



The Legislature
of the
State of New Mexico

49th Legislature, 1st Session

LAWS 2009

CHAPTER 127

HOUSE BILL 854, as amended

Introduced by

REPRESENTATIVE HENRY "KIKI" SAAVEDRA AND
REPRESENTATIVE DANICE PICRAUX AND
REPRESENTATIVE LUCIANO "LUCKY" VARELA



Chapter 127

AN ACT

1
2 RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; PROVIDING A
3 TEMPORARY INCREASE IN CERTAIN EMPLOYEE CONTRIBUTION RATES AND
4 A CORRESPONDING TEMPORARY DECREASE IN THE EMPLOYER
5 CONTRIBUTION RATES.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 Section 1. Section 10-11-26.5 NMSA 1978 (being Laws
9 1994, Chapter 128, Section 6) is amended to read:

10 "10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--
11 MEMBER CONTRIBUTION RATE.--A member under state general member
12 coverage plan 3 shall contribute seven and forty-two
13 hundredths percent of salary starting with the first full pay
14 period that ends within the calendar month in which state
15 general member coverage plan 3 becomes applicable to the
16 member, except that, from July 1, 2009 through June 30, 2011,
17 for members whose annual salary is greater than twenty
18 thousand dollars (\$20,000), the member contribution rate shall
19 be eight and ninety-two hundredths percent of salary."

20 Section 2. Section 10-11-26.6 NMSA 1978 (being Laws
21 1994, Chapter 128, Section 7) is amended to read:

22 "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--
23 STATE CONTRIBUTION RATE.--The state shall contribute sixteen
24 and fifty-nine hundredths percent of the salary of each member
25 covered by state general member coverage plan 3 starting with

1 the first pay period that ends within the calendar month in
2 which state general member coverage plan 3 becomes applicable
3 to the member, except that, from July 1, 2009 through June 30,
4 2011, for members whose annual salary is greater than twenty
5 thousand dollars (\$20,000), the state contribution rate shall
6 be fifteen and nine hundredths percent of the salary of each
7 member."

8 Section 3. Section 10-11-31 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 31, as amended) is amended to read:

10 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
11 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
12 member under state police member and adult correctional
13 officer member coverage plan 1 shall contribute seven and six-
14 tenths percent of salary, except that, from July 1, 2009
15 through June 30, 2011, for members whose annual salary is
16 greater than twenty thousand dollars (\$20,000), the member
17 contribution rate shall be nine and one-tenth percent of
18 salary."

19 Section 4. Section 10-11-32 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 32, as amended) is amended to read:

21 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
22 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
23 state shall contribute twenty-five and one-tenth percent of
24 the salary of each member under state police member and adult
25 correctional officer member coverage plan 1, except that, from

1 July 1, 2009 through June 30, 2011, for members whose annual
2 salary is greater than twenty thousand dollars (\$20,000), the
3 state contribution rate shall be twenty-three and six-tenths
4 percent of the salary of each member."

5 Section 5. Section 10-11-38.5 NMSA 1978 (being Laws
6 1994, Chapter 128, Section 13) is amended to read:

7 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
8 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous
9 duty member coverage plan 2 shall contribute four and seventy-
10 eight hundredths percent of salary starting with the first
11 full pay period that ends within the calendar month in which
12 state hazardous duty member coverage plan 2 becomes applicable
13 to the member, except that, from July 1, 2009 through June 30,
14 2011, for members whose annual salary is greater than twenty
15 thousand dollars (\$20,000), the member contribution rate shall
16 be six and twenty-eight hundredths percent of salary."

17 Section 6. Section 10-11-38.6 NMSA 1978 (being Laws
18 1994, Chapter 128, Section 14) is amended to read:

19 "10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
20 2--STATE CONTRIBUTION RATE.--The state shall contribute
21 twenty-five and seventy-two hundredths percent of the salary
22 of each member covered by state hazardous duty member coverage
23 plan 2 starting with the first pay period that ends within the
24 calendar month in which state hazardous duty member coverage
25 plan 2 becomes applicable to the member, except that, from

1 July 1, 2009 through June 30, 2011, for members whose annual
2 salary is greater than twenty thousand dollars (\$20,000), the
3 state contribution rate shall be twenty-four and twenty-two
4 hundredths percent of the salary of each member."

5 Section 7. Section 10-12B-10 NMSA 1978 (being Laws
6 1992, Chapter 111, Section 10, as amended) is amended to read:

7 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

8 A. Members, while in office, shall contribute to
9 the member contribution fund pursuant to the following
10 schedule:

11 (1) prior to July 1, 2005, five and one-half
12 percent of salary;

13 (2) from July 1, 2005 through June 30, 2006,
14 six and one-half percent of salary; and

15 (3) on and after July 1, 2006, seven and
16 one-half percent of salary, except that, from July 1, 2009
17 through June 30, 2011, for members whose annual salary is
18 greater than twenty thousand dollars (\$20,000), the member
19 contribution rate shall be nine percent of salary.

