

**MINUTES
of the
FIFTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**October 31, 2023
State Capitol, Room 322
Santa Fe**

The fifth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2023 interim was called to order by Senator Roberto "Bobby" J. Gonzales, chair, on Tuesday, October 31, 2023, at 10:08 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Roberto "Bobby" J. Gonzales, Chair
Rep. Patricia Roybal Caballero, Vice Chair
Rep. Cynthia Borrego
Rep. Natalie Figueroa
Rep. William "Bill" R. Rehm
Sen. Joshua A. Sanchez
Sen. Antoinette Sedillo Lopez
Sen. Elizabeth "Liz" Stefanics

Absent

Rep. Ambrose Castellano
Sen. Daniel A. Ivey-Soto
Rep. Alan T. Martinez
Rep. Linda Serrato

Advisory Members

Rep. Eliseo Lee Alcon

Sen. William F. Burt
Sen. Michael Padilla
Sen. Shannon D. Pinto
Rep. Debra M. Sariñana

Staff

Cristina Vasquez, Staff Attorney, Legislative Council Service (LCS)
Carrie McGovern, Researcher, LCS
Catherine Sayler, Staff, LCS
Simon Suzuki, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file and posted on the legislature's website.

References to Webcast

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at www.nmlegis.gov, under the

"Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

Tuesday, October 31

Public Retirement System Governance and Board Composition (10:09 a.m.)

Keith Brainard, research director, National Association of State Retirement Administrators, presented an overview of public retirement system governance and retirement board composition nationwide. He described the four different state retirement board governance models and the varying composition and knowledge and experience requirements of board members. The presentation can be found here:

<https://www.nmlegis.gov/handouts/IPOC%20103123%20Item%201%20Overview%20of%20Nationwide%20Governance%20Practices.pdf>.

Approval of Minutes (10:43 a.m.)

On a motion made and seconded, and without opposition, the minutes of the October 2, 2023 meeting were approved as submitted.

Public Employees Retirement Association (PERA) Board Elections: Procedure and Overview (10:44 a.m.)

Greg Trujillo, executive director, PERA, gave a description of the composition of the 12-member Public Employees Retirement Board, which consists of four elected state plan members, three elected municipal members, one elected county member, two elected retired members and two ex-officio members. In addition, he reviewed the nominating petition process and election ballot process for board elections, as well as the 2023 board election results. The presentation can be found here:

<https://www.nmlegis.gov/handouts/IPOC%20103123%20Item%202%20PERA--Elections.pdf>.

PERA Discussion on Governance

A. PERA Board Members (11:10 a.m.)

Diana Rosales-Ortiz, chair, state member, Office of the Attorney General, Public Employees Retirement Board; Valerie Barela, municipal member, City of Albuquerque, Public Employees Retirement Board; Juan J. Diaz, state member, Workforce Solutions Department, Public Employees Retirement Board; and Francis Page, retiree member, Public Employees Retirement Board, each presented to the committee their views on Public Employees Retirement Board governance, including various steps the board has taken to improve governance over the last two to three years. These steps include the creation of a governance committee, additional governance training for board members and the adoption of a board strategic plan.

B. American Federation of State, County and Municipal Employees (AFSCME) (11:29 a.m.)

Carter Bundy, political action representative, AFSCME International, described his organization's view on Public Employees Retirement Board governance. According to Mr. Bundy, while the solvency of the PERA retirement fund is overseen by the legislature and the governor, the Public Employees Retirement Board has the duty to ensure that members receive their benefits and to provide oversight of investments. In terms of an elected versus an appointed board, he noted that elected members are best to perform fiduciary duties, as appointees run the risk of outside influence and scandal.

C. Think New Mexico (11:39 a.m.)

Fred Nathan, Jr., founder and executive director, Think New Mexico, said that evidence has shown that requiring retirement board members to have relevant qualifications tends to improve pension fund investment performance. Regarding the Public Employees Retirement Board, there is no statutory requirement for members to have relevant qualifications. He presented two options for improving fund performance: restructuring the Public Employees Retirement Board to a nine-member appointed board whose members would be required to have financial or investment knowledge and experience, or creating a consolidated investment board for the PERA and the Educational Retirement Board (ERB), while having the existing Public Employees Retirement Board and the ERB responsible for plan and benefit administration.

D. Retired Public Employees of New Mexico (RPENM) (11:50 a.m.)

Miguel Gómez, executive director, RPENM, and Jason Quintana, member, RPENM, stated that the RPENM opposes the restructuring of the Public Employees Retirement Board to an appointed board because an elected board is more inclusive and responsive to constituents' needs and elected members can be replaced in the next election if they do not perform their duties.

