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HOUSE BILL 162

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Phelps Anderson

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CHANGING THE
COMPOSITION OF THE PUBLIC EMPLOYEES RETIREMENT BOARD; REMOVING
CERTAIN ELECTION REQUIREMENTS.

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;

14 (3) administer oaths;

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

17 (5) create and maintain records relating to
18 all members, affiliated public employers and all activities and
19 duties required of the retirement board;

20 (6) issue subpoenas and compel the production
21 of evidence and attendance of witnesses in connection with any
22 hearings or proceedings of the retirement board;

23 (7) make and execute contracts;

24 (8) purchase, acquire or hold land adjacent to
25 the state capitol grounds or other suitable location and build

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

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

22 (10) make and adopt such reasonable rules as
23 may be necessary or convenient to carry out the duties of the
24 retirement board and activities of the association, including
25 any rules necessary to preserve the status of the association

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1 as a qualified pension plan under the provisions of the
2 Internal Revenue Code of 1986, as amended, or under successor
3 or related provisions of law;

4 (11) designate committees and designate
5 committee members, including individuals who may not be members
6 of the association; and

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

17 B. The retirement board consists of

18 ~~[(1) the secretary of state;~~

19 ~~(2) the state treasurer;~~

20 ~~(3) four members under a state coverage plan~~
21 ~~to be elected by the members under state coverage plans;~~

22 ~~(4) four members under a municipal coverage~~
23 ~~plan to be elected by the members under municipal coverage~~
24 ~~plans, provided one member shall be a municipal member employed~~
25 ~~by a county; and~~

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1 ~~(5) two retired members to be elected by the~~
2 ~~retired members of the association.~~

3 G. ~~The results of elections of elected members of~~
4 ~~the retirement board shall be certified at the annual meeting~~
5 ~~of the association. Elections shall be conducted according to~~
6 ~~rules the retirement board adopts from time to time] the~~
7 following members; provided that the appointed members shall
8 reside in geographically diverse areas of the state and have
9 skill, knowledge and experience relevant to the financial,
10 actuarial or fiduciary aspects of pension or investment fund
11 management:

12 (1) the state treasurer or the treasurer's
13 designee;

14 (2) one active member of a state general
15 coverage plan to be appointed by the personnel board;

16 (3) one active member of a municipal general
17 coverage plan, who is employed by a county government, to be
18 appointed by the New Mexico association of counties;

19 (4) one active member of a municipal general
20 coverage plan, who is employed by a municipality, to be
21 appointed by the New Mexico municipal league;

22 (5) one active member to be appointed by the
23 New Mexico federation of labor, American federation of labor
24 and congress of industrial organizations;

25 (6) one public representative who is not a

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1 member and has skill, knowledge and experience related to
2 investing to be appointed by the speaker of the house of
3 representatives;

4 (7) one public representative who is not a
5 member and has skill, knowledge and experience related to
6 investing to be appointed by the president pro tempore of the
7 senate;

8 (8) two public representatives who are not
9 members and who have skill, knowledge and experience related to
10 investing to be appointed by the governor;

11 (9) the secretary of finance and
12 administration or the secretary's designee; and

13 (10) two retired members to be appointed as
14 follows:

15 (a) one appointed by the retired public
16 employees of New Mexico; and

17 (b) one appointed by the New Mexico
18 federation of labor, American federation of labor and congress
19 of industrial organizations.

20 ~~[D.] C. The regular term of office of the [elected]~~
21 ~~appointed members of the retirement board is four years. [The~~
22 ~~term of one retirement board member under a state coverage plan~~
23 ~~expires annually on December 31. The terms of retirement board~~
24 ~~members under a municipal coverage plan expire on December 31~~
25 ~~of noncoinciding years in the pattern set by the retirement~~

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1 ~~board]~~ An appointed member shall not serve more than two
2 regular terms of office. Members of the retirement board serve
3 until their successors have qualified.

