

**Thursday, January 25, 2024**  
9:00am

INVESTED IN TOMORROW.

## AGENDA

1. **Call to Order** Paula Fisher, Vice-Chair
2. **Pledge of Allegiance and Salute to the Flag of New Mexico**
3. **Roll Call**
4. **Approval of Agenda** Paula Fisher, Vice-Chair
5. **Approval of Meeting Minutes** Paula Fisher, Vice-Chair
  - A. Approval of December 12, 2023 Board Meeting Minutes Action
  - B. Approval of January 9, 2024 Special Board Meeting Minutes Action
6. **Reports of Committees**
  - A. **Rules & Administration Committee-Rulemaking Hearing; January 9, 2024**
    1. Approval of Committee Recommendation to Adopt Proposed Rule Changes Action Paula Fisher, Committee Chair
7. **Approval of Consent Agenda**
8. **Unfinished Business**
  - A. **Items removed from Consent Agenda if necessary** Action
9. **New Business**
  - A. **Election of 2024 PERA Board Officers** Paula Fisher, Vice-Chair
    1. 2024 Board Chair Election
    2. 2024 Board Vice-Chair Election
    3. Message from New Board Chair

*Board will Recess to Executive Session NMSA 1978, §10-15-1 (H) (3)*

**Administrative Appeal**

    1. **Joshua B. Gutierrez**

*Board will Convene to Regular Session*
  - B. **Final Decision on Administrative Appeal**
    1. Joshua B. Gutierrez (PID 421224) Action
  - C. **Consideration of 2024 Proposed Legislation**
    1. SB 10 - Judicial Retirement Funding Greg Trujillo, Executive Director;
    2. SB 11 - Magistrate Judge Retirement Roberto Ramirez,
    3. SB 63 - Public Employee Cost-of-Living Adjustments Legislative Committee Chair
    4. SB 87 - Law Enforcement Retirement Changes
    5. SB 114 - Public Employee Retirement Income Tax
    6. SB 123 - Public Employees Returning to Work
    7. SB 124 - Law Enforcement Retirement Service Credit
    8. HB 154 - Public Retirees Returning to Work
    9. HB 172 - PERA Member Temporary Payment
  - D. **Final Audited Financial Statements**
    1. Deferred Compensation Plan Financial Statements Fiscal Year 2023 Informational Kory Hoggan, Partner; Lauren Kisten, Assurance Senior Manager;
    2. PERA Annual Comprehensive Financial Report Fiscal Year 2023 Informational and Aaron Hamilton, Assurance Senior Manager; Moss Adams
  - E. CIO Report Informational Michael Shackelford, CIO
  - F. Executive Director's Report Informational Greg Trujillo, Executive Director
10. **Public Comment** (Limited to three [3] minutes, at the discretion of the Chair)
11. **Adjournment**

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Trish Winter at 505-795-0712 or [patriciab.winter@pera.nm.gov](mailto:patriciab.winter@pera.nm.gov) at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.

## **CONCISE EXPLANATORY STATEMENT**

The New Mexico Public Employees Retirement Association (PERA) hereby amends the following rule:

1. Rule 2.80.200 “Organization and Operation of the Public Employees Retirement Board.”

The rule is currently codified in Title 2, Chapter 80 of the New Mexico Administrative Code.

### **Statutory Authority for Rule Promulgation:**

The authority for the proposed rule changes is NMSA 1978, Section 10-11-130 of the PERA Act and Rule 20.80.200.10 NMAC, which authorize the adoption and promulgation of rules and regulations necessary to carry out the purposes of the PERA Act.

### **Date of Notice in New Mexico Register:**

The Notice of Rulemaking was published in Volume XXXIV, Issue: 22 of the New Mexico Register on November 21, 2023.

### **Date of Meeting Approving Proposed Rule Amendments:**

January 25, 2024.

### **Date of Adoption of Rule:**

January 25, 2024 through the Order of the Board Adopting Rule Amendments.

### **Date of Publication of Adopted Rule in New Mexico Register:**

The adopted Rule will be published in Volume XXXV, Issue 3 of the New Mexico Register on February 13, 2024.

### **Effective Date of Rule:**

February 13, 2024.

### **Reasons for Adopting Rule:**

The purpose of the proposed rule changes would be to disqualify candidates for election or appointment to the PERA Board of Trustees if a candidate has previously served on the Board and has been subject to three or more formal disciplinary actions or has been previously removed from the Board. The purpose of the remaining changes are to update the PERA Board election procedures to align with the new eligibility requirements, to ensure the Board has adequate authority to efficiently fill vacancies and administer elections, to ensure that the Board has the authority to make final determinations regarding election decisions while maintaining an advisory role for the election committee, and to clarify language that currently exists in rule.

**Reasons for Changes from Published Proposed Rule:**

There are no changes from the published proposed rules. The proposed rules, which were available for public review and introduced as an exhibit at the public hearing, have been adopted in full.

**Reasons for Not Accepting Substantive Arguments from Public Comment:**

There was no public comment on any of the proposed rule amendments.

## **PUBLIC EMPLOYEES RETIREMENT BOARD**

### **IN THE MATTER OF PROPOSED AMENDMENTS TO PUBLIC EMPLOYEES RETIREMENT RULE 2.80.200 NMAC**

#### **ORDER OF THE BOARD ADOPTING RULE AMENDMENTS**

This matter having come before the Board of the New Mexico Public Employees Retirement Association (“Board”) on the recommendation of the Rules & Administration Committee, a quorum of the Board having considered the matter, the Board hereby **FINDS**:

1. This matter concerns promulgation by the Board of amendments to Rule 2.80.200 “Organization and Operation of the Public Employees Retirement Board”. The amendments to the above rule are contained in the exhibit marked as the corrected Exhibit B and incorporated herein by reference.

2. Notice of PERA’s rulemaking was published in the New Mexico Register on November 21, 2023, and weekly in the Albuquerque Journal on November 21, 2023 through January 9, 2024. Notice was also posted at PERA’s offices, on the PERA website at <https://www.nmpera.org/about/rule-proposal/>, on the Sunshine Portal, and provided to the Legislative Council Service and other recipients required by the State Rules Act.

3. The Board’s Rules and Administration Committee held a formal rulemaking hearing on January 9, 2024, regarding the proposed amendments.

4. The reasons for the rule amendments are documented in PERA’s Notice of Proposed Rulemaking and PERA’s Concise Explanatory Statement incorporated herein by reference as Exhibit A and Exhibit J, respectively.

5. No oral or written comments on the proposed amendments were received. After receiving proffered exhibits and staff testimony into the record and considering the matter, the Rules & Administration Committee recommended that the Board adopt the proposed amendments as presented by staff, effective upon publication in the New Mexico Register on February 13, 2024.

**THEREFORE, THE BOARD HEREBY ORDERS:**

The Public Employees Retirement Association rules are amended to read as stated in Exhibits A-J to this Order and are effective upon publication in the New Mexico Register.

**IT IS HEREBY SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chair of the Public Employees Retirement Board

## NOTICE OF PERA RULEMAKING

The Public Employees Retirement Association (“PERA”) will consider changes to its rules promulgated under the Public Employees Retirement Act (“PERA Act”). Changes are proposed for the following rule:

1. Rule 2.80.200 - Organization and Operation of the Public Employees Retirement Board;

The proposed amendments provide factors that would disqualify a person from eligibility to be a candidate in an election of the PERA Board (Board), to clarify that appointed Board members meet the same eligibility requirements as elected Board members, and to outline the vacancy procedure if a Board member is removed from the Board. The proposed amendments ensure consistent use of language and also codify the existing practice that PERA members can only vote in the Board election for their designated membership group. The proposed amendments provide that certain powers that are currently exercised by the election committee shall be exercised by the Board and delegate to the election committee the discretion to make certain recommendations to the Board. The amendments also clarify that in the event of a vacancy on the Board, a quorum of the remaining members is required to appoint an individual to fill that vacancy, and provide the Board with flexibility to fill a Board vacancy at a special board meeting. The rule is reformatted as necessary.

The purpose of the proposed rule changes would be to disqualify candidates for election or appointment to a Board Member position if a candidate has previously served on the Board and has been subject to three or more formal disciplinary actions or has been previously removed from the Board. The purpose of the remaining changes are to update the PERA Board election procedures to align with the new eligibility requirements, to ensure the Board has adequate authority to efficiently fill vacancies and administer elections, to ensure that the Board has the authority to make final determinations regarding election decisions while maintaining an advisory role for the election committee, and to clarify language that currently exists in rule.

A formal rulemaking hearing will be held on January 9, 2024, at 9:00 a.m. in the Fabian Chavez Jr. Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico, 87507. The rulemaking hearing will also be accessible through Zoom. The Zoom access link will be published on PERA’s website listed below prior to the hearing. Oral comments will be taken at the public hearing. Final action on the rules will occur at the January 25, 2024 Board meeting of the PERA Board which will be held in the Fabian Chavez Jr. Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico at a date and time specified in the Board’s Public Meeting Notice. The purpose of the rulemaking hearing is to obtain public input on the proposed amendments to the above-referenced rule. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments on the proposed rule changes.

The authority for the proposed rule changes is NMSA 1978, Section 10-11-130 of the PERA Act and Rule 20.80.200.10 NMAC, which authorizes the adoption and promulgation of rules and regulations necessary to carry out the purposes of the PERA Act and additionally provides that elections shall be conducted according to rules the retirement board adopts from time to time.

