

NOTICE OF PROPOSED RULEMAKING

Public Hearing: The New Mexico Educational Retirement Board (NMERB) will conduct a public board meeting and rule hearing on June 24, 2022 at 9:00 a.m. The rule hearing will be conducted during NMERB's regular public board meeting and will be held at Albuquerque Public Schools headquarters, 6400 Uptown Blvd. NE, Albuquerque, NM 87110. The location of the public rule hearing is subject to change if required by Governor Michelle Lujan Grisham's executive orders concerning COVID-19. If there is any change in the location of the public rule hearing, the updated information will be posted on the NMERB website at www.nmerb.org.

Purpose: The purpose of the public rule hearing is to receive public comment on proposed amendments to 2.82.5 NMAC, Retirement Benefits. In March 2022, Governor Lujan Grisham signed House Bill 73 (HB73) regarding educational retirees returning to work (2022 N.M. Laws, ch. 20, § 1). HB73 amends Section 22-11-25.1 of the Educational Retirement Act to create a new program in which retirees may return to work and continue to receive their retirement benefits. Under the program, a retiree may return to work for a local administrative unit (LAU) for up to 36 consecutive or nonconsecutive months if the retiree has completed a 90-day layout period after retiring. The retiree and the LAU must pay nonrefundable contributions. The retiree cannot earn or purchase service credit for the period of reemployment. The purpose of the proposed amendments is to add a rule describing the program, requirements, and penalties if a retiree is approved for the program but returns to employment for more than 36 consecutive or nonconsecutive months. The new rule would be 2.82.5.18 NMAC and the subsequent sections in 2.82.5 NMAC would be renumbered. There is also a minor change to 2.82.5.11 NMAC to make the language gender neutral and to correct an internal reference.

Statutory Authority: Educational Retirement Act, NMSA 1978, § 22-11-6(A)(5) (2017).

Summary of Proposed Amendments:

2.82.5.11 EFFECTIVE DATE OF BENEFIT: Insert gender neutral language in Subsection A. Correct the internal cross-reference in Subsection C.

2.82.5.18 RETURN TO WORK 36 MONTHS:

Subsection A describes the program requirements. A retired member may return to employment with an LAU and continue to receive their benefit if the retired member has not rendered service to an LAU for at least 90 consecutive days after retiring and the retiree returns to employment for no more than 36 consecutive or nonconsecutive months. The retiree must submit an application to NMERB and be approved prior to beginning employment. Subsection B states that a retiree who is in the program and returns to work for more than 36 consecutive or nonconsecutive months shall have their retirement benefit suspended for the period of employment that exceeds 36 consecutive or nonconsecutive months. The retiree must repay benefits received while ineligible for the program.

The subsequent sections of 2.82.5 NMAC would be renumbered as 2.82.5.19 NMAC through 2.82.5.22 NMAC.

Details for Obtaining a Copy of Proposed Rule Amendments and Submitting Oral or Written Comments:

A copy of the proposed rule amendments is available on the NMERB website at www.nmerb.org or by calling Amanda Olsen, Legal Assistant, at (505) 476-6133 during regular business hours. The proposed rule amendments are also posted on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public rule hearing or submit written comments by mail to Amanda Olsen, New Mexico Educational Retirement Board, P.O. Box 26129, Santa Fe, NM 87502; by email to NMERB.RuleChange@state.nm.us or by fax to (505) 827-1855. Written comments must be received by 3:00 pm (MT) on June 23, 2022. All timely submitted written comments will be posted on the NMERB website at www.nmerb.org.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact Amanda Olsen at (505) 476-6133 as soon as possible or at least ten business days before the public hearing.