
25 2003, Chapter 268, Section 10, as amended) is amended to

1 read:

2 "10-11-27.1. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
3 --SERVICE CREDIT REQUIRED.--Notwithstanding the provisions of
4 Section 10-11-27 NMSA 1978, to qualify for payment under
5 state public safety member coverage plan 1, an adult
6 correctional officer member shall have eighteen months of
7 service credit earned under state public safety member
8 coverage plan 1 subsequent to July 1, 2004."

9 SECTION 4. Section 10-11-28 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 28, as amended) is amended to read:

11 "10-11-28. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
12 --AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
13 state public safety member coverage plan 1:

14 A. for a member who was a retired member or a
15 member on June 30, 2013, the age and service requirements for
16 normal retirement are:

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

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

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

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

25 (5) age sixty-one years and seventeen or

1 more years of credited service;

2 (6) age sixty years and twenty or more years
3 of credited service; or

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

6 B. for a member who was not a retired member or a
7 member on June 30, 2013, the age and service requirements for
8 normal retirement are:

9 (1) age sixty years or older and five or
10 more years of service credit; or

11 (2) any age and twenty-five or more years of
12 service credit."

13 SECTION 5. Section 10-11-29 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 29, as amended) is amended to read:

15 "10-11-29. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
16 --AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state public
17 safety member coverage plan 1, the amount of pension under
18 form of payment A is equal to three percent of final average
19 salary multiplied by credited service. The amount shall not
20 exceed one hundred percent of the final average salary."

21 SECTION 6. Section 10-11-31 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 31, as amended) is amended to read:

23 "10-11-31. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
24 --MEMBER CONTRIBUTION RATE.--A member under state public
25 safety member coverage plan 1 shall contribute seven and

1 six-tenths percent of salary, except that a member whose
2 annual salary is greater than twenty-five thousand dollars
3 (\$25,000) shall contribute nine and one-tenth percent of
4 salary."

5 SECTION 7. Section 10-11-32 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 32, as amended) is amended to read:

7 "10-11-32. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1
8 --STATE CONTRIBUTION RATE.--The state shall contribute
9 twenty-five and one-half percent of the salary of each member
10 under state public safety member coverage plan 1."

11 SECTION 8. TEMPORARY PROVISION--STATE PUBLIC SAFETY
12 MEMBER COVERAGE PLAN 1--STATE FIRE MEMBERS--ELECTION.--On or
13 before June 30, 2024, the retirement board provided for in the
14 Public Employees Retirement Act shall conduct an election to
15 submit to state fire members currently contributing under
16 state general member coverage plan 3 the question of adopting
17 state public safety member coverage plan 1. _____

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