Copies of the draft rules are available in PERA’s Office of General Counsel. Written comments, inquiries or requests for copies should be directed to Geraldine Garduno at PERA’s Office of General Counsel, 33 Plaza La Prensa, Santa Fe, N.M., 87507, or [geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov) or 505-476-9351. Written comments should be submitted by the close of business on January 9, 2024. The full text of the proposed rule changes, as well as the Zoom access link for the public hearing, can be found here: <https://www.nmpera.org/about/rule-proposal/>.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Patricia Winter at 505-795-0712 or [patriciab.winter@pera.nm.gov](mailto:patriciab.winter@pera.nm.gov) at least one week prior to the public hearing, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.

**TITLE 2            PUBLIC FINANCE**  
**CHAPTER 80      PUBLIC EMPLOYEES RETIREMENT**  
**PART 200        ORGANIZATION AND OPERATION OF THE PUBLIC EMPLOYEES RETIREMENT BOARD**

**2.80.200.1        ISSUING AGENCY:** Public Employees Retirement Association (PERA), 33 Plaza La Prensa, Santa Fe, New Mexico 87507.

[2.80.200.1 NMAC - Rp, 2.80.200.1 NMAC, 12/30/2015]

**2.80.200.2        SCOPE:** This rule affects the members, former members, retirees, beneficiaries, public employers, retirement board and the association under the Public Employees Retirement Act.

[2.80.200.2 NMAC - Rp, 2.80.200.2 NMAC, 12/30/2015]

**2.80.200.3        STATUTORY AUTHORITY:** This rule is authorized by Sections 10-11-130, 10-11A-4, 10-12B-3, 10-12C-3 NMSA 1978, as amended.

[2.80.200.3 NMAC - Rp, 2.80.200.3 NMAC, 12/30/2015]

**2.80.200.4        DURATION:** Permanent.

[2.80.200.4 NMAC - Rp, 2.80.200.4 NMAC, 12/30/2015]

**2.80.200.5        EFFECTIVE DATE:** December 30, 2015, unless a different date is cited at the end of a section.

[2.80.200.5 NMAC - Rp, 2.80.200.5 NMAC, 12/30/2015]

**2.80.200.6        OBJECTIVE:** The objective of this rule is to establish procedures for the organization and operation of the retirement board.

[2.80.200.6 NMAC - Rp, 2.80.200.6 NMAC, 12/30/2015]

**2.80.200.7        DEFINITIONS:** [RESERVED]

**2.80.200.8 - 9    [RESERVED]**

**2.80.200.10      RULES AND REGULATIONS:**

**A.** Except as otherwise provided in the Public Employees Retirement Act and rules and regulations periodically adopted in accordance therewith, the board may provide for its organization, operation and procedures by vote of the board at any meeting of the board.

**B.** The board may promulgate rules and regulations for the administration of the Public Employees Retirement Act, Judicial Retirement Act, Magistrate Retirement Act, Volunteer Firefighters Retirement Act and Deferred Compensation Act.

**(1)** Prior to the adoption, amendment or repeal of any rule, the board shall, at least 30 days prior to its proposed action:

**(a)** publish notice of its proposed action in a newspaper with a general statewide circulation; the notice shall:

**(i)** give the time and place of any public hearing and state the manner in which data, views or arguments may be submitted to the board by any interested person;

**(ii)** describe the substance of the proposed action, or state the subjects and issues involved;

**(iii)** include any additional matter required by any law, together with specific reference to the statutory authority under which the rule is proposed; and

**(b)** afford all interested persons reasonable opportunity to submit data, views or arguments orally or in writing; if the board finds that oral presentation is unnecessary or impracticable, it may require that presentation be made in writing; the board shall consider fully all written and oral submissions addressing the proposed rule; upon adoption of a rule contested at hearing or otherwise, the board shall issue a concise statement of its principal reasons for adoption of the rule; all persons heard or represented at any hearing, or who submit any writing to be considered in connection with the proposed rule, shall promptly be given a copy of the rule, by mail or otherwise, if such persons so request in writing.

(2) If the board finds that immediate adoption, amendment or suspension of a rule is necessary for the preservation of the soundness of the fund or general welfare of the association, or if the board for good cause finds that observance of the requirements of notice and public hearing would be contrary to the interests of the association, the board may dispense with such requirements and adopt, amend or suspend the rule as an emergency. The board's finding and a brief statement of the reasons for its finding shall be incorporated in the emergency rule, amendment or suspension. No emergency rule, amendment or suspension shall remain in effect for longer than 60 days, unless notice shall be given within 15 days of the adoption of the emergency rule and a hearing held as provided in this section within 90 days of the notice.  
[2.80.200.10 NMAC - Rp, 2.80.200.10 NMAC, 12/30/2015]

**2.80.200.11 ACTUARIAL ASSUMPTIONS AND USE OF TRUST FUND:**

A. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified by the board in a manner that precludes employer discretion.

B. No part of the corpus or income of the fund may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries.

C. The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.  
[2.80.200.11 NMAC - Rp, 2.80.200.11 NMAC, 12/30/2015]

**2.80.200.12 - 19 [RESERVED]**

**2.80.200.20 OFFICERS:**

A. At the first regular meeting of each calendar year, the board shall elect a chair and a vice-chair. The duties of the officers shall include the following.

(1) The chair shall preside at all regular and special meetings of the board.

(2) The vice-chair shall serve as chair in the absence of the chair.

B. In the absence of the chair and vice-chair, the board may elect a temporary chair to preside at a meeting from which both officers are absent.  
[2.80.200.20 NMAC - Rp, 2.80.200.20 NMAC, 12/30/2015]

**2.80.200.21 BOARD TRAINING AND EDUCATION:**

A. New board members shall attend a new board member orientation within two months of being elected or appointed to office. New board member orientation shall be provided by PERA staff and shall include fiduciary responsibility, investing principles, an actuarial primer and an overview of the operations of the association.

B. Each board member shall annually certify his or her compliance with the statutory requirements of Subsection F of Section 10-11-133 NMSA 1978 on the form prescribed by the association on or before December 31<sup>st</sup> of each calendar year.  
[2.80.200.21 NMAC - Rp, 2.80.200.21 NMAC, 12/30/2015]

**2.80.200.22 - 29 [RESERVED]**

**2.80.200.30 VACANCY ON THE BOARD:**

A. In the event any member of the PERA board retires from his or her job, resigns from the board, is removed from the board or dies, except the ex-officio members of the board, that member shall be considered to have resigned from the board and the board shall, by resolution, declare that office vacant as of the date of the adoption of such resolution. Such resolution shall be adopted within 30 days after the board member's retirement, resignation, removal or death. Members of the retirement board shall serve until their successors have qualified.

B. In the event any member of the PERA board, except the ex-officio members of the board, ceases employment with an affiliated public employer, and is not reemployed by an affiliated public employer from the same membership (state, county or non-county municipal) group from which that member was elected within 30 days, that member shall be considered to have resigned from the board. For purposes of 2.80.200.30 NMAC, the term "ceases employment" shall include leave without pay status that extends for more than 12 weeks.

C. The resolution declaring the vacancy shall be publicized immediately in conjunction with a notice inviting eligible individuals to apply for appointment to the position within 30 days of the publication of notice of vacancy. Publication shall be, at the minimum, by special notice to employees in the affected membership group



through their employers. The board shall select the new member from among the interested persons who apply pursuant to the publication of the notice of vacancy. If no applications are received, the board shall entertain nominations by the members present.

**D.** Any vacancy of member, except ex-officio member, occurring on the board shall be filled by a quorum of the remaining board members, [-even though a quorum not be present,] at a regularly scheduled board meeting or special board meeting within 90 days after the adoption of the resolution declaring the vacancy. The member selected to fill the vacancy shall be selected from the membership group, whether state, county or non-county municipal or retired member, which experienced the vacancy. If a vacancy in the municipal membership group is that of a county member, the replacement member shall be a county employee. The selected member must meet all eligibility requirements of elected members and shall be appointed to serve for the remainder of the vacated term.

[2.80.200.30 NMAC - Rp, 2.80.200.30 NMAC, 12/30/2015; **A, XX/XX/XXXX**]

#### **2.80.200.31 - 39 [RESERVED]**

#### **2.80.200.40 BOARD MEETINGS:**

**A.** The board shall hold regular meetings on the last Thursday of each month, unless otherwise established by resolution of the board. The board may establish by resolution a different meeting schedule for regular meetings of the board.

**B.** A board member may participate in a board or committee meeting by means of a conference telephone or other similar communications equipment after receiving written approval by the board chair or committee chair when it is otherwise difficult or impossible for the member to attend the meeting in person. Participation by such means shall constitute presence in person at a meeting. The authorization of a board member to attend a board or committee meeting by means of a conference telephone or other similar communications equipment must be communicated to all board members by the approving board chair or committee chair. Each member participating must be identified prior to speaking and, if participating virtually, shall remain on camera throughout the meeting. All participants shall be able to hear any other participant who speaks during the meeting at the same time, and members of the public shall be able to hear any member who speaks during the meeting.

**C.** A majority of the board members shall constitute a quorum at any meeting of the board and each attending member, including the chair, shall be entitled to one vote on each issue.

**D.** No "proxy" votes shall be allowed.

[2.80.200.40 NMAC - Rp, 2.80.200.40 NMAC, 12/30/2015; A, 01/31/2023]

#### **2.80.200.41 - 49 [RESERVED]**

#### **2.80.200.50 COMMITTEES:**

**A.** The chair shall appoint no more than six board members to each of the following standing committees: rules and administration, audit and budget, legislative, investments, deferred compensation, investment plan, and governance. The disability review committee shall have at least three but no more than five board members. The chair of the board shall appoint the chair of each committee. Though the board shall have standing committees, the board chair reserves the right to cancel any committee meeting and allow the entire board to discuss and act on matters that may be within the subject matter of standing committees.

