

be appointed by the NM coalition of school administrators for a term of four years. Total board size will be eleven.

- 2) Adds a requirement for board members during the first year of their term to complete training on fiduciary responsibility, investing and financial expertise and such other matters as determined by the board.
- 3) Clarify procedures for dealing with vacancies in the terms of appointed or elected members.

Synopsis of HLC Amendments

The House Labor and Human Resources Committee amendments to House Bill 330:

- 1) Adds one additional board member that is to be appointed for a term of four years by the board of the New Mexico federation of educational employees. The total size of the board would increase from the current seven members to eleven members.
- 2) Clarifies that vacancies during the terms of members appointed by the governor, university presidents' council, or an association shall be filled by appointment or election by those organizations.

Synopsis of Original Bill

House Bill 330 is Legislative Finance Committee sponsored legislation to increase the number of board members on the Educational Retirement Board (ERB) from seven (7) to ten (10) and to increase the financial expertise of the board. The three additional members are:

- 1) the state auditor;
- 2) one member to be appointed by the governor for a term of four years who possesses at least ten years of investment or public finance experience;
- 3) one member to be appointed by the university president's council for a term of four years who possesses at least ten years of investment or public finance experience

Significant Issues

1) Current Board Structure

The performance of the board has been under scrutiny given the funds investment performance and actuarial position. The current board is comprised of seven members: three educators, two governors appointees, the State Treasurer and the Secretary of Education. The only other major finance related organizations with boards this size are the Board of Finance and the Mortgage Finance Authority, chaired by the governor and lieutenant governor, respectively. Most other finance related state boards have 10 to 12 members. Since it is not uncommon for the ERB to meet with the minimum quorum of four members, a increase in board members is warranted to reduce the workload of the current board members and provide additional financial expertise.

2) State Auditor Concern about Conflict of Interest

The State Auditor believes that making the state auditor an Educational Retirement Board member would impair his auditor independence for purposes of the annual financial and compliance audit of the Educational Retirement Board. The state auditor provided the following:

The state auditor is required by *Government Auditing Standards* (GAGAS 3.03) to be independent of the agencies he is required by statute to audit. A personal impairment of an auditor's independence results from relationships and beliefs that might cause auditors to limit the extent of the inquiry, limit disclosure, or weaken or slant audit findings in any way. The standards cite as an example of personal impairment to auditor independence having the "responsibility for managing an entity or decision making that could affect operations of the entity or program being audited; for example as a director; officer; or other senior position of the entity." (GAGAS 3.07)

FISCAL IMPLICATIONS

Adding additional board members would likely cause a slight increase in annual board related costs such as travel expenses and per-diem

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates SB 194.

ALTERNATIVES

ERB has studied this issue of board expansion and recommends an increase from seven (7) to eleven (11) members. Two of the new members would be as suggested above: the additional governor's appointee and the member appointed by the university president's council, both with the ten years of fiscal experience. The board also recommends adding one member who is elected for a term of four years by the New Mexico Federation of Educational Employees and one member who is elected for a term of four years by the New Mexico Coalition of School Administrators. Eleven board members will also facilitate breaking tie votes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The number of board members will remain at seven.

GG/lg:yr