

**TITLE 2 PUBLIC FINANCE**  
**CHAPTER 80 PUBLIC EMPLOYEES RETIREMENT**  
**PART 1200 LEGISLATIVE RETIREMENT**

**2.80.1200.1 ISSUING AGENCY:** Public Employees Retirement Association, P. O. Box 2123, Santa Fe, New Mexico 87504-2123  
[6-15-96; 2.80.1200.1 NMAC - Rn, 2 NMAC 80.1200.1, 12-28-00]

**2.80.1200.2 SCOPE:** All persons who are eligible and desire to claim service credit or receive benefits under the legislative retirement provisions of the Public Employees Retirement Act.  
[6-15-96; 2.80.1200.2 NMAC - Rn, 2 NMAC 80.1200.2, 12-28-00]

**2.80.1200.3 STATUTORY AUTHORITY:** Sections 10-11-39 through 43 NMSA 1978 create state legislator member coverage plan 1. Sections 10-11-43.1 through 10-11-43.5 NMSA 1978 create state legislator member coverage plan 2. Section 10-11-129.1 creates the legislative retirement fund. Section 10-11-130, NMSA 1978, authorizes the public employees retirement board to make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the retirement board and activities of the association.  
[6-15-96; 2.80.1200.3 NMAC - Rn, 2 NMAC 80.1200.3, 12-28-00; A, 9-30-03]

**2.80.1200.4 DURATION:** Permanent.  
[6-15-96; 2.80.1200.4 NMAC - Rn, 2 NMAC 80.1200.4, 12-28-00]

**2.80.1200.5 EFFECTIVE DATE:** June 15, 1996 unless a later date is cited at the end of a section.  
[6-15-96; 2.80.1200.5 NMAC - Rn, 2 NMAC 80.1200.5, 12-28-00; A, 8-31-04]

**2.80.1200.6 OBJECTIVE:** The objective of Part 1200 is to establish the procedures for acquiring benefits under the legislative retirement provisions of the Public Employees Retirement Act. Included are procedures which address persons whose membership or benefits under state legislator member coverage plan 1 were affected by court orders enjoining the association from administering the plan during the course of litigation concerning the constitutionality of the plan. See State v. Public Employees Retirement Board et al., N.M. Sup. Ct. Case No. 22, 279.  
[6-15-96; 2.80.1200.6 NMAC - Rn, 2 NMAC 80.1200.6, 12-28-00]

**2.80.1200.7 DEFINITIONS:** Definitions of terms used in this rule are found in 2.80.100.7 NMAC, Definitions, and Section 10-11-2, NMSA 1978.  
[6-15-96; 2.80.1200.7 NMAC - Rn, 2 NMAC 80.1200.7, 12-28-00]

**2.80.1200.8 AMENDMENT AND REPEAL:** Section 30 of 2.80.1200 NMAC is hereby amended and moved to subsection 10.C of this rule. This rule repeals in their entirety sections 1200.10 and 1200.20 of PERA Rule 1200, Legislative Retirement, filed July 1, 1987. Note: The July 1, 1987 version of Rule 1200 superseded the original version of PERA Rule 1200, which was filed 11-19-81.  
[6-15-96; 2.80.1200.8 NMAC - Rn, 2 NMAC 80.1200.8, 12-28-00]

**2.80.1200.9 ENROLLMENT:**

A. Participation in state legislator member coverage plan 1 is voluntary for legislators and lieutenant governors whose terms of office ended on or before December 21, 2002. Legislators and lieutenant governors may enroll in state legislator member coverage plan 1 by completing and filing a written application with PERA and paying member contributions on or before December 31, 2003 for one year or more of service credit earned by them after December 31, 1959. No survivor, estate, heir, personal representative or beneficiary of a deceased legislator or lieutenant governor may enroll in the plan. State legislative member coverage plan 1 closes to new members on December 31, 2003.

B. The board, the attorney general and certain retirees and members under state legislator member coverage plan 1 entered into stipulated partial final judgments in the matter of State v. Public Employees Retirement Board et al., First Judicial District Court, Case No. SF 87-2682(C). Unless otherwise provided by law, the association is bound by the provisions of the judgments so long as the judgments remain valid and effective.

C. Participation in state legislator member coverage plan 2 is voluntary for legislators and lieutenant governors whose terms of office ended after December 31, 2002. Legislators and lieutenant governors may enroll in state legislator member coverage plan 2 by completing and filing a written application with PERA on or before the later of one hundred eighty (180) days from July 1, 2003 or one hundred eighty (180) days after first taking office, and paying member contributions for one or more years of service credit earned after December 31, 2002. No survivor, estate, heir, personal representative or beneficiary of a deceased legislator or lieutenant governor may enroll in the plan.

[6-15-96; 2.80.1200.9 NMAC- Rn, 2 NMAC 80.1200.9, 12-28-00; A, 9-30-03]

**2.80.1200.10 SERVICE CREDIT:**

A. Service under state legislator member coverage plan 1 or state legislator member coverage plan 2 shall be credited by the calendar year.