(1) The rules and administration committee shall consider and recommend to the board new rules and amendments to or repeal of existing rules governing the organization and operation of the board and the association. Administrative matters requiring specific direction from the board may also be considered by the committee.

(2) The audit and budget committee shall provide policy assistance to the board and the executive director of PERA in fulfilling PERA's responsibilities for accounting, auditing, budgeting, and the quality and integrity of the financial reports of the association.

(3) The legislative committee shall consider and recommend to the board proposals for new statutes and amendments to or repeal of existing statutes. The committee shall also monitor the introduction and progress of proposed legislation affecting the board or association and report this information to the board.

(4) The disability review committee is described in 2.80.1000.20 NMAC.

(5) The investment committee shall review and monitor the administration of the investment policy adopted by the board.

(6) The deferred compensation committee shall review and monitor the administration of the deferred compensation plan investment policy adopted by the board.

(7) The governance committee shall develop, review and monitor compliance with the board's policies and procedures, code of conduct, and board complaint procedure and recommend to the board proposed board disciplinary actions.

B. The chair, with the advice and consent of the board, may appoint an election committee to consist of nine members of the association: four members from state departments, two members from non-county municipal employers, one member from a county employer and two retired members.

(1) The election committee shall serve until replaced by the chair and shall receive no compensation other than that authorized by the Per Diem and Mileage Act.

(2) The duties of the election committee are described in 2.80.200.60, 2.80.200.70 and 2.80.200.80 NMAC.

C. From time to time, the board may authorize, and the chair may appoint, such ad hoc committees as the board finds necessary.

D. Board members appointed to committees shall adhere to the standards set forth in and be subject to the enforcement provisions of the New Mexico Governmental Conduct Act.  
[2.80.200.50 NMAC - Rp, 2.80.200.50 NMAC, 12/30/2015; A, 12/28/2021]

## **2.80.200.51 - 59 [RESERVED]**

### **2.80.200.60 ELECTION OF RETIRED BOARD MEMBERS:**

A. During the January monthly meeting, the retirement board shall adopt a resolution specifying when nominating petitions are due to be returned to PERA or an independent contractor hired by PERA to assist with the election. These nominating petitions are due not earlier than six months prior and not later than one month prior to the election for the position of retired board member. The resolution shall also specify whether the method of voting shall include mailed paper ballots, online electronic ballots or other method approved by the board.

B. ~~[Any]~~ Except as provided in Subsection F of this section, only a retired member who is receiving a disability or normal retirement pension under the Public Employees Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act ~~[is]~~ shall be eligible for election to a retired board member position.

C. Nominating petitions shall be signed only by retired members under the Public Employees Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act. To be eligible for inclusion on the ballot, a candidate must have a minimum of 50 valid nominations by retired members and the candidate shall otherwise be eligible as provided in this section for the retired board member position. A valid nomination shall include a signature, legible printing of the retiree's name, and one of the following:

(1) the last four digits of the retiree's social security number;

(2) the retiree's date of birth;

(3) the retiree's PERA identification number. A nomination that does not include at least one of these elements ~~[may]~~ shall not be counted. For purposes of this subsection, "signature" shall include an electronic signature, in any digital format, from a single identifiable e-mail address. A retired member may sign more than one nominating petition for different candidates. The five eligible candidates with the highest number of valid nominations shall be included on the ballot and the other or others shall be eliminated. The names of the five retired members receiving the highest number of valid nominations shall be placed on the election ballot in descending order according to the number of valid signatures received. In case of a nominating tie, the election committee may recommend to the board a method to determine the names and order and the board shall determine the names and order in which ~~[they]~~ the eligible candidates subject to the nominating tie are placed on the ballot by lottery or similar method.

D. In the event any nominee is unable or unwilling to accept a nomination or is otherwise ineligible for the position, that nominee's name shall be removed from the ballot and the resulting vacancy on the ballot shall not be filled. If ~~[the inability or unwillingness]~~ a nominee who is unable or unwilling to accept a nomination [occurs after the ballots have been printed] or a nominee who is ineligible for election is included on the ballots, the election committee and board shall treat all votes cast for that nominee as void.

E. If only one eligible retiree is nominated for a retired board member position, the election shall be cancelled and that retiree shall automatically be declared the winner for the retired board member position pursuant to 2.80.200.80 NMAC.

F. ~~[Only retired members under the Public Employees Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act shall be eligible to participate in the election of retired board members.]~~ Notwithstanding

the provisions of Subsection B of this section, a candidate shall be ineligible for election to a retired board member position if the candidate previously served on the board, representing any membership group, and during that previous tenure the candidate was:

- (1) subject to three or more separate board resolutions of reprimand and censure; or
- (2) removed from the board.

**G.** The campaign contribution limit of \$25.00 contained in Subsection B of Section 10-11-130.1 NMSA 1978 (2000) shall apply to each four year term retired board member election.

[2.80.200.60 NMAC - Rp, 2.80.200.60 NMAC, 12/30/2015; A, 3/14/2017; A, 12/28/2021; A, XX/XX/XXXX]

## **2.80.200.61 - 69 [RESERVED]**

### **2.80.200.70 ELECTION OF NON-RETIRED BOARD MEMBERS:**

**A.** During the January monthly meeting, the retirement board shall adopt a resolution specifying when nominating petitions are due to be returned to PERA or an independent contractor hired by PERA to assist with the election. These nominating petitions are due not earlier than six months prior and not later than one month prior to the election for the position of non-retired board member. The resolution shall also specify whether the method of voting shall include mailed paper ballots, online electronic ballots or other method approved by the board.

(1) [Candidates nominated for any non-retired board member position shall be] Except as provided in Paragraph (2) of this subsection, only non-retired, vested members under the Public Employees Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act shall be eligible for election to a non-retired board member position. [(2)] Only state members, including members under the Judicial Retirement Act or the Magistrate Retirement Act, may nominate state member candidates for state board member positions. Only county members may nominate county member candidates for the county board member position. Only non-county municipal members may nominate non-county municipal member candidates for the [remaining] non-county municipal board member positions.

(2) Notwithstanding the provisions of Paragraph (1) of this subsection, a candidate shall be ineligible for election to a non-retired board member position if the candidate previously served on the board, representing any membership group, and during that previous tenure the candidate was:

- (a) subject to three or more separate board resolutions of reprimand and censure; or
- (b) removed from the board.

(3) To be eligible for inclusion on the ballot, a candidate must [have] provide nominating petitions to PERA with a minimum of 150 valid nominations of non-retired PERA members from the candidate's membership group [on his or her nominating petition] and the candidate shall otherwise be eligible as provided in this section for that board member position. A valid nomination shall include a signature, a legible printing of the member's name, the member's current employer and one of the following:

- (a) the last four digits of the member's social security number;
- (b) the member's date of birth; or
- (c) the member's PERA identification number.

A nomination that does not include at least one of these elements ~~[may]~~ shall not be counted. For purposes of this subsection, "signature" shall include an electronic signature, in any digital format, from a single identifiable e-mail address. A member may sign more than one nominating petition for different candidates.

(4) The five eligible candidates with the highest number of valid nominations for each non-retired position shall be included on the ballot and the other or others shall be eliminated. The names of the five non-retired members receiving the highest number of valid nominations for a position shall be placed on the election ballot in descending order according to the number of valid signatures received. In case of a nominating tie, the election committee may recommend to the board a method to determine the names and order and the board shall determine the names and order in which [they] the eligible candidates subject to the nominating tie are placed on the ballot by lottery or similar method.

(5) In the event any nominee is unable or unwilling to accept the nomination, [his or her] or is otherwise ineligible for the position, that nominee's name shall be removed from the ballot and the vacancy on the ballot shall not be filled. If [such a vacancy occurs after the ballots have been printed] a nominee who is unable or unwilling to accept a nomination or a nominee who is ineligible for election is included on the ballots, the election committee and board shall treat all votes cast for that candidate as void.

(6) If only one eligible member is nominated for a non-retired board member position, the election shall be cancelled and that member shall automatically be declared the winner for the non-retired board member position pursuant to 2.80.200.80 NMAC.

(7) All members of record of the membership group for which the election is held shall be eligible to receive a ballot as provided in ~~[Subparagraph (a) of Paragraph (8) below, except that only county members shall vote in elections for the county member position, and shall not be eligible to vote in elections for non-county municipal positions]~~ Paragraphs (8) and (9) of this subsection and members shall only be eligible to vote in those elections in which they are eligible to receive a ballot. The applicable membership group for any member who is no longer a currently employed, contributing employee of an affiliated public employer shall be determined as of the last date on which the member was a currently employed, contributing employee of an affiliated public employer.

(8) For purposes of the election of non-retired board members, “member of record” shall mean the following:

(a) all persons listed in PERA electronic membership history records as members, including members covered under the Public Employees Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act, no more than 60 days prior to the date of mailing ballots;

(b) all persons who have filed with PERA a valid application for membership form 60 days or more prior to the date of mailing ballots;

(c) while members of record shall qualify to receive a ballot, in the case of those new members listed in Subparagraph (b) of Paragraph (8) of Subsection A of 2.80.200.70 NMAC, a written request for a ballot must be made to PERA.

(9) For purposes of the election of non-retired board members:

(a) ballots shall be mailed to all non-county municipal members of record in the case of an election of a non-county municipal board position;

(b) ballots shall be mailed to all county municipal members of record in the case of an election of the county municipal board position; and

(c) ballots shall be mailed to all state members of record in the case of an election of a state board position.

