

**79-980. Employees retirement system; administration; board of trustees; members; terms; vacancy; expenses; liability.**

(1) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees. Beginning July 1, 2016, the board of trustees shall consist of the following individuals: (a) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (b) one member of the retirement system who is classified staff elected by the members of the retirement system who are classified staff; (c) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (d) the superintendent of schools or his or her designee to serve as a voting, ex officio trustee; and (e) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. One certificated staff trustee serving on July 1, 2016, will continue serving until an elected certificated staff trustee will take position effective July 1, 2017; the second certificated staff trustee serving on July 1, 2016, will continue serving until a second elected certificated staff trustee will take position July 1, 2018; the classified staff trustee serving on July 1, 2016, will continue serving until an elected classified staff trustee will take position July 1, 2019; the annuitant member trustee serving on July 1, 2016, will continue serving until an elected annuitant member trustee will take position July 1, 2020; one business member trustee serving on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2018; and the second business member trustee serving on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2020. The terms of the elected trustees shall be fixed so that one member trustee election shall be held each year. **The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term.** No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies. The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. Each trustee shall be entitled to one vote on the board of

trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a) (9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a) (25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties. Beginning July 1, 2016, the board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

(2) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees. The board of trustees shall consist of the following individuals: (a) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (b) one member of the retirement system who is classified staff elected by the members of the retirement system who are classified staff; (c) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (d) the superintendent of each of the school districts represented in the retirement system or his or her designee to serve as a voting, ex officio trustee; and (e) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies.

The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. Each trustee shall be entitled to one vote on the board of trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a) (9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a) (25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties. The board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

**Source:** Laws 1951, c. 274, § 3, p. 913; Laws 1963, c. 490, § 1, p. 1564; Laws 1979, LB 135, § 1; Laws 1981, LB 204, § 157; Laws 1993, LB 107, § 2; Laws 1995, LB 505, § 2; R.S.Supp.,1995, § 79-1034; Laws 1996, LB 900, § 615; Laws 1998, LB 497, § 9; Laws 2001, LB 711, § 5; Laws 2006, LB 1024, § 61; Laws 2012, LB916, § 24; Laws 2014, LB1042, § 8; Laws 2016, LB447, § 17.