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

SPONSOR Campos **DATE TYPED** 2/16/2004 **HB**

SHORT TITLE Educational Retirees Returning To Work **SB** 406/aSEC

ANALYST Garcia

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
(Minimal)	(Minimal to Significant)	(Significant)	Recurring	ERA Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Educational Retirement Board (ERB)
Commission on Higher Education

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee Amendment to SB 406 adds the following language to university faculty retirement. On page 2, line 12, the amendment adds that a university faculty may begin retirement and return-to-work immediately provided: (1) "the retired member is permitted by federal law to return to employment without a break in service;" (2) "the retired member receives no salary from the general fund appropriation….if the retired member receives a salary from the general fund appropriation to that institution following the date of retirement, the retired member shall remove himself from retirement;" (3) "the institution of higher education certifies to the board that the retired member is directly responsible for grants or awards to the institution in a total amount of one hundred thousand dollars ($100,000) or more annually; (4) "if the board (Educational Retirement Board) determines that there is an actuarially adverse impact caused by the operation of this paragraph, the institution of higher learning shall pay into the fund the amount per retired member as determined by the board to offset the actuarially adverse impact."

Fiscal Implications

If the Educational Retirement Board, through an actuarial analysis, deems the impact of this bill to be adverse to the pension fund, the SEC amendment requires the university to pay for the full cost. This may alleviate the minimal to significant fiscal implications of the immediate "double-dip" provision for certain university faculty members who are compensated from non-general fund dollars. However, the amendments do not eliminate the incentive of other similar educational employees to seek the same provisions. This incentive is what likely will cause the largest impact to the fund into the future. Also, the provisions create inequities in benefits among similar educational employee groups.

Synopsis of Original Bill

The bill allows faculty members at the state's 8 universities and colleges listed in Article 10 Section 11 of the New Mexico Constitution to have a specialized return-to-work program. The bill allows faculty members who are compensated from non-general fund dollars to retire and return-to-work immediately. Furthermore, the bill does not allow faculty members who are compensated by general fund appropriations to take advantage of the new provision.

Significant Issues

1) The current return-to-work program for educational retirees requires a one-year layout period. This bill would eliminate this requirement for a select membership.

2) Allowing faculty members who receive their salaries from non-general fund dollars to "double-dip" in a more convenient way will likely result in a greater cost or liability to the ERA Fund. Allowing return-to-work to be more accessible will induce early retirements and the retirees will receive benefits over a longer than expected period.

3) The bill would create a precedent for other education institutions or member groups to petition for a reduction in the layout period for retirees to return-to-work, which can potentially create a greater significant cost to the ERA Fund.

4) According to ERB, other members, such as public school teachers who are compensated through federal funds, are likely to seek similar provisions. Consequently, ERB is in opposition to the bill.

5) This provision may be in conflict with IRS regulations. Current regulations require a minimum of a 90-day waiting period to return-to-work.

FISCAL IMPLICATIONS

Creating an incentive for members to retire early, or earlier then expected, in actuarial studies will create short and long term costs to the fund. Benefits paid out to early retirees creates a liability that is not accounted for in actuarial studies and will likely result in an increase in the fund's total liabilities. The exact cost would require an actuarial opinion. However, because of the amount of faculty members who are non-general fund compensated, and would take advantage of the loop-hole are minimal, the fiscal impact would likely be minimal in the short-term.This may possibly move to a significant cost in the future as more eligible members take advantage of the change.

OTHER SUBSTANTIVE ISSUES

According to the Educational Retirement Board's June 30, 2003 actuarial report, the fund has an unfunded actuarial accrued liability (UAAL) of $1.7 billion. The funding period of the fund (the amount of time it takes to fully fund its liabilities) has risen to 78 years. The Governmental Accounting Standards Board (GASB) sets a standard for public pension funds at 30 years. The actuaries estimate to get the fund back to 30 years would cost in excess of $100 million recurring.

Any benefit enhancements for ERA members without adequate compensation will further erode and exacerbate the ERA Fund's funding status.

DG/dm