

1 SENATE BILL 274

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO PENSIONS; REDUCING THE AMOUNT OF PENSION FOR NON-
12 VESTED MEMBERS IN THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
13 BY REDUCING THE MULTIPLIER AND INCREASING THE NUMBER OF YEARS
14 USED TO CALCULATE THE FINAL AVERAGE SALARY; PROVIDING THAT
15 REFUNDS OF MEMBER CONTRIBUTIONS SHALL NOT INCLUDE INTEREST.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 10-11-14.6 NMSA 1978 (being Laws 2009,
19 Chapter 288, Section 12) is amended to read:

20 "10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY.--Under
21 each coverage plan of the Public Employees Retirement Act, the
22 final average salary is [~~one thirty-sixth~~] one-sixtieth of the
23 greatest aggregate amount of salary paid a member for [~~thirty-~~
24 ~~six~~] sixty consecutive but not necessarily continuous months of
25 service credit."

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1 SECTION 2. Section 10-11-26.3 NMSA 1978 (being Laws 1994,
2 Chapter 128, Section 4) is amended to read:

3 "10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT
4 OF PENSION--FORM OF PAYMENT A.--Under state general member
5 coverage plan 3, the amount of pension under form of payment A
6 is:

7 A. for a member who has five or more years of
8 service credit on or before July 1, 2012, equal to three
9 percent of final average salary multiplied by service credit.
10 The amount shall not exceed eighty percent of the final average
11 salary; and

12 B. for a member who does not have five or more
13 years of service credit on or before July 1, 2012, equal to two
14 and sixty-seven hundredths percent of final average salary
15 multiplied by service credit. The amount shall not exceed
16 eighty percent of the final average salary."

17 SECTION 3. Section 10-11-29 NMSA 1978 (being Laws 1987,
18 Chapter 253, Section 29, as amended) is amended to read:

19 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL
20 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
21 PAYMENT A.--Under state police member and adult correctional
22 officer member coverage plan 1, the amount of pension under
23 form of payment A is:

24 A. for a member who has five or more years of
25 service credit on or before July 1, 2012, equal to three

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1 percent of final average salary multiplied by credited service.
2 The amount shall not exceed eighty percent of the final average
3 salary; and

4 B. for a member who does not have five or more
5 years of service credit on or before July 1, 2012, equal to two
6 and sixty-seven hundredths percent of final average salary
7 multiplied by credited service. The amount shall not exceed
8 eighty percent of the final average salary."

9 SECTION 4. Section 10-11-38.3 NMSA 1978 (being Laws 1994,
10 Chapter 128, Section 11) is amended to read:

11 "10-11-38.3. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
12 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state hazardous
13 duty member coverage plan 2, the amount of pension under form
14 of payment A is:

15 A. for a member who has five or more years of
16 service credit on or before July 1, 2012, equal to three
17 percent of final average salary multiplied by service credit.
18 The amount shall not exceed one hundred percent of the final
19 average salary; and

20 B. for a member who does not have five or more
21 years of service credit on or before July 1, 2012, equal to two
22 and sixty-seven hundredths percent of final average salary
23 multiplied by service credit. The amount shall not exceed one
24 hundred percent of the final average salary."

25 SECTION 5. Section 10-11-52 NMSA 1978 (being Laws 1987,
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1 Chapter 253, Section 52) is amended to read:

2 "10-11-52. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
3 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
4 member coverage plan 2, the amount of pension under form of
5 payment A is:

6 A. for a member who has five or more years of
7 service credit on or before July 1, 2012, equal to two and one-
8 half percent of the final average salary multiplied by credited
9 service. The amount shall not exceed seventy-five percent of
10 the final average salary; and

11 B. for a member who does not have five or more
12 years of service credit on or before July 1, 2012, equal to two
13 and two hundred twenty-five thousandths percent of final
14 average salary multiplied by credited service. The amount
15 shall not exceed seventy-five percent of the final average
16 salary."

17 SECTION 6. Section 10-11-55.3 NMSA 1978 (being Laws 1993,
18 Chapter 58, Section 3) is amended to read:

19 "10-11-55.3. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
20 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
21 member coverage plan 3, the amount of pension under form of
22 payment A is:

23 A. for a member who has five or more years of
24 service credit on or before July 1, 2012, equal to three
25 percent of the final average salary multiplied by credited

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1 service. The amount shall not exceed eighty percent of the
2 final average salary; and

3 B. for a member who does not have five or more
4 years of credited service on or before July 1, 2012, equal to
5 two and sixty-seven hundredths percent of final average salary
6 multiplied by credited service. The amount shall not exceed
7 eighty percent of the final average salary."