**B.** The campaign contribution limit of \$25.00 contained in Subsection B of Section 10-11-130.1 NMSA 1978 (2000) shall apply to each four-year term non-retired board member election. [2.80.200.70 NMAC - Rp, 2.80.200.70 NMAC, 12/30/2015; A, 3/14/2017; A, 12/28/2021; **A, XX/XX/XXXX**]

## **2.80.200.71 - 79 [RESERVED]**

**2.80.200.80 ELECTIONS:** The call of the annual meeting and secret election ballots shall be mailed at least 30 days prior to the annual meeting of the association. Mailed ballots shall be returned to a designated United States post office locked box and picked up by the election committee or an independent contractor hired by PERA to assist with the election. To be counted, ballots must be returned to the designated United States post office locked box by 12:00 noon on the date set by the association. The call of the annual meeting and secret election ballots may also be made available at least 30 days prior to the annual meeting of the association online via a secure website maintained by an independent contractor hired by PERA to assist with the election or by another method specified in the resolution adopted by the board each January. To be counted, online ballots or votes cast by another approved method must be received by 12:00 noon on the date set by the association. An independent contractor hired by PERA to assist with the election shall assign unique identifiers to members to prevent voting more than one ballot per eligible member.

**A.** Each ballot shall contain an affirmation of the member’s eligibility to vote.

**B.** Ballots shall be self-proving and shall be counted by the election committee or an independent contractor hired by PERA to assist with the election. The candidate receiving the greatest number of votes shall be declared the winner for each position. In the event of a tie, the election committee may recommend to the board a method to name the winner and the board shall select by lottery or similar method the name of the winner. The election committee or an independent contractor hired by PERA to assist with the election shall report the results of the election to the membership at the annual meeting.

**C.** Members whose ballots have not been delivered to them may request and receive another ballot if the original ballot is returned by the United States post office undelivered to PERA or an independent contractor hired by PERA to assist with the election prior to the close of the election. Members whose ballots have been mutilated or spoiled may request and receive another ballot when, prior to the close of the election, the original mailed ballot is returned by the member to PERA or an independent contractor hired by PERA to assist with the election. In addition, PERA or an independent contractor hired by PERA to assist with the election may assign

unique identifiers to members and issue replacement ballots using procedures to prevent voting more than one ballot per eligible member.

**D.** If the election committee or an independent contractor hired by PERA to assist with the election recommends for good cause that the results of the election be invalidated, and the board adopts such recommendation, a new election shall be held as soon as possible thereafter and the annual meeting at which the election results are announced shall be continued until completion of the new election.

**E.** Insignificant departures from the requirements set forth in these regulations pertaining to the conduct of elections shall not invalidate the election unless the results of the election are proven to have been substantially affected.

**F.** A member shall be considered to be “qualified” for office pursuant to Subsection D of Section 10-11-130 NMSA 1978 when the board has accepted the election results and the newly-elected member has been sworn into office.

[2.80.200.80 NMAC - Rp, 2.80.200.80 NMAC, 12/30/2015; A, 3/14/2017; A, XX/XX/XXXXX]

## **2.80.200.81 - 89 [RESERVED]**

**2.80.200.90 BUILDING AND LAND USE:** Restrictions on building and land use shall be provided for by the executive director as needed subject to the advice and consent of the board.

[2.80.200.90 NMAC - Rp, 2.80.200.90 NMAC, 12/30/2015]

### **HISTORY of 2.80.200 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: PERA 68-1, (Rule No. 2) Election of Board Members, filed on 7/8/1968; PERA 69-1, (Rule No. 2) Election of Board Members, filed on 6/17/1969; Rule 200.00, Organization and Operation of the Public Employees Retirement Board, filed on 10/4/1979; PERA Rule 200.00 Organization and Operation of the Public Employees’ Retirement Board, filed on 11/19/1981; PERA Rule 200.00, Organization and Operation of the Public Employees’ Retirement Board, filed on 7/1/1987; PERA Rule 200, Organization and Operation of the Public Employees Retirement Board, filed on 10/21/1988; PERA Rule 200, Organization and Operation of the Public Employees Retirement Board, filed on 7/1/1991; PERA Rule 200, Organization and Operation of the Public Employees Retirement Board, filed on 7/1/1993; PERA Rule 200, Organization and Operation of the Public Employees Retirement Board, filed on 11/1/1994; PERA Rule 200, Organization and Operation of the Public Employees Retirement Board, filed on 12/1/1995.

### **History of Repealed Material:**

2 NMAC 80.200, Paragraph 60.5, 60.6, 60.7 - Repealed, 11/15/1997.

2 NMAC 80.200, Paragraph 70.2.1, 70.2.2 - Repealed, 11/15/1997.

2 NMAC 80.200, Paragraph 70.2, 70.2.3, 70.2.4, 70.2.5, 70.2.6, 70.2.7, 70.2.8 - Repealed, 12/15/1999.

2.80.200 NMAC, Organization and Operation of the Public Employees Retirement Board, filed 12/28/2000 - Repealed effective 12/30/2015.



Rule Hearing Search

PERA

Hearing Date:

All

Comments

Deadline Date:

All

Agency:

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Proposed Rule Name:

PERA Rulemaking

Agency:

Public Employees Retirement Association

Purpose:

The purpose of the proposed rule changes would be to disqualify candidates for election or appointment to a Board Member position if a candidate has previously served on the Board and has been subject to three or more formal disciplinary actions or has been previously removed from the Board. The purpose of the remaining changes are to update the PERA Board election procedures to align with the new eligibility requirements, to ensure the Board has adequate authority to efficiently fill vacancies and administer elections, to ensure that the Board has the authority to make final determinations regarding election decisions while maintaining an advisory role for the election committee, and to clarify language that currently exists in rule.

Summary:

The proposed amendments provide factors that would disqualify a person from eligibility to be a candidate in an election of the PERA Board (Board), to clarify that appointed Board members meet the same eligibility requirements as elected Board members, and to outline the vacancy procedure if a Board member is removed from the Board. The proposed amendments ensure consistent use of language and also codify the existing practice that PERA members can only vote in the Board election for their designated membership group. The proposed amendments provide that certain powers that are currently exercised by the election committee shall be exercised by the Board and delegate to the election committee the discretion to make certain recommendations to the Board. The amendments also clarify that in the event of a vacancy on the Board, a quorum of the remaining members is required to appoint an individual to fill that vacancy, and provide the Board with flexibility to fill a Board vacancy at a special board meeting. The rule is reformatted as necessary.

Rule Complete Copy :

Copies of the draft rules are available in PERA's Office of General Counsel. Written comments, inquiries or requests for copies should be directed to Geraldine Garduno at PERA's Office of General Counsel, 33 Plaza La Prensa, Santa Fe, N.M., 87507, or [geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov) or 505-476-9351.

Corrections:

[Click Here to access Rule Corrections](#)

Rule Explanatory Statement:

[Click Here to access the Rule Explanatory Statement](#)

Related New Mexico Register Publications:

[Click Here to access Related New Mexico Publications](#)

For any additional information or questions concerning this rule making or posting please contact:

Geraldine Garduno  
[geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov)  
505-476-9351

Last Updated Date

11/21/2023 12:21 PM

How to submit Comments:

Written comments should be submitted by the close of business on January 9, 2024. Written comments should be directed to Geraldine Garduno at PERA's Office of General Counsel, 33 Plaza La Prensa, Santa Fe, N.M., 87507, or [geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov).

When are comments due:

1/9/2024 5:00 PM

Hearing Date:

1/9/2024 9:00 AM

Public Hearing Location:

A formal rulemaking hearing will be held on January 9, 2024, at 9:00 a.m. in the Fabian Chavez Jr. Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico, 87507. 1/9/2024 (9:00 AM -12:00 PM )

How to participate:

In person and the rulemaking hearing will also be accessible through Zoom. The Zoom access link will be published on PERA's website <https://www.nmpera.org> prior to the hearing. Oral comments will be taken at the public hearing.

📄 If the document is not visible on the previewer, please download the file.

File	File Name	File Type	Description
<a href="#">View Document</a>	2.80.200_clean Final Version	PDF	
<a href="#">View Document</a>	Notice of Proposed Rulemaking 2023 Elections Rule Final_APPROVEDdb (002)	PDF	

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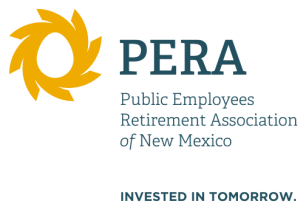
**From:** [Garduno, Geraldine, PERA](#)  
**To:** [lcsmail@nmlegis.gov](mailto:lcsmail@nmlegis.gov); [joanne.vandestreek@nmlegis.gov](mailto:joanne.vandestreek@nmlegis.gov)  
**Cc:** [Joseph.Simon@nmlegis.gov](mailto:Joseph.Simon@nmlegis.gov); [Cristina.Vasquez@nmlegis.gov](mailto:Cristina.Vasquez@nmlegis.gov)  
**Subject:** PERA Notice of Proposed Rulemaking  
**Date:** Tuesday, November 21, 2023 2:34:00 PM  
**Attachments:** [Notice of Proposed Rulemaking 2023 Elections Rule Final APPROVEDdb \(002\).pdf](#)  
[image001.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[2.80.200\\_clean Final Version.pdf](#)

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Good afternoon,

Attached please find PERA's NOPR and proposed rules, to comply with providing them to the Legislative Council Service per the State Rules Act, NMSA 1978 Section 14-4-2.

Please confirm receipt for our rulemaking record.



