

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0680.01 Nicole Myers x4326

HOUSE BILL 18-1111

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A BILL FOR AN ACT
101 **CONCERNING THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'**
102 **RETIREMENT ASSOCIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, the board of trustees (board) of the public employees' retirement association (PERA) is composed of the following 15 trustees:

- ! The state treasurer;
- ! 3 elected members of the state division;
- ! 4 elected members of the school division;
- ! One elected member of the local government division;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! One elected member of the judicial division;
- ! 2 elected retirees; and
- ! 3 trustees appointed by the governor and confirmed by the senate who are not PERA members or retirees and who are experts in certain fields.

There is also one ex officio trustee from the Denver public schools division.

The bill modifies the composition of the board by:

- ! Eliminating one elected member trustee position from the state division;
- ! Eliminating 3 elected member trustee positions from the school division;
- ! Requiring both elected members from the state division and the members from the school division, the local government division, and the judicial division to be at least 20 years from retirement eligibility; and
- ! Adding 4 more trustees appointed by the governor and confirmed by the senate who are not PERA members or retirees and who are experts in certain fields to replace the eliminated elected member trustee positions. The additional appointed trustees must have significant experience and competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis.

The bill does not change the inclusion on the board of the state treasurer, the elected members from the local government division and the judicial division, or the ex officio trustee from the Denver public schools division.

In addition, PERA's nonstatutory governance manual permits a trustee of the board to make reasonable requests for information from PERA when the information is necessary for the purposes of fulfilling the trustee's duties as a member of the board. The governance manual also includes limitations on the nature of requests for information that a trustee can make.

The bill authorizes a trustee, in his or her capacity as a member of the board and in furtherance of his or her fiduciary duties and obligations to the members and benefit recipients of PERA, to review all records or information within the custody and control of PERA. Upon request of a trustee, the executive director of PERA or the board is required to provide access to any records or information requested. Neither the executive director nor the board may deny a trustee's request for records or information based on the expenditure of staff time or the need to use outside resources to fill the request, or any other reason. A trustee is prohibited from using any records or information provided for personal use and PERA is required to keep certain information confidential when

providing requested records or information to a trustee.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration - intent.** (1) The general
3 assembly hereby finds and declares that:

4 (a) The board of trustees of the public employees' retirement
5 association (PERA) is composed of retirees and current members of
6 PERA who receive or will receive retirement benefits through PERA;

7 (b) The current structure of the board of trustees of PERA does
8 not offer any assurance that the board will include representation of
9 members who are relatively distant from retirement eligibility; and

10 (c) Every member of the board of trustees, in his or her capacity
11 as a member of the board of trustees and in furtherance of his or her
12 fiduciary duties and obligations to the members and benefit recipients of
13 PERA, should have the ability to review all records or information within
14 the custody and control of PERA. However, PERA's nonstatutory
15 governance manual includes limitations on the nature of requests for
16 information that a member of the board of trustees can make.

17 (2) The general assembly further finds and declares that the intent
18 of this act is to:

19 (a) Shift the composition of the board of trustees of PERA to a
20 larger representation of people who are not members or retirees of PERA;

21 (b) Guarantee that a segment of the board represents PERA
22 members who are relatively distant from retirement eligibility;

23 (c) Ensure that the board has a greater range of experience in
24 investment management, finance, banking, economics, accounting,
25 pension administration, or actuarial analysis while retaining participation

1 from members and retirees of PERA on the board;

2 (d) Further minimize the appearance of conflicts of interest in
3 matters dealing with the solvency of PERA and the financial liabilities of
4 the state; and

5 (e) Ensure that upon request, any member of the board of trustees
6 is authorized, in his or her capacity as a member of the board of trustees
7 and in furtherance of his or her fiduciary duties and obligations to the
8 members and benefit recipients of PERA, to review all records or
9 information within the custody and control of PERA.

10 **SECTION 2.** In Colorado Revised Statutes, 24-51-203, **amend**
11 (1), (3), and (5) as follows:

12 **24-51-203. Board - composition and election.** (1) The board
13 ~~shall consist~~ CONSISTS of the following fifteen trustees:

14 (a) The state treasurer;

15 (b) ~~Four~~ THREE members of the state division elected by the
16 members of that division, at least one of whom ~~shall be~~ IS an employee
17 of a state institution of higher education and at least one of whom ~~shall~~
18 ~~is not be~~ an employee of a state institution of higher education until, on
19 or after ~~January 1, 2007~~ JANUARY 1, 2019, one of those trustee positions
20 ~~unless it is the sole position held by an employee of a state institution of~~
21 ~~higher education,~~ is vacated OR THE TRUSTEE'S TERM ENDS, and thereafter
22 there ~~shall be three~~ ARE TWO members of the state division elected by the
23 members of that division, at least one of whom ~~shall be~~ IS an employee
24 of a state institution of higher education and at least one of whom ~~shall~~
25 ~~not be~~ IS NOT an employee of a state institution of higher education. BOTH
26 MEMBERS ELECTED AFTER JANUARY 1, 2019, SHALL BE TWENTY YEARS OR
27 MORE FROM FULL SERVICE RETIREMENT ELIGIBILITY ON THE DATE THAT