8 SECTION 7. Section 10-11-55.9 NMSA 1978 (being Laws 1998,
9 Chapter 106, Section 3) is amended to read:

10 "10-11-55.9. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
11 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
12 member coverage plan 4, the amount of pension under form of
13 payment A is:

14 A. for a member who has five or more years of
15 service credit on or before July 1, 2012, equal to three
16 percent of the final average salary multiplied by credited
17 service. The amount shall not exceed eighty percent of the
18 final average salary; and

19 B. for a member who does not have five or more
20 years of service credit on or before July 1, 2012, equal to two
21 and sixty-seven hundredths percent of final average salary
22 multiplied by credited service. The amount shall not exceed
23 eighty percent of the final average salary."

24 SECTION 8. Section 10-11-64 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 64) is amended to read:

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1 "10-11-64. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
2 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
3 member coverage plan 2, the amount of pension under form of
4 payment A is:

5 A. for a member who has five or more years of
6 service credit on or before July 1, 2012, equal to two and one-
7 half percent of the final average salary multiplied by credited
8 service. The amount shall not exceed one hundred percent of
9 the final average salary; and

10 B. for a member who does not have five or more
11 years of service credit on or before July 1, 2012, equal to two
12 and two hundred twenty-five thousandths percent of final
13 average salary multiplied by credited service. The amount
14 shall not exceed one hundred percent of the final average
15 salary."

16 SECTION 9. Section 10-11-70 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 70) is amended to read:

18 "10-11-70. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
19 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
20 member coverage plan 3, the amount of pension under form of
21 payment A is:

22 A. for a member who has five or more years of
23 service credit on or before July 1, 2012, equal to two and one-
24 half percent of the final average salary multiplied by credited
25 service. The amount shall not exceed one hundred percent of

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1 the final average salary; and

2 B. for a member who does not have five or more
3 years of service credit on or before July 1, 2012, equal to two
4 and two hundred twenty-five thousandths percent of final
5 average salary multiplied by credited service. The amount
6 shall not exceed one hundred percent of the final average
7 salary."

8 SECTION 10. Section 10-11-76 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 76) is amended to read:

10 "10-11-76. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
11 AMOUNT OF PENSION--FORM OF PENSION A.--Under municipal police
12 member coverage plan 4, the amount of pension under form of
13 payment A is:

14 A. for a member who has five or more years of
15 service credit on or before July 1, 2012, equal to three
16 percent of the final average salary multiplied by credited
17 service. The amount shall not exceed eighty percent of the
18 final average salary; and

19 B. for a member who does not have five or more
20 years of service credit on or before July 1, 2012, equal to two
21 and sixty-seven hundredths percent of final average salary
22 multiplied by credited service. The amount shall not exceed
23 eighty percent of the final average salary."

24 SECTION 11. Section 10-11-82 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 82) is amended to read:

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1 "10-11-82. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
2 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
3 member coverage plan 5, the amount of pension under form of
4 payment A is:

5 A. for a member who has five or more years of
6 service credit on or before July 1, 2012, equal to three and
7 one-half percent of the final average salary multiplied by
8 credited service. The amount shall not exceed eighty percent
9 of the final average salary; and

10 B. for a member who does not have five or more
11 years of service credit on or before July 1, 2012, equal to
12 three and one hundred fifteen thousandths percent of final
13 average salary multiplied by credited service. The amount
14 shall not exceed eighty percent of the final average salary."

15 SECTION 12. Section 10-11-94 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 94) is amended to read:

17 "10-11-94. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AMOUNT
18 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
19 contribution plan 2, the amount of pension under form of
20 payment A is:

21 A. for a member who has five or more years of
22 service credit on or before July 1, 2012, equal to two and one-
23 half percent of the final average salary multiplied by credited
24 service. The amount shall not exceed one hundred percent of
25 the final average salary; and

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1 B. for a member who does not have five or more
2 years of service credit on or before July 1, 2012, equal to two
3 and two hundred twenty-five thousandths percent of final
4 average salary multiplied by credited service. The amount
5 shall not exceed one hundred percent of the final average
6 salary."