20 B. Upon implementation, the state, acting as
21 employer of members covered pursuant to the provisions of the
22 Judicial Retirement Act, shall, solely for the purpose of
23 compliance with Section 414(h) of the Internal Revenue Code of
24 1986, pick up for the purposes specified in that section
25 member contributions required by this section for all annual

1 salary earned by the member. Member contributions picked up
2 pursuant to the provisions of this section shall be treated as
3 employer contributions for purposes of determining income tax
4 obligations under the Internal Revenue Code of 1986; however,
5 such picked-up member contributions shall be included in the
6 determination of the member's gross annual salary for all
7 other purposes under federal and state laws. Member
8 contributions picked up pursuant to the provisions of this
9 section shall continue to be designated member contributions
10 for all purposes of the Judicial Retirement Act and shall be
11 considered as part of the member's annual salary for purposes
12 of determining the amount of the member's contribution. The
13 provisions of this section are mandatory, and the member shall
14 have no option concerning the pickup or concerning the receipt
15 of the contributed amounts directly instead of having the
16 amounts paid by the employer to the retirement system.
17 Implementation occurs upon authorization by the board. In no
18 event may implementation occur other than at the beginning of
19 a pay period applicable to the member."

20 Section 8. Section 10-12B-11 NMSA 1978 (being Laws
21 1992, Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 A. The member's court shall contribute the
24 following amounts to the fund:

25 (1) prior to July 1, 2005, nine percent of

1 salary for each member in office;

2 (2) from July 1, 2005 through June 30, 2006,
3 ten and one-half percent of salary for each member in office;
4 and

5 (3) on and after July 1, 2006, twelve
6 percent of salary for each member in office, except that, from
7 July 1, 2009 through June 30, 2011, for members whose annual
8 salary is greater than twenty thousand dollars (\$20,000), the
9 member's court contribution rate shall be ten and one-half
10 percent of salary for each member in office.

11 B. Thirty-eight dollars (\$38.00) from each civil
12 case docket fee paid in the district court, twenty-five
13 dollars (\$25.00) from each civil docket fee paid in
14 metropolitan court and ten dollars (\$10.00) from each jury fee
15 paid in metropolitan court shall be paid by the court clerk to
16 the employer's accumulation fund."

17 Section 9. Section 10-12C-10 NMSA 1978 (being Laws
18 1992, Chapter 118, Section 10, as amended) is amended to read:

19 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

20 A. Members, while in office, shall contribute the
21 following amounts to the member contribution fund:

22 (1) through June 30, 2006, six and one-half
23 percent of salary; and

24 (2) on and after July 1, 2006, seven and
25 one-half percent of salary, except that, from July 1, 2009

1 through June 30, 2011, for members whose annual salary is
2 greater than twenty thousand dollars (\$20,000), the member
3 contribution rate shall be nine percent of salary.

4 B. Upon implementation, the state, acting as
5 employer of members covered pursuant to the provisions of the
6 Magistrate Retirement Act, shall, solely for the purpose of
7 compliance with Section 414(h) of the Internal Revenue Code of
8 1986, pick up for the purposes specified in that section
9 member contributions required by this section for all annual
10 salary earned by the member. Member contributions picked up
11 pursuant to the provisions of this section shall be treated as
12 employer contributions for purposes of determining income tax
13 obligations under the Internal Revenue Code of 1986; however,
14 such picked-up member contributions shall be included in the
15 determination of the member's gross annual salary for all
16 other purposes under federal and state laws. Member
17 contributions picked up pursuant to the provisions of this
18 section shall continue to be designated member contributions
19 for all purposes of the Magistrate Retirement Act and shall be
20 considered as part of the member's annual salary for purposes
21 of determining the amount of the member's contribution. The
22 provisions of this section are mandatory, and the member shall
23 have no option concerning the pick up or concerning the
24 receipt of the contributed amounts directly instead of having
25 the amounts paid by the employer to the retirement system.

1 Implementation occurs upon authorization by the board. In no
2 event may implementation occur other than at the beginning of
3 a pay period applicable to the member."

