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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/2006

SPONSOR Varela LAST UPDATED 1/23/2006 HB 78

SHORT TITLE STATE EMPLOYEE SALARY INCREASES SB _____

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$187,482.3	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act, HB2 and HB 7
 Relates to Appropriation in the General Appropriation Act , HB2 and HB 7

SOURCES OF INFORMATION

LFC Files

Report of the Legislative Finance Committee to the Forty-seventh Legislature, Second Session, January 2006 for Fiscal Year 2006-2007, Volume I. pp. 116-122.

Responses Received From

Higher Education Department (HED)
 State Personnel Department
 Public Education Department
 Department of Cultural Affairs
 Department of Corrections

SUMMARY

Synopsis of Bill

House Bill 78 appropriates \$187,482,250 from the General fund for the purpose of providing salary and benefit increases to public employees. The salary increases apply to public school employees, faculty and staff at post-secondary educational institutions, executive classified employees, executive exempt employees, legislative permanent employees, judicial employees, district attorney employees and state police. The bill contains language to ensure that employees whose salaries are funded from non-general fund appropriations will be covered by the same salary increase provisions in the bill. It also provides benefit increases for public and higher education employees and funds increasing the employer contribution to the educational retirement fund by three-fourths of a percent.

FISCAL IMPLICATIONS

The appropriation of \$187,482,250 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2007 shall revert to the appropriate fund. The State Personnel Office indicates that \$22,784,944 is not sufficient funding to provide classified employees governed by the Personnel Act indicated in Section 1 – Part 5 with the proposed salary increase included in this bill. It would require \$23,867,484 to provide a 2% of actual pay increase and then a 3% of pay band midpoint salary increase or \$23,587,118 to provide a 2% of pay band midpoint salary increase and then a 3% of average actual pay increase in general fund (*including compounding the second part of the increase*) depending on the interpretation of the language as indicated in paragraph 3 of the Technical Issues in this FIR. If correct an additional \$802.2 thousand may need to be included. The amount in the bill is based upon consensus numbers reached with DFA regarding general fund costs for classified employees.

The State Personnel Office also indicates \$502,130 is not sufficient to provide state employees classified as probation and parole officers, librarians, library technicians, library assistants, and police, fire and ambulance dispatchers as indicated in Section 1 – Part 10 with the proposed salary increase included in this bill. It would require \$585,263 in general fund to provide the additional three percent increase indicated in this bill.

SIGNIFICANT ISSUES

This bill provides for the following salary and benefit increases. It differs from the executive's proposal by providing larger increases to judicial, legislative and exempt employees and by providing state classified employee salary increases to be effective July 1, 2006 rather than the executive's proposal of July 1, 2006 for the 2 percent increase and January 1, 2007 for the average 3 percent compa-ratio adjustment:

1. An increase of the base salary for the chief justice of the Supreme Court to \$115,040. This will result pursuant to Section 34-1-9 NMSA 1978 in a **7.4 percent** increase for all other justices, judges and magistrates;
2. An average **5 percent** increase for all other employees of the judiciary based upon a plan as developed by the Administrative Office of the Courts (AOC);
3. A **5 percent** increase for district attorneys;
4. An average **5 percent** (2 percent increase and an average 3 percent compa-ratio adjustment) for all district attorney permanent employees;
5. An average **5 percent** (2 percent increase and an average 3 percent compa-ratio adjustment) for all incumbents governed by the Personnel Act;
6. An average **5 percent** increase for all executive exempt and legislative employees;
7. A **10 percent** increase for all commissioned officers of the Department of Public safety (state police, motor transportation and special investigative officers).
8. A **total compensation** increase of **5.25 percent** consisting of a **4.5 percent** increase for all executive exempt teachers and **all** public education employee and funding for statutory third tier increases. Additionally an additional "employer" contribution of **.75 percent** to the educational retirement fund.
9. A total compensation increase of **5.25 percent** consisting of a **4.5 percent** increase for all faculty and staff of two and four-year public post-secondary institutions and an additional "employer" contribution of **.75 percent** to the educational retirement fund; and
10. An additional **3 percent** increase for state employees classified as probation and parole officers, librarians, librarian technicians, library assistants and police, fire and ambulance

dispatchers.

