

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 8 INDEPENDENT PUBLIC EMPLOYER OPTION

2.81.8.1 ISSUING AGENCY: NM Retiree Health Care Authority ("NMRHCA").
[12-31-96, 6-15-98; 2.81.8.1 NMAC - Rn, 2 NMAC 81.8.1, 05-14-04]

2.81.8.2 SCOPE: Applies to those municipalities, counties and public entities which are independent public employers and who exercise an option to be included therein after December 31, 1997.
[6-5-90, 12-31-96, 6-15-98; 2.81.8.2 NMAC - Rn, 2 NMAC 81.8.2, 05-14-04]

2.81.8.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the Retiree Health Care Act ("act"), Sections 10-7C-1 et seq. NMSA 1978.
[6-5-90, 12-31-96, 6-15-98; 2.81.8.3 NMAC - Rn, 2 NMAC 81.8.3, 05-14-04]

2.81.8.4 DURATION: Permanent.
[12-31-96, 6-15-98; 2.81.8.4 NMAC - Rn, 2 NMAC 81.8.4, 05-14-04]

2.81.8.5 EFFECTIVE DATE: June 15, 1998, unless a later date is cited at the end of a section.
[12-31-96, 6-15-98; 2.81.8.5 NMAC - Rn & A, 2 NMAC 81.8.5, 05-14-04]

2.81.8.6 OBJECTIVE: The objective of this rule is to establish procedures governing the process by which independent public employers may exercise their option to be included as participating employers under the act after December 31, 1997.
[6-5-90, 6-15-98; 2.81.8.6 NMAC - Rn, 2 NMAC 81.8.6, 05-14-04]

2.81.8.7 DEFINITIONS:

- A.** "Act" means the Retiree Health Care Act (Sections 10-7C-1 et seq. NMSA 1978).
- B.** "Independent public employer" means a municipality, county or public entity which is not a retirement system employer (Section 10-7C-4(G)(2) NMSA 1978).
- C.** "Public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government (Section 10-7C-4(N) NMSA 1978).
- D.** "Retirement system employer" means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act (Section 10-7C-4(G)(1) NMSA 1978).
[6-15-98; 2.81.8.7 NMAC - Rn, 2 NMAC 81.8.7, 05-14-04]

2.81.8.8 EXERCISE OF OPTION IN BY MUNICIPALITIES, COUNTIES AND PUBLIC ENTITIES WHICH ARE INDEPENDENT PUBLIC EMPLOYERS: Municipalities, counties and public entities that are independent public employers may at their option irrevocably determine by ordinance or resolution, following a public hearing and published notice of the hearing, to become a participating employer under the act. In addition to complying with all other required notice and public hearing or meeting requirements, any such independent public employer seeking to become a NMRHCA participating employer shall be subject to the following conditions:

A. Thirty days prior to the public hearing or public meeting on the proposed ordinance or resolution, the employer shall notify the NMRHCA of the date, time and place of the public hearing or public meeting. If the notice is by means other than certified mail, the notice is not deemed to have been given until receipt is acknowledged in writing by the NMRHCA. The NMRHCA executive director has the authority, on a case by case basis, to waive the thirty-day notice requirement if he/she determines:

- (1) there is good cause to waive the requirement; and
- (2) if he/she determines that the NMRHCA has received sufficient actual notice. Notice to the

NMRHCA must be in the following form:

FORM NOTICE LETTER

Executive Director
Retiree Health Care Authority
625 Don Gaspar (or current address)
Santa Fe, NM 87503

Dear Executive Director

The (INSERT NAME OF APPLICANT EMPLOYER) hereby gives notice that on the _____ day of _____, _____ at _____ the governing body will conduct a public hearing on the question of including the (INSERT NAME OF APPLICANT EMPLOYER) in coverage by the Retiree Health Care Act.

This notice was authorized to be provided by a formal vote of the governing body of the (INSERT NAME OF APPLICANT EMPLOYER) held on the _____ day of _____.

(INSERT NAME OF APPLICANT EMPLOYER)

By

Its

B. The employer may validly exercise the option to be included in the coverage only if it does so by adoption of an ordinance or resolution in the form required by the NMRHCA. The form may be updated by the NMRHCA as necessary without revision of this rule. As of the effective date of this rule, the NMRHCA required ordinance/resolution form is as follows:

ORDINANCE/RESOLUTION FORM NO.

AN ORDINANCE ADOPTED PURSUANT TO THE RETIREE HEALTH CARE ACT, SECTIONS 10-7C-1 ET SEQ. NMSA 1978, EXERCISING THE IRREVOCABLE OPTION TO DETERMINE TO BE INCLUDED IN COVERAGE UNDER THE RETIREE HEALTH CARE ACT

WHEREAS, the governing body has considered the issue of retiree health care for its employees, retirees, their spouses and dependents;

WHEREAS, the governing body has considered the opportunity afforded by the Retiree Health Care Act ("act"), Sections 10-7C-1 et seq. NMSA 1978 to provide basic and optional retiree health coverages. The single basic plan of benefits rate may be adjusted from time to time pursuant to Section 13 of the act. The current single basic plan of benefits rate is _____ (AMOUNT TO BE OBTAINED FROM THE NMRHCA); and

WHEREAS, the governing body has considered that pursuant to Section 15 of the act, Retiree Health Care Authority participation requires participating employer and/or employee contributions to the Retiree Health Care Authority fund in the amount determined to be appropriate by the NMRHCA Board and which may be adjusted from time to time; and

WHEREAS, the governing body determines to irrevocably include _____, its employees and retirees in the requirements of the employer/employee contributions and retiree benefits under the act.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the _____

Section 1. Thirty days prior to public hearing on this Ordinance the Retiree Health Care Authority was notified by certified mail of the public hearing on this Ordinance.

