

TITLE 2 PUBLIC FINANCE
CHAPTER 80 PUBLIC EMPLOYEES RETIREMENT
PART 1700 AFFILIATED PUBLIC EMPLOYER ELECTION FOR COVERAGE PLAN AND CHANGE IN COVERAGE PLAN

2.80.1700.1 ISSUING AGENCY: Public Employees Retirement Association, P. O. Box 2123, Santa Fe, New Mexico 87504-2123
[10-15-97; 2.80.1700.1 NMAC - Rn, 2 NMAC 80.1700.1, 12-28-01]

2.80.1700.2 SCOPE: This rule affects the affiliated public employers and their employees, the retirement board and the association under the Public Employees Retirement Act.
[10-15-97; 12-15-99; 2.80.1700.2 NMAC - Rn, 2 NMAC 80.1700.2, 12-28-01]

2.80.1700.3 STATUTORY AUTHORITY: This rule is authorized by NMSA 1978, Sections 10-11-130, 10-11-50, 10-11-55.1, 10-11-74, 10-11-80, 10-11-104, 10-11-110, as amended.
[10-15-97; 2.80.1700.3 NMAC - Rn, 2 NMAC 80.1700.3, 12-28-01]

2.80.1700.4 DURATION: Permanent.
[10-15-97; 2.80.1700.4 NMAC - Rn, 2 NMAC 80.1700.4, 12-28-01]

2.80.1700.5 EFFECTIVE DATE: November 1, 1994 unless a different date is cited at the end of a section.
[10-15-97; 2.80.1700.5 NMAC - Rn, 2 NMAC 80.1700.5, 12-28-01]

2.80.1700.6 OBJECTIVE: The objective of this rule is to establish procedures for affiliated public employers to conduct elections to adopt a new coverage plan or to change coverage plans for their employees.
[10-15-97; 12-15-99; 2.80.1700.6 NMAC - Rn, 2 NMAC 80.1700.6, 12-28-01]

2.80.1700.7 DEFINITIONS: [Reserved]

2.80.1700.8 GENERAL PROVISIONS

A. An affiliated public employer desiring to conduct an election to adopt a new coverage plan or for a change in coverage plan shall adopt and file with the board a resolution so stating. In addition to the resolution, the affiliated public employer shall also file for board approval, a sample ballot and a list of employee election committee members.

B. The resolution shall specify the date of the election, which election shall be held not fewer than thirty (30) nor more than sixty (60) days after the approval by the board of the resolution, except as provided in subsection E below.

C. The affiliated public employer shall give notice of the election to its members in the form prescribed by the association. Actual notice to each member is not required, but the manner in which notice is given shall be reasonably calculated to inform all affected members of the election.

D. Ballots shall be prepared by the affiliated public employer in sufficient quantity for all eligible members to vote and in the form prescribed by the association. Ballots for an election for a new coverage plan or a change in coverage plan shall be separate from the ballots for any other question being voted on by the members.

E. The association may postpone an election for coverage if it determines the affiliated public employer has not substantially complied with the procedures required by this rule and may require that remedial measures be taken, including, but not limited to, requiring that a new notice be given to members, preparing a new ballot or register, and rescheduling the election. The board may rescind an election if it determines the affiliated public employer did not substantially comply with the procedures required by this rule.

F. A register shall be prepared by the affiliated public employer containing names of members entitled to vote in the election. Names shall be manually added to the printed register to include the names of those members desiring to vote who become eligible to vote after printing of the register, provided verification is made by the affiliated public employer of the member's eligibility to vote in the election. An affiliated public employer may cease manually adding names to the printed register twenty-four (24) hours prior to the commencement of voting on election day. Members shall sign their names to the register when issued a ballot. If a member who has voted absentee subsequently ceases to be eligible prior to the date of election, that vote shall be valid.

G. Before issuing a ballot to a member, identification may be required of the member.

H. Voting shall be permitted by absentee ballot. Absentee ballots may be voted by the member and thereafter delivered to the person designated by the affiliated public employer to receive absentee ballots. Absentee ballots shall be made available not later than 5 days prior to the election day. No absentee ballots may be counted unless received at or before 5:00 p.m. on the day prior to the election day. Absentee ballots shall not be opened until voting has ceased on the election day.

I. Voting shall be conducted at a minimum of one voting location continuously throughout a minimum 9 hour period including the hours between 8:00 a.m. and 5:00 p.m., but if all eligible members have voted prior to the posted closing time, the voting shall end at the earlier time.

J. The affiliated public employer shall appoint a committee of employees of the employer to be approved by the board. The committee shall be present at the voting places during the election day and during the process of counting the votes. The chair of the committee shall sign his or her name to the final tally indicating that the tally is, to the best of his or her information, a correctly computed tally. A representative of the affiliated public employer shall be designated by the affiliated public employer as responsible for the election, and he or she shall also so indicate on the tally by signing his or her name.

K. The final tally of votes shall be filed with the association within 72 hours after closing of the election, unless the offices of the association are closed due to weekends or holidays for a period of three consecutive days after the election day, in which case the tally shall be filed on the next business day following the election day.

L. Elections for changes in coverage plan may be conducted for designated employee groups of an affiliated public employer. A designated group may be all members employed by the affiliated public employer, an organizational group whose compensation is established by negotiated contract or all members employed by the affiliated public employer whose compensation is not established by negotiated contract. The resolution required in subsection A shall state the designated employee group.

M. Insignificant departures from the requirements set forth in these regulations pertaining to the conduct of elections shall not invalidate the election provided the results of the election would not have been affected.

N. "First full pay period" for the purpose of adopting a new coverage plan shall mean the first pay period that ends within the month in which the new coverage plan becomes applicable to a member.

O. An election adopting a coverage plan is irrevocable for the purpose of subsequently adopting a coverage plan that would decrease employee or employer contributions with respect to all current and future members of that affiliated employer.

[10-15-97; 11-15-97; 12-15-99; 2.80.1700.8 NMAC - Rn, 2 NMAC 80.1700.8, 12-28-01; A, 9-30-03]

HISTORY of 2.80.1700 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records and Archives under: PERA Rule 1700.0, Municipal Election for Change in Coverage Plan, filed on 10-21-88; PERA Rule 1700, Municipal Election for Change in Coverage Plan, filed on 7-1-93; PERA Rule 1700, Municipal Election for Change in Coverage Plan, filed on 11-1-94.