1 THE TRUSTEE BEGINS SERVING HIS OR HER FIRST TERM ON THE BOARD.

2 (c) ~~Five~~ FOUR members of the school division elected by the
3 members of that division until, on or after ~~January 1, 2007~~, ~~one~~ JANUARY
4 1, 2019, THREE of those trustee positions ~~is~~ ARE vacated OR THE TRUSTEES'
5 TERMS END, and thereafter there ~~shall be four members~~ IS ONE MEMBER
6 of the school division elected by the members of that division. THE
7 MEMBER ELECTED AFTER JANUARY 1, 2019, SHALL BE TWENTY YEARS OR
8 MORE FROM FULL SERVICE RETIREMENT ELIGIBILITY ON THE DATE THAT
9 THE TRUSTEE BEGINS SERVING HIS OR HER FIRST TERM ON THE BOARD.

10 (d) ~~Two members of the local government division elected by the~~
11 ~~members of that division until, on or after January 1, 2007, one of those~~
12 ~~trustee positions is vacated and thereafter there shall be~~ One member of
13 the local government division elected by the members of that division.
14 THE MEMBER ELECTED ON OR AFTER JANUARY 1, 2019, SHALL BE TWENTY
15 YEARS OR MORE FROM FULL SERVICE RETIREMENT ELIGIBILITY ON THE
16 DATE THAT THE TRUSTEE BEGINS SERVING HIS OR HER FIRST TERM ON THE
17 BOARD.

18 (e) One member of the judicial division elected by the members
19 of that division. THE MEMBERS ELECTED ON OR AFTER JANUARY 1, 2019,
20 SHALL BE TWENTY YEARS OR MORE FROM FULL SERVICE RETIREMENT
21 ELIGIBILITY ON THE DATE THAT THE TRUSTEE BEGINS SERVING HIS OR HER
22 FIRST TERM ON THE BOARD.

23 (f) Two retirees, one of whom ~~shall be~~ IS elected by those
24 members who have retired from the local government division, the
25 judicial division, or from the state division and one of whom shall be
26 elected by those members who have retired from the local government
27 division, the judicial division, or the school division; except that both

1 retiree trustees cannot have retired from the same division; and

2 (g) Three trustees appointed by the governor and confirmed by the
3 senate. ~~who shall not be members, inactive members, or retirees of the~~
4 ~~association and who shall~~ ON OR AFTER JANUARY 1, 2019, THE GOVERNOR
5 SHALL APPOINT, WITH SENATE CONFIRMATION, FOUR ADDITIONAL
6 TRUSTEES WHO SHALL REPLACE THE ELECTED TRUSTEES' POSITIONS
7 ELIMINATED PURSUANT TO SUBSECTIONS (1)(b) AND (1)(c) OF THIS
8 SECTION. THE TRUSTEES APPOINTED BY THE GOVERNOR SHALL NOT BE
9 MEMBERS, INACTIVE MEMBERS, OR RETIREES OF THE ASSOCIATION AND
10 ARE REQUIRED TO have significant experience and competence in
11 investment management, finance, banking, economics, accounting,
12 pension administration, or actuarial analysis. Of the ~~three~~ SEVEN trustees
13 appointed by the governor, no more than ~~two~~ FOUR shall be from the same
14 political party. FOR TRUSTEES APPOINTED ON OR AFTER JANUARY 1, 2019,
15 THE GOVERNOR SHALL MAKE APPOINTMENTS IN A MANNER TO ENSURE
16 THAT THE SEVEN APPOINTED TRUSTEES ARE EVENTUALLY COMPRISED OF
17 THE FOLLOWING:

18 (I) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
19 COMPETENCY IN INVESTMENT FUND MANAGEMENT;

20 (II) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
21 COMPETENCY IN ACCOUNTING AND WHO IS A CERTIFIED PUBLIC
22 ACCOUNTANT IN COLORADO;

23 (III) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
24 COMPETENCY IN SECURITIES LAW AND WHO IS A LICENSED ATTORNEY IN
25 COLORADO;

26 (IV) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
27 COMPETENCY IN TAX LAW AND WHO IS A LICENSED ATTORNEY IN

1 COLORADO;

2 (V) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
3 COMPETENCY IN PENSION MANAGEMENT;

4 (VI) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
5 COMPETENCY IN ACTUARIAL ANALYSIS AND WHO IS A CERTIFIED ACTUARY;
6 AND

7 (VII) ONE PROFESSIONAL WITH TEN YEARS OF EXPERIENCE AND
8 COMPETENCY AS A CERTIFIED FINANCIAL PLANNER ACCREDITED BY A
9 NATIONALLY RECOGNIZED ACCREDITATION AGENCY.

