SENATE BILL 201

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CHANGING THE
COMPOSITION OF THE PUBLIC EMPLOYEES RETIREMENT BOARD; REMOVING
CERTAIN ELECTION REQUIREMENTS.

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 created and is the
trustee of the association and the funds created by the state
retirement system acts and 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 limiting the generality of

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the foregoing, the power to:

(1) administer the state retirement system acts, including the management of the association and making effective the provisions of those acts, as well as to administer and manage any other employee benefit acts as provided by law;

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

(3) administer oaths;

(4) adopt and use a seal for authentication of records, processes and proceedings;

(5) create and maintain records relating to all members, affiliated public employers and all activities and duties required of the retirement board;

(6) issue subpoenas and compel the production of evidence and attendance of witnesses in connection with any hearings or proceedings of the retirement board;

(7) make and execute contracts;

(8) purchase, acquire or hold land adjacent to the state capitol grounds or other suitable location and build
thereon a building to house the association and its employees and, in the event additional office space is available in the building after the retirement board and its employees have been housed, to rent or lease the additional space to any public agency or private person; provided that first priority for the rental or leasing shall be to public agencies; and further provided that for the purpose of purchasing, acquiring or holding the land and the building thereon, the retirement board may use funds from the income fund and any other funds controlled by the retirement board the use of which for such purposes is not prohibited by law;

(9) after the sale of the land and building acquired pursuant to Paragraph (8) of this subsection, acquire land and build thereon a new building to house the association and its employees and hold the building and land in fee simple in the name of the association. In order to acquire the land and plan, design and construct the building, the retirement board may expend the proceeds of the sale of the land and building acquired pursuant to Paragraph (8) of this subsection or any funds controlled by the board, the use of which for such purposes is not otherwise prohibited by law;

(10) make and adopt such reasonable rules as may be necessary or convenient to carry out the duties of the retirement board and activities of the association, including any rules necessary to preserve the status of the association.
as a qualified pension plan under the provisions of the
Internal Revenue Code of 1986, as amended, or under successor
or related provisions of law;

(11) designate committees and designate
committee members, including individuals who may not be members
of the association; and

(12) select and contract for the services of
one or more custodian banks for all funds under the retirement
board's management. For the purpose of this paragraph,
"custodian bank" means a financial institution with the general
fiduciary duties to manage, control and collect the assets of
an investment fund, including receiving all deposits and paying
all disbursements as directed by staff, safekeeping of assets,
coordination of asset transfers, timely settlement of
securities transactions and accurate and timely reporting of
the assets by individual account and in total.

B. The retirement board consists of

[(1) the secretary of state;

(2) the state treasurer;

(3) four members under a state coverage plan
to be elected by the members under state coverage plans;

(4) four members under a municipal coverage
plan to be elected by the members under municipal coverage
plans, provided one member shall be a municipal member employed
by a county; and

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(5) two retired members to be elected by the retired members of the association.

C. The results of elections of elected members of the retirement board shall be certified at the annual meeting of the association. Elections shall be conducted according to rules the retirement board adopts from time to time] the following members; provided that the appointed members shall reside in geographically diverse areas of the state and have skill, knowledge and experience in financial matters:

(1) one active member of a state general coverage plan to be appointed by the personnel board;

(2) one active member of a municipal general coverage plan, who is employed by a county government, to be appointed by New Mexico counties;

(3) one active member of a municipal general coverage plan, who is employed by a municipality, to be appointed by the New Mexico municipal league;

(4) one active member to be appointed by the New Mexico federation of labor, American federation of labor and congress of industrial organizations;

(5) one public representative who is not a member and has skill, knowledge and experience related to investing to be appointed by the speaker of the house of representatives;

(6) one public representative who is not a
member and has skill, knowledge and experience related to
investing to be appointed by the president pro tempore of the
senate;

(7) the secretary of finance and
administration; and

(8) two retired members to be appointed as
follows:

(a) one appointed by the retired public
employees of New Mexico; and

(b) one appointed by the New Mexico
federation of labor, American federation of labor and congress
of industrial organizations.

[D-] C. The regular term of office of the [elected]
appointed members of the retirement board is four years. [The
term of one retirement board member under a state coverage plan
expires annually on December 31. The terms of retirement board
members under a municipal coverage plan expire on December 31
of noncoinciding years in the pattern set by the retirement
board] An appointed member shall not serve more than two
regular terms of office. Members of the retirement board serve
until their successors have qualified.

[E. A member elected to the retirement board who
fails to attend four consecutively scheduled meetings of the
retirement board, unless in each case excused for cause by the
retirement board members in attendance, is considered to have
resigned from the retirement board, and the retirement board
shall by resolution declare the office vacated as of the date
of adoption of the resolution. A vacancy occurring on the
retirement board except in the case of an elected official
shall be filled by the remaining retirement board members,
without requirement that a quorum be present. The member
appointed to fill the vacancy serves for the remainder of the
vacated term.

F. Members of the retirement board serve
without salary for their services as retirement board members,
but they shall receive those amounts authorized under the Per
Diem and Mileage Act.

