

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

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

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
[bracketed material] = delete

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

.216067.3

underscored material = new
~~[bracketed material] = delete~~

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

.216067.3

underscored material = new
[bracketed material] = delete

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~~

.216067.3

underscored material = new
[bracketed material] = delete

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:~~

9 (1) one active member of a state general
10 coverage plan to be appointed by the personnel board;

11 (2) one active county member of a municipal
12 general coverage plan to be appointed by New Mexico counties;

13 (3) one active municipal member of a municipal
14 general coverage plan to be appointed by the New Mexico
15 municipal league;

16 (4) one public representative who is not a
17 member and has skill, knowledge and experience in retirement
18 investment products or retirement plan designs to be appointed
19 by the speaker of the house of representatives;

20 (5) one public representative who is not a
21 member and has skill, knowledge and experience in retirement
22 investment products or retirement plan designs to be appointed
23 by the president pro tempore of the senate;

24 (6) the secretary of finance and
25 administration; and

.216067.3

underscored material = new
[bracketed material] = delete

1 (7) two retired members to be appointed by the
2 organization that represents the retired members of the
3 association; provided that at least one of the members shall be
4 retired from a public safety coverage plan and at least one of
5 the members shall have skill, knowledge and experience in
6 financial matters.

7 ~~[D.]~~ C. The regular term of office of the ~~[elected]~~
8 appointed members of the retirement board is four years. ~~[The~~
9 ~~term of one retirement board member under a state coverage plan~~
10 ~~expires annually on December 31. The terms of retirement board~~
11 ~~members under a municipal coverage plan expire on December 31~~
12 ~~of noncoinciding years in the pattern set by the retirement~~
13 ~~board]~~ An appointed member shall not serve more than two
14 regular terms of office. Members of the retirement board serve
15 until their successors have qualified.

16 ~~[E. A member elected to the retirement board who~~
17 ~~fails to attend four consecutively scheduled meetings of the~~
18 ~~retirement board, unless in each case excused for cause by the~~
19 ~~retirement board members in attendance, is considered to have~~
20 ~~resigned from the retirement board, and the retirement board~~
21 ~~shall by resolution declare the office vacated as of the date~~
22 ~~of adoption of the resolution. A vacancy occurring on the~~
23 ~~retirement board except in the case of an elected official~~
24 ~~shall be filled by the remaining retirement board members,~~
25 ~~without requirement that a quorum be present. The member~~

.216067.3

underscored material = new
[bracketed material] = delete

1 ~~appointed to fill the vacancy serves for the remainder of the~~
2 ~~vacated term.~~

3 ~~F.]~~ D. Members of the retirement board serve
4 without salary for their services as retirement board members,
5 but they shall receive those amounts authorized under the Per
6 Diem and Mileage Act.

7 ~~G.]~~ E. The retirement board shall hold four
8 regular meetings each year and shall designate in advance the
9 time and place of the meetings. Special meetings and emergency
10 meetings of the retirement board may be held upon call of the
11 chair or any three members of the retirement board. Written
12 notice of special meetings shall be sent to each member of the
13 retirement board at least seventy-two hours in advance of the
14 special meeting. Verbal notice of emergency meetings shall be
15 given to as many members as is feasible at least eight hours
16 before the emergency meeting, and the meeting shall commence
17 with a statement of the nature of the emergency. The
18 retirement board shall adopt its own rules of procedure and
19 shall keep a record of its proceedings. All meetings of the
20 retirement board shall comply with the Open Meetings Act. A
21 majority of retirement board members shall constitute a quorum.
22 Each attending member of the retirement board is entitled to
23 one vote on each question before the retirement board, and at
24 least a majority of a quorum shall be necessary for a decision
25 by the retirement board.

.216067.3

underscored material = new
[bracketed material] = delete

1 [~~H.~~] F. Annual meetings of the members of the
2 association shall be held in Santa Fe at such time and place as
3 the retirement board shall from time to time determine.
4 Special meetings of the members of the association shall be
5 held in Santa Fe upon call of any seven retirement board
6 members. The retirement board shall send a written notice to
7 the last known residence address of each member currently
8 employed by an affiliated public employer at least ten days
9 prior to any meeting of the members of the association. The
10 notice shall contain the call of the meeting and the principal
11 purpose of the meeting. All meetings of the association shall
12 be public and shall be conducted according to procedures the
13 retirement board shall from time to time adopt. The retirement
14 board shall keep a record of the proceedings of each meeting of
15 the association.

16 [~~F.~~] G. Neither the retirement board nor the
17 association shall allow public inspection of, or disclosure of,
18 information from any member or retiree file unless a prior
19 release and consent, in the form prescribed by the association,
20 has been executed by the member or retiree; except that
21 applicable coverage plans, amounts of retirement plan
22 contributions made by members and affiliated public employers,
23 pension amounts paid and the names and addresses of public
24 employees retirement association members [~~or retirees requested~~
25 ~~for election purposes by candidates for election to the~~

underscored material = new
[bracketed material] = delete

1 ~~retirement board~~] may be produced or disclosed without release
2 or consent."