10 (3) ~~The term for each of the initial three appointed trustees shall~~
11 ~~be determined by the governor and shall be staggered with a one-year~~
12 ~~term, a two-year term, and a three-year term with no trustee assigned the~~
13 ~~same term length~~ THE INITIAL TERM FOR EACH OF THE FOUR ADDITIONAL
14 TRUSTEES APPOINTED AFTER JANUARY 1, 2019, PURSUANT TO SUBSECTION
15 (1)(g) OF THIS SECTION IS DETERMINED BY THE GOVERNOR AND IS
16 STAGGERED WITH A ONE-YEAR TERM, A TWO-YEAR TERM, A THREE-YEAR
17 TERM, AND A FOUR-YEAR TERM. After each of the initial terms ~~conclude~~
18 CONCLUDES, the term for ALL appointed trustees ~~shall be~~ IS four years.
19 Appointed trustees may be reappointed to the board for an unlimited
20 number of terms.

21 (5) When a vacancy occurs among the ~~three~~ SEVEN appointed
22 trustees, the governor shall appoint, with THE consent of the senate, a new
23 trustee with the experience and competence specified in ~~paragraph (g) of~~
24 ~~subsection (1)~~ SUBSECTION (1)(g) of this section to serve the remainder
25 of any unexpired term. Such appointee may serve on a temporary basis if
26 the general assembly is not in session when he or she is appointed until
27 the general assembly is in session and the senate is able to consent to such

1 appointment.

2 **SECTION 3.** In Colorado Revised Statutes, **add** 24-51-207.5 as
3 follows:

4 **24-51-207.5. Access to information - board of trustees.**

5 (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 51
6 AND EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, ANY
7 MEMBER OF THE BOARD OF TRUSTEES IN HIS OR HER CAPACITY AS A
8 TRUSTEE AND IN FURTHERANCE OF HIS OR HER FIDUCIARY DUTIES AND
9 OBLIGATIONS TO THE MEMBERS AND BENEFIT RECIPIENTS AS SPECIFIED IN
10 SECTION 24-51-207 IS ENTITLED TO REVIEW ALL RECORDS AND
11 INFORMATION WITHIN THE CUSTODY AND CONTROL OF THE ASSOCIATION.
12 SUCH RECORDS INCLUDE, BUT ARE NOT LIMITED TO, FINANCIAL RATIONALE
13 ON RETURNS, INVESTMENT STRATEGY AND SCOPE, ACTUARIAL TABLES,
14 AND DETAILED INFORMATION ON INVESTMENTS. THE TRUSTEE IS
15 RESPONSIBLE FOR ANY REASONABLE COSTS, BEYOND DE MINIMIS
16 EXPENSES, ASSOCIATED WITH PROVIDING THE RECORDS. UPON REQUEST OF
17 A TRUSTEE, THE EXECUTIVE DIRECTOR OF THE ASSOCIATION OR THE BOARD
18 SHALL PROVIDE FULL AND TIMELY ACCESS, IN A USEABLE AND
19 MEANINGFUL MANNER, TO ANY RECORDS OR INFORMATION THAT THE
20 TRUSTEE REQUESTED.

21 (b) NOTWITHSTANDING SECTION 24-51-213, THE INFORMATION
22 THAT A MEMBER OF THE BOARD OF TRUSTEES IS ENTITLED TO REVIEW
23 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION INCLUDES SALARY AND
24 BENEFIT INFORMATION THAT IS CONTAINED IN RECORDS OF MEMBERS,
25 FORMER MEMBERS, INACTIVE MEMBERS, DPS MEMBERS, DPS RETIREES,
26 BENEFIT RECIPIENTS, AND THEIR DEPENDENTS; EXCEPT THAT, IN
27 FULFILLING A REQUEST FOR RECORDS OR INFORMATION BY A TRUSTEE

1 PURSUANT TO THIS SECTION, THE EXECUTIVE DIRECTOR OF THE
2 ASSOCIATION AND THE BOARD SHALL NOT PROVIDE ANY OTHER
3 INFORMATION THAT IS DESIGNATED AS CONFIDENTIAL PURSUANT TO
4 SECTION 24-51-213.

5 (2) NEITHER THE EXECUTIVE DIRECTOR NOR THE BOARD MAY DENY
6 A MEMBER OF THE BOARD OF TRUSTEE'S REQUEST FOR RECORDS OR
7 INFORMATION BASED ON THE EXPENDITURE OF STAFF TIME, THE NEED TO
8 USE OUTSIDE RESOURCES TO FILL THE REQUEST, OR FOR ANY OTHER
9 REASON.

10 (3) A MEMBER OF THE BOARD OF TRUSTEES SHALL NOT USE ANY
11 RECORDS OR INFORMATION PROVIDED PURSUANT TO SUBSECTION (1) OF
12 THIS SECTION OR PURSUANT TO ANY OTHER SECTION OF THIS ARTICLE 51
13 FOR PERSONAL USE.

14 **SECTION 4. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2018 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.