

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 9 AFFILIATED MUNICIPAL, COUNTY, INSTITUTION OF HIGHER EDUCATION AND PUBLIC ENTITY OPTION

2.81.9.1 ISSUING AUTHORITY: NM Retiree Health Care Authority ("NMRHCA").
[12/31/96; Rn, 2 NMAC 81.10.1, 6/15/98; 6/15/98; 2.81.9.1 NMAC - Rn, 2 NMAC 81.9.1, 1-1-2010]

2.81.9.2 SCOPE: Applies to those municipalities, counties, institutions of higher education or public entities who are retirement system employers as defined and who exercise their option to be included therein after December 31, 1997.
[6/5/90, 12/31/96; Rn, 2 NMAC 81.10.2, 6/15/98; 6/15/98; 2.81.9.2 NMAC - Rn, 2 NMAC 81.9.2, 1-1-2010]

2.81.9.3 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; Rn, 2 NMAC 81.10.3, 6/15/98; 6/15/98; 2.81.9.3 NMAC - Rn, 2 NMAC 81.9.3, 1-1-2010]

2.81.9.4 DURATION: Permanent.
[12/31/96; Rn, 2 NMAC 81.10.4, 6/15/98; 2.81.9.4 NMAC - Rn, 2 NMAC 81.9.4, 1-1-2010]

2.81.9.5 EFFECTIVE DATE: July 15, 1998 unless a later date is cited at the end of a section.
[12/31/96; Rn, 2 NMAC 81.10.5, 6/15/98; 6/15/98; 2.81.9.5 NMAC - Rn & A, 2 NMAC 81.9.5, 1-1-2010]

2.81.9.6 OBJECTIVE: The objective of this rule is to establish procedures governing the process by which eligible municipalities, counties, institutions of higher education and public entities the Act) [sic] who may exercise their option to be included into coverage under the act after December 31, 1997.
[6/5/90, 12/31/96; Rn, 2 NMAC 81.10.6, 6/15/98; 6/15/98; 2.81.9.6 NMAC - Rn, 2 NMAC 81.9.6, 1-1-2010]

2.81.9.7 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; 2.81.9.7 NMAC - Rn, 2 NMAC 81.9.7, 1-1-2010]

2.81.9.8 EXERCISE OF OPTION OUT/ MUNICIPALITIES AND COUNTIES WHICH ARE RETIREMENT SYSTEM EMPLOYERS AS DEFINED IN SECTION 4. G. OF THE ACT: Any municipality or county who has some (it need not be all) of its workforce affiliated with the Public Employee Retirement Act system as of February 14, 1990 shall be considered to be mandated into the coverage of the Act with the option pursuant to this rule to choose not to be a participating employer under the act.
[6/5/90, 12/31/96; Rn 2 NMAC 81.10.8, 6/15/98; 6/15/98; 2.81.9.8 NMAC - Rn, 2 NMAC 81.9.8, 1-1-2010]

2.81.9.9 EXERCISE OF OPTION IN/ MUNICIPALITIES, COUNTIES, INSTITUTIONS OF HIGHER EDUCATION AND PUBLIC ENTITIES WHICH ARE RETIREMENT SYSTEM EMPLOYERS AS DEFINED IN SECTION 4. G. OF THE ACT: Municipalities, counties, institutions of higher education and public entities who are retirement system employers may at their option irrevocably determine by ordinance or resolution to be included as participating employers under the act. In addition to complying with all other required

notice and public hearing or meeting requirements, any such retirement system 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 determine:

- (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 NO.

AN ORDINANCE/RESOLUTION 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 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 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 appropriate by the NMRHCA board and which may be adjusted from time to time; and

(INCLUDE THIS PARAGRAPH ONLY IF APPLICABLE TO THE ENTITY) WHEREAS, the governing body revokes its previous decision to be excluded from coverage by the act.

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; Rn, 2 NMAC 81.10.9, 6/15/98; 6/15/98; 2.81.9.9 NMAC - Rn, 2 NMAC 81.9.9, 1-1-2010]

2.81.9.10 RETIREES, SPOUSES, DOMESTIC PARTNERS OR DEPENDENTS OF RETIREES OF AFFILIATED MUNICIPALITIES, COUNTIES, INSTITUTIONS OF HIGHER EDUCATION OR PUBLIC ENTITIES FAILING TO OPT INTO THE NMRHCA 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 eligible municipality, county, institution of higher education or public entity which fails to opt-in to the NMRHCA 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, 12/31/96; Rn, 2 NMAC 81.10.10, 6/15/98; 6/15/98; 2.81.9.10 NMAC - Rn & A, 2 NMAC 81.9.10, 1-1-2010]

2.81.9.11 AFFILIATED MUNICIPALITIES, COUNTIES, INSTITUTIONS OF HIGHER EDUCATION AND PUBLIC ENTITIES OPTING TO BE INCLUDED IN NMRHCA COVERAGE AFTER DECEMBER 31, 1997 REQUIRED TO MAKE SIX MONTHS OF APPROPRIATE EMPLOYER/EMPLOYEE CONTRIBUTIONS BEFORE BECOMING ELIGIBLE FOR NMRHCA PARTICIPATION: Any municipality, county, institution of higher education or public entity that enacts an ordinance or resolution 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 annual review meeting. Following acceptance by the NMRHCA board, the employer shall begin making the appropriate employer and employee contributions to the fund as determined by the NMRHCA board on the July 1, immediately following the adoption of the ordinance or resolution. On the following January 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.

[12/31/96; Rn, 2 NMAC 81.10.11, 6/15/98; 6/15/98; 2.81.9.11 NMAC - Rn, 2 NMAC 81.9.11, 1-1-2010]

2.81.9.12 NMRHCA BOARD ANNUAL REVIEW MEETING: Once a year, at the NMRHCA board's regularly-scheduled June meeting 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 this meeting.

[12/31/96; Rn, 2 NMAC 81.10.12, 6/15/98; 2.81.9.12 NMAC - Rn, 2 NMAC 81.9.12, 1-1-2010]

HISTORY OF 2.81.9 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 90-10, Municipalities and Counties, Affiliated (Some or All Employees) With Public Employees Retirement Act, Their Employees and Retirees Rules Governing the Exercise of the option Authorized by Chapter

6, Laws of New Mexico, 1990 to be Excluded From the Coverages of the Retiree Health Care Act Plan, filed 6/5/1990.

History of Repealed Material: [RESERVED]

Other History:

RHCA Rule 90-10, Municipalities and Counties, Affiliated (Some or All Employees) With Public Employees Retirement Act, Their Employees and Retirees Rules Governing the Exercise of the Option Authorized by Chapter 6, Laws of New Mexico, 1990 to be Excluded From the Coverages of the Retiree Health Care Act Plan (filed 6-5-1990) was renumbered, reformatted, amended and replaced by 2 NMAC 81.10, Retiree Health Care Funds - Affiliated Municipal County Local Option, effective 12-31-1996.

2 NMAC 81.10, Affiliated Municipal County Local Option (filed 12-17-1996) was renumbered, reformatted, amended and replaced by 2 NMAC 81.9, Affiliated Municipal, County, Institution of Higher Education and Public Entity Option, effective 6-15-1998.

2 NMAC 81.9, Affiliated Municipal, County, Institution of Higher Education and Public Entity Option (filed 6-02-1998) was renumbered, reformatted, amended and replaced by 2.81.9 NMAC, Affiliated Municipal, County, Institution of Higher Education and Public Entity Option, effective 1-1-2010.