F I S C A L I M P A C T R E P O R T

SPONSOR Beffort **DATE TYPED** 1/23/04 **HB**

SHORT TITLE Public Employee Retirement System Soundness **SB** 80

ANALYST Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
		Indeterminate – See Narrative			

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Employees Retirement Association (PERA)

No Response From:
Educational Retirement Association (ERA)

SUMMARY

Synopsis of Bill

Senate Bill 80 requires state retirement systems, in the event of improper plan actuarial funding, to present plans to the legislature which ensure that plan actuarial liabilities do not exceed funding levels. Methods for obtaining actuarial soundness include reducing plan benefits and/or increasing contribution rates. If contribution rates are increased, both employer and employees must share equally in such increases.

Significant Issues

This bill does not specify accounting or actuarial standards which delineate unacceptable unfunded actuarial liabilities: such decisions are left to the governing boards of state retirement systems. The bill also does not specify whether associated benefit reductions would apply to all current plan members or just non-vested members.

FISCAL IMPLICATIONS

This bill may impact the general fund or other state funds in the event retirement plan liabilities exceed their funding levels and retirement systems subsequently seek employer contribution increases. Since Senate Bill 80 mandates splitting rate increases between employers and employees, it appears to prevent employees from paying the entire contribution increase.

TECHNICAL ISSUES

According to the Public Employees Retirement Association (PERA), any proposed reduction of benefits paid to public employees must be prospective in nature and could not reduce vested benefits due to current members of a retirement plan. Upon meeting minimum service requirements of an applicable retirement plan, a member of the plan acquires a vested property right with due process protections under the New Mexico and United States constitutions (see N.M. Const. Art. XX, Sec. 22). Therefore, the provision that provides for the reduction of any vested benefits paid under a retirement plan is unconstitutional.

OTHER SUBSTANTIVE ISSUES

PERA states that an actuarial valuation is based upon financial and member data, assumptions regarding investment rates of return and inflation, and rates of retirement. The PERA Board is constitutionally authorized to have the sole and exclusive power and authority to adopt actuarial assumptions for its system based upon the recommendations made by the actuary with whom it contracts. N.M. Const. Art. XX, Sec. 22. PERA's actuarial assumptions were adopted pursuant to an experience study for the four-year period ending June 30, 2001. Currently, PERA has a 30-year objective for financing its unfunded accrued liability. This assumption and the other methods utilized in PERA's actuarial valuation meet the parameters established by the Governmental Accounting Standards Board (GASB) Statement No. 25. Because PERA current practices are specific, enactment of the proposed legislation provides no further requirement on the Board to ensure the PERA Board's fiduciary duty to meet its present and future financial promises to its members and retirees.

RLG/yr