

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 1174

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BEN LUJAN

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE PUBLIC EMPLOYEES RETIREMENT ACT; APPLYING THE  
PUBLIC EMPLOYEES RETIREMENT ACT TO THE NEW MEXICO FINANCE  
AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-21-4 NMSA 1978 (being Laws 1992,  
Chapter 61, Section 4) is amended to read:

"6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--  
MEMBERSHIP--QUALIFICATIONS--QUORUM-MEETINGS--COMPENSATION--  
BOND.--

A. There is created a public body politic and  
corporate constituting a governmental instrumentality to be  
known as the "New Mexico finance authority" for the performance  
of essential public functions.

B. The authority shall be composed of twelve

. 113360. 3

Underscored material = new  
[bracketed material] = delete

Underscored material = new  
[bracketed material] = delete

1 members. The state investment officer, the secretary of finance  
2 and administration, the secretary of economic development, the  
3 secretary of energy, minerals and natural resources, the  
4 secretary of environment, the executive director of the New  
5 Mexico municipal league and the executive director of the New  
6 Mexico association of counties or their designees shall be  
7 ex-officio members of the authority with voting privileges. The  
8 governor, with the advice and consent of the senate, shall  
9 appoint to the authority the chief financial officer of a state  
10 higher educational institution and four members who are  
11 residents of the state. The appointed members shall serve at  
12 the pleasure of the governor.

13 C. The appointed members of the authority shall be  
14 appointed to four-year terms. The initial members shall be  
15 appointed to staggered terms of four years or less, so that the  
16 term of at least one member expires on January 1 of each year.  
17 Vacancies shall be filled by appointment by the governor for the  
18 remainder of the unexpired term. Any member of the authority  
19 shall be eligible for reappointment.

20 D. Each appointed member before entering upon his  
21 duty shall take an oath of office to administer the duties of  
22 his office faithfully and impartially. A record of the oath  
23 shall be filed in the office of the secretary of state.

24 E. The governor shall designate an appointed member  
25 of the authority to serve as chairman. The authority shall

. 113360. 3

1 elect annually one of its members to serve as vice chairman.  
2 The authority shall appoint and prescribe the duties of such  
3 other officers, who need not be members, as the authority deems  
4 necessary or advisable, including an executive director and a  
5 secretary, who may be the same person. The authority may  
6 delegate to one or more of its members, officers, employees or  
7 agents such powers and duties as it may deem proper and  
8 consistent with the New Mexico Finance Authority Act.

9 F. The executive director of the authority shall  
10 direct the affairs and business of the authority, subject to the  
11 policies, control and direction of the authority. The secretary  
12 of the authority shall keep a record of the proceedings of the  
13 authority and shall be custodian of all books, documents and  
14 papers filed with the authority, the minute book or journal of  
15 the authority and its official seal. The secretary shall make  
16 copies of all minutes and other records and documents of the  
17 authority and give certificates under the official seal of the  
18 authority to the effect that the copies are true copies, and all  
19 persons dealing with the authority may rely upon the  
20 certificates.

21 G. Meetings of the authority shall be held at the  
22 call of the chairman or whenever three members shall so request  
23 in writing. A majority of members then serving constitutes a  
24 quorum for the transaction of any business. The affirmative  
25 vote of at least a majority of a quorum present shall be

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1 necessary for any action to be taken by the authority. An ex-  
2 officio member may designate in writing another person to attend  
3 meetings of the authority and to the same extent and with the  
4 same effect act in his stead. No vacancy in the membership of  
5 the authority shall impair the right of a quorum to exercise all  
6 rights and perform all duties of the authority.

7 H. Each member of the authority shall give bond as  
8 provided in the Surety Bond Act. All costs of the surety bonds  
9 shall be borne by the authority.

10 I. The authority is not created or organized, and  
11 its operations shall not be conducted, for the purpose of making  
12 a profit. No part of the revenues or assets of the authority  
13 shall benefit or be distributable to its members, officers or  
14 other private persons. The members of the authority shall  
15 receive no compensation for their services, but shall be  
16 reimbursed for actual and necessary expenses at the same rate  
17 and on the same basis as provided for public officers in the Per  
18 Diem and Mileage Act.

19 J. The authority shall not be subject to the  
20 supervision or control of any other board, bureau, department or  
21 agency of the state except as specifically provided in the New  
22 Mexico Finance Authority Act. No use of the terms "state  
23 agency" or "instrumentality" in any other law of the state shall  
24 be deemed to refer to the authority unless the authority is  
25 specifically referred to in the law.