7 SECTION 13. Section 10-11-100 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 100) is amended to read:

9 "10-11-100. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AMOUNT
10 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
11 coverage plan 3, the amount of pension under form of payment A
12 is:

13 A. for a member who has five or more years of
14 service credit on or before July 1, 2012, equal to two and one-
15 half percent of the final average salary multiplied by credited
16 service. The amount shall not exceed one hundred percent of
17 the final average salary; and

18 B. for a member who does not have five or more
19 years of service credit on or before July 1, 2012, equal to two
20 and two hundred twenty-five thousandths percent of final
21 average salary multiplied by credited service. The amount
22 shall not exceed one hundred percent of the final average
23 salary."

24 SECTION 14. Section 10-11-106 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 106) is amended to read:

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1 "10-11-106. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AMOUNT
2 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
3 coverage plan 4, the amount of pension under form of payment A
4 is:

5 A. for a member who has five or more years of
6 service credit on or before July 1, 2012, equal to three
7 percent of the final average salary multiplied by credited
8 service. The amount shall not exceed eighty percent of the
9 final average salary; and

10 B. for a member who does not have five or more
11 years of service credit on or before July 1, 2012, equal to two
12 and sixty-seven hundredths percent of final average salary
13 multiplied by credited service. The amount shall not exceed
14 eighty percent of the final average salary."

15 SECTION 15. Section 10-11-112 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 112) is amended to read:

17 "10-11-112. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AMOUNT
18 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
19 coverage plan 5, the amount of pension under form of payment A
20 is:

21 A. for a member who has five or more years of
22 service credit on or before July 1, 2012, equal to three and
23 one-half percent of the final average salary multiplied by
24 credited service. The amount shall not exceed eighty percent
25 of the final average salary; and

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1 B. for a member who does not have five or more
2 years of service credit on or before July 1, 2012, equal to
3 three and one hundred fifteen thousandths percent of final
4 average salary multiplied by credited service. The amount
5 shall not exceed eighty percent of the final average salary."

6 SECTION 16. Section 10-11-115.3 NMSA 1978 (being Laws
7 2003, Chapter 268, Section 4) is amended to read:

8 "10-11-115.3. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
9 PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal
10 detention officer member coverage plan 1, the amount of pension
11 under form of payment A is:

12 A. for a member who has five or more years of
13 service credit on or before July 1, 2012, equal to three
14 percent of the final average salary multiplied by credited
15 service. The amount shall not exceed eighty percent of the
16 final average salary; and

17 B. for a member who does not have five or more
18 years of service credit on or before July 1, 2012, equal to two
19 and sixty-seven hundredths percent of final average salary
20 multiplied by credited service. The amount shall not exceed
21 eighty percent of the final average salary."

22 SECTION 17. Section 10-11-124 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 124, as amended) is amended to read:

24 "10-11-124. MEMBER CONTRIBUTION FUND.--

25 A. The member contribution fund is the accounting
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1 fund in which shall be accumulated contributions of members and
2 from which shall be made refunds and transfers of accumulated
3 member contributions as provided in the Public Employees
4 Retirement Act. Each affiliated public employer shall cause
5 the member contributions specified by the coverage plan
6 applicable to each of that affiliated public employer's members
7 to be deducted from the salary of each member. Each affiliated
8 public employer shall remit the deducted member contributions
9 to the association in accordance with the procedures and
10 schedules established by the association. The association may
11 assess an interest charge and a penalty charge on any
12 remittance not made by its due date. Each member shall be
13 deemed to consent and agree to the deductions made and provided
14 for in this section by continuing employment with the
15 affiliated public employer. Contributions by members shall be
16 credited to the members' individual accounts in the member
17 contribution fund.

18 B. A member's accumulated contributions shall be
19 transferred to the retirement reserve fund if a pension becomes
20 payable upon the retirement or death of the member. If a
21 disability retirement pension is terminated for a reason other
22 than the death of the disability retired member before an
23 amount equal to the disability retired member's accumulated
24 member contributions has been paid, the unexpended balance of
25 the accumulated member contributions shall be transferred from

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1 the retirement reserve fund to the former disability retired
2 member's individual account in the member contribution fund.

