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FISCAL IMPACT REPORT

SPONSOR <u>Figueroa</u>	LAST UPDATED <u>2/9/2025</u>	ORIGINAL DATE <u>1/29/2025</u>
SHORT TITLE <u>Educational Retirement Changes</u>	BILL NUMBER <u>Senate Bill 75/aSEC</u>	ANALYST <u>Simon</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
ERB	No fiscal impact	No fiscal impact	No fiscal impact			

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

Sources of Information

LFC Files

Agency Analysis Received From
 Educational Retirement Board (ERB)
 Public Employees Retirement Association (PERA)
 State Ethics Commission (SEC)

SUMMARY

Synopsis of SEC Amendment to Senate Bill 75

The Senate Education Committee amendment to Senate Bill 75 removes proposed changes to ERB-specific gift restrictions and align ERB’s gift restrictions with those outlined in the Gift Act.

Synopsis of Original Senate Bill 75

Senate Bill 75 (SB75) makes several clarifying changes to the Educational Retirement Act that align with current practices used by the Educational Retirement Board (ERB), including:

- Expanding gifts that may be accepted by ERB employees or board members from contractors or potential contractors;
- Allowing “unclaimed member contributions” be deposited in the educational retirement fund;
- Defining how ERB must calculate “contributory employment” to determine if a member has become eligible for ERB benefits;
- Clarifying that a retiree receiving a disability benefit continues to receive the annual cost-of-living adjustment for retirees on disability benefits after they turn 60; and
- Removing a requirement that purchases of service credit must be in a lump sum payment and expanding the time for which a member has to make payment for service credit.

Additionally, the bill would allow ERB to share member information with the Public Employees Retirement Association (PERA) for the purpose of implementing the Public Employees Retirement Reciprocity Act. ERB is currently prohibited from sharing information with PERA to properly implement this act.

This bill was endorsed by the interim legislative Investments and Pensions Oversight Committee.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

ERB does not anticipate a fiscal impact from SB75 as amended.

SIGNIFICANT ISSUES

Gift Exemption

Current text of the Educational Retirement Act allows ERB employees and board members to accept “gifts of food or beverage given in a place of public accommodation at the time of receipt not exceeding fifty dollars for a single gift...,” but prohibits other gifts from contractors. State law generally provides restrictions on gifts included in the Gift Act (10-16B-1 NMSA 1978). The bill would remove this ERB-specific restrictions and align with the current restrictions included in the Gift Act.

Analysis from SEC notes the Senate Education amendment remedied the commission’s concerns regarding a conflict between the proposed change and the Gift Act. The commission notes ERB members and employees are subject to the limits in the Gift Act, which has a limit of \$250 with an aggregate limit of \$1,000 per year.

Unclaimed Member Contributions

SB75 as amended would provide that “unclaimed member contributions” would be deposited in the educational retirement fund. Current law provides that all “contributions from members” are to be deposited in the fund. The Educational Retirement Act does not currently define “unclaimed member contributions” and how those contributions differ from “contributions from members.”

Analysis from the Legislative Education Study Committee notes “unclaimed member contributions” are associated with member accounts that have been labeled “inactive” because ERB has been unable to locate and make payments to a member after federal tax rules require the member begin receiving payments from the fund. After an account has been labeled inactive, the member’s accounts stops accruing additional interest, although the member or the member’s beneficiary may still claim the balance of contributions and interest accrued prior to being placed on inactive status. At an interim meeting of the Investment and Pensions Oversight Committee, ERB presented a bill to clarify the process for “unclaimed member contributions,” which could provide additional information on “unclaimed member contributions,” but as of the date of this analysis, that legislation has not been introduced.

Calculation of Service Credit

SB75 as amended would clarify that a member must make contributions through the last business day of a month of the 60th month of employment to become eligible for ERB benefits. For members on a contract, they must make contributions through the last business day of the year. According to ERB, this change would not alter any current practice at ERB.

Purchase of Service Credit

Current law allows a member with certain other kinds of previous employment, such as military service or work at a public school in another state, to purchase service credit from ERB. The bill would repeal a provision that requires members purchasing service credit for military service to make payment in a lump sum and extend the amount of time that may pass before payment is received from 60 to 90 days. While the bill would not explicitly require ERB to accept payments in installments, it would allow ERB flexibility to determine how to accept the required payment for service credits.

Disability Cost-of-Living Adjustments

To ensure the ongoing solvency of ERB's trust fund, legislation enacted in 2013 provided for a reduction in most ERB member's cost-of-living adjustments until the plan is fully funded. However, that law provided a higher cost-of-living adjustment for members retired on disability status. The bill clarifies a member on disability status continues to receive the higher cost-of-living adjustment after turning 60. ERB notes this aligns with current procedures and does not have a fiscal impact.

Reciprocity Information Sharing

The Public Employees Retirement Reciprocity Act is designed to allow public employees with service in both of the state's retirement systems to receive the benefits to which they are entitled. To properly implement the act, both PERA and ERB report the need to share necessary information, which is currently not possible because of restrictions on disclosure of member information. The bill would provide an exception to ERB's disclosure prohibitions for PERA, but only for the purposes of administering the reciprocity act.