

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

SPONSOR SFC ORIGINAL DATE 03/05/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Certain Overtime Pay as Salary in PERA SB 90/SFCS  
ANALYST Jorgensen

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	\$2,093.1	\$2,093.1	Recurring	PERA
	(\$32,400.0)		Nonrecurring	PERA

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

The Senate Finance Committee substitute for Senate Bill 90 (SB90/SFCS) includes overtime pay required for a regular scheduled tour of duty for fire protection or law enforcement activities in the definition of “salary” for purposes of calculating pensions under the Public Employees Retirement Act. SB90/SFCS would affect employees subject to overtime exemption set forth in Section 207(k) of the U.S. Fair Labor Standards Act, specifically municipal fire members and municipal police members.

Additionally, SB90/SFCS will increase the member contribution to the retirement fund by 1.5 percent in fiscal year 2022.

The effective date of the bill is July 1, 2021.

### FISCAL IMPLICATIONS

SB90/SFCS will increase employee contributions by 1.5 percent in FY22. Based on the FY20 payroll of \$139.5 million reported in FY20 comprehensive annual financial report (CAFR), the 1.5 percent increase will raise an additional \$2.1 annually. Additionally, PERA actuaries estimated the provisions of SB90/SFCS would increase municipal fire plan liabilities by \$32.4 million.

PERA actuaries estimate the 1.5 percent increase will be sufficient to pay for any additional liabilities but will not improve the funded ratio of the plan. The PERA analysis is based on an investment return assumption of 7.25 percent.

**SIGNIFICANT ISSUES**

The PERA retirement plan is composed of five individual pension plans: state general, state police and corrections, municipal general, municipal police, and municipal fire. According to data contained in PERA’s comprehensive annual financial report (CAFR), the municipal fire plan pays the highest monthly benefit and has the second lowest retirement age of the five plans included under PERA. Additionally, the municipal fire plan has the second lowest funded ratio of all PERA plans:

**Comparison of PERA Retirement Plans**  
(based on 2020 CAFR)

<b>Plan</b>	<b>Total Retirees</b>	<b>Average Monthly Benefit</b>	<b>Avg. Age at Retirement</b>	<b>Plan Funded Ratio</b>
State General	16,518	\$2,118	57.7	59.9%
State Police/Corrections	1,234	\$2,467	51.2	127.2%
Municipal General	11,463	\$2,013	58.2	76.7%
Municipal Police	3,045	\$2,994	47.8	74.9%
<b>Municipal Fire</b>	<b>1,644</b>	<b>\$3,089</b>	<b>47.9</b>	<b>60.0%</b>

On average, municipal fire members retire just under 10 years before state employees and receive a benefit 46 percent richer. Municipal fire members retire three years earlier than state police members and receive a benefit 25 percent greater, with a funded ratio of less than half of the state police plan.

Most municipal firefighters are in coverage plans 4 and 5, the contributions for which are shown in the table below:

**Current Municipal Fire Contribution Rates**  
(from FY20 CAFR)

	<b>Employee</b>	<b>Employer</b>	<b>Total</b>
Plan 4	14.30%	21.65%	35.95%
Plan 5	17.70%	21.65%	39.35%

**OTHER SUBSTANTIVE ISSUES**

Affected members and their employers would pay higher contributions to the pension plan. However, the amount of the increased contributions is not known. PERA estimates, for the average firefighter, six hours of regularly scheduled overtime is excluded for each payroll period of 14 days.

While members of the Municipal Police Division and certain correctional officers are also eligible under the provisions of SB90, because of shift structure differences, the accumulation of qualified

Fair Labor Standards Act hours will likely be minimal and not add measurably to the liabilities of the Municipal Police Division. For example, most municipal police officers work four 10-hour shifts per week and only work overtime on an ad hoc or voluntary basis.

CJ/rl