



Investments and Pensions Oversight Committee

Return-to-Work Provisions for Educational Retirees

Representative Patricia Roybal Caballero, Chair
Senator Roberto “Bobby” J. Gonzales, Vice Chair

July 7, 2022

H. Russell Goff, Chair
Mary Lou Cameron, Vice Chair
David Archuleta, Executive Director

About

- **Governed by 9-member Board of Directors**
 - Administering the Educational Retirement Act
 - Hiring and delegating administrative authority to these employees
 - Provide an actuarial report regarding the financial operation to the legislature at each regular session every odd numbered year
 - Accept donations, gifts or bequests to the fund
 - Adopt regulations pursuant to the Educational Retirement Act
- **Board Meets Every Other Month**
 - August 26, October 14 & December 9, 2022
 - APS City Center
- **Committees**
 - Investment Committee
 - Audit Committee
 - Alternative Retirement Plan (ARP) Committee
 - Evaluation Committee



Educational Retirement Board Leadership

Board of Directors

- H. Russell Goff, Chair – NM Association of Educational Retirees
- Mary Lou Cameron, Vice Chair – NEA
- Larry Magid, Secretary – Governor Appointee
- Tim Eichenberg, State Treasurer, Ex-Officio
- Mario Suazo, Higher Education Department Secretary Designee, Ex-Officio*
- Antonio Ortiz, Public Education Department Secretary Designee, Ex-Officio
- Matias Fontenla, AFTNM*
- Don Duszynski, AAUP
- Vacant, Governor Appointee

*New positions created by Laws 2021, Chapter 78 (Senate Bill 303)



Agency Highlights

As of June 30, 2021

• Active Members	58,988
• Retirees & Beneficiaries	52,790
• Retiree Payroll	\$1,217,645,352
• Average Annual Benefits	\$24,454
• Average Age at Retirement	62.2
• Member Contributions	\$327,477,585
• Employer Contributions	\$452,872,287
• Member Contribution Refunds	\$45,419,111
• Active Member Payroll	\$3 billion
• Participating Employers	216
• Net Assets	\$16.3 billion
• Net Investment Return	28.76%

Retirements

• 2018 - 1,037	
• 2019 - 932	
• 2020 - 906	
• 2021 - 1,269	
• 2022 - 904	
• Calls received annually	55,000-60,000
• Refunds processed	4,500-4,800
• Offices open Monday – Friday 8:00AM – 5:00PM	

2021 Legislation

SB42 – Increase ED Retirement Contributions – Laws 2021, Chapter 44

- Effective July 1, 2021
- Proposed to boost employer contributions from previous level of 14.15 percent to 18.15 percent over 4-year period
 - FY22 – 15.15 percent
 - FY23 – 16.15 percent
 - FY24 – 17.15 percent
 - FY25 – 18.15 percent
- Amended to exclude FY24-FY25 increase
- Extended sunset of existing return-to-work provisions from January 1, 2022, to January 1, 2024
- Requires ERB to present ways to improve pension solvency without additional employer-paid increases to DFA, LFC, LESC and any other appropriate interim committee

2022 Legislation

SB36 - Educational Retirement Board Contributions

- Effective July 1, 2022
- Boosts employer contributions from current level of 15.15 percent to 18.15 percent in FY24
 - FY23 – 17.15 percent
 - FY24 – 18.15 percent
- Directs additional \$65 million per year to the Trust Fund on a recurring basis
- Reduces funding period from 42 to 33 years (FY55)
- Safeguards the Trust Fund against future market downturns
- Supports current and future obligations of the program

HB73 – Educational Retirees Returning to Work

- Effective May 18, 2022
- Allows retired ERB employees to return to work 90-days following retirement without suspending their pension for up to 36 consecutive or nonconsecutive months
 - January 2022 – 7,628 employees or 12.9 percent of workforce was eligible to retire
- Requires non-refundable employee and employer contributions
- No additional service credit earned

Senate Bill 42 Report

- Requires ERB to present ways to improve pension solvency without additional employer-paid increases to DFA, LFC, LESC and any other appropriate interim committee
- Report approved by NMERB Board on June 24, 2022
 - Fulfilling obligation to identify options that improve solvency
- The plan has undergone many rounds of modifications in the last decade
 - Employer contribution increases
 - Member contribution increases
 - Reductions to new member benefits, and;
 - Conditional COLA reductions
 - Changes in actuarial assumptions – Investment return assumption 7.75% to 7.00% and longer life expectancy
- Solvency defined as ability to pay promised benefits
 - No immediate solvency concerns
 - Focus on projected plan funded ratios (assets/liabilities)
- Contributions + Investment Returns \geq Benefit Payments + Expenses
- Broad range of possible outcomes surrounding funding trajectory

Senate Bill 42 Report Cont.