Section 2. Pursuant to the terms of the act the _____ determines to be included in coverage under the Retiree Health Care Act.

Section 3. Passed, adopted and approved this _____ day of _____.

Mayor or Chairperson

Attest

by: _____
its: _____

On this ____ day of _____ before me appeared _____ known to me as a duly-authorized representative of the _____ and having been first sworn on his/her oath deposed and stated that the hereinbefore recited ordinance was adopted by a vote of _____ in favor and _____ opposed and that the governing body of the _____ consists of _____ members plus a mayor or including a chairperson and that a sufficient number of them voted in favor of passage of the ordinance or resolution that it is in effect.

Notary Public
My Commission Expires _____

[6-5-90, 12-31-96, 6-15-98; 2.81.8.8 NMAC - Rn, 2 NMAC 81.8.8, 05-14-04]

2.81.8.9 RETIREES, SPOUSES, DOMESTIC PARTNERS OR DEPENDENTS OF RETIREES OF INDEPENDENT PUBLIC EMPLOYERS THAT FAIL TO PETITION FOR PARTICIPATION IN THE ACT NOT ELIGIBLE FOR BENEFITS: Those retirees, their spouses, domestic partners or dependents who are current retirees, their spouses, domestic partners or dependents as defined in the act or who retire from service with an independent public employer which fails to become a participating employer under the act shall not be eligible for the benefits of the act and shall not be allowed to purchase coverages offered under the act.
[6-5-90, 6-15-98; 2.81.8.9 NMAC - Rn, 2 NMAC 81.8.9, 05-14-04; A, 1-1-2010]

2.81.8.10 INDEPENDENT PUBLIC EMPLOYERS PETITIONING AFTER DECEMBER 31, 1997, REQUIRED TO MAKE SIX MONTHS OF APPROPRIATE EMPLOYER/ EMPLOYEE CONTRIBUTIONS BEFORE ELIGIBLE FOR NMRHCA PARTICIPATION: An independent public employer that chooses to become a participating employer after December 31, 1997, shall submit their opt-in ordinance or opt-in resolution to the NMRHCA board prior to the board's semi-annual review meeting. Following acceptance by the NMRHCA board, the employer shall begin making employer and employee contributions to the fund in an amount determined to be appropriate by the NMRHCA board on the January 1 or July 1, immediately following the adoption of the ordinance or resolution. On the following January 1 or July 1, eligible retirees of those participating employers and their eligible dependents shall be eligible to receive group health insurance coverage pursuant to the provisions of the Retiree Health Care Act.
[6-5-90, 12-31-96, 6-15-98; 2.81.8.10 NMAC - Rn & A, 2 NMAC 81.8.10, 05-14-04]

2.81.8.11 NMRHCA BOARD ANNUAL REVIEW MEETING: Twice a year, at the NMRHCA board's regularly-scheduled June and December meetings the board will review the ordinances and resolutions of eligible employers who are seeking NMRHCA participation and accept those employers who have met the requirements of the Retiree Health Care Act and the NMRHCA board's rules and regulations. The board in its discretion may reschedule these meetings.
[12-31-96; 2.81.8.11 NMAC - Rn & A, 2 NMAC 81.8.11, 05-14-04]

HISTORY OF 2.81.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives under:

RHCA Rule 90-8, Municipalities and Counties Which Do Not Have Any Employees Affiliated with the Public Employees Retirement Act Rules Governing the Exercise of Option Authorized by Chapter 6, Laws of New Mexico, 1990 to be Included in the Coverages of the Retiree Health Care Act, filed 6-5-90.

History of Repealed Material: [RESERVED]

Other History:

RHCA Rule 90-8, Municipalities and Counties Which Do Not Have Any Employees Affiliated with the Public Employees Retirement Act Rules Governing the Exercise of Option Authorized by Chapter 6, Laws of New Mexico, 1990 to be Included in the Coverages of the Retiree Health Care Act (filed 6-5-90) was renumbered,

reformatted and replaced by 2 NMAC 81.8, Retiree Health Care Funds - Independent Public Employers, effective 12-31-96.

2 NMAC 81.8, Retiree Health Care Funds - Independent Public Employers (filed 12-17-96) was replaced by 2 NMAC 81.8, Retiree Health Care Funds - Independent Public Employer Option, effective 6-15-98.

2 NMAC 81.8, Retiree Health Care Funds - Independent Public Employer Option (filed 6-2-98) was renumbered, reformatted, amended and replaced by 2.81.8 NMAC, Retiree Health Care Funds - Independent Public Employer Option, effective 05-14-04.