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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-23-07  
 LAST UPDATED 3-04-07      HB \_\_\_\_\_

SPONSOR     Martinez    

SHORT TITLE     State Fire Marshal Retirement Plan          SB 1188

ANALYST     Aubel    

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$84.4	\$84.4	\$168.8	Recurring	Fire Protection Fund
<b>Total</b>		\$50.0			Non- Recurring	PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulatory Commission (PRC)

Public Employees Retirement Association (PERA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 1188 proposes to provide state fire marshals with the same benefits as provided under the current State Police and Adult Correctional Officer Member Coverage Plan 1. Specifically, state fire marshal members, if approved by an election of the affected membership, would be eligible for a 20 percent service credit enhancement benefit, a 3 percent pension factor and an 80 percent pension maximum now only available to state police officers and adult correctional officers. "State fire marshal members" are defined as the state fire marshal or a member who is employed in the office of the state fire marshal and whose duties are defined in Chapter 59A, Article 52 NMSA 1978. The state fire marshal member's contributions under the proposed State Police Member, Adult Correctional Officer Member and State Fire Marshal Member Coverage Plan 1 will be 7.6 percent of salary; the employer contributions are 25.1 percent.

### FISCAL IMPLICATIONS

The estimated increase in unfunded liabilities to the PERA fund is calculated at approximately \$435,311. SB 1188 does not provide for an appropriation to pre-fund this unfunded liability that results from the proposed benefit enhancements. Instead, the bill increases the employer

contribution rate, from 16.59 percent to 25.1 percent, which will amortize the liability in less than 30 years.

According to PRC, the employer contribution for fire marshals is distributed from the fire protection fund (FPF). The incremental payment that is generated from the 8.51 percent increase in employer contribution rate is approximately \$84.4 thousand, which will be a recurring operation budget impact to PRC and paid from the FPF. PRC maintains that because revenue from the FPF exceeds over \$50.0 million, there should be little fiscal impact to the fund as a whole.

PERA's operating budget will be negatively impacted by SB 1188, which will require changes to the new pension computer system that PERA is in the process of implementing. Future benefit enhancements amending the PERA Act will likewise result in a change order, with associated costs, to PERA's existing contract with the vendor. Such changes in the past have been up to \$50.0 thousand. If further revisions to the system are necessary in FY08, PERA will be required to seek a BAR to cover the costs of these system changes.

### **SIGNIFICANT ISSUES**

The bill affects approximately 24 FTE who work directly for the fire marshal office or at the fire fighter training academy, who are exposed to potentially hazardous and dangerous situations, chemical agents, and other combustible solids and liquids in the functions of their jobs. PRC maintains this bill would align the fire marshal with those classes of jobs that have a retirement benefits based on job hazard and, therefore, bring equity to the retirement plans.

The primary policy issue is whether state fire marshal members should receive a 20 percent service credit increase in all credited service (past and future).

The employee contribution rate will increase from the current 7.42 percent to the new 7.60 percent, which will produce a minimal increase in salary reduction.

The cumulative effect of multiple benefit enhancements is unknown. However, the combination of enhancing members' prior service credit, providing salary increases in excess of PERA's assumed rate of 4.5 percent per year for existing members of the State Police and Adult Correctional Officer Plan, and any downturn in the near-term future performance of the PERA portfolio could possibly cause a decrease in the funded status of the existing State Police and Correctional Officer plan below 100% and also have a measurable effect on the funded status of the overall PERA system.

### **ADMINISTRATIVE IMPLICATIONS**

PERA will need to print information, administer the election, transfer the related assets and liabilities to the new fund, and update the computer system.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB 280, which creates a 20-year retirement plan for statewide E-911 telecommunicator workers.

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Relates to HB 595, which creates a 20-year retirement plan for statewide district attorney members.

Relates to HB 765, which proposes to add probation and parole officer members to State Police Member and Adult Correctional Officer Member Coverage Plan 1.

Relates to HB 411, which creates a new member coverage plan under the PERA Act allowing a 20-year retirement plan for Law Enforcement Academy Instructor members.

Relates to SB 576, which creates a 20-year retirement plan for statewide district attorney members.

Relates to HB 800, which proposes to add motor transportation officers and special investigator members to State Police Member and Adult Correctional Officer Member Coverage Plan 1.

Relates to HB 1109, which creates a retirement act for public safety volunteers modeled after the volunteer firefighters retirement act.

Relates to HB 1100, which proposes to add juvenile correctional officers to State Police Member and Adult Correctional Officer Member Coverage Plan 1.

Conflicts with SJM 6, which proposes a 2-year moratorium on benefit enhancement legislation affecting the Public Employees Retirement Association

### **TECHNICAL ISSUES**

Page 8, line 20, states that the retirement board shall certify, “a majority of the members voting have voted to approve adoption of that plan at an election.” Line 20 should be corrected to state, “a majority of **eligible** members have voted to approve adoption of that plan.”

### **OTHER SUBSTANTIVE ISSUES**

SB 1188 provides for an 18-month eligibility period for state fire marshal members to first become eligible to retire with enhanced benefits under the plan. PERA maintains that a 36-month mandatory waiting period is appropriate before members are eligible to retire from the plan to allow for payment of contributions at higher levels toward their enhanced benefit prior to retirement. This will lessen the impact of increased liabilities on the new plan that may occur if a number of members immediately retired with enhanced benefits sooner than normally projected.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The State fire marshals will continue to be covered by State General Plan 3. State fire marshals are eligible to retire at any age with 25 or more years of service credit. They receive a 3 percent pension factor for every year they earn service credit and are capped at 80 percent of their final average salary. For State General Plan 2, state fire marshal members pay 7.42 percent of their salary in contributions and their employer pays 16.59 percent of salary in contributions.

**AMENDMENTS**

Page 9, line 4 before the word “payment” insert “normal or disability retirement or payment of normal or disability retirement benefits”.

MA/csd