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FISCAL IMPACT REPORT

SPONSOR <u>Hall/Lundstrom/Hernandez, J.</u>	LAST UPDATED <u>2/10/2025</u>	ORIGINAL DATE <u>2/07/2025</u>
SHORT TITLE <u>State Law Enforcement Instructor PERA</u>	BILL	
	NUMBER	<u>House Bill 299</u>
	ANALYST <u>Hanika-Ortiz</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	*FY26	*FY27	*3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PERA	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	PERA trust fund
DPS (employer contributions)	Indeterminate but minimal	\$3.6	\$3.7	\$7.3	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 173, Telecommunicators as Police in PERA

Sources of Information

LFC Files

Agency Analysis Received From
 Public Employees Retirement Association (PERA)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of House Bill 299

House Bill 299 (HB299) amends the Public Employees Retirement Act (PERA) Section 10-11-2 NMSA 1978 to create a state law enforcement instructor member which is a member who maintains a law enforcement certification and is employed by the New Mexico Law Enforcement Academy (NMLEA) to provide training pursuant to the Law Enforcement Training Act. Members that meet this new definition would be covered under a State Public Safety Member Coverage Plan.

The bill requires PERA to hold an election to allow members in a position covered by the new state law enforcement instructor member definition (currently under State General Member Coverage Plan 3), to elect to join State Public Safety Member Coverage Plan 1. If adopted, the service credit accrued by members after July 1, 2025, would increase by 20 percent. Also, Tier 2 members would be transitioned to a 25-year retirement plan with no enhancements.

The bill includes a temporary provision that on or before June 30, 2025, PERA will hold an election to submit to members the question of adopting State Public Safety Member Coverage 1.

FISCAL IMPLICATIONS

If this bill is signed into law and the instructor members elect coverage, these positions would transition to the State Public Safety Member Coverage Plan 1, as well as to the New Mexico Retiree Health Care Authority's enhanced plan for police, at higher employer contribution rates. The Department of Public Safety (DPS) projects the additional costs at approximately \$3,600 per year, increasing each year with payroll growth, which would be absorbed by the NMLEA's general fund operating budget. To cover costs, DPS may need additional budget authority or a higher general fund appropriation.

As of June 30, 2024, the State Public Safety Member Coverage Plan 1 has a funded ratio of 124 percent. However, contributions, no matter the source, accumulate for the benefit of all PERA members. As of June 30, 2024, the funded status of the entire system was 67 percent. This means the plan is underfunded; projected assets may not be sufficient to cover all benefits promised.

Despite the risks and challenges of increasing benefits only for some members, PERA reports the change would have a negligible impact to the unfunded portion of its long-term liabilities.

SIGNIFICANT ISSUES

DPS noted 7 full-time permanent instructor positions that would be eligible to vote in the election.

Law enforcement instructors currently under State General Member Coverage Plan 3 would transition to State Public Safety Member Coverage Plan 1, if in an election they decide to do so. The State General Member Coverage Plan 3 is structured for state employees who have longer service periods before retirement than public safety employees. Plans geared toward public safety allow an earlier retirement, due to the physically demanding and higher risks of the work.

Of note, different benefit levels between public employees create perceptions of unfairness, leading to decreased morale. Employees in groups with lower benefits often feel undervalued.

PERFORMANCE IMPLICATIONS

PERA noted that HB299 will not impact its performance measures.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to Senate Bill 173 Telecommunicators as Police in PERA which would make telecommunicators eligible to join a public safety plan under PERA for an increased benefit.

TECHNICAL ISSUES

In November 2024, PERA was asked to clarify the status of these instructors, at the request of DPS. It was concluded that under State statute, in addition to the New Mexico Administrative Code, the instructors did not qualify as a "police member," disqualifying them from moving to a public safety plan "Although the position requires a current New Mexico police officer certification, the instructor position is not an officer of the New Mexico State Police as required

by statute.” Further, a member employed as both a police officer and non-police officer employee shall be regarded as a police member only if more than 50 percent of their salary is paid as a police officer with law enforcement duties. Although NMLEA plays a crucial role in training officers, DPS noted, their primary job function does not include being paid 50 percent of salary as a police officer. Therefore, it was concluded these positions were correctly classified.

OTHER SUBSTANTIVE ISSUES

DPS also commented on changes instructors would see regarding contributions, overtime pay, and social security benefits, which are different for public safety plan members. For instance, if instructors are added to the State Police plan, overtime would only be paid after a 40-hour week as opposed to the 84th hour onward in an 80-hour period. In addition, at retirement they would rely solely on their PERA pension, which replaces social security for their years of service.

ALTERNATIVES

DPS suggested amending the PERA plan for “peace officer” which is defined as “any employee of the state with a duty to maintain public order or to make arrests for crimes...and who is not specifically covered by another coverage plan.” Peace officers include conservation officers at the Department of Game and Fish. However, new members are only eligible for TIER 2. PERA may be able to open TIER 1 to the instructors, many of whom have served more than 10 years.

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