3 C. If a member terminates affiliated public
4 employment or is on leave of absence from an affiliated public
5 employer as a consequence of the entry into active duty with
6 the armed forces of the United States, the member may, with the
7 written consent of the member's spouse, if any, withdraw the
8 member's accumulated member contributions, upon making written
9 request in a form prescribed by the association. Upon written
10 request of the member in the form prescribed by the
11 association, a refund of member contributions may be made by a
12 trustee-to-trustee transfer of the contributions from the
13 member contribution fund directly to another qualified plan as
14 allowed by the Internal Revenue Code of 1986. Withdrawal of
15 member contributions shall result in forfeiture of the service
16 credit accrued for the period during which the contributions
17 were made.

18 D. A member shall, upon commencement of membership,
19 designate a refund beneficiary who shall receive the refund of
20 the member contributions, plus interest if any, if the member
21 dies and no survivor pension is payable. If the member is
22 married at the time of designation, written spousal consent
23 shall be required if the designated refund beneficiary is other
24 than the spouse. Marriage subsequent to the designation shall
25 automatically revoke a previous designation, and the spouse

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1 shall become the refund beneficiary unless or until another
2 designation is filed with the association. Divorce subsequent
3 to the designation shall automatically revoke designation of
4 the former spouse as refund beneficiary, or the right of the
5 former spouse to be refund beneficiary if no designation has
6 been filed, and the refund shall be paid to the deceased
7 member's estate unless the member filed a designation of refund
8 beneficiary subsequent to the divorce. The refund shall be
9 paid to the refund beneficiary named in the most recent
10 designation of refund beneficiary on file with the association
11 unless that beneficiary is deceased. If there is not a living
12 refund beneficiary named in the most recent designation of
13 refund beneficiary on file with the association, the deceased
14 member's accumulated member contributions shall be paid to the
15 estate of the deceased member.

16 E. On and after July 1, 2012, a refund of member
17 contributions paid pursuant to Subsection C or D of this
18 section shall not include interest on the refunded
19 contributions; provided, however, that interest accrued through
20 June 30, 2012 shall be paid on refunded contributions."

21 SECTION 18. Section 10-12B-9 NMSA 1978 (being Laws 1992,
22 Chapter 111, Section 9, as amended) is amended to read:

23 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
24 pension is equal to:

25 A. in the case of a former or current judge or

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1 justice, an amount equal to one-twelfth of:

2 seventy-five percent number of years of
3 of salary received service, not

4
5 during last year in X exceeding ten years,
6 office prior to divided by ten;
7 retirement

8 B. in the case of a new judge or justice who
9 initially became a member prior to July 1, 2005, an amount
10 equal to one-twelfth of:

11 seventy-five percent of (number of years of of
12 salary received during service, not
13 last year in office X .05 X exceeding fifteen
14 prior to retirement years, plus
15 five years); [~~or~~]

16 C. in the case of a new judge or justice who
17 initially became a member on or after July 1, 2005 and who has
18 five or more years of service credit on or before July 1, 2012,
19 an amount equal to one-twelfth of the salary received during
20 the last year in office prior to retirement multiplied by the
21 product of three and seventy-five hundredths percent times the
22 sum of the number of years of service; provided that a pension
23 calculated pursuant to this subsection shall not exceed
24 seventy-five percent of one-twelfth of the salary received
25 during the last year in office; or

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1 D. in the case of a new judge or justice who
2 initially became a member on or after July 1, 2005 and who does
3 not have five or more years of service credit on or before July
4 1, 2012, an amount equal to one-twelfth of the salary received
5 during the last year in office prior to retirement multiplied
6 by the product of three and three hundred thirty-eight
7 thousandths percent times the sum of the number of years of
8 service; provided that a pension calculated pursuant to this
9 subsection shall not exceed seventy-five percent of one-twelfth
10 of the salary received during the last year in office."

11 SECTION 19. Section 10-12C-9 NMSA 1978 (being Laws 1992,
12 Chapter 118, Section 9) is amended to read:

13 "10-12C-9. AMOUNT OF PENSION.--The amount of pension is:

14 A. for a member who has five or more years of
15 service credit on or before July 1, 2012, equal to one-twelfth
16 of:

17 seventy-five percent of (number of years of
18 salary received during service, not exceeding
19 last year in office X .05 X fifteen years, [+]
20 prior to retirement plus five years); and

21 B. for a member who does not have five or more
22 years of service credit on or before July 1, 2012, equal to
23 one-twelfth of:

24 seventy-five percent of (number of years of
25 salary received during service, not exceeding

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1 last year in office X .0445 X fifteen years,
2 prior to retirement plus five years)."

3 SECTION 20. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2012.

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