3 SECTION 2. Section 10-11-130.1 NMSA 1978 (being Laws
4 1999, Chapter 153, Section 1) is amended to read:

5 "10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS

6 [~~RESTRICTION ON CAMPAIGN CONTRIBUTIONS--REQUIRED REPORTING~~].--

7 [~~A.~~] Except for gifts of food or beverage given in a place of
8 public accommodation, consumed at the time of receipt, not
9 exceeding fifty dollars (\$50.00) for a single gift and the
10 aggregate value of which gifts may not exceed one hundred fifty
11 dollars (\$150) in a calendar year, neither a retirement board
12 member nor an employee of the retirement board or association
13 shall receive or accept anything of value directly or
14 indirectly from a person who:

15 [~~(1)~~] A. has a current contract with the retirement
16 board or association;

17 [~~(2)~~] B. is a potential bidder, offeror or
18 contractor for the provision of services or personal property
19 to the retirement board or association;

20 [~~(3)~~] C. is authorized to invest public funds
21 pursuant to state or federal law or is an employee or agent of
22 such a person; or

23 [~~(4)~~] D. is an organization, association or other
24 entity having a membership that includes persons described in

25 [~~Paragraphs (1) through (3)~~] Subsections A through C of this

.216067.3

underscored material = new
[bracketed material] = delete

1 ~~[subsection]~~ section.

2 ~~[B. No person who is a candidate in a primary or~~
3 ~~general election for a position that qualifies the person for~~
4 ~~ex-officio membership on the retirement board, no member~~
5 ~~-serving ex-officio on the retirement board and no person who is~~
6 ~~a nominee for retirement board membership by election by some~~
7 ~~or all of the members of the association pursuant to the Public~~
8 ~~Employees Retirement Act shall accept anything of a value of~~
9 ~~more than twenty-five dollars (\$25.00) as a contribution to an~~
10 ~~ex-officio member's statewide campaign in a primary or general~~
11 ~~election or as a contribution to the campaign of a nominee for~~
12 ~~membership on the board as a member elected by all or some of~~
13 ~~the members of the association from a person who:~~

14 ~~(1) has a current contract with the retirement~~
15 ~~board or association;~~

16 ~~(2) is a potential bidder, offeror or~~
17 ~~contractor for the provision of services or personal property~~
18 ~~to the retirement board or association;~~

19 ~~(3) is authorized to invest public funds~~
20 ~~pursuant to state or federal law or is an employee or agent of~~
21 ~~such a person; or~~

22 ~~(4) is an organization, association or other~~
23 ~~entity having a membership that includes persons described in~~
24 ~~Paragraphs (1) through (3) of this subsection.~~

25 ~~G. Within ten days after an election in which one~~

underscored material = new
[bracketed material] = delete

1 ~~or more board members are elected by some or all of the members~~
2 ~~of the association pursuant to the Public Employees Retirement~~
3 ~~Act, all persons who were candidates for board membership in~~
4 ~~that election shall file with the association a report~~
5 ~~disclosing all contributions to their respective campaigns~~
6 ~~whether made directly to the candidate, a political action~~
7 ~~committee or to some other entity supporting the candidate's~~
8 ~~election. The contributions shall be reported by amount and~~
9 ~~specific source. Within sixty days after the election, the~~
10 ~~association shall publish the reports required by this~~
11 ~~subsection.]"~~

12 SECTION 3. Section 10-11-131 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 131, as amended) is amended to read:

14 "10-11-131. RETIREMENT BOARD--OFFICERS--EMPLOYMENT OF
15 SERVICES.--

16 A. The retirement board shall elect from its own
17 number a [~~chairman~~] chair and a vice [~~chairman~~] chair. The
18 board may remove a chair or vice chair for good cause by a
19 majority vote.

20 B. The retirement board shall appoint an executive
21 director who shall be the chief administrative officer for the
22 retirement board and the association.

23 C. The retirement board shall employ professional,
24 technical, clerical and other services as required for the
25 operation of the association. The compensation for employed

.216067.3

underscoring material = new
[bracketed material] = delete

1 services shall be fixed by the retirement board.

2 D. ~~[The state treasurer shall be the treasurer of~~
3 ~~the association and the custodian of its funds. The~~
4 ~~treasurer's general bond to the state shall cover all liability~~
5 ~~for acts as treasurer of the association]~~ The ~~[treasurer]~~
6 executive director of the association shall credit all receipts
7 of money and assets of the association to the association. The
8 ~~[treasurer]~~ executive director or executive director's designee
9 shall make disbursements from association assets only upon
10 warrants issued by the secretary of finance and administration
11 based upon vouchers signed by the ~~[executive secretary or~~
12 ~~vouchers signed by the state treasurer]~~ executive director of
13 the association for purposes of investment."

14 SECTION 4. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2020.

16 - 12 -

17
18
19
20
21
22
23
24
25