**Geraldine Garduno**  
Assistant General Counsel  
Public Employees Retirement Association (PERA)  
p: 505-476-9351  
a: 33 Plaza La Prensa Santa Fe, NM 87507  
w: [www.nmpera.org](http://www.nmpera.org)  
e: [geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov)



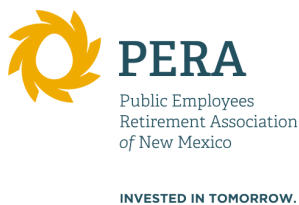
**From:** [Garduno, Geraldine, PERA](#)  
**To:** [rpenm@rpenm.org](mailto:rpenm@rpenm.org)  
**Subject:** FW: PERA Rulemaking  
**Date:** Tuesday, November 21, 2023 4:03 PM  
**Attachments:** [image001.png](#)  
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[image006.png](#)  
[Notice of Proposed Rulemaking 2023 Elections Rule Final APPROVEDdb \(002\).pdf](#)

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**From:** Garduno, Geraldine, PERA  
**Sent:** November 21, 2023 4:03 PM  
**To:** [rpenm@rpenm.org](mailto:rpenm@rpenm.org)  
**Subject:** PERA Rulemaking

Good afternoon,

Attached please find PERA's NOPR as your entity may be an interested stakeholder. A full copy of the proposed rules are available on PERA's website, at the address listed in the NOPR.



**Geraldine Garduno**  
Assistant General Counsel  
Public Employees Retirement Association (PERA)  
p: 505-476-9351  
a: 33 Plaza La Prensa Santa Fe, NM 87507  
w: [www.nmpera.org](http://www.nmpera.org)  
e: [geraldine.garduno@pera.nm.gov](mailto:geraldine.garduno@pera.nm.gov)





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01/09/2024



**NOTICE OF PERA  
RULEMAKING**

The Public Employees Retirement Association ("PERA") will consider changes to its rules promulgated under the Public Employees Retirement Act ("PERA Act"). Changes are proposed for the following rule:

**1. Rule 2.80.200 - Organization and Operation of the Public Employees Retirement Board;**

The proposed amendments provide factors that would disqualify a person from eligibility to be a candidate in an election of the PERA Board (Board), to clarify that appointed Board members meet the same eligibility requirements as elected Board members, and to outline the vacancy procedure if a Board member is removed from the Board. The proposed amendments also codify the existing practice that PERA members can only vote in the Board election for their designated membership group. The proposed amendments clarify that those powers exercised by the election committee may also be exercised by the Board, clarify that a quorum is not required to appoint an individual to fill a vacancy on the Board, and provide the Board with flexibility to fill a Board vacancy at a special board meeting. The rule is reformatted as necessary.

The purpose of the proposed rule changes would be to disqualify candidates for election or appointment to a Board Member position if a candidate has previously served on the Board and has been subject to three or more formal disciplinary actions or has been previously removed from the Board. The purpose of the remaining changes are to update the PERA Board election procedures to align with the new eligibility requirements, to ensure the Board has adequate authority to efficiently fill vacancies and administer elections, and to clarify language that currently exists in rule.

A formal rulemaking hearing will be held on January 9, 2024, at 9:00 a.m. in the Fabian Chavez Jr. Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico, 87507. The rulemaking hearing will also be accessible through Zoom. The Zoom access link will be published on PERA's website listed below prior to the hearing. Oral comments will be taken at the public hearing. Final action on the rules will occur at the January 25, 2024 Board meeting of the PERA Board which will be held in the Fabian Chavez Jr. Board Room of the PERA Building, 33 Plaza La Prensa, Santa Fe, New Mexico at a date and time specified in the Board's Public Meeting Notice. The

purpose of the rulemaking hearing is to obtain public input on the proposed amendment to the above-referenced rules. The public hearing allows members of the public an opportunity to submit data, testimony, and arguments on the proposed rule changes.

The authority for the proposed rule changes is NMSA 1978, Section 10-11-130 of the PERA Act and Rule 20.80.200 .10 NMAC, which authorizes the adoption and promulgation of rules and regulations necessary to carry out the purposes of the PERA Act and additionally provides that elections shall be conducted according to rules the retirement board adopts from time to time.

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Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Patricia Winter at 505-795-0712 or [patriciaab.winter@pera.nm.gov](mailto:patriciaab.winter@pera.nm.gov) at least one week prior to the public hearing, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.

Journal: November 21, 28, December 5, 12, 19, 26, January 2, 9, 2024



## NOTICE OF PERA RULEMAKING

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Visit **PERA At A Glance** for a snapshot of our investments, funding, membership, and economic impact

## ABOUT

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## Rule Change Proposal

On this page you can find information regarding proposed rule changes:

- 2021 Proposed changes: [Documents](#)
- 2022 Proposed changes: [Documents](#)
- 2023 Proposed changes: [Documents](#), [Documents](#)

### SANTA FE OFFICE

33 Plaza La Prensa  
Santa Fe, NM 87507

Phone: (505) 476-9300

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Albuquerque, NM 87109

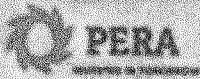
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NOTICE OF PERA  
RULEMAKING

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# AFFIDAVIT OF PUBLICATION

## STATE OF NEW MEXICO

County of Bernalillo SS

Wayne Barnard, the undersigned, authorized Representative of the Albuquerque Journal, on oath states that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, that payment therefore has been made of assessed as court cost; and that the notice, copy of which is hereto attached, was published in said paper in the regular daily edition, for 8 time(s) on the following date(s):

11/21/2023, 11/28/2023, 12/05/2023, 12/12/2023, 12/19/2023, 12/26/2023, 01/02/2024,  
01/09/2024

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

9 day of January of 2024

PRICE \$1,094.80

Statement to come at the end of month.

ACCOUNT NUMBER 1070635

AUDREY RAYLEENE CRESPIN  
Notary Public - State of New Mexico  
Commission # 1140072  
My Comm. Expires Apr 6, 2027

*Audrey Rayleene Crespin*

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**PERA Board Meeting**  
**January 25, 2024**  
**CONSENT AGENDA**

- 1. Ratification of Retirements** - Benefits processed through: 12/1/2023; 1/1/2024
  - a. Normal
  - b. Deferred
  - c. Reciprocity to ERA
  - d. Non-Duty Death
  - e. Non-Duty Disability
  - f. Reciprocity to PERA
- 2. Duty & Non-Duty Deaths**
  - a. Wesle Colvin - Non-duty
- 3. Affidavits for Free Military Service:**
  - a. Luke McPeck - 7 months
  - b. Christopher C. Trujillo - 5 years
- 4. Educational Conferences**
  - a. **Valerie Barela** - IFEBP Certificate Series, Investment Basics; March 8-9, 2024; Scottsdale, AZ; Registration and travel expenses to be paid by PERA
- 5. Setting of Meetings: February 2024**

a. Disability Review Committee	February 13, 2024	1:00pm
b. Board Meeting	February 29, 2024	9:00am

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# Investment Basics

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- Understanding and assessing risk
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- Basics of cash and cash equivalents
- Basics of bond investing
- Basics of stock investing
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**PERA**

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Retirement Association  
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## LEGISLATIVE MEMORANDUM

To: Board of the Public Employees Retirement Association  
From: Anthony Montoya, General Counsel  
Date: January 22, 2024  
Re: 2024 Legislative Session – Introduced Legislation

The following memorandum is provided as a brief update and synopsis on legislation that has been introduced as of January 22, 2024. Due to the fast-paced nature of the legislative session, items listed below may have already begun to advance through the legislative process or may have been amended, substituted, or otherwise changed from what is represented below. This document should be viewed as a snapshot based upon the date of writing.

### **2024 LEGISLATION**

#### **PERA Legislation**

##### **House Legislation**

- House Bill 154 (Sponsored by Representative William “Bill” R. Rehm)
  - o Currently in House Rules & Order of Business Committee (HRC) – *Germaneness*
  - o **Return to Work Legislation**
  - o The legislation allows for retirees to return to employment provided that they only return to certain positions. These positions include: 1) certified law enforcement officers with municipal police, state police, corrections, or probation and parole officer; 2) municipal detention officers; 3) water resource professionals, including water resource managers; 3) operators of a public water supply system or a public wastewater facility with a level three or four certification; or 4) any positions; provided that the retired member retired as a certified law enforcement officer.
  - o The legislation requires: 1) a one hundred twenty-day layout; 2) nonrefundable contributions; 3) the employment begins at an entry level position; 4) employers are required to develop a policy to lay off employees with the lowest seniority, without accounting for pre-return employment; and 5) has a sunset of July 1, 2029.
- House Bill 172 (Sponsored by Representative Joseph Sanchez)
  - o Scheduled in House Labor, Veterans & Military Affairs Committee (HLVMC) for January 23
  - o **Retiree Benefit Legislation**
  - o The legislation provides a two percent (2%) non-compounding 13<sup>th</sup> checks to *all* retirees for fiscal years 2025 and 2026.
  - o The Legislation includes an appropriation of sixty-three million dollars (\$63,000,000) to fund the 13<sup>th</sup> checks.