B. One year of service credit may be earned for each calendar year during which the member fulfilled the obligations of the position of legislator or lieutenant governor for more than six months of the calendar year, including the legislative session. No service credit may be posted to a member's file until member contributions plus interest, if any, have been paid to PERA and the legislative council service has verified legislative service for the years claimed.

C. If a legislative member has service credit under PERA, other than as a legislative member, the legislative service credit and the regular PERA service credit may be combined for retirement purposes, provided that:

(1) the legislative member has at least five years of service credit under a coverage plan other than state legislator member coverage plan 1 or state legislator member coverage plan 2; and

(2) the legislative member meets the age requirement for normal retirement in the other coverage plan; in computing the benefits for the combined service, the pension shall be the sum of the benefits under state legislator member coverage plan 1 or state legislator member coverage plan 2 for the service as a legislator and the benefits for the remaining service under the applicable coverage plan.

D. In accordance with NMSA 1978, Section 10-11-7(E), the purchase cost for each year of credited military service under a state legislator coverage plan is equal to three times the normal member contribution per year under the state legislator coverage plan applicable to the member.

E. In order to post or adjust service credit for increased retirement benefits available to members under state legislator member coverage plan 1 for one or more calendar years after December 31, 1959 and prior to January 1, 2004, PERA must receive the required member contributions totaling two hundred dollars (\$200.00) per year on or before December 31, 2003.

F. In order to post or adjust service credit for increased retirement benefits available to members under state legislator member coverage plan 2 for one or more calendar years after December 31, 1959 and prior to January 1, 2003, PERA must receive the required member contributions totaling five hundred dollars (\$500.00) per year on or before December 31, 2004. No survivor, estate, heir, personal representative or beneficiary of a deceased legislator or lieutenant governor may post or adjust service credit under the plan.

[11-19-81; 8-1-87; 6-15-96; 2.80.1200.10 NMAC - Rn & A, 2 NMAC 80.1200.10, 12-28-00; A, 9-30-03; A, 8-31-04]

**2.80.1200.11 MEMBER CONTRIBUTIONS:** Member contributions for the current calendar year are due within the calendar year, and no interest shall be charged by PERA on contributions timely paid. Interest will be assessed on unremitted member contributions for calendar years preceding the current calendar year at a rate set by the board, and will accrue from the first day of the year after the service year for which credit is claimed until the date of payment, except that no interest shall accrue for the period from January 1, 1989 through December 31, 1996. The board shall set the rate of interest annually by resolution at a July meeting, to be effective on the following January 1st for that calendar year. The rate of interest for unremitted member contributions paid in 1996 shall be as follows:

A. For calendar years prior to January 1, 1984, interest shall be calculated at the rate of 5.25% compounded annually from December 31 of the applicable year through December 31, 1983, and at the rate of 10% compounded annually thereafter up to the date of payment.

B. For calendar years after December 31, 1983, interest shall be calculated at the rate of 10% compounded annually from December 31 of the applicable year to the date of payment.

[6-15-96; 2.80.1200.11 NMAC- Rn, 2 NMAC 80.1200.11, 12-28-00]

**2.80.1200.12 BENEFITS SUSPENDED BECAUSE OF LITIGATION:** The administration of state legislator member coverage plan 1 was suspended from December 29, 1988 through November 2, 1993 and July 12, 1994 through the thirtieth day after the effective date of this rule. Retirees or their beneficiaries who were receiving benefits or who had filed applications for benefits prior to one or both of these periods of suspension may receive benefits for the period(s). In order to pay such benefits, PERA must receive updated information concerning the affected persons on PERA forms. In making benefit payments for these periods, PERA is entitled to rely upon the information furnished to PERA. PERA is not obligated to pay benefits for these periods until the thirty-first day after the effective date of this rule, or sixty days from PERA's receipt of the updated information, whichever comes later. No interest will be paid by PERA on benefits accumulated for periods during which administration of the plan was suspended; however, applicable cost of living adjustments will be included.  
[6-15-96; 2.80.1200.12 NMAC - Rn, 2 NMAC 80.1200.12, 12-28-00; A, 9-30-03]

**2.80.1200.13 APPLICATIONS FOR BENEFITS:** Persons who are eligible for but are not yet receiving benefits under the plan may apply for benefits pursuant to the procedures set forth in the PERA Act and PERA rules. The effective date of the pension shall be no earlier than the first day of the month following the month in which the application for a benefit was filed. No interest shall be paid by PERA on benefits which accrue from the effective date of the benefit to the date of the first pension check.  
[6-15-96; 2.80.1200.13 NMAC - Rn, 2 NMAC 80.1200.13, 12-28-00]

**HISTORY of 2.80.1200 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 1200.00, Legislative Retirement, filed on 10-4-79; PERA Rule 1200.00, Legislative Retirement, filed on 11-19-81; PERA Rule 1200.00, Legislative Retirement, filed on 7-1-87.