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1           K. The authority is a governmental instrumentality  
2 for purposes of the Tort Claims Act and the Public Employees  
3 Retirement Act. "

4           Section 2. Section 10-11-2 NMSA 1978 (being Laws 1987,  
5 Chapter 253, Section 2, as amended) is amended to read:

6           "10-11-2. DEFINITIONS. --As used in the Public Employees  
7 Retirement Act:

8           A. "accumulated member contributions" means the  
9 amounts deducted from the salary of a member and credited to the  
10 member's individual account, together with interest, if any,  
11 credited to that account;

12           B. "affiliated public employer" means the state and  
13 any public employer affiliated with the association as provided  
14 in the Public Employees Retirement Act, but does not include an  
15 employer pursuant to the Magistrate Retirement Act, the Judicial  
16 Retirement Act or the Educational Retirement Act;

17           C. "association" means the public employees  
18 retirement association established under the Public Employees  
19 Retirement Act;

20           D. "disability retired member" means a retired  
21 member who is receiving a pension pursuant to the disability  
22 retirement provisions of the Public Employees Retirement Act;

23           E. "disability retirement pension" means the pension  
24 paid pursuant to the disability retirement provisions of the  
25 Public Employees Retirement Act;

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1 F. "educational retirement system" means that  
2 retirement system provided for in the Educational Retirement  
3 Act;

4 G. "employee" means any employee of an affiliated  
5 public employer;

6 H. "federal social security program" means that  
7 program or those programs created and administered pursuant to  
8 the act of congress approved August 14, 1935, Chapter 531, 49  
9 Stat. 620, as that act may be amended;

10 I. "final average salary" means the final average  
11 salary calculated in accordance with the provisions of the  
12 applicable coverage plan;

13 J. "form of payment" means the applicable form of  
14 payment of a pension provided for in Section 10-11-117 NMSA  
15 1978;

16 K. "former member" means a person who was previously  
17 employed by an affiliated public employer, who has terminated  
18 that employment and who has received a refund of member  
19 contributions;

20 L. "fund" means the funds included under the Public  
21 Employees Retirement Act;

22 M. "member" means a currently employed, contributing  
23 employee of an affiliated public employer, or a person who has  
24 been but is not currently employed by an affiliated public  
25 employer, who has not retired and who has not received a refund

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1 of member contributions; "member" also includes the following:

2 (1) "hazardous duty member" means a state  
3 policeman who is a member and who is a juvenile or adult  
4 correctional officer employed by a corrections facility of the  
5 corrections department or its successor agency;

6 (2) "municipal fire member" means any member  
7 who is employed as a full-time nonvolunteer firefighter by an  
8 affiliated public employer and who has taken the oath prescribed  
9 for firefighters;

10 (3) "municipal police member" means any member  
11 who is employed as a police officer by an affiliated public  
12 employer, other than the state, and who has taken the oath  
13 prescribed for police officers; and

14 (4) "state police member" means any member who  
15 is an officer of the New Mexico state police and who has taken  
16 the oath prescribed for such officers;

17 N. "membership" means membership in the association;

18 O. "pension" means a series of monthly payments to a  
19 retired member or survivor beneficiary as provided in the Public  
20 Employees Retirement Act;

21 P. "public employer" means the state, [any] a  
22 municipality, city, county, governmental instrumentality,  
23 including the New Mexico finance authority, metropolitan arroyo  
24 flood control authority, economic development district, regional  
25 housing authority, soil and water conservation district, entity

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1 created pursuant to a joint powers agreement, council of  
2 government, conservancy district, water and sanitation district,  
3 water district and metropolitan water board, including the  
4 boards, departments, bureaus and agencies of a public employer,  
5 so long as these entities fall within the meaning of  
6 governmental plan as that term is used in Section 414(d) of the  
7 Internal Revenue Code of 1986, as amended;

8 Q. "refund beneficiary" means a person designated by  
9 the member, in writing, in the form prescribed by the  
10 association, as the person who would be refunded the member's  
11 accumulated member contributions payable if the member dies and  
12 no survivor pension is payable or who would receive the  
13 difference between pension paid and accumulated member  
14 contributions if the retired member dies before receiving in  
15 pension payments the amount of the accumulated member  
16 contributions;

17 R. "retire" means to:

18 (1) terminate employment with all employers  
19 covered by any state system or the educational retirement  
20 system; and

21 (2) receive a pension from a state system or  
22 the educational retirement system;

23 S. "retired member" means a person who has met all  
24 requirements for retirement and who is receiving a pension from  
25 the fund;