Compa ratio adjustments, depending upon the plan of the particular agency, are scaled to provide higher level of adjustments for employees who are at the lower ends of a pay plan. For example the state classified employees pursuant to the collective bargaining agreement would receive the following adjustments based upon their compa-ratio:

- <85% = 4.5 percent increase
- 85% to 94% = 3.5 percent increase
- 94% to 105% = 2.5 percent increase
- >105% = 1.5%

This bill is very similar with respect to the proposal provided by the executive with regard to state classified employees and facilitating their movement through the pay plan. The bill also provides SPO authority to develop a plan for both the 2 percent midpoint increase and compa-ratio adjustment as negotiated by the executive.

The key difference between the executive's proposal for classified employees and HB 78 is in the timing of the implementation. HB 78 proposes to award both increases on July 1, 2006. Analysis indicates that HB 78 places more money into employee's pockets sooner and yet still focuses on those employees whose compa-ratio is below the 85th percentile and significantly reduce compaction throughout the entire pay-plan.

The executive's proposal calls for a 2 percent midpoint adjustment to be effective on July 1, 2006 and the 1.5 to 4.5 percent compa-ratio adjustment to be effective on January 1, 2007. It is the opinion of the State Personnel Office that this bill does not support accelerated salary movement within an employee's pay band to reduce compaction for 6,087 employees with a compa-ratio less than 85% at the bottom of the pay band. The executive's pay package provides for a 2% of pay band midpoint salary increase in July 2006 and a percentage of actual pay ranging from 1.5% to 4.5% in January 2007 based on compa-ratios. The SPO indicates that the executive negotiated with AFSCME a three year proposal of which this is a part. Subsequent executive salary packages, to be proposed in FY08 and FY09, will be based upon the FY07 rate resulting in a slightly higher percentage increase over time. By having delayed implementation, SPO argues general fund costs are reduced as they are carried forward each year. Analysis indicates that the executive's proposal will have an FY07 cost of \$16.1 million dollars but the full impact in FY08 will be approximately \$22.7 million.

SPO points out that under the Public Employee Bargaining Act (PEBA), the executive negotiated in good faith with labor a comprehensive three year compensation plan and specifically did not include additional increases for probation and parole officers, librarians, library technicians and library assistants. The Legislature under PEBA retains the authority to appropriate funds as it deems to be in the best interests of the state. In this regard PEBA is quite clear that the executive may only recommend to the legislature the compensation language negotiated with the unions and there is no obligation on the legislature's part to agree to that language. It is free to accept modify or reject what was negotiated regarding compensation. It is also important to note that House bill 78 specifically addresses only the funding for FY07. Future years even though they have been negotiated cannot be obligated.

SPO states that the additional increases for probation and parole officers, librarians, library technicians and library assistants will have a negative impact on other employee classifications

within the impacted agencies and across agencies creating additional erosion to internal equity.

TECHNICAL ISSUES

SPO indicates that it is unclear what employees in “budgeted positions” means in this bill. Typically, compensation increases are given to term and regular positions, however this language appears to allow temporary employees in budgeted positions to receive a salary increase. For example, there are many budgeted temporary positions for employees who work in the PIT processing tax returns during tax season at the Taxation and Revenue Department. The intention in drafting this legislation was to exclude from receiving a salary increase individuals whose position are not budgeted.

SPO raises concern as to the meaning of the term “incumbents”. The “Personnel Act (Chapter 10-9-1) defines an “employee” as a person in a position in the service that has completed his probationary period. Traditionally, an incumbent has been defined as a person who is in the employment of the state.

The language regarding increases for commissioned officers within the department of public safety refers to those within the state police division. This would exclude those motor transportation division and special investigative division. This bill should be amended to allow all commissioned officers of the department of public safety with the specified increase. The following language is suggested to correct this issue:

Proposed Amendments to HB 78 Section 1, A, paragraphs (5) and (7)

5) twenty-two million seven hundred eighty-four thousand nine hundred and forty-four dollars (\$22,784,944) to provide incumbents in agencies governed by the Personnel Act, other than commissioned officers of the department of public safety, with a two percent salary increase and an average three percent compa-ratio adjustment as determined by the state personnel office;

(7) three million one hundred twenty-seven thousand eight hundred forty-six dollars (\$3,127,846) to provide all commissioned officers of the New Mexico ~~state police division~~ ~~of the~~ department of public safety with a five percent general salary increase and an additional five percent to address compaction issues for those officers below the rank of Lieutenant in accordance with the New Mexico state police career pay system and the Personnel Act as determined by the Secretary for the department of Public Safety and the state personnel director;

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