E. Local Governments: New Mexico Association of Counties (NMC) and New Mexico Municipal League (NMML) (12:03 p.m.)

Grace Philips, general counsel, NMC, and A.J. Forte, executive director, NMML, presented their organizations' respective views on Public Employees Retirement Board governance. While Ms. Philips said that NMC does not have a formal opinion on this topic, Mr. Forte noted that the NMML does not support an appointed board and believes that the electorate should decide. Augustine Romero, president, Local 3022, City of Albuquerque Management Series, AFSCME Council 18, said that his organization supports an elected Public Employees Retirement Board.

The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=IPOC&Date=10/31/2023&ItemNumber=3>.

Discussion on Return to Work (1:20 p.m.)

Representative Rehm began the discussion on return to work by saying that he plans to introduce two return-to-work bills in the upcoming legislative session as a way to solve the problem of understaffing in state agencies.

A. Albuquerque Police Officers' Association (APOA) (1:24 p.m.)

Shaun Willoughby, president, APOA, indicated that the APOA is advocating against return to work, also known as double dipping, as a method of ameliorating chronic understaffing at law enforcement agencies. He said that return to work has negative effects on law enforcement agencies by devaluing the need to retire at a reasonable age and by preventing the upward mobility of younger staff into higher-paying positions.

B. AFSCME (1:35 p.m.)

Mr. Bundy noted that return to work is counterproductive to solving staffing shortages in state agencies because double dippers most often return to work in higher level management jobs rather than frontline positions. He suggested that a better solution to return to work is offering more competitive pay and providing incentives for younger New Mexico residents to want to be educated and employed in New Mexico instead of doing so in other states.

C. State Personnel Office (SPO) (1:46 p.m.)

Dylan Lange, acting director, SPO, noted that the fiscal year (FY) 2022 staffing vacancy rate was 23.8%, and, while filled positions have steadily increased, the creation of new positions is outpacing the filling of existing positions. Mr. Lange said that the SPO is attempting to help understaffed state agencies by updating competitive salary schedules, reassessing salary structures, modernizing classifications and offering flexibility in hiring to recruit hard-to-fill positions.

D. PERA (1:57 p.m.)

Mr. Trujillo said that the Public Employees Retirement Board remains neutral on return-to-work proposals so long as these proposals do not have any negative actuarial impacts. While the PERA has historically had some form of return to work, he noted that the actual number of double dippers in the PERA has decreased from 1,500 in 2010 to 145 in 2023. Additionally, Mr. Trujillo stated that there have been recently enacted alternatives to return to work, including increasing the pension maximum to 100% of a PERA member's final average salary to incentivize longer PERA careers and recruitment and retention funding and bonuses through the Law Enforcement Protection Fund and Law Enforcement Retention Fund.

E. ERB (2:05 p.m.)

David Archuleta, executive director, ERB, reviewed the ERB's four available return-to-work programs: returning to work after a 12-consecutive-month layout, which sunsets in 2023; returning to work for 36 months of consecutive or nonconsecutive employment after a 90-day layout; returning to a position paying less than \$15,000 per year; or returning as a .25 full-time-equivalent employee. In FY 2023, there were 2,792 return-to-work employees in the ERB.

F. Local Governments: NMC and NMML (2:15 p.m.)

Ms. Philips; Tim Johnson, public safety director, NMML; and Mr. Forte each provided their perspective on return to work. Ms. Philips indicated that the COVID-19 pandemic caused an alarming decrease in staffing levels at county detention facilities, with more than 50% of counties reporting vacancy rates of more than 20%. She said that while she is not sure if return to work is the solution to understaffing, counties need help hiring new people. Mr. Johnson followed by stating that return to work could be helpful in targeted areas such as public safety and water and wastewater positions, although guardrails need to be in place, which could include sunset provisions, phasing out return-to-work employees with the hiring of new personnel and mandating that return-to-work employees in law enforcement agencies work as patrol officers. Lastly, Mr. Forte said that return to work needs to be targeted to the positions that need it most and young people need to be brought into the system.

G. New Mexico State Police (NMSP) (2:40 p.m.)

W. Troy Weisler, chief, NMSP Division, Department of Public Safety (DPS), noted that the DPS has a staffing vacancy rate of 21%, while the NMSP has a vacancy rate of 11%. He believes that return to work could help counties and municipalities with public safety and detention officer hiring, although return to work needs to be targeted and also available for noncommissioned personnel such as crime scene technicians.

The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=IPOC&Date=10/31/2023&ItemNumber=4>.

Public Comment (3:16 p.m.)

A list of individuals making public comment is available in the meeting file.

Adjournment

There being no further business before the committee, the meeting adjourned at 3:20 p.m.