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## FISCAL IMPACT REPORT

SPONSOR Borrego LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 3/6/2025  
BILL  
SHORT TITLE Public Employee Pension Changes NUMBER House Bill 416  
ANALYST Simon

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

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

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 75

### Sources of Information

LFC Files

#### Agency Analysis Received From

Public Employees Retirement Association (PERA)

Educational Retirement Board (ERB)

## SUMMARY

### Synopsis of House Bill 416

House Bill 416 (HB416) includes small technical and clarifying amendments for the Public Employees Retirement Association (PERA), including changes to how members may purchase additional service credit, how overpayments are collected from members, how PERA selects physicians to review a member's disability claim, how PERA pays beneficiaries if a member dies before entering retirement, and how PERA must calculate the pension benefit for a member of the Public Regulation Commission. The bill also removes the current cap of \$15 thousand in outside employment earnings for those on a disability retirement and removes a PERA-specific restriction on gifts to align PERA's rules with the provisions of the Gift Act.

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

PERA does not report a fiscal impact from HB416.

## SIGNIFICANT ISSUES

House Bill 416 makes numerous, unrelated changes to the Public Employees Retirement Act. Items in this bill were identified for clarification or technical cleanup by PERA staff.

**Purchase of Service Credit.** Section 1 of the bill changes how PERA may collect payment from members who are eligible to purchase service credit. Currently, the law requires payments be received in a single lump sum payment. The bill would remove this requirement and allow payments to be made in accordance with procedures established by PERA.

**Collection of Overpayments.** Section 2 of the bill would exempt services related to the collection of overpayments from the Procurement Code. PERA staff indicate this is typically handled with PERA staff, but the addition of this provision would allow PERA to procure services in the future without the need to follow the Procurement Code.

Since 2016, the LFC has issued three Program Evaluation Unit reports noting the hazards of noncompetitive procurement processes. In an ideal world, all the goods and services that New Mexico government entities buy with taxpayer dollars would be competitively sourced; however, as highlighted by LFC evaluations, overuse of Procurement Code exemptions and other loopholes have often led to state overspending for purchases ranging from everyday acquisitions of laptops and cars to noncompetitively sourced contracts worth hundreds of millions of dollars. Any continued widening of these exemptions and additions of noncompetitive procurement processes would only increase opportunities for waste, fraud, and abuse to streamline and speed up bureaucratic processes.

In analysis of other bills creating exemptions from the Procurement Code, the Ethics Commission has noted exemptions not only remove requirements to conduct procurements under a sealed, competitive bidding process, but also removes basic disclosure, anti-corruption and conflict-of-interest requirements. The commission states:

Sections 13-1-190 through 13-1-199 [of the Procurement Code] prohibit bribes and kickbacks, require disclosure of campaign contributions, prohibit contemporaneous employment with both the government and contracting party, and prohibit the use of confidential information for private gain. There is no sound policy reason why these basic disclosure, anti-corruption and conflict-of-interest provisions should not apply to an ever-expanding set of unrelated procurements and contracts through perennial additions [exemptions under the Procurement Code]. As the Legislature exempts more and more government procurement from procurement law, [exemptions] perhaps should be amended to read that the “provisions of Section 13-1-102 [the Procurement Code] shall not apply to: . . .” That amendment would exempt the categories of procurement from the requirement of a competitive, sealed process, while leaving the anti-corruption and disclosure provisions of the Procurement Code applicable to that same set of government purchases and contracts.

**Disability Retirement (Physician Selection and Earnings Cap).** Section 3 of the bill removes a requirement that the physician on PERA’s disability review committee be licensed in New Mexico, replacing that requirement with a preference for New Mexico licensure. The removal of this requirement may make it easier for PERA to contract with physicians for disability review. Further, the bill would remove a \$15 thousand cap on earning PERA’s

disability retirees, replacing the cap with the amount under social security. According to the federal Social Security Administration, that cap for 2025 is \$1,620 a month for people who are not blind, or \$19,440 per year (the Social Security cap crossed the \$15 thousand threshold in 2020). PERA does not report a fiscal impact from the change, likely because few disability retirees would choose to forgo a retirement benefit for other employment paying less than \$20 thousand per year. However, this change could allow current disability retirees to earn slightly more than they are currently allowed to earn while maintaining their benefit.

**Death Benefits.** Section 4 of the bill deals with provisions of PERA’s death benefit, which offers payments to families of PERA members who die from causes related to the performance of a PERA member’s job duties. This program pays a benefit to surviving children until they turn 18 and to surviving spouses or beneficiaries if they were not married. According to PERA staff, payouts from this program are relatively rare. According to PERA staff, the proposed changes would correct an internal inconsistency in the statute and align with current PERA practice. Therefore, the proposed changes would not have a fiscal impact on the fund.

**Disclosure of Information.** Section 6 of the bill restructures a section of law prohibiting the release of PERA members’ information, except in certain circumstances. Both current law and the proposed restructured language allow for the disclosure of “applicable coverage plans, amounts of retirement plan contributions made by members and affiliated public employers and aggregate pension amounts paid, and the names and addresses of members or retirees if the request is solely for the purpose of a PERA board election. (See struck out language beginning on page 27, line 23 through page 28, line 3, and newly inserted language on page 28, line 16 through 21). The bill would add a new exception for information disclosure to allow member information disclosure to the Educational Retirement Board (ERB) for the purposes of administering the Public Employee Reciprocity Act, which includes protections for public employees with service in both PERA and ERB to prevent the loss of retirement benefits if a person moves between public employers. Analysis from both PERA and ERB indicate this exception is critical to the proper administration of those benefits. Similar legislation covering ERB’s disclosure of information has also been introduced.

**Gift Prohibitions.** Section 7 of the bill would eliminate a rule exclusive to PERA on the receipt of gifts from certain contractors or organizations doing business with PERA. Current law limits these gifts to only food and beverage valued at less than \$50 and consumed at the time of receipt in a place of public accommodation. The bill would strike this specific rule and align the restrictions for PERA employees and board members with the restrictions placed on other state employees and officials more generally as outlined in the Gift Act. The bill includes a reference noting board members and employees must follow the Gift Act, which is arguably unnecessary because the provisions of that act make clear PERA board members and employees are already covered.

**PRC Retirement (Technical Correction).** Section 5 of the bill deals with an omission in current law around the calculation of retirement benefits for members of the Public Regulation Commission (PRC). Subsection A of Section 10-11-26.2 NMSA 1978 includes four paragraphs. Paragraphs 1 and 3 deal with peace officers, who receive an enhanced retirement benefit. Paragraph 2 covers other state employees. Paragraph 4, which became effective January 1, 2023, covers PRC commissioners. Section 10-11-26.3 directs PERA on how to calculate retirement benefits by those covered in paragraphs 1 through 3, but the law creating the new paragraph for PRC commissioners did not amend the calculation section to add a reference to Paragraph 4. The

bill would correct this oversight.

**Federal Court Action.** Section 8 of the bill makes clear that PERA benefits are subject to federal levy and the board can comply with federal law or federal court orders.

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

Similar provisions for the Educational Retirement Board in the areas of disclosure of information to administer the Public Employee Reciprocity Act and aligning gift restrictions with the Gift Act are also included in Senate Bill 75, as amended.

Provisions related to exemptions from the Procurement Code relate to Senate Bill 206, which creates several exemptions to the Procurement Code.

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