4 ~~[E.—A]~~ D. An appointed member ~~[elected to]~~ of the
5 retirement board who fails to attend four consecutively
6 scheduled meetings of the retirement board, unless in each case
7 excused for cause by the retirement board members in
8 attendance, is considered to have resigned from the retirement
9 board, and the retirement board shall by resolution declare the
10 office vacated as of the date of adoption of the resolution. A
11 vacancy occurring on the retirement board except in the case of
12 an ~~[elected official]~~ ex-officio member shall be filled by the
13 remaining retirement board members, without requirement that a
14 quorum be present. The member appointed to fill the vacancy
15 serves for the remainder of the vacated term.

16 ~~[F.]~~ E. Members of the retirement board serve
17 without salary for their services as retirement board members,
18 but they shall receive those amounts authorized under the Per
19 Diem and Mileage Act.

20 ~~[G.]~~ F. The retirement board shall hold four
21 regular meetings each year and shall designate in advance the
22 time and place of the meetings. Special meetings and emergency
23 meetings of the retirement board may be held upon call of the
24 chair or any three members of the retirement board. Written
25 notice of special meetings shall be sent to each member of the

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1 retirement board at least seventy-two hours in advance of the
2 special meeting. Verbal notice of emergency meetings shall be
3 given to as many members as is feasible at least eight hours
4 before the emergency meeting, and the meeting shall commence
5 with a statement of the nature of the emergency. The
6 retirement board shall adopt its own rules of procedure and
7 shall keep a record of its proceedings. All meetings of the
8 retirement board shall comply with the Open Meetings Act. A
9 majority of retirement board members shall constitute a quorum.
10 Each attending member of the retirement board is entitled to
11 one vote on each question before the retirement board, and at
12 least a majority of a quorum shall be necessary for a decision
13 by the retirement board.

14 [H.] G. Annual meetings of the members of the
15 association shall be held in Santa Fe at such time and place as
16 the retirement board shall from time to time determine.

17 Special meetings of the members of the association shall be
18 held in Santa Fe upon call of any seven retirement board
19 members. The retirement board shall send a written notice to
20 the last known residence address of each member currently
21 employed by an affiliated public employer at least ten days
22 prior to any meeting of the members of the association. The
23 notice shall contain the call of the meeting and the principal
24 purpose of the meeting. All meetings of the association shall
25 be public and shall be conducted according to procedures the

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1 retirement board shall from time to time adopt. The retirement
2 board shall keep a record of the proceedings of each meeting of
3 the association.

4 ~~[F.]~~ H. Neither the retirement board nor the
5 association shall allow public inspection of, or disclosure of,
6 information from any member or retiree file unless a prior
7 release and consent, in the form prescribed by the association,
8 has been executed by the member or retiree; except that
9 applicable coverage plans, amounts of retirement plan
10 contributions made by members and affiliated public employers,
11 pension amounts paid and the names and addresses of public
12 employees retirement association members ~~[or retirees requested~~
13 ~~for election purposes by candidates for election to the~~
14 ~~retirement board]~~ may be produced or disclosed without release
15 or consent."

16 SECTION 2. Section 10-11-130.1 NMSA 1978 (being Laws
17 1999, Chapter 153, Section 1) is amended to read:

18 "10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS--
19 RESTRICTION ON CAMPAIGN CONTRIBUTIONS ~~[REQUIRED REPORTING]~~.--

20 A. Except for gifts of food or beverage given in a
21 place of public accommodation, consumed at the time of receipt,
22 not exceeding fifty dollars (\$50.00) for a single gift and the
23 aggregate value of which gifts may not exceed one hundred fifty
24 dollars (\$150) in a calendar year, neither a retirement board
25 member nor an employee of the retirement board or association

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1 shall receive or accept anything of value directly or
2 indirectly from a person who:

3 (1) has a current contract with the retirement
4 board or association;

5 (2) is a potential bidder, offeror or
6 contractor for the provision of services or personal property
7 to the retirement board or association;

8 (3) is authorized to invest public funds
9 pursuant to state or federal law or is an employee or agent of
10 such a person; or

11 (4) is an organization, association or other
12 entity having a membership that includes persons described in
13 Paragraphs (1) through (3) of this subsection.