##### **Senate Legislation**

- Senate Bill 10 (Sponsored by Senator Elizabeth “Liz” Stefanics)
  - o Currently in Senate Judiciary Committee (SJC)
  - o **Judicial Retirement Legislation**



- The legislation provides for an increase to service credit earned on or after July 1, 2024, to 4% for the first ten years of the members service and then reduces to 3.5% for members service credit that exceeds ten years. The bill also raises the current allowable maximum benefit of 85% of final average salary to 100% of final average salary and increases employer contributions to 21.5% and employee contributions to 12.5%.
- The legislation provides a \$2.6 million dollar appropriation from the general fund to employers to cover the proposed increased contribution rates.
- Senate Bill 11 (Sponsored by Senator Elizabeth “Liz” Stefanics)
  - Currently in SJC
  - Magistrate Retirement Legislation
  - The legislation increases the current pension maximum for magistrate members from 85% of their final average salary to 100% of their final average salary. The bill also increases the employer contributions from 15% to 21.5% and the employee contributions from 10.5% to 12.5%.
- 
- Senate Bill 63 (Sponsored by Senator Michael Padilla)
  - Currently in Senate Committees Committee (SCC) - *Germaneness*
  - Retiree Benefit Legislation
  - The legislation proposes to change the current cost-of-living adjustment structure for qualified pension recipients to a new calculation that provides an annual, compounding COLA equal to the Social Security and Supplement Income cost-of-living adjustment.
  - The legislation provides a one time \$50 million dollar appropriation to fund this new model. Analysis indicates that the amount needed to be appropriated in one time money to adequately fund the proposed COLA model exceeds \$2 billion dollars.
- Senate Bill 87 (Sponsored by Senator Craig Brandt)
  - Currently in Senate Health & Public Affairs Committee (SHPAC)
  - Airtime and Return to Work Legislation
  - The legislation allows for members who served as certified or otherwise qualified law enforcement officer in another state or of the federal government to purchase up to five years of service credit for that time served provided that: 1) the member pays the actuarial cost of the service credit; 2) the member has vested; 3) the member provides PERA with requested information to prove that past service.
  - Additionally, the legislation allows certain retirees to return to employment. Those retirees include certified law enforcement officers with municipal police, state police, corrections, or probation and parole officer plans.
  - The legislation requires: 1) a ninety-day layout; 2) nonrefundable contributions; and 3) a closing date of July 1, 2023, however the legislation seems to allow anyone who has returned prior to that date to continue employment indefinitely.
- Senate Bill 114 (Sponsored by Senator Bill Tallman)
  - Currently in SCC - *Germaneness*
  - Taxation Legislation
  - The legislation allows an individual state tax exemption for either the amount included pursuant to Section 86 of the Internal Revenue Code or certain public employee retirement income.
- Senate Bill 123 (Sponsored by Senator Craig Brandt)
  - Currently in SCC - *Germaneness*
  - Return to Work Legislation
  - The legislation allows certain retirees to return to employment. Those retirees include certified law enforcement officers with municipal police, state police, corrections, or probation and parole officer plans, municipal detention officers, and municipal fire fighters.
  - The legislation requires: 1) a twelve-month layout; 2) nonrefundable contributions; and 3) a limit of thirty-six consecutive or nonconsecutive months for which a retiree may be reemployed.
-

- Senate Bill 124 (Sponsored by Senator Craig Brandt)
  - o Currently in SCC - *Germaneness*
  - o *Airtime Legislation*
  - o The legislation allows for members who served as certified or otherwise qualified law enforcement officer in another state or of the federal government to purchase up to five years of service credit for that time served provided that: 1) the member pays the actuarial cost of the service credit; 2) the member has vested; 3) the member provides PERA with requested information to prove that past service.

#### ***Related Legislation and Memorial (INFORMATIONAL ONLY)***

- House Memorial 1 (Sponsored by Representative Joy Garratt)
  - o Scheduled in HLVMC for January 23
  - o *Pension Study Memorial*
  - o For companion memorial, see Senate Memorial 4
  - o Requests a study to research the public employees retirement system and the educational retirement system and the difference in those plans and structures.
  - o The memorial presupposes that the differences are due to a lack of equity and equality due to gender discrimination.
- House Bill 113 (Sponsored by Representative Dayan Hochman-Vigil)
  - o Currently in House Judiciary Committee (HJC)
  - o *Judge Salary Legislation*
  - o Provides a base salary for Supreme Court Justices of \$232,600 and includes annual raises based on inflation. Court of Appeals Judge, District Court Judge, and Metropolitan Court Judge salaries are based on a percentage of Supreme Court Justices; therefore, those salaries will also see an increase.
- House Bill 115 (Sponsored by Representative Christine Chandler)
  - o Currently in HJC
  - o *Magistrate Salary Legislation*
  - o Removes the formula for Magistrates to receive a salary that is based on a percentage of a Metropolitan Judge salary. Presumably, Magistrate salaries will be set annually within the General Appropriations Act (Budget).
- House Bill 141 (Sponsored by Representative Dayan Hochman-Vigil)
  - o Scheduled for HJC on January 22
  - o *Judge Salary Legislation*
  - o Provides a base salary for Supreme Court Justices of \$232,600. Court of Appeals Judges, District Court Judges, and Metropolitan Court Judges salary is based on a percentage of Supreme Court Justices; therefore, those salaries will also see an increase.
  - o Unlike HB 113, this legislation does not include inflationary raises.
- Senate Bill 70 (Sponsored by Senate Joseph Cervantes)
  - o Currently in SJC
  - o *Judge Salary Legislation*
  - o Provides a base salary for Supreme Court Justices equal to the pay of New Mexico Federal Magistrate Judges.
- Senate Joint Resolution 5 (Sponsored by Senate Roberto “Bobby” J. Gonzales)
  - o Currently in SRC
  - o *Retiree Health Care Constitutional Amendment*
  - o The Joint Resolution will codify the retiree health care system within the New Mexico Constitution in a manner that is similar to the existing constitutional provision relating to the public employees retirement and educational retirement systems.

- Senate Memorial 4 (Sponsored by Senate Mimi Stewart)
  - o Currently in SRC
  - o *Pension Study Memorial*
  - o For companion memorial, see House Memorial 1
  - o Requests a study to research the public employees retirement system and the educational retirement system and the difference in those plans and structures.
  - o The memorial presupposes that the differences are due to a lack of equity and equality due to gender discrimination.





# Public Employees Retirement Association of New Mexico

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Presentation to Board of Trustees  
Financial Audits – Fiscal 2023  
January 25, 2024



# Issued Reports

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**We issued the following reports for the year ended June 30, 2023 for New Mexico Public Employees Retirement Association (PERA):**

- Audit report on the financial statements for PERA Deferred Compensation Plan
- Audit report on the PERA Annual Comprehensive Financial Report (ACFR)
- *Government Auditing Standards* Reports on Internal Control over Financial Reporting and on Compliance and Other Matters

## **Unmodified Opinions**

Financial statements are presented fairly in accordance with accounting principles generally accepted in the United States of America

## **Issuance Dates**

- Deferred Compensation Plan report dated October 26, 2023
- ACFR report dated November 22, 2023



# Audit Findings – Deferred Compensation Plan

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- No reportable findings or internal control deficiencies reported in current year
- Prior year finding: *None*



# Financial Summary – Deferred Compensation Plan

	Year Ended June 30,		
	2023	2022	2021
<b>NET POSITION HELD IN TRUST FOR PLAN BENEFITS</b>	<u>\$ 779,495,355</u>	<u>\$ 716,272,202</u>	<u>\$ 812,180,166</u>
<b>CHANGES IN PLAN NET POSITION</b>			
Contributions	46,278,410	44,773,433	42,905,382
Net investment income (loss)	70,101,792	(85,753,516)	163,206,255
Other revenue	721,604	909,828	840,647
Benefits paid	(51,974,163)	(54,058,979)	(55,088,749)
Administrative expenses	(1,904,490)	(1,778,730)	(1,711,950)
<b>NET CHANGE IN PLAN NET POSITION</b>	<u>63,223,153</u>	<u>(95,907,964)</u>	<u>150,151,585</u>
<b>PLAN NET POSITION - BEGINNING</b>	<u>716,272,202</u>	<u>812,180,166</u>	<u>662,028,581</u>
<b>PLAN NET POSITION - ENDING</b>	<u>\$ 779,495,355</u>	<u>\$ 716,272,202</u>	<u>\$ 812,180,166</u>



# Audit Finding – PERA (ACFR)

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- No reportable findings or internal control deficiencies reported in current year
- One uncorrected misstatement related to investment valuation (\$33 million overstatement)
  - Assets transferred from one investment fund to another was not captured timely (\$30 million understatement)
  - Clerical error entered when capturing the fair value of an investment fund (\$63 million overstatement)
  - Corrected in fiscal year 2024
- No compliance findings noted (NMAC 2.2.2)
- Prior year significant deficiency related to a benefit payment calculation was addressed by management in 2023 and corrected by making the retiree whole



# Employers' Net Pension Liability

	June 30, 2023			
	PERA Fund	Judicial Fund	Magistrate Fund	Volunteer Firefighters Fund
<b>Total pension liability (a)</b>	\$ 24,676,915,175	\$ 222,541,191	\$ 73,200,599	\$ 52,931,721
<b>Pension plan fiduciary net position (b)</b>	16,598,829,757	112,660,986	32,481,476	81,108,104
<b>Net pension liability (a) - (b)</b>	<b>\$ 8,078,085,418</b>	<b>\$ 109,880,205</b>	<b>\$ 40,719,123</b>	<b>\$ (28,176,383)</b>
<b>Funded status (b) / (a)</b>	<b>67.3%</b>	<b>50.6%</b>	<b>44.4%</b>	<b>153.2%</b>



# Fiduciary Net Position – Total Pension

	Year ended June 30,		
	2023	2022	2021
<b>Change in plan fiduciary net position</b>			
Employer contributions	\$ 464,102,162	\$ 424,162,143	\$ 387,909,027
Member contributions	376,250,530	329,348,667	312,041,783
Special fund appropriation	-	2,414,400	-
Net investment income (loss)	910,122,768	(754,362,720)	3,846,054,848
Benefit payments and refunds	(1,489,608,803)	(1,445,577,189)	(1,374,814,553)
Administrative expense	(15,789,552)	(16,206,812)	(12,886,327)
Other income	2,390,971	2,775,810	1,990,812
Net change	247,468,076	(1,457,445,701)	3,160,295,590
<b>Total pension plan fiduciary net position</b>			
Beginning of year	16,577,612,247	18,035,057,948	14,874,762,358
<b>End of year</b>	<b>\$ 16,825,080,323</b>	<b>\$ 16,577,612,247</b>	<b>\$ 18,035,057,948</b>