4 Section 10. Section 10-12C-11 NMSA 1978 (being Laws
5 1992, Chapter 118, Section 11, as amended) is amended to read:

6 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

7 A. The state, through the administrative office of
8 the courts, shall contribute the following amounts to the
9 fund:

10 (1) through June 30, 2006, ten percent of
11 salary for each member in office; and

12 (2) on and after July 1, 2006, eleven
13 percent of salary for each member in office, except that, from
14 July 1, 2009 through June 30, 2011, for members whose annual
15 salary is greater than twenty thousand dollars (\$20,000), the
16 state contribution rate shall be nine and one-half percent of
17 salary for each member in office.

18 B. Twenty-five dollars (\$25.00) from each civil
19 case docket fee paid in magistrate court and ten dollars
20 (\$10.00) from each civil jury fee paid in magistrate court
21 shall be paid by the court clerk to the employer's
22 accumulation fund."

23 Section 11. Section 22-11-21 NMSA 1978 (being Laws
24 1967, Chapter 16, Section 144, as amended) is amended to read:

25 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE

1 UNITS.--

2 A. Except as provided in Subsection C of this
3 section, each member shall make contributions to the fund
4 according to the following schedule:

5 (1) through June 30, 2005, an amount equal
6 to seven and six-tenths percent of the member's annual salary;

7 (2) from July 1, 2005 through June 30, 2006,
8 an amount equal to seven and six hundred seventy-five
9 thousandths percent of the member's annual salary;

10 (3) from July 1, 2006 through June 30, 2007,
11 an amount equal to seven and seventy-five hundredths percent
12 of the member's annual salary;

13 (4) from July 1, 2007 through June 30, 2008,
14 an amount equal to seven and eight hundred twenty-five
15 thousandths percent of the member's annual salary; and

16 (5) on and after July 1, 2008, an amount
17 equal to seven and nine-tenths percent of the member's annual
18 salary, except that, from July 1, 2009 through June 30, 2011,
19 for members whose annual salary is greater than twenty
20 thousand dollars (\$20,000), the member contribution rate shall
21 be nine and four-tenths percent of the member's annual salary.

22 B. Except as provided in Subsection C of this
23 section, each local administrative unit shall make an annual
24 contribution to the fund according to the following schedule:

25 (1) through June 30, 2005, a sum equal to

1 eight and sixty-five hundredths percent of the annual salary
2 of each member employed by the local administrative unit;

3 (2) from July 1, 2005 through June 30, 2006,
4 a sum equal to nine and forty-hundredths percent of the annual
5 salary of each member employed by the local administrative
6 unit;

7 (3) from July 1, 2006 through June 30, 2007,
8 a sum equal to ten and fifteen-hundredths percent of the
9 annual salary of each member employed by the local
10 administrative unit;

11 (4) from July 1, 2007 through June 30, 2008,
12 a sum equal to ten and ninety-hundredths percent of the annual
13 salary of each member employed by the local administrative
14 unit;

15 (5) from July 1, 2008 through June 30, 2009,
16 a sum equal to eleven and sixty-five hundredths percent of the
17 annual salary of each member employed by the local
18 administrative unit;

19 (6) from July 1, 2009 through June 30, 2010,
20 a sum equal to ten and nine-tenths percent of the annual
21 salary of each member employed by the local administrative
22 unit except that, for members whose annual salary is twenty
23 thousand dollars (\$20,000) or less, the local administrative
24 unit shall contribute twelve and four-tenths percent of the
25 member's annual salary;

1 (7) from July 1, 2010 through June 30, 2011,
2 a sum equal to eleven and sixty-five hundredths percent of the
3 annual salary of each member employed by the local
4 administrative unit except that, for members whose annual
5 salary is twenty thousand dollars (\$20,000) or less, the local
6 administrative unit shall contribute thirteen and fifteen-
7 hundredths percent of the member's annual salary; and

8 (8) on and after July 1, 2011, a sum equal
9 to thirteen and nine-tenths percent of the annual salary of
10 each member employed by the local administrative unit.

11 C. If, in a calendar year, the salary of a member,
12 initially employed by a local administrative unit on or after
13 July 1, 1996, equals the annual compensation limit set
14 pursuant to Section 401(a)(17) of the Internal Revenue Code of
15 1986, as amended, then:

16 (1) for the remainder of that calendar year,
17 no additional member contributions or local administrative
18 unit contributions for that member shall be made pursuant to
19 this section; provided that no member shall be denied service
20 credit solely because contributions are not made by the member
21 or on behalf of the member pursuant to the provisions of this
22 subsection; and


23 (2) the amount of the annual compensation
24 limit shall be divided into four equal portions and, for
25 purposes of attributing contributory employment and crediting

1 service credit, each portion shall be attributable to one of
2 the four quarters of the calendar year."

3 Section 12. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2009. _____

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BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 7th day of April, 2009



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO