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HOUSE BILL 1036

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Ernest H. Chavez

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; AMENDING A SECTION OF  
THE PUBLIC EMPLOYEES RETIREMENT ACT CONCERNING THE DISCLOSURE  
OF INFORMATION.

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

Section 1. Section 10-11-130 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 130, as amended) is amended to read:

"10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

A. The "retirement board" is [~~hereby~~] created and  
[~~shall be~~] is the trustee of the association and the funds  
created by the state retirement system acts and [~~shall have~~]  
has all the powers necessary or convenient to carry out and  
effectuate the purposes and provisions of the state retirement  
system acts, including, in addition to any specific powers  
provided for in the Public Employees Retirement Act but without

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1 limiting the generality of the foregoing, the power to:

2 (1) [~~to~~] administer the state retirement  
3 system acts, including the management of the association and  
4 making effective the provisions of those acts, as well as to  
5 administer and manage any other employee benefit acts as  
6 provided by law;

7 (2) in addition to utilizing services of the  
8 attorney general and notwithstanding any other provision of  
9 law, [~~to~~] employ or contract with and compensate competent  
10 legal counsel to handle the legal matters and litigation of the  
11 retirement board and the association and to give advice and  
12 counsel in regard to any matter connected with the duties of  
13 the retirement board;

14 (3) [~~to~~] administer oaths;

15 (4) [~~to~~] adopt and use a seal for  
16 authentication of records, processes and proceedings;

17 (5) [~~to~~] create and maintain records relating  
18 to all members, affiliated public employers and all activities  
19 and duties required of the retirement board;

20 (6) [~~to~~] issue subpoenas and compel the  
21 production of evidence and attendance of witnesses in  
22 connection with any hearings or proceedings of the retirement  
23 board;

24 (7) [~~to~~] make and execute contracts;

25 (8) [~~to~~] purchase, acquire or hold land

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1 adjacent to the state capitol grounds or other suitable  
2 location and build thereon a building to house the association  
3 and its employees and, in the event additional office space is  
4 available in the building after the retirement board and its  
5 employees have been housed, to rent or lease the additional  
6 space to ~~[any]~~ a public agency or private person; provided that  
7 first priority for the rental or leasing shall be to public  
8 agencies and further provided that for the purpose of  
9 purchasing, acquiring or holding the land and the building  
10 thereon, the retirement board may use funds from the income  
11 fund and ~~[any]~~ other funds controlled by the retirement board  
12 the use of which for such purposes is not prohibited by law;

13 (9) ~~[(t)]~~ make and adopt such reasonable rules  
14 ~~[and regulations]~~ as may be necessary or convenient to carry  
15 out the duties of the retirement board and activities of the  
16 association, including ~~[any]~~ rules ~~[and regulations]~~ necessary  
17 to preserve the status of the association as a qualified  
18 pension plan under the provisions of the Internal Revenue Code  
19 of 1986, as amended, or under successor or related provisions  
20 of law; and

21 (10) ~~[(t)]~~ designate committees and ~~[(t)]~~  
22 designate committee members, including individuals who may not  
23 be members of the association.

24 B. The retirement board ~~[shall consist]~~ consists  
25 of:

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- 1 (1) the secretary of state;
- 2 (2) the state treasurer;
- 3 (3) four members under a state coverage plan
- 4 to be elected by the members under state coverage plans;
- 5 (4) four members under a municipal coverage
- 6 plan to be elected by the members under municipal coverage
- 7 plans, provided one member shall be a municipal member employed
- 8 by a county; and
- 9 (5) two retired members to be elected by the
- 10 retired members of the association.

11 C. The results of elections of elected members of  
12 the retirement board shall be certified at the annual meeting  
13 of the association. Elections shall be conducted according to  
14 rules [~~and regulations~~] the retirement board [~~shall~~] adopts  
15 from time to time [~~adopt~~].

16 D. The regular term of office of the elected  
17 members of the retirement board [~~shall be~~] is four years. The  
18 term of one retirement board member under a state coverage plan  
19 [~~shall expire~~] expires annually on December 31. The terms of  
20 retirement board members under a municipal coverage plan  
21 [~~shall~~] expire on December 31 of noncoinciding years in the  
22 pattern set by the retirement board. Members of the retirement  
23 board [~~shall~~] serve until their successors have qualified.

24 E. A member elected to the retirement board who  
25 fails to attend four consecutively scheduled meetings of the

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1 retirement board, unless in each case excused for cause by the  
2 retirement board members in attendance, [~~shall be~~] is  
3 considered to have resigned from the retirement board, and the  
4 retirement board shall by resolution declare the office vacated  
5 as of the date of adoption of the resolution. A vacancy  
6 occurring on the retirement board, except in the case of an  
7 elected official, shall be filled by the remaining retirement  
8 board members, without requirement that a quorum be present.  
9 The member appointed to fill the vacancy [~~shall serve~~] serves  
10 for the remainder of the vacated term.

11 F. Members of the retirement board [~~shall~~] serve  
12 without [~~additional~~] salary for their services as retirement  
13 board members, but they shall receive [~~as their sole~~  
14 ~~remuneration for services as members of the retirement board~~]  
15 those amounts authorized under the Per Diem and Mileage Act.

16 G. The retirement board shall hold four regular  
17 meetings each year and shall designate in advance the time and  
18 place of the meetings. Special meetings and emergency meetings  
19 of the retirement board may be held upon call of the chairman  
20 or any three members of the retirement board. Written notice  
21 of special meetings shall be sent to each member of the  
22 retirement board at least seventy-two hours in advance of the  
23 special meeting. Verbal notice of emergency meetings shall be  
24 given to as many members as is feasible at least eight hours  
25 before the emergency meeting, and the meeting shall commence

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1 with a statement of the nature of the emergency. The  
2 retirement board shall adopt its own rules of procedure and  
3 shall keep a record of its proceedings. All meetings of the  
4 retirement board shall comply with the Open Meetings Act. A  
5 majority of retirement board members shall constitute a quorum.  
6 Each attending member of the retirement board is entitled to  
7 one vote on each question before the retirement board, and at  
8 least a majority of a quorum shall be necessary for a decision  
9 by the retirement board.

10 H. Annual meetings of the members of the  
11 association shall be held in Santa Fe at such time and place as  
12 the retirement board [~~shall~~] determines from time to time  
13 [~~determine~~]. Special meetings of the members of the  
14 association shall be held in Santa Fe upon call of any seven  
15 retirement board members. The retirement board shall send a  
16 written notice to the last known residence address of each  
17 member currently employed by an affiliated public employer at  
18 least ten days prior to any meeting of the members of the  
19 association. The notice shall contain the call of the meeting  
20 and the principal purpose of the meeting. All meetings of the  
21 association shall be public and shall be conducted according to  
22 procedures the retirement board [~~shall~~] adopts from time to  
23 time [~~adopt~~]. The retirement board shall keep a record of the  
24 proceedings of each meeting of the association.

25 I. Neither the retirement board nor the association

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1 shall allow public inspection of, or disclosure of, information  
2 from ~~[any]~~ a member or ~~[retiree]~~ retired member file unless a  
3 prior release and consent, in the form prescribed by the  
4 association, has been executed by the member or ~~[retiree]~~  
5 retired member; except that applicable coverage plans, amounts  
6 of retirement plan contributions made by members and affiliated  
7 public employers and pension amounts paid ~~[and the]~~ may be  
8 produced or disclosed without release or consent. The names  
9 and addresses of ~~[public employees retirement association]~~  
10 members or ~~[retirees requested for election purposes by~~  
11 ~~candidates for election to the retirement board]~~ retired  
12 members may be produced or disclosed without the release or  
13 consent of the member or retired member to candidates for  
14 election to the retirement board for election purposes or to a  
15 nonprofit retirement organization for that organization's  
16 exclusive use if the association is currently withholding a  
17 dues deduction for that organization. Information disclosed  
18 without release or consent of the member or retired member  
19 pursuant to this subsection shall not be distributed or used  
20 for commercial purposes."