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SENATE BILL 70

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING A SECTION OF THE PUBLIC EMPLOYEES RETIREMENT ACT CONCERNING THE DISCLOSURE OF INFORMATION.

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 [~~hereby~~] created and [~~shall be~~] is the trustee of the association and the funds created by the state retirement system acts and [~~shall have~~] 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

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1 provided for in the Public Employees Retirement Act but
2 without limiting the generality of the foregoing, the power
3 to:

4 (1) [~~to~~] administer the state retirement
5 system acts, including the management of the association and
6 making effective the provisions of those acts, as well as to
7 administer and manage [~~any~~] other employee benefit acts as
8 provided by law;

9 (2) in addition to utilizing services of the
10 attorney general and notwithstanding any other provision of
11 law, [~~to~~] employ or contract with and compensate competent
12 legal counsel to handle the legal matters and litigation of
13 the retirement board and the association and to give advice
14 and counsel in regard to any matter connected with the duties
15 of the retirement board;

16 (3) [~~to~~] administer oaths;

17 (4) [~~to~~] adopt and use a seal for
18 authentication of records, processes and proceedings;

19 (5) [~~to~~] create and maintain records relating
20 to all members, affiliated public employers and all activities
21 and duties required of the retirement board;

22 (6) [~~to~~] issue subpoenas and compel the
23 production of evidence and attendance of witnesses in
24 connection with [~~any~~] hearings or proceedings of the
25 retirement board;

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1 (7) [to] make and execute contracts;

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

15 (9) [to] make and adopt such reasonable rules
16 [and regulations] as may be necessary or convenient to carry
17 out the duties of the retirement board and activities of the
18 association, including [any] rules [and regulations] necessary
19 to preserve the status of the association as a qualified
20 pension plan under the provisions of the Internal Revenue Code
21 of 1986, as amended, or under successor or related provisions
22 of law; and

23 (10) [to] designate committees and [to]
24 designate committee members, including individuals who may not
25 be members of the association.

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1 B. The retirement board [~~shall consist~~] consists
2 of:

3 (1) the secretary of state;

4 (2) the state treasurer;

5 (3) four members under a state coverage plan
6 to be elected by the members under state coverage plans;

7 (4) four members under a municipal coverage
8 plan to be elected by the members under municipal coverage
9 plans, provided one member shall be a municipal member
10 employed by a county; and

11 (5) two retired members to be elected by the
12 retired members of the association.

13 C. The results of elections of elected members of
14 the retirement board shall be certified at the annual meeting
15 of the association. Elections shall be conducted according to
16 rules [~~and regulations~~] the retirement board [~~shall~~] adopts
17 from time to time [~~adopt~~].

18 D. The regular term of office of the elected
19 members of the retirement board [~~shall be~~] is four years. The
20 term of one retirement board member under a state coverage
21 plan [~~shall expire~~] expires annually on December 31. The
22 terms of retirement board members under a municipal coverage
23 plan [~~shall~~] expire on December 31 of noncoinciding years in
24 the pattern set by the retirement board. Members of the
25 retirement board shall serve until their successors have

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1 qualified.

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

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

19 G. The retirement board shall hold four regular
20 meetings each year and shall designate in advance the time and
21 place of the meetings. Special meetings and emergency
22 meetings of the retirement board may be held upon the call of
23 the chairman or any three members of the retirement board.
24 Written notice of special meetings shall be sent to each
25 member of the retirement board at least seventy-two hours in

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

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

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1 retirement board shall keep a record of the proceedings of
2 each meeting of the association.

3 I. Neither the retirement board nor the
4 association shall allow public inspection of, or disclosure
5 of, information from ~~[any]~~ a member or ~~[retiree]~~ retired
6 member file unless a prior release and consent, in the form
7 prescribed by the association, has been executed by the member
8 or ~~[retiree]~~ retired member; except that applicable coverage
9 plans, amounts of retirement plan contributions made by
10 members and affiliated public employers and pension amounts
11 paid ~~[and the]~~ may be produced or disclosed without release or
12 consent. The names and addresses of [public employees
13 retirement] association members or ~~[retirees requested for~~
14 ~~election purposes by candidates for election to the retirement~~
15 ~~board]~~ retired members may be produced or disclosed without
16 the release or consent of the member or retired member to
17 candidates for election to the retirement board for election
18 purposes or to a nonprofit retirement organization for that
19 organization's exclusive use if the association is currently
20 withholding a dues deduction for that organization.
21 Information disclosed without the release or consent of the
22 member or retired member pursuant to this subsection shall not
23 be distributed or used for commercial purposes."

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