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## FISCAL IMPACT REPORT



SPONSOR: Adair DATE TYPED: 02/07/02 HB \_\_\_\_\_

SHORT TITLE: Prohibit Legislative Retirement Benefits, CA SB SJR 18

ANALYST: Burch

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |         | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------|----------------------|---------------|
| FY02                    | FY03 | FY02                        | FY03    |                      |               |
|                         |      |                             | 30.0    | Nonrecurring         | General Fund  |
|                         |      |                             | (226.0) | Recurring**          | General Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

\*\* Also, please see "Fiscal Implications" section of this report.

Relates to Appropriation in The General Appropriation Act for the legislative retirement program.

Duplicates House Joint Resolution 18

### SOURCES OF INFORMATION

LFC files  
 Attorney General  
 Public Employees Retirement Association

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 18 proposes to amend Article 4, Section 10 of the New Mexico Constitution to prohibit legislators from receiving legislative retirement benefits.

#### Significant Issues

Since 1953, legislators have been eligible for retirement benefits under the state legislative member coverage plan. In 1994, the attorney general challenged the constitutionality of the plan. In 1995, the New Mexico Supreme Court ruled the retirement plan constitutional. Sections 10-11-30 through 10-11-43 NMSA 1978 provide for the legislative retirement benefits.

## **FISCAL IMPLICATIONS**

The current contribution required from the general fund for legislative retirement is \$226.0. If passed, the state would save money by disallowing future retirement benefits to legislators; however, legislators who are already participating in the legislative retirement plan may be able to claim a property interest in those benefits. The fiscal impact to either terminate the plan or close out the plan to new members could not be determined until the Public Employees Retirement Association (PERA) could have an actuarial study done to determine how much would need to be appropriated to fund existing liabilities under the plan or cash out its existing liabilities. Also, PERA would be required to refund contributions to members who have not yet vested, but have remitted contributions to years of credited service.

If passed, this question would appear on the ballot in the November 2002 general election. The Secretary of State reports it costs \$30.0 to place an item on the ballot for advertising and printing. Included in the cost is: (1) the publishing of constitutional amendments in English and Spanish for four consecutive weeks in one newspaper in each county of the state; (2) the oral translation and radio broadcast into the Native American languages of Tewa, Tiwa, Towa, Keres, Zuni, Mescalero Apache, Jicarilla Apache and Navajo; and (3) the printing of amendments booklets in English and Spanish (including Spanish language translation cost) and distribution to all county clerks (100,000 booklets were printed for 2000 general election). Therefore, there would be a nonrecurring cost to the general fund of \$30.0 in FY03. This legislation does not include an appropriation needed to fund these costs.

## **OTHER SUBSTANTIVE ISSUES**

Article 20, Section 22(D) of the New Mexico Constitution provided that upon meeting the minimum service requirement of an applicable retirement plan created by law for employees of the state or any of its political subdivisions or institutions, a member of a plan shall acquire a vested property right with due process protections of the New Mexico and United State constitutions.

**DKB/njw**