G. The retirement board shall hold four
regular meetings each year and shall designate in advance the
time and place of the meetings. Special meetings and emergency
meetings of the retirement board may be held upon call of the
chair or any three members of the retirement board. Written
notice of special meetings shall be sent to each member of the
retirement board at least seventy-two hours in advance of the
special meeting. Verbal notice of emergency meetings shall be
given to as many members as is feasible at least eight hours
before the emergency meeting, and the meeting shall commence
with a statement of the nature of the emergency. The
retirement board shall adopt its own rules of procedure and
shall keep a record of its proceedings. All meetings of the
retirement board shall comply with the Open Meetings Act. A
majority of retirement board members shall constitute a quorum.
Each attending member of the retirement board is entitled to
one vote on each question before the retirement board, and at
least a majority of a quorum shall be necessary for a decision
by the retirement board.

\[\text{[H-]}\ F.\ \text{Annual meetings of the members of the}\]
\[\text{association shall be held in Santa Fe at such time and place as}\]
\[\text{the retirement board shall from time to time determine.}\]
Special meetings of the members of the association shall be
held in Santa Fe upon call of any seven retirement board
members. The retirement board shall send a written notice to
the last known residence address of each member currently
employed by an affiliated public employer at least ten days
prior to any meeting of the members of the association. The
notice shall contain the call of the meeting and the principal
purpose of the meeting. All meetings of the association shall
be public and shall be conducted according to procedures the
retirement board shall from time to time adopt. The retirement
board shall keep a record of the proceedings of each meeting of
the association.

\[\text{[I-]}\ G.\ \text{Neither the retirement board nor the}\]
\[\text{association shall allow public inspection of, or disclosure of,}\]
\[\text{information from any member or retiree file unless a prior}\]
\[\text{release and consent, in the form prescribed by the association,}\]
has been executed by the member or retiree; except that
applicable coverage plans, amounts of retirement plan
contributions made by members and affiliated public employers,
pension amounts paid and the names and addresses of public
employees retirement association members [or retirees requested
for election purposes by candidates for election to the
retirement board] may be produced or disclosed without release
or consent."

SECTION 2. Section 10-11-130.1 NMSA 1978 (being Laws
1999, Chapter 153, Section 1) is amended to read:

"10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS

[RESTRICTION ON CAMPAIGN CONTRIBUTIONS—REQUIRED REPORTING].—
[A.] Except for gifts of food or beverage given in a place of
public accommodation, consumed at the time of receipt, not
exceeding fifty dollars ($50.00) for a single gift and the
aggregate value of which gifts may not exceed one hundred fifty
dollars ($150) in a calendar year, neither a retirement board
member nor an employee of the retirement board or association
shall receive or accept anything of value directly or
indirectly from a person who:

[{1}] A. has a current contract with the retirement
board or association;

[{2}] B. is a potential bidder, offeror or
contractor for the provision of services or personal property
to the retirement board or association;
{(3)} C. is authorized to invest public funds pursuant to state or federal law or is an employee or agent of such a person; or

{(4)} D. is an organization, association or other entity having a membership that includes persons described in [Paragraphs (1) through (3)] Subsections A through C of this [subsection] section.

[B.] No person who is a candidate in a primary or general election for a position that qualifies the person for ex-officio membership on the retirement board, no member serving ex-officio on the retirement board and no person who is a nominee for retirement board membership by election by some or all of the members of the association pursuant to the Public Employees Retirement Act shall accept anything of a value of more than twenty-five dollars ($25.00) as a contribution to an ex-officio member's statewide campaign in a primary or general election or as a contribution to the campaign of a nominee for membership on the board as a member elected by all or some of the members of the association from a person who:

(1) has a current contract with the retirement board or association;

(2) is a potential bidder, offeror or contractor for the provision of services or personal property to the retirement board or association;

(3) is authorized to invest public funds
pursuant to state or federal law or is an employee or agent of
such a person; or

(4) is an organization, association or other
entity having a membership that includes persons described in
Paragraphs (1) through (3) of this subsection.

G. Within ten days after an election in which one
or more board members are elected by some or all of the members
of the association pursuant to the Public Employees Retirement
Act, all persons who were candidates for board membership in
that election shall file with the association a report
disclosing all contributions to their respective campaigns
whether made directly to the candidate, a political action
committee or to some other entity supporting the candidate's
election. The contributions shall be reported by amount and
specific source. Within sixty days after the election, the
association shall publish the reports required by this
subsection."

SECTION 3. Section 10-11-131 NMSA 1978 (being Laws 1987,
Chapter 253, Section 131, as amended) is amended to read:

"10-11-131. RETIREMENT BOARD--OFFICERS--EMPLOYMENT OF
SERVICES.--

A. The retirement board shall elect from its own
number a [chairman] chair and a vice [chairman] chair. The
board may remove a chair or vice chair for good cause by a
majority vote.
B. The retirement board shall appoint an executive
director who shall be the chief administrative officer for the
retirement board and the association.

C. The retirement board shall employ professional,
technical, clerical and other services as required for the
operation of the association. The compensation for employed
services shall be fixed by the retirement board.

D. [The state treasurer shall be the treasurer of
the association and the custodian of its funds. The
treasurer's general bond to the state shall cover all liability
for acts as treasurer of the association] The [treasurer]
executive director of the association shall credit all receipts
of money and assets of the association to the association. The
[treasurer] executive director or executive director's designee
shall make disbursements from association assets only upon
warrants issued by the secretary of finance and administration
based upon vouchers signed by the [executive secretary or
vouchers signed by the state treasurer] executive director of
the association for purposes of investment."

SECTION 4. TEMPORARY PROVISION.--On the effective date of
this act, the members serving on the retirement board on the
day prior to the effective date of this act are no longer
members of the retirement board. The retirement board shall be
considered vacant, and members shall be appointed according to
the provisions of Section 10-11-130 NMSA 1978.
SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.

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