

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION;
AUTHORIZING THE RETIREMENT BOARD TO SELECT A CUSTODIAN BANK AND
TO HIRE ATTORNEYS ON A CONTINGENT FEE BASIS.

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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1 the foregoing, the power to:

2 (1) administer the state retirement system
3 acts, including the management of the association and making
4 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, employ or contract with and compensate competent legal
10 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. The retirement board may contract for
14 legal services for litigation matters on a contingent fee
15 basis, subject to a request for proposals process approved by
16 the board;

17 (3) administer oaths;

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

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

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

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1 (7) make and execute contracts;

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

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

25 (10) make and adopt such reasonable rules as

1 may be necessary or convenient to carry out the duties of the
2 retirement board and activities of the association, including
3 any rules necessary to preserve the status of the association
4 as a qualified pension plan under the provisions of the
5 Internal Revenue Code of 1986, as amended, or under successor
6 or related provisions of law; ~~and~~

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

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

20 B. The retirement board consists of:

- 21 (1) the secretary of state;
22 (2) the state treasurer;
23 (3) four members under a state coverage plan
24 to be elected by the members under state coverage plans;
25 (4) four members under a municipal coverage

1 plan to be elected by the members under municipal coverage
2 plans, provided one member shall be a municipal member employed
3 by a county; and

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

6 C. The results of elections of elected members of
7 the retirement board shall be certified at the annual meeting
8 of the association. Elections shall be conducted according to
9 rules the retirement board adopts from time to time.

10 D. The regular term of office of the elected
11 members of the retirement board is four years. The term of one
12 retirement board member under a state coverage plan expires
13 annually on December 31. The terms of retirement board members
14 under a municipal coverage plan expire on December 31 of
15 noncoinciding years in the pattern set by the retirement board.
16 Members of the retirement board serve until their successors
17 have qualified.

18 E. A member elected to the retirement board who
19 fails to attend four consecutively scheduled meetings of the
20 retirement board, unless in each case excused for cause by the
21 retirement board members in attendance, is considered to have
22 resigned from the retirement board, and the retirement board
23 shall by resolution declare the office vacated as of the date
24 of adoption of the resolution. A vacancy occurring on the
25 retirement board, except in the case of an elected official,

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1 shall be filled by the remaining retirement board members,
2 without requirement that a quorum be present. The member
3 appointed to fill the vacancy serves for the remainder of the
4 vacated term.

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

9 G. The retirement board shall hold four regular
10 meetings each year and shall designate in advance the time and
11 place of the meetings. Special meetings and emergency meetings
12 of the retirement board may be held upon call of the [~~chairman~~]
13 chair or any three members of the retirement board. Written
14 notice of special meetings shall be sent to each member of the
15 retirement board at least seventy-two hours in advance of the
16 special meeting. Verbal notice of emergency meetings shall be
17 given to as many members as is feasible at least eight hours
18 before the emergency meeting, and the meeting shall commence
19 with a statement of the nature of the emergency. The
20 retirement board shall adopt its own rules of procedure and
21 shall keep a record of its proceedings. All meetings of the
22 retirement board shall comply with the Open Meetings Act. A
23 majority of retirement board members shall constitute a quorum.
24 Each attending member of the retirement board is entitled to
25 one vote on each question before the retirement board, and at

1 least a majority of a quorum shall be necessary for a decision
2 by the retirement board.

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

18 I. Neither the retirement board nor the association
19 shall allow public inspection of, or disclosure of, information
20 from any member or retiree file unless a prior release and
21 consent, in the form prescribed by the association, has been
22 executed by the member or retiree; except that applicable
23 coverage plans, amounts of retirement plan contributions made
24 by members and affiliated public employers, pension amounts
25 paid and the names and addresses of public employees retirement

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1 association members or retirees requested for election purposes
2 by candidates for election to the retirement board may be
3 produced or disclosed without release or consent."

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