. 113360. 3

Underscored material = new  
[bracketed material] = delete

1           T. "retirement board" means the retirement board  
2 provided for in the Public Employees Retirement Act;

3           U. "salary" means the base salary or wages paid a  
4 member, including longevity pay, for personal services rendered  
5 an affiliated public employer. "Salary" shall not include  
6 overtime pay, allowances for housing, clothing, equipment or  
7 travel, payments for unused sick leave, unless the unused sick  
8 leave payment is made through continuation of the member on the  
9 regular payroll for the period represented by that payment, and  
10 any other form of remuneration not specifically designated by  
11 law as included in salary for Public Employees Retirement Act  
12 purposes. Salary in excess of the limitations set forth in  
13 Section 401(a) (17) of the Internal Revenue Code of 1986, as  
14 amended shall be disregarded. The limitation on compensation  
15 for eligible employees shall not be less than the amount that  
16 was allowed to be taken into account under the state retirement  
17 system acts in effect on July 1, 1993. For purposes of this  
18 section, "eligible employee" means an individual who was a  
19 member of a state system before the first plan year beginning  
20 after December 31, 1995;

21           V. "state system" means the retirement programs  
22 provided for in the Public Employees Retirement Act, the  
23 Magistrate Retirement Act and the Judicial Retirement Act;

24           W. "state retirement system acts" means collectively  
25 the Public Employees Retirement Act, the Magistrate Retirement

. 113360. 3

Underscored material = new  
~~[bracketed material] = delete~~

1 Act, the Judicial Retirement Act and the Volunteer Firefighters  
2 Retirement Act; and

3 X. "survivor beneficiary" means a person who  
4 receives a pension or who has been designated to be paid a  
5 pension as a result of the death of a member or retired member."

6 - 10 -

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Underscored material = new  
~~[bracketed material] = delete~~

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

. 113360. 3

**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**February 28, 1997**

**Mr. Speaker:**

**Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred**

**HOUSE BILL 1174**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

**Respectfully submitted,**

---

**Jerry W. Sandel, Chairman**

**. 113360. 3**

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HB 1174

Page 13

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: Crook, Gubbels

Excused: Gonzales, Lovejoy, Ryan, Sandoval

Absent: None

M \H1174

Underscored material = new  
[bracketed material] = delete

. 113360. 3

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 HB 1174

Page 14

2

3

4

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

5

6

7

8

March 16, 1997

9

10 Mr. President:

11

12 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
13 referred

13

14

HOUSE BILL 1174

15

16

17 has had it under consideration and reports same with  
18 recommendation that it DO PASS, and thence referred to the  
19 FINANCE COMMITTEE.

17

18

19

20

Respectfully submitted,

21

22

23

24

---

Shannon Robinson, Chairman

25

. 113360. 3

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 **HB 1174**

Page 15

2

3 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
4 (Chief Clerk) (Chief Clerk)

5

6 Date \_\_\_\_\_

7

8

9 The roll call vote was 4 For 1 Against

10 Yes: 4

11 No: Adair

12 Excused: Boitano, Vernon, Garcia, Ingle

13 Absent: None

14

15

16

17 **H1174PA1**

18

19

20

21

22

23

24

25

. 113360. 3

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 HB 1174

Page 16

2

3

4

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

5

6

7

8

March 18, 1997

9

10 Mr. President:

11

Your FINANCE COMMITTEE, to whom has been referred

12

13

HOUSE BILL 1174

14

15

has had it under consideration and reports same with

16

recommendation that it DO PASS.

17

18

Respectfully submitted,

19

20

21

22

\_\_\_\_\_  
Ben D. Altamirano, Chairman

23

24

25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

. 113360. 3

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 **HB 1174**

Page 17

2

3

(Chief Clerk)

(Chief Clerk)

4

5

6

Date \_\_\_\_\_

7

8

9

The roll call vote was 6 For 0 Against

10

Yes: 6

11

No: None

12

Excused: Carraro, Eisenstadt, Ingle, McKibben

13

Absent: None

14

15

H1174FC1

16

17

18

19

20

21

22

23

24

25

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 HB 1174

Page 18

2

3

4

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

5

6

7

8

March 18, 1997

9

10 Mr. President:

11

Your FINANCE COMMITTEE, to whom has been referred

12

13

HOUSE BILL 1174

14

15

has had it under consideration and reports same with

16

recommendation that it DO PASS.

17

18

Respectfully submitted,

19

20

21

22

\_\_\_\_\_  
Ben D. Altamirano, Chairman

23

24

25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

. 113360. 3

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1 **HB 1174**

Page 19

2

3

(Chief Clerk)

(Chief Clerk)

4

5

6

Date \_\_\_\_\_

7

8

9

The roll call vote was 6 For 0 Against

10

Yes: 6

11

No: None

12

Excused: Aragon, Carraro, Eisenstadt, Ingle, McKibben

13

Absent: None

14

15

H1174FC1

16

17

18

19

20

21

22

23

24

25

Underscored material = new  
[bracketed material] = delete

. 113360. 3