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FISCAL IMPACT REPORT

SPONSOR Sandoval DATE TYPED 02/28/05 HB 1067

SHORT TITLE Seasonal Employee Service Credit Purchase SB _____

ANALYST Geisler

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
		Minimal	Recurring	Public Employees Retirement Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 1067 amends the Public Employees Retirement Act to allow a PERA member who was employed by the legislative branch during a regular session of the legislature and who did not acquire service credit because he or she was designated as a seasonal employee to purchase the service credit associated with legislative period of employment.

Significant Issues

PERA has identified a number of policy issues with House Bill 1067:

- 1) Unequal treatment of seasonal employees.

HB 1067 provides for the purchase of service credit for a narrowly defined group of PERA members formally designated by their employer as excluded from membership. This conflicts with the general concept of a defined benefit plan that similarly situated members should earn and receive similar benefits. PERA members who were designated as “seasonal” employees in other capacities are not eligible to purchase service credit for such periods of excluded employment.

2) Service credit purchase provision conflicts with current statute.

HB 1067 as written would allow a PERA member to accrue more than one month of service credit for service in a calendar month contrary to NMSA 1978, Section 10-11-4 (A). Specifically, HB 1067 would allow a member to purchase 3 months of service credit for a 60-day session and 2 months of service credit for a 30-day session. This is contrary to how service credit is calculated pursuant to the PERA Act by providing for a "block" of service credit for a time period rather than calculating service credit on reported wages.

FISCAL IMPLICATIONS

As HB 1067 requires the member to pay the purchase cost for the service credit it will probably have a minimal fiscal impact and is properly funded as required by Article XX, Section 22 of the New Mexico Constitution. It is not known at this time how many PERA members will request to purchase this time.

For the period ending June 30, 2003, PERA's unfunded liability grew significantly, and the time to pay off its unfunded actuarially accrued liability (UAAL) increased from 10 years to 17 years. The June 30, 2004 actuarial valuation indicates that PERA funding resources are sufficient to fund the Normal Cost and finance the UAAL over an aggregate period of 21 years. It should be noted, however, that the funding of assets uses a smoothing technique that spreads investment gains and losses out over a 4-year period. One quarter of this year's investment gain has been recognized in last fiscal year's funding value and one quarter of it will be recognized in each of the next 3 years. Past losses more than offset last year's gain. In aggregate, the system had an experience loss for the year ending June 30, 2004 of \$474 million, due to rate of return on funding value of assets less than assumed (3.8% vs. 8%) and retirements greater than assumed. PERA's actuaries report a loss of \$186 million for past investment losses will flow into the recognized gain/loss in next year's actuarial valuation. If a loss of this magnitude occurs next year, the effect would be that the overall PERA funding ratio will drop to 90% and PERA's overall UAAL will increase to approximately 30 years.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on PERA will be in calculating the purchase cost and processing the added service credit. In addition, PERA will be required to amend its regulations to address the statutory changes to the PERA Act.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

PERA membership is mandatory unless for those employees excluded by statute. The PERA Act excludes from membership employees designated by their public affiliated employer as seasonal or student employees. NMSA 1978, Section 10-11-4 (B)(3). HB 1067 proposes to change the exclusion provision of the PERA Act by allowing some statutorily excluded employees purchase service credit.

Further, HB 1067 conflicts with the PERA Act, which provides that personal service rendered to an affiliated public employer by a member shall be credited to the member's account in accordance with board rules and regulations. NMSA 1978, Section 10-11-4. PERA Rule 2.80.600 provides that members who are full-time employees shall acquire one month of service credit for every calendar month in which the member is paid 50% or more of his or her monthly salary as reported by the member's affiliated public employer.

PERA Rule 2.80.600 further provides that members who are part-time employees shall acquire one month of service credit for every calendar month in which the member is paid 100% of his or her monthly salary as reported by the member's affiliated public employer. 2.80.600.10.A.2, 4 NMAC 2001. HB 1067 proposes to change the definition of "service credit" as that term is used throughout the PERA Act by permitting some statutorily excluded employees to accrue service credit in a different manner than other PERA members. Specifically, HB 1067 proposes that service credit be posted based on legislative session employment rather by sufficient contributions being reported to PERA on behalf of a member.

TECHNICAL ISSUES

On Page 8, Line 9, the words "salary history" should be replaced with "final average salary."

OTHER SUBSTANTIVE ISSUES

HB 1067 provides for the purchase of service credit by PERA members who are employed by the legislature and are formally designated by their employer as excluded from membership. NMSA 10-11-3(B) specifically excludes "seasonal" employees from PERA membership. When an employer such as the State of New Mexico, functions in different capacities with respect to its many employees, PERA focuses on the particular employment at issue to determine whether it is covered by PERA. Once employment has been designated seasonal, the state does not function as an affiliated-public employer because it is not required to participate in PERA and does not remit contributions under any coverage plan for that employee. For example, retirees who return to work for the legislature do not have to pay contributions because they are employed in a category of employment that is clearly excluded from PERA coverage under Section 10-11-8 (D)(2) of the PERA Act.

HB 1067 proposes that legislative employees have the ability to purchase service credit if they did not receive service credit "solely because the affiliated public employer designated the employee as seasonal". The PERA Act requires employees designated as seasonal employees be notified in writing of this designation and the consequences thereof with respect to PERA membership, service credit and benefits. NMSA 1978, Section 10-11-3(C). As stated above, HB 1067 provides for the purchase of service credit for a narrowly defined group of PERA members formally designated by their employer as excluded from membership. This conflicts with the general concept of a defined benefit plan that similarly situated members should earn and receive similar benefits. PERA members who were designated as "seasonal" employees in other capacities are not eligible to purchase service credit for such periods of excluded employment.

Also, HB 1067 does not require a PERA member to be vested with five or more years of service credit to purchase legislative worker service credit. All other service credit purchases under the PERA Act are conditioned on the member's vested status (including military, airtime, etc).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The PERA Act will continue to exclude seasonal employees from PERA membership. The PERA Act will continue to limit the purchase of optional service credit earned either through service to a public employer, military or as a prisoner of war.