# Other Communications

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- Exit conferences held at conclusion of each audit with management and Board representatives that included required audit communications
- Significant accounting policies are summarized in Note 2 of each financial statement
- Representations were requested and received from management
- No audit adjustments proposed or uncorrected misstatements noted in the Deferred Compensation Plan
- No disagreements with management or difficulties encountered





# Other Communications

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- New accounting pronouncement in Fiscal 2023: GASB No. 96, *Subscription Based Information Technology Arrangements*
  - \$112 thousand implementation impact (asset and liability properly recorded)
  - No restatement of prior year fiduciary net position
  - \$89 thousand asset and liability reported at June 30, 2023
- Moss Adams is independent with respect to Public Employees Retirement Association of New Mexico and State of New Mexico





- Audit performed within the scope and timeline discussed during our entrance meeting and audit planning
- ‘Tone at the Top’ and attitude from management and staff was one of helpfulness, candor and openness in response to audit requests and discussion points



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# Chief Investment Officer Update

Reporting: November 30, 2023  
Presentation Date: January 25, 2024

## Investment Principles:

- Achieve a steady, compounding return that minimizes uncompensated risk
- Focus on allocating risk
- Effectively manage costs
- Institute comprehensive risk management
- Keep long term view

## Key Strategic Goals:

- Sustain the Trust Fund for current and future retirees
- Set Strategic Asset Allocation to meet the actuarial assumed return over the long run
- Produce returns that meet or exceed benchmarks
- Be cost-efficient

## **Asset Allocation & Cash Activity:**

Fiscal Year-to-Date, the Fund has experienced a gain of \$257 Million in its net asset value (NAV); investment gains were about \$11 Million, less \$246 Million paid out in benefits to retirees (this amount represented 40% of monthly benefit payments).

Change in NAV (FYTD)	
as of: November 30, 2023	
July 1, 2023 Beginning Market Value	16,657,781,731
November 30, 2023 Ending Market Value	16,669,358,347
Market Value Change	11,576,616
FYTD Benefit Payments	(246,081,832)
Investment Gain/Losses	257,658,448

At month-end Fund held 15% of tier 1 (liquidity) assets and remains in compliance with the IPS minimum of 10%.

Asset weights at the end of the month were within policy ranges, and in compliance with IPS guidelines:

Asset Allocation			
as of: November 30, 2023	Target	Actual	Range
Global Equity	38.0%	39.5%	+/- 5%
Risk Reduction	17.0%	16.6%	+/- 3%
Credit	19.0%	18.5%	+/- 4%
Real Assets	18.0%	17.2%	+/- 4%
Multi Risk	8.0%	8.2%	+/- 4%



**Implementation Update:**

In October and November, one proposal was presented to PRISM and moved forward to receive unanimous agreement by our Portfolio Fit and Process Review Team:

- Montagu VII a private equity fund focused on the European middle-market buyout space, primarily targeting five key sectors: healthcare, critical data, digital infrastructure, financial sector services, and education. Montagu focuses on these sectors due to the positive demographics. This is a follow-on investment, there are commitments in Fund VI and a co-invest Fund of One.

**General Update:**

- Custodian RFP still in process.

**Market Summary:**

During the fourth quarter of 2023, the economic environment exhibited a mix of challenges and opportunities for investors. The global economy faced headwinds from geopolitical tensions and uncertainties, influencing market sentiment. In the United States, however, the economic recovery continued, supported by resilient consumer spending, improving employment figures, and an apparent end to the Federal Reserve's tightening cycle.

In terms of market performance, the U.S. stock market displayed notable resilience and strength. Positive corporate earnings, coupled with optimism surrounding the economic recovery, contributed to robust equity returns. The stock market's total return reflected the overall bullish sentiment among investors during the quarter. Simultaneously, the U.S. bond market experienced a more tempered performance. As interest rates fluctuated and inflationary pressures persisted, bond yields faced challenges, impacting fixed-income returns. Despite this, bonds remained a crucial component in portfolio diversification, providing stability amid market uncertainties.

Credit challenges remain in the financial landscape as the rise in corporate defaults and consumer delinquencies continues. The business environment faced headwinds as some companies grappled with the financial strains of high interest rates. Simultaneously, credit cardholders face similar difficulties with higher interest rates, as well as reflecting the economic pressures faced by individuals, such as job market uncertainties and rising costs of living.

**Performance Summary:**

When measuring success in implementation against key strategic goals, PERA's experience is favorable on a relative basis, while lagging on an absolute. First, long-term absolute net returns have fallen below the 7.25% assumed rate of return for most short and intermediate time periods, producing 5.40%, 6.30%, 6.66% and 5.80% for the 3-, 5-, 7-, and 10-year periods. However, when measuring long-term results, the fund remains above this targeted return producing 7.70% and 8.69% for the 30-year and since inception periods. Second, relative results have been significantly favorable, exceeding PERA's diversified Policy Benchmark across most measurable time horizon. Most notably, outpacing the benchmark by 2.71%, 1.31%, 1.23% and 0.61% for the 3-, 5-, 7- and 10-year periods, respectively; displaying strong asset allocation and manager selection attribution. Finally, when measuring PERA's portfolio against national pension peers, on an absolute and risk-adjusted basis, PERA's Sharpe Ratio or risk adjusted returns have been in the top third for most time periods.

Major 1-Year Contributors: Global Public Stock was up 11.44% net and outperformed its benchmark by 0.35%; Active US Equity was up 16.07% net, exceeding its benchmark by 4.98%; Alternative Liquid Credit was up 11.72% and outperformed its benchmark by 2.19%; Illiquid Real Assets returned 8.90% and outperformed its benchmark by 12.31%.

Major 1-Year Detractors: Illiquid Real Estate was down -7.20% net and underperformed its benchmark by -7.14%. Bonds Plus was down -0.62%, underperforming its benchmark by -1.80%. Domestic Core Fixed Income was up just 0.82% and underperformed its benchmark by -0.34%. Illiquid Credit was up just 1.94% net and underperformed its benchmark by -7.59%.

## PERFORMANCE

Performance Summary as of: November 30, 2023								
	MTD	3M	FYTD	1-Year	3-Year	5-Year	7-Year	10-Year
<b>Total Fund</b>	<b>4.24%</b>	<b>1.04%</b>	<b>1.56%</b>	<b>5.25%</b>	<b>5.40%</b>	<b>6.30%</b>	<b>6.66%</b>	<b>5.80%</b>
Policy Index	7.34%	1.38%	1.48%	5.87%	2.69%	4.99%	5.43%	5.19%
Value Add	-3.10%	-0.34%	0.08%	-0.61%	2.71%	1.31%	1.23%	0.61%
<b>Global Equity</b>	<b>5.58%</b>	<b>1.53%</b>	<b>2.96%</b>	<b>8.64%</b>	<b>8.54%</b>	<b>10.12%</b>	<b>10.66%</b>	<b>8.53%</b>
Policy Index	8.68%	1.14%	1.84%	10.08%	5.17%	8.00%	8.93%	7.96%
Value Add	-3.10%	0.38%	1.12%	-1.44%	3.37%	2.13%	1.73%	0.57%
<b>Risk Reduction</b>	<b>4.01%</b>	<b>-0.47%</b>	<b>-0.80%</b>	<b>0.74%</b>	<b>-3.55%</b>	<b>1.07%</b>	<b>1.08%</b>	<b>1.69%</b>
Policy Index	4.53%	0.26%	-0.45%	1.08%	-4.38%	0.70%	0.79%	1.41%
Value Add	-0.52%	-0.73%	-0.35%	-0.34%	0.83%	0.38%	0.29%	0.28%
<b>Credit</b>	<b>3.23%</b>	<b>2.32%</b>	<b>4.18%</b>	<b>8.61%</b>	<b>4.62%</b>	<b>4.33%</b>	<b>4.70%</b>	<b>4.12%</b>
Policy Index	4.72%	2.69%	4.33%	9.80%	-0.13%	3.06%	3.09%	3.36%
Value Add	-1.49%	-0.37%	-0.15%	-1.19%	4.75%	1.27%	1.61%	0.76%
<b>Real Assets</b>	<b>0.31%</b>	<b>-0.05%</b>	<b>-0.73%</b>	<b>-0.16%</b>	<b>10.61%</b>	<b>6.65%</b>	<b>6.25%</b>	<b>5.69%</b>
Policy Index	8.99%	1.54%	0.60%	-1.31%	7.52%	5.01%	4.91%	4.45%
Value Add	-8.68%	-1.59%	-1.33%	1.15%	3.08%	1.64%	1.34%	1.24%
<b>Multi-Risk</b>	<b>9.55%</b>	<b>1.19%</b>	<b>-1.27%</b>	<b>3.54%</b>	<b>-0.09%</b>			
Policy Index	9.44%	1.00%	-1.34%	3.69%	-0.21%			
Value Add	0.11%	0.20%	0.07%	-0.15%	0.12%			

Risk Summary as of: November 30, 2023						
	Std Dev.	Sharpe	Beta	Alpha	IR	TE
<b>1-Year</b>						
Total Fund	6.9%	0.1%	0.6%	-0.4%	-0.2%	5.2%
Policy Index	11.9%	0.1%	1.0%	0.0%		0.0%
<b>3-Year</b>						
Total Fund	7.6%	0.5%	0.6%	2.8%	0.4%	5.0%
Policy Index	11.9%	0.1%	1.0%	0.0%		0.0%
<b>5-Year</b>						
Total Fund	8.2%	0.6%	0.6%	2.2%	0.1%	5.2%
Policy Index	12.8%	0.3%	1.0%	0.0%		0.0%
<b>7-Year</b>						
Total Fund	7.3%	0.7%	0.6%	2.4%	0.2%	4.5%
Policy Index	11.1%	0.4%	1.0%	0.0%		0.0%
<b>10-Year</b>						
Total Fund	7.0%	0.7%	0.7%	1.7%	0.1%	3.8%
Policy Index	9.8%	0.4%	1.0%	0.0%		0.0%

### Staffing Update

- No recent hires

#### Vacancies:

- Investment Associate/PM (Gov. Ex. FTE) interviews are in process.