- Report requirements developed prior to passage of SB36 during 2022 Session
- Increased contributions plus increased minimum salaries and across the board pay raises
 - Impacts both sides of the funding equation
- COLA Adjustments tied to funded ratio of the plan
- Swap COLA for 13th check (payable one time, no permanent increase)
- Increase “employee contributions”
- Reduce service multipliers
- Lump sum contribution (“one-time dollars”)
- Current situation is already sustainable in majority of outcomes
- Further benefit reductions to improve solvency are possible, but of limited magnitude

Return to Work

- Option 1 - 12 consecutive month layout period
 - **Expires January 1, 2024**
 - Requires non-refundable employee and employer contributions
 - No additional service credit earned
- Option 2 – 90 consecutive day layout period (earning less than \$15,000)
- Option 3 – No lay out period (less than .25 FTE)
 - 10 hours per week or less
- Option 4 – 90 consecutive day layout period (no earnings cap / up to 36 consecutive or non-consecutive months)
 - Requires non-refundable employee and employer contributions
 - No additional service credit earned

Alternative Option – Suspend retirement and return to work

- Increase service credit and boost pension earnings

Under all scenarios an application must be submitted and approved by ERB prior to any hiring or work commencing:

- [Return-to-Work-Application_May2022.pdf \(nmerb.org\)](#)



Return to Work Cont.

FY21	Employer Category	PERA Return to Work	PERA RTW < \$20K	Retired Earning < \$10K	Retired working < .25 FTE	Return to Work	Return to Work < \$20K	Grand Total
	HIGHER ED	233	43	32	615	162	67	1,152
	K-12	304	241	78	249	976	260	2,108
	Special Schools	9	2	1	11	6	1	30
	State Agency	2	1		2	9	1	15
	Grand Total	548	287	111	877	1,153	329	3,305
FY20								
	HIGHER ED	247	61	2	815	172	104	1,401
	K-12	316	277	5	708	1,038	484	2,828
	Special Schools	8	2		13	8	1	32
	State Agency	2	2		6	9	3	22
	Grand Total	573	342	7	1,542	1,227	592	4,283
FY19								
	HIGHER ED	284	24	412	540	164	16	1,440
	K-12	302	273	809	342	991	235	2,952
	Special Schools	10	3	14		8		35
	State Agency	2	1	9	4	10		26
	Grand Total	598	301	1,244	886	1,173	251	4,453
FY18								
	HIGHER ED	260	39	451	501	177	22	1,450
	K-12	283	242	659	294	902	207	2,587
	SPECIAL SCHOOLS	8	3	11		9	1	32
	STATE AGENCY	2	1	11		11	1	26
	Grand Total	553	285	1,132	795	1,099	231	4,095



Return to Work Cont.

	PERA Return to Work	PERA RTW < \$20K	Retired Earning < \$10K	Retired working < .25 FTE	Return to Work	Return to Work < \$20K	Grand Total
HIGHER ED	232	43	32	615	162	67	1,151
	62	8	15	141	59	45	330
Administrator	18	3		5	5		31
Classified	86	13	6	358	27	5	495
Faculty	16	5	3	44	29	6	103
Non-Certified	27	8	5	46	15	3	104
Professional	20			2	20		42
Teacher	3	6	3	19	7	8	46
K-12	304	241	78	249	976	260	2,108
	15	9	1	10	28	13	76
Administrator	30		2	9	87	2	130
Non-Certified	195	217	49	134	117	179	891
Other Certified	42	13	12	45	138	33	283
Teacher	22	2	14	51	606	33	728
Special Schools	9	2	1	11	6	1	30
Administrator				1	1		2
Non-Certified	9	2	1	10	3	1	26
Teacher					2		2
State Agency	2	1		2	9	1	15
	1				2		3
Administrator					2		2
Non-Certified	1	1		1	2	1	6
Other Certified				1	2		3
Teacher					1		1
Grand Total	547	287	111	877	1,153	329	3,304

State Comparisons

- Retired Systems of Alabama – May not be employed or under contract for permanent or full-time employment / annual earnings limit in 2022 of \$34K (indexed to inflation)
- California Public Employees' Retirement System – May be rehired if annuitant has a specific skillset needed to perform work on a limited duration or during an emergency (960 hour limit)
- California State Teachers' Retirement System – May return to work for a third-party employer that does not participate in a California public pension system and activities performed are not normally performed by employees of CalSTRS (24-month limit) – earnings limit of \$48,428 (2021-2022)
- Colorado Public Employees' Retirement Association – May return to work for up to 110 days or 720 hours of work per calendar year
- Georgia Teachers Retirement System – May work up to 3 months in a full-time position within a fiscal year or work less than 50 percent and continue receiving benefits.

Source: [Public Retirement System Postretirement Employment Policies 220705.xlsx \(live.com\)](#)

State Comparisons Cont.

- Illinois State Universities Retirement System – Varies by tier, if retired before age 60, earnings cannot exceed the current base monthly annuity; if retired at age 60 or later, earnings combined with the base monthly annuity at retirement, cannot exceed the member's highest annual earnings prior to retirement
- Kentucky Teachers Retirement System – Restrictions range from none, for teachers participating in the critical shortage program to immediate voiding of pension benefits
- Louisiana Teachers Retirement System – Subject to waiting period for the first 12 or 36 months of retirement. After waiting period, retired teachers can return-to-work if they meet a certain criteria and/or fill certain designated roles, some of which are subject to 25 percent earnings limit
- Ohio State Teachers Retirement System – 1-day minimum requirement, although those who return to work with either their primary employer or a new employer within the first two months of retirement will forfeit their retirement benefits for the months worked

Source: [Public Retirement System Postretirement Employment Policies 220705.xlsx \(live.com\)](#)



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