14 B. No person who is a candidate in a primary or
15 general election for a position that qualifies the person for
16 ex-officio membership on the retirement board and no member
17 serving ex officio on the retirement board [~~and no person who~~
18 ~~is a nominee for retirement board membership by election by~~
19 ~~some or all of the members of the association pursuant to the~~
20 ~~Public Employees Retirement Act]~~ shall accept anything of a
21 value of more than twenty-five dollars (\$25.00) as a
22 contribution to an ex-officio member's statewide campaign in a
23 primary or general election [~~or as a contribution to the~~
24 ~~campaign of a nominee for membership on the board as a member~~
25 ~~elected by all or some of the members of the association]~~ from

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1 a person who:

2 (1) has a current contract with the retirement
3 board or association;

4 (2) is a potential bidder, offeror or
5 contractor for the provision of services or personal property
6 to the retirement board or association;

7 (3) is authorized to invest public funds
8 pursuant to state or federal law or is an employee or agent of
9 such a person; or

10 (4) is an organization, association or other
11 entity having a membership that includes persons described in
12 Paragraphs (1) through (3) of this subsection.

13 ~~[C. Within ten days after an election in which one~~
14 ~~or more board members are elected by some or all of the members~~
15 ~~of the association pursuant to the Public Employees Retirement~~
16 ~~Act, all persons who were candidates for board membership in~~
17 ~~that election shall file with the association a report~~
18 ~~disclosing all contributions to their respective campaigns~~
19 ~~whether made directly to the candidate, a political action~~
20 ~~committee or to some other entity supporting the candidate's~~
21 ~~election. The contributions shall be reported by amount and~~
22 ~~specific source. Within sixty days after the election, the~~
23 ~~association shall publish the reports required by this~~
24 ~~subsection.]"~~

25 SECTION 3. Section 10-11-131 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 131, as amended) is amended to read:

2 "10-11-131. RETIREMENT BOARD--OFFICERS--EMPLOYMENT OF
3 SERVICES.--

4 A. The retirement board shall elect from its own
5 number a ~~[chairman]~~ chair and a vice ~~[chairman]~~ chair. The
6 board may remove a chair or vice chair for good cause by a
7 majority vote.

8 B. The retirement board shall appoint an executive
9 director who shall be the chief administrative officer for the
10 retirement board and the association.

11 C. The retirement board shall employ professional,
12 technical, clerical and other services as required for the
13 operation of the association. The compensation for employed
14 services shall be fixed by the retirement board.

15 D. ~~[The state treasurer shall be the treasurer of~~
16 ~~the association and the custodian of its funds. The~~
17 ~~treasurer's general bond to the state shall cover all liability~~
18 ~~for acts as treasurer of the association]~~ The ~~[treasurer]~~
19 executive director of the association shall credit all receipts
20 of money and assets of the association to the association. The
21 ~~[treasurer]~~ executive director or executive director's designee
22 shall make disbursements from association assets only upon
23 warrants issued by the secretary of finance and administration
24 based upon vouchers signed by the ~~[executive secretary or~~
25 ~~vouchers signed by the state treasurer]~~ executive director of

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1 the association for purposes of investment."

2 SECTION 4. TEMPORARY PROVISION.--On the effective date of
3 this act, the members serving on the retirement board on the
4 day prior to the effective date of this act are no longer
5 members of the retirement board. The retirement board shall be
6 considered vacant, and members shall be appointed according to
7 the provisions of Section 10-11-130 NMSA 1978.

8 SECTION 5. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2022.