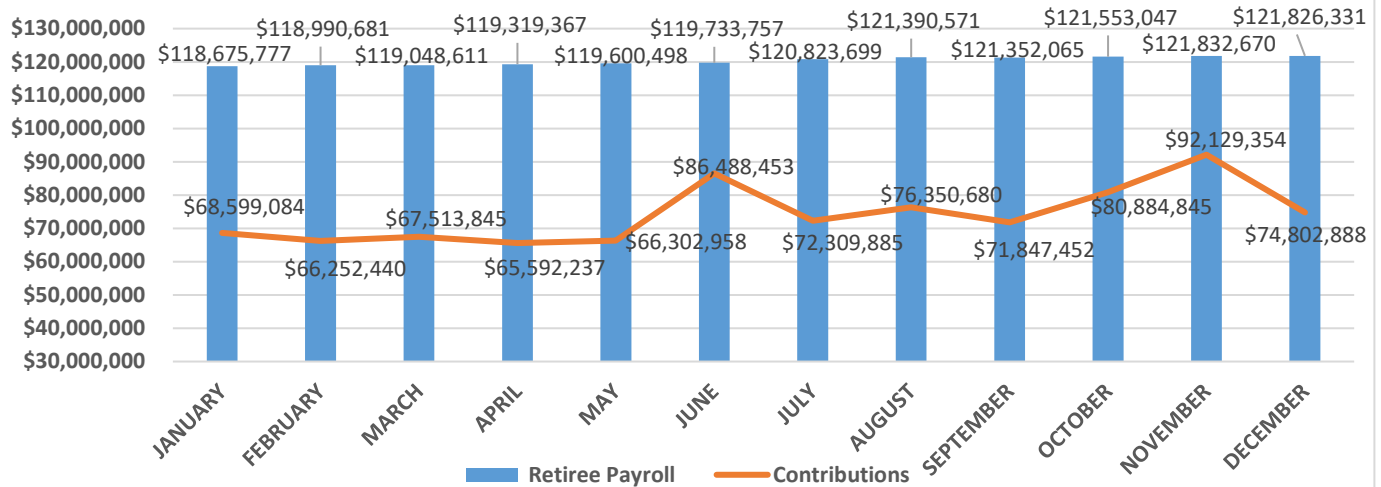
**PERA**

Public Employees  
Retirement Association  
of New Mexico

## EXECUTIVE DIRECTOR'S REPORT PERA BOARD MEETING – January 25, 2024

INVESTED IN TOMORROW.

### Retiree Payroll vs: Total Contributions - January 2023- December 2023

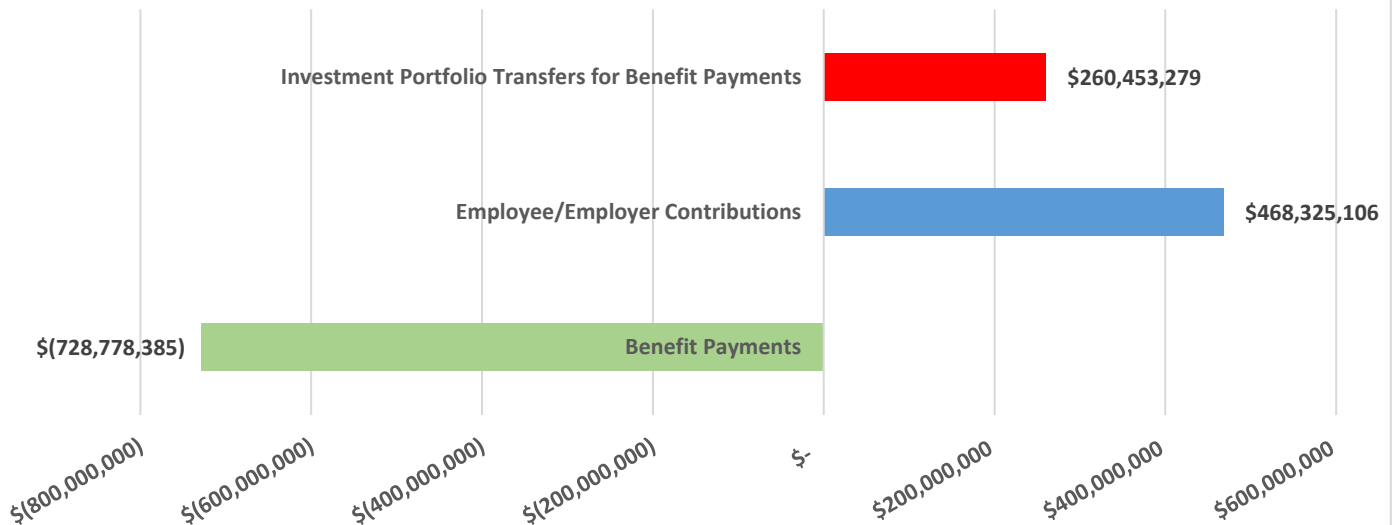


**Total Retiree Payroll = \$1,444,147,074**

**Total Contributions: \$ 889,074,121**

**\*\* Due to adjustments to Employer reports contributions amounts are subject to change**

### FY24 Contributions: Investment Income & Contributions thru December 2023



**\*\* Total Refunds Paid during this period was \$28,497,213**

**Total Retiree Members = 536,298**

**Total Active Members: 606,252**

VACANCY REPORT			
Position	Division	Date Vacated	Status
Public Relations Coordinator	Outreach	10/21/2023	Posted
Retirement Specialist I	Call center	1/6/2024	Interviewing
Investment Associate	Investments	1/2023	Interviewing

*PERA has 87 authorized FTE and currently has 3 vacancies.*

ADDITIONS/DEPARTURES/PROMOTIONS			
Employee	Position/Division	Date Started/Vacated	Status
Fatima Ruiz	Retirement Specialist II/Death & Disability Division	1/5/2024	Departure
Higinia Hernandez	Retirement Specialist II/Death & Disability Division	1/6/2024	Promotion
Chantel Larranaga	Retirement Specialist I/Call Center	1/5/2024	Departure
Sharon Romero	Retirement Specialist I/Call Center	2/3/2024	New Hire

2023 - 2024 AIRTIME PURCHASES		
Plan Type	December Purchases	January Purchases
State Plan 3	2	5
Municipal Plan 1	0	0
Municipal Plan 2	0	3
Municipal Plan 3	7	3
Municipal Plan 4	0	0
Municipal Detention Plan 1	0	0
Municipal Fire Plan 5	5	3
Municipal Police Plan 3	0	0
Municipal Police Plan 4	0	1
Municipal Police Plan 5	4	2
State Police/Corrections Plan	<u>4</u>	<u>5</u>
<b>TOTAL:</b>	<b>22</b>	<b>22</b>

2023 - 2024 AIRTIME PURCHASES		
No. of Months	December Purchases	January Purchases
1	4	3
2	2	3
3	1	0
4	0	1
5	1	1
6	1	0
7	2	1
8	0	0
9	0	0
10	0	1
11	0	1
12	<u>11</u>	<u>11</u>
<b>TOTAL:</b>	<b>22</b>	<b>22</b>

PERA SmartSave Items of Interest – December 2023		
<u>County by Region North – Peter Rappmund</u>	<u>In-Person Individual and Group Meetings</u>	<u>Virtual Individual and Group Meetings</u>
Bernalillo	1	3
Colfax		2
McKinley		1
Mora		1
Rio Arriba	1	3
San Juan	32	8
San Miguel	1	4
Santa Fe	5	34
Statewide	29	35
Taos	3	4
<u>County by Region Central - Paul Lium</u>	<u>In-Person Individual and Group Meetings</u>	<u>Virtual Individual and Group Meetings</u>
Bernalillo	30	3
<u>County by Region South - Linda Miller</u>	<u>In-Person Individual and Group Meetings</u>	<u>Virtual Individual and Group Meetings</u>
Catron		2
Chaves		41
Dona Ana		47
Eddy		10
Grant		6
Hidalgo		1
Lea		7
Lincoln		13
Luna		7
Otero	15	19
Sierra		12
Socorro		6
Statewide		38
SmartSave Assets as of 12/31/2023 - \$808,883,241		
SmartSave Participants as of 12/31/2023 – 23,588		



2023 Independent Contracts Reviews	
Entity	# of Contracts Reviewed December 2023
NM Legislative Council Services	1
NM Administrative Office of the Courts	1
NM Legislative Finance Committee	6
NM Office of Family Representation & Advocacy	1
Lea County	1
NM 4 <sup>th</sup> Judicial District Attorney's Office	1
NM Taxation & Revenue Department	3
NM Human Services Department	1
NM Administrative office of the Courts/Court of Appeals	1
<b>SubTotal:</b>	<b>16</b>
<b>Reviewed, but "Not in Pay Status"</b>	
NM Taxation & Revenue Department	1
NM Office of Family Representation & Advocacy	<u>1</u>
<b>SubTotal:</b>	<b>2</b>
<b>Reviewed, but "Not a PERA Member"</b>	
NM Law Offices of the Public Defender	<u>1</u>
<b>SubTotal:</b>	<b>1</b>
<b>Reviewed, but "Needs More Information"</b>	
NM Administrative office of the Courts/Court of Appeals	<u>1</u>
<b>SubTotal:</b>	<b>1</b>
<b>Total:</b>	<b>20</b>