LFC Requester:	Anne Hanika-Ortiz

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment** ____
Correction ___ **Substitute** ____

Date 1/26/24
Bill No: SJR5

Sponsor: Roberto "Bobby" J. Gonzalas

Short Title: Public Employees Retiree Health Care Fund, CA

Agency Name and Code Number: New Mexico Retiree Health Care Authority 34300

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SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	Non-reoccurring	RHCA Trust

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

An Amendment to Article 20 of the New Mexico Constitution, adding a new section to prohibit the expenditure or encumbrance of the trust fund created for public employees retiree health care for any purpose other than the sole and exclusive benefit of the public employees retiree health care trust fund beneficiaries. Providing for the administration of the trust funds and affirming certain property rights as a protection to the trust fund.

FISCAL IMPLICATIONS

The RHCA Trust Fund is currently valued at about $1.34 billion as of December 2023. Nothing currently in the NM Constitution protects the RHCA fund from alternate uses by the NM legislature.

SIGNIFICANT ISSUES

If the $1.34 billion in NMRHCA's Trust Fund is accessed for alternate uses other than retiree health care beneficiaries, the retirees who have contributed to this trust fund for over more than 30 years would need to be compensated. Moreover, employees have certain expectations that when employed by a participating entity in the retiree health care program that a retiree benefit will be available to them at and during retirement. In addition, it is a condition of employment that each participating employee with an employer who chooses to become a participating employer after January 1, 1998, contribute to the program. These benefit contributions are not only made by the employee, but the employer as a form of compensation for a later benefit. Dissolving or use of this fund in any other manner than specified would reduce or possibly eliminate the health care benefits for retirees from which this program was created. As per the Retiree Healthcare Act was to provide comprehensive core group health insurance for persons who have retired from certain public service in New Mexico. The purpose was to provide eligible retirees, their spouses, and dependents with health insurance consisting of benefits that could be purchased by funds flowing into the retiree health care fund. Retirees and active employees would most likely file protracted litigation against the state to preserve the benefit. Despite the substantial fund balance referenced above, it is insufficient for the purpose of reimbursing employees on an individual basis.

PERFORMANCE IMPLICATIONS

Senate Joint Resolution 5 protects the trust fund which is an asset to the program and used in calculating GASB for Other Post Employment Benefits. Although not enumerated in the state's constitution, the benefits and future obligations are considered equivalent, hence the reporting requirements.

Governmental Accounting Standards (GAS)

The Retiree Health Care Act was created in 1990 for the purpose of providing comprehensive core group health insurance for persons who retire from public service. The program was not established with a material pre-funding period and began paying benefits on behalf of 15,000 members six months after the agency was created. Therefore, the program was established as a "pay as you go" program. Statements however, the accounting standards for "other-post employment benefits" (OPEB) changed under Governmental Accounting Standards (GAS) Statement 43 and 45, requiring NMRHCA to begin reporting the extent to which the program was pre-funded and reported as a footnote on NMRHCA's financial statements, and referred to by contributing employer groups as part of their financial statements. In 2006, the GASB 43 report estimated the actuarial accrued liabilities to total $4.2 billion, supported by $154 million in assets, resulting in a 3.62% funded ratio for the 140,000 retired and active members contributing to the program. The most recent report for GASB 75 estimated the actuarial accrued liability of $3 billion, supported by $1.3 billion in assets, resulting in a new funded ration of 44%.

Please see the chart below for a history of NMRHCA's GASB valuations between 2006, 2017, and 2023:

	2006	2017*	2023
GASB Statement	43	74	74
Actuarial Accrued Liability	$ 4,264,180,967	$ 5,111,141,659	$ 3,049,662,302
Actuarial Value of Assets	$ 154,538,668	$ 579,468,641	$ 1,346,726,647
Unfunded Actuarial Accrued Liability	$ 4,109,642,299	$ 4,531,673,018	$ 1,702,935,655
Funded Ratio	3.62%	11.34%	44.16%
Covered Payroll	$ 4,073,731,873	$ 4,165,647,340	$ 4,952,012,764
Total Participants	140,292	160,035	159,125

*Beginning 2017:

Actuarial Accrued Liability = Total OPEB Liability
Actuarial Value of Assets = Plan Fiduciary Net Position
Unfunded Actuarial Accrued Liability = Net OPEB Liability

In 2017, the accounting standards continued to evolve as reflected in GASB Statement 74, which replaced GASB Statement 43 and GASB Statement 75. GASB 74 effectively reduced the discount rate applied to the growth in the program's long-term assets, while GASB 75 now requires employer groups to include their pro-rated portion of the program's net OPEB liabilities on the balance sheet of their financial statements. As of June 30, 2022, for example, the Net OPEB Liabilities reported for several of the state's largest employer groups were as follows:

State of New Mexico (all state agencies)	$552,044,291
Albuquerque Public Schools	$264,483,025
Bernalillo County	$ 65,304,075
City of Albuquerque	$157,585,078
Las Cruces School Districts	$ 75,183,848

Which is an improvement from 2018 reported Net Liabilities for the same employer groups as shown below:

State of New Mexico (all state agencies)	$1,049,290,625
Albuquerque Public Schools	$ 480,522,776
Bernalillo County	$ 125,875,740
City of Albuquerque	$ 305,426,268
Las Cruces School Districts	$ 133,203,588

Any addition of these liabilities to the financial statements of the 303 participating employer groups may impact their future bonding capacity similar to the pension plan liabilities.

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES
The other commonly referred to measurement of the program's financial wellbeing is the solvency study conducted on an annual basis. This study compares projected revenues and expenditures over a 30-year period and includes assumptions with regard to growth in participation, payroll, operational costs, medical trend, investment earnings and Medicare Part D reimbursements. Since 2010, NMRHCA has contributed over $500 million to its long-term trust fund, boosting its projected solvency period beyond 2054. However, it is projected that NMRHCA would go into a deficit from July 2032 until July 2040 which during that point, projected expenditures will exceed projected revenues and trust fund balances available to support the operations of the program would require use of the trust fund.

ALTERNATIVES
Statutory protections are an alternative but not as strong as a Constitutional Amendment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
The New Mexico Retiree Health Care fund would not be protected by the New Mexico Constitution and if utilized for alternative uses, then NMRHCA would have to consider more aggressive reductions to the value of the benefits currently provided; combined with a significant increase in charges assessed to retirees in the form of their monthly premiums, and other restrictions to plan participation or increase in employee and employer payroll deductions.

AMENDMENTS
None