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FISCAL IMPACT REPORT

SPONSOR <u>Wirth</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/20/2025</u>
SHORT TITLE <u>Return To Work For Lifeguards</u>	BILL NUMBER <u>Senate Bill 165</u>
	ANALYST <u>Hanika-Ortiz</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Cities and Counties		Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	City and County General Funds

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

Relates to House Bill 336 and Senate Bills 251 and 292

Sources of Information

LFC Files

Agency Analysis Received From
 Public Employees Retirement Association

SUMMARY

Synopsis of Senate Bill 165

Senate Bill 165 (SB165) amends Section 10-11-8, NMSA 1978 as it relates to subsequent employment after retirement by an affiliated public employer with the Public Employees Retirement Association (PERA). The bill adds a “certified lifeguard” to the list of other public safety positions a retired member may return to, provided the retiree has not been employed or worked as an independent contractor for the employer from which they retired, for 90 days.

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

Because the statute requires these members to make non-refundable contributions while reemployed, PERA reports it may have a small positive impact to the funding ratio of the Municipal General fund. For the year ending June 30, 2024, the Municipal General fund was 73 percent funded. PERA noted the agency is currently undergoing an actuarial analysis. Once received, this FIR may be updated.

In general, some return-to-work programs may prompt employees to retire earlier than they otherwise would, reducing contributions to trust funds and increasing payouts from those funds. However, retirees eligible under this exception would be limited to members who retired before December 31, 2023, and become reemployed before July 1, 2027, making it impossible for a person to plan an early retirement with return-to-work income. Additionally, PERA limits the amount of time a person may return to work while receiving their pension to 36 months.

Article XX, Section 22 of the New Mexico constitution prohibits the Legislature from enacting any law that increases the benefits paid by PERA unless adequate funding is provided. While the bill could be seen as increasing benefits, the bill also includes additional revenue to the PERA fund in the form of mandatory, nonrefundable contributions from both the employee and employer.

SIGNIFICANT ISSUES

SB165 would allow members retired under a PERA plan to return to work as a certified lifeguard with another PERA-affiliated employer, without suspension of their retirement benefits.

While lifeguards may not be law enforcement officers or firefighters, their role in preventing injuries and saving lives would arguably place them within the category of public safety. Other positions covered by this return-to-work law include positions in corrections, detention, security, and emergency response, in addition to municipal and state police officers and firefighters.

During the reemployment period, the retiree would not accrue service credit, have no seniority with their previous employer, and could not be hired if the vacancy rate is below 10 percent.

ADMINISTRATIVE IMPLICATIONS

Lifeguards are typically hired by local governments, such as city or county parks and recreation departments. Responsibility to ensure lifeguards are properly certified and trained falls to those local jurisdictions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB165 relates to several bills that also amend current return-to-work (RTW) programs at PERA, including:

Senate Bill 292, adding RTW positions for the Children, Youth and Families Department;

House Bill 336, allowing RTW for positions with a duty to maintain public order; and

Senate Bill 251, which effectively duplicates House Bill 336.

OTHER SUBSTANTIVE ISSUES

News outlets have suggested that local governments have been struggling to find enough lifeguards since the pandemic disrupted lifeguard training and certification. Some cities are offering bonuses, paying higher wages, and providing free certification classes to encourage more applicants.