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SENATE BILL 102

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Bill Tallman

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; REDUCING THE MEMBERSHIP AND CHANGING THE COMPOSITION OF THE PUBLIC EMPLOYEES RETIREMENT BOARD; PROVIDING REQUIREMENTS FOR CERTAIN RETIREMENT BOARD MEMBERS.

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

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1 Employees Retirement Act but without limiting the generality of
2 the foregoing, the power to:

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

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

15 (3) administer oaths;

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

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

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

24 (7) make and execute contracts;

25 (8) purchase, acquire or hold land adjacent to

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

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

23 (10) make and adopt such reasonable rules as
24 may be necessary or convenient to carry out the duties of the
25 retirement board and activities of the association, including

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1 any rules necessary to preserve the status of the association
2 as a qualified pension plan under the provisions of the
3 Internal Revenue Code of 1986, as amended, or under successor
4 or related provisions of law;

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

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

18 B. The retirement board consists of:

19 [~~(1) the secretary of state;~~

20 ~~(2)] (1) the state treasurer or the
21 treasurer's designee;~~

22 [~~(3) four] (2) three active members under a
23 state coverage plan to be elected by the members under state
24 coverage plans; provided that on and after January 1, 2024, one
25 of the active members shall be required to hold an advanced~~

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1 degree in finance, economics, public administration or law;

2 [~~(4) four~~] (3) three active members under a
3 municipal coverage plan to be elected by the members under
4 municipal coverage plans; provided one member shall be a
5 municipal member employed by a county; and provided further
6 that on and after January 1, 2024, one of the active members
7 shall be required to hold an advanced degree in finance,
8 economics, public administration or law; and

9 [~~(5)~~] (4) two retired members to be elected by
10 the 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 the retirement board adopts from time to time.

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

23 E. A member elected to the retirement board who
24 fails to attend four consecutively scheduled meetings of the
25 retirement board, unless in each case excused for cause by the

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

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

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

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

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

23 I. Neither the retirement board nor the association
24 shall allow public inspection of, or disclosure of, information
25 from any member or retiree file unless a prior release and

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1 consent, in the form prescribed by the association, has been
2 executed by the member or retiree; except that applicable
3 coverage plans, amounts of retirement plan contributions made
4 by members and affiliated public employers, pension amounts
5 paid and the names and addresses of public employees retirement
6 association members or retirees requested for election purposes
7 by candidates for election to the retirement board may be
8 produced or disclosed without release or consent."

9 SECTION 2. TEMPORARY PROVISION.--An elected retirement
10 board member who, on the effective date of this act, is serving
11 a term on the retirement board may continue to serve until that
12 term expires. The retirement board positions currently held by
13 state and municipal members whose terms expire December 31,
14 2022 shall be permanently removed from the board. On and after
15 the effective date of this act, and only for elections to fill
16 the state and municipal retirement board positions currently
17 held by members whose terms expire December 31, 2023, a
18 candidate seeking election to fill either of those retirement
19 board member positions shall hold an advanced degree as
20 required pursuant to Subsection B of Section 10-11-130 NMSA
21 1978.

22 SECTION 3. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2022.