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HOUSE BILL 257

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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

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1 members. The state investment officer, the secretary of
2 finance and administration, the secretary of economic
3 development, the secretary of energy, minerals and natural
4 resources, the secretary of environment, the executive
5 director of the New Mexico municipal league and the executive
6 director of the New Mexico association of counties or their
7 designees shall be ex-officio members of the authority with
8 voting privileges. The governor, with the advice and consent
9 of the senate, shall appoint to the authority the chief
10 financial officer of a state higher educational institution
11 and four members who are residents of the state. The
12 appointed members shall serve at 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
16 the term of at least one member expires on January 1 of each
17 year. Vacancies shall be filled by appointment by the
18 governor for the remainder of the unexpired term. Any member
19 of the authority 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
25 member of the authority to serve as chairman. The authority

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

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

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

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

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

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

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

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1 shall be deemed to refer to the authority unless the authority
2 is specifically referred to in the law.

3 K. The authority is a governmental instrumentality
4 for purposes of the Tort Claims Act.

5 L. The authority is a public employer for the
6 purposes of the Public Employees Retirement Act and upon
7 determination that the authority is a governmental plan, as
8 that term is used in Section 414(d) of the Internal Revenue
9 Code of 1986, as amended, the authority may adopt state
10 general member coverage plan 3. "

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

13 "10-11-2. DEFINITIONS. --As used in the Public Employees
14 Retirement Act:

15 A. "accumulated member contributions" means the
16 amounts deducted from the salary of a member and credited to
17 the member's individual account, together with interest, if
18 any, credited to that account;

19 B. "affiliated public employer" means the state
20 and any public employer affiliated with the association as
21 provided in the Public Employees Retirement Act, but does not
22 include an employer pursuant to the Magistrate Retirement Act,
23 the Judicial Retirement Act or the Educational Retirement Act;

24 C. "association" means the public employees
25 retirement association established under the Public Employees

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1 Retirement Act;

2 D. "disability retired member" means a retired
3 member who is receiving a pension pursuant to the disability
4 retirement provisions of the Public Employees Retirement Act;

5 E. "disability retirement pension" means the
6 pension paid pursuant to the disability retirement provisions
7 of the Public Employees Retirement Act;

8 F. "educational retirement system" means that
9 retirement system provided for in the Educational Retirement
10 Act;

11 G. "employee" means any employee of an affiliated
12 public employer;

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

17 I. "final average salary" means the final average
18 salary calculated in accordance with the provisions of the
19 applicable coverage plan;

20 J. "form of payment" means the applicable form of
21 payment of a pension provided for in Section 10-11-117 NMSA
22 1978;

23 K. "former member" means a person who was
24 previously employed by an affiliated public employer, who has
25 terminated that employment and who has received a refund of

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1 member contributions;

2 L. "fund" means the funds included under the
3 Public Employees Retirement Act;

4 M. "member" means a currently employed,
5 contributing employee of an affiliated public employer, or a
6 person who has been but is not currently employed by an
7 affiliated public employer, who has not retired and who has
8 not received a refund of member contributions; "member" also
9 includes the following:

10 (1) "hazardous duty member" means a state
11 policeman who is a member and who is a juvenile or adult
12 correctional officer employed by a corrections facility of the
13 corrections department or its successor agency;

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

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

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

25 N. "membership" means membership in the

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1 association;

2 0. "pension" means a series of monthly payments to
3 a retired member or survivor beneficiary as provided in the
4 Public Employees Retirement Act;

5 P. "public employer" means the state, the New
6 Mexico finance authority, any municipality, city, county,
7 metropolitan arroyo flood control authority, economic
8 development district, regional housing authority, soil and
9 water conservation district, entity created pursuant to a
10 joint powers agreement, council of government, conservancy
11 district, water and sanitation district, water district and
12 metropolitan water board, including the boards, departments,
13 bureaus and agencies of a public employer, so long as these
14 entities fall within the meaning of governmental plan as that
15 term is used in Section 414(d) of the Internal Revenue Code of
16 1986, as amended;

17 Q. "refund beneficiary" means a person designated
18 by the member, in writing, in the form prescribed by the
19 association, as the person who would be refunded the member's
20 accumulated member contributions payable if the member dies
21 and no survivor pension is payable or who would receive the
22 difference between pension paid and accumulated member
23 contributions if the retired member dies before receiving in
24 pension payments the amount of the accumulated member
25 contributions;

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1 R. "retire" means to:

2 (1) terminate employment with all employers
3 covered by any state system or the educational retirement
4 system; and

5 (2) receive a pension from a state system or
6 the educational retirement system;

7 S. "retired member" means a person who has met all
8 requirements for retirement and who is receiving a pension
9 from the fund;

10 T. "retirement board" means the retirement board
11 provided for in the Public Employees Retirement Act;

12 U. "salary" means the base salary or wages paid a
13 member, including longevity pay, for personal services
14 rendered an affiliated public employer. "Salary" shall not
15 include overtime pay, allowances for housing, clothing,
16 equipment or travel, payments for unused sick leave, unless
17 the unused sick leave payment is made through continuation of
18 the member on the regular payroll for the period represented
19 by that payment, and any other form of remuneration not
20 specifically designated by law as included in salary for
21 Public Employees Retirement Act purposes. Salary in excess of
22 the limitations set forth in Section 401(a) (17) of the
23 Internal Revenue Code of 1986, as amended shall be
24 disregarded. The limitation on compensation for eligible
25 employees shall not be less than the amount that was allowed

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1 to be taken into account under the state retirement system
2 acts in effect on July 1, 1993. For purposes of this section,
3 "eligible employee" means an individual who was a member of a
4 state system before the first plan year beginning after
5 December 31, 1995;

6 V. "state system" means the retirement programs
7 provided for in the Public Employees Retirement Act, the
8 Magistrate Retirement Act and the Judicial Retirement Act;

9 W. "state retirement system acts" means
10 collectively the Public Employees Retirement Act, the
11 Magistrate Retirement Act, the Judicial Retirement Act and the
12 Volunteer Firefighters Retirement Act; and

13 X. "survivor beneficiary" means a person who
14 receives a pension or who has been designated to be paid a
15 pension as a result of the death of a member or retired
16 member. "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 10, 1999
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8 Mr. Speaker:
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10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 257
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 APPROPRIATIONS AND FINANCE COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Jerry W. Sandel, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HTRC/HB 257

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 11 For 0 Against

11 Yes: 11

12 Excused: Burpo, Russell, Sandoval, Stell

13 Absent: None

15 J: \99BillSWP\H0257

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 February 20, 1999

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7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 257

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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20 _____
21 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Garcia, MH, Heaton, Parsons, Pearce, Picraux, Townsend,
Varela

Absent: None

J:\99BillsWP\H0257

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 5, 1999

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 257

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

Respectfully submitted,

Shannon Robinson, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Garcia, Stockard, Smith

Absent: None

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. 125765. 2

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 10, 1999

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 257

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

Respectfully submitted,

Ben D. Altamirano, Chairman

. 125765. 2

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Carraro, Ingle, McKibben, Smith, Tsosie, Fidel

Absent: None

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[bracketed material] = delete