HOUSE BILL 38

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

INTRODUCED BY

Jim R. Trujillo

ENDORSED BY THE INVESTMENTS OVERSIGHT COMMITTEE

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

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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

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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

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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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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."

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