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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/06

SPONSOR Vigil LAST UPDATED _____ HB 644

SHORT TITLE Correction Officer Retirement Contributions SB _____

ANALYST Geisler

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$500.0	Non-Recurring	General Fund
	See narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Corrections Department (CD)

Public Employees Retirement Association (PERA)

Children, Youth, and Families Department (CYFD)

SUMMARY

Synopsis of Bill

House Bill 644 provides for 33% service credit enhancement for certain adult correctional officers and adult correctional specialists not covered by State Police Member and Adult Correctional Officer Plan 1 between January 1, 2003 and January 1, 2007. This bill is limited to those employees who were correctional officers from any time between 1980 and 2002. HB 644 provides for a one-time appropriation of \$500,000 from the General Fund to PERA to carry out provisions of the act.

FISCAL IMPLICATIONS

HB 644 may have a negative impact on the PERA Fund, despite the \$500 thousand appropriation. The benefit enhancement provided to certain adult correctional officers under HB 644 is not the subject of an actuarial study. An actuarial study identifies those PERA members affected by proposed legislation and sets contribution rates that are sufficient to fund enhanced benefits. Since no such actuarial study was requested, PERA cannot determine with any accuracy the fiscal impact of HB 644.

PERA notes that HB 644 conflicts with Article XX, Section 22 of the New Mexico Constitution, which precludes increasing benefits without adequate funding (the legislature shall not enact any law that changes the funding formula for a retirement plan unless adequate funding is available).

SIGNIFICANT ISSUES

The Corrections Department notes that this bill would affect sixty-five Corrections Department employees who were formerly in the Correctional Officer Series. This bill would contribute to a sense of equity for those employees who left the Correctional Officer series to promote to levels of higher responsibility. Corrections also provide that this bill would accelerate through an earlier retirement the loss of experienced employees who hold critical roles in the Department's mission. PERA and CYFD are not able to identify any other large groups that may benefit from the legislation, although there may be some individuals with correction officer experience working in other agencies who may qualify for enhanced retirement.

PERA provides that Article 20, Section 22 of the Constitution of the State of New Mexico requires that the PERA Board and its independent actuary must establish funding periods for benefit enhancements that reflect sound actuarial principles and cover the cost of new benefits. PERA requires an actuarial study for every benefit enhancement legislative proposal to ascertain the amount required to fund the proposed benefit. Each actuarial study identifies the members affected by the legislative proposal and their associated demographics and calculates the funding required by the increased benefit in terms of employee and employer contributions. Benefit enhancement legislation that does not reflect the cost of new benefits may carry with it a multi-million dollar unfunded actuarial accrued liability (UAAL) that will negatively impact the overall funded status of PERA. The increased retirement benefits contained in HB 644 were not the subject of an actuarial study to determine the necessary funding for the proposed benefit increase. The appropriation contained in HB 644 has no correlation to the benefits that will be provided under the proposal.

During the 2003 legislative session, legislation provided adult correctional officers with enhanced benefits. Specifically, under the newly created State Police and Adult Correctional Officer Plan 1, members were eligible to receive actual service credit enhanced by 20% if they accrued 18 months of service credit under the plan after July 1, 2004. That legislation only covered adult correctional officers and specialists employed by the Corrections Department.

ADMINISTRATIVE IMPLICATIONS

The administrative impact of HB 644 on PERA will be in administering another component of a member coverage plan for certain Corrections Department employees. PERA anticipates confusion among employers with members affected by the legislation. PERA will be required to amend its regulations to address the statutory changes to the PERA Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

PERA notes that HB 644 conflicts with the PERA Act [NMSA 1978, Section 10-11- 27.1 through 32] and 2.80.100.7.C NMAC, which defines "adult correctional member" as a person who is an adult correctional officer or adult correctional specialist employed by the corrections department or its successor agency. HB 644 also conflicts with HJM 5, passed by the 47th Legislature, which imposed a 2-year moratorium on proposed benefit enhancement legislation to the

Public Employees Retirement System and the Educational Retirement System through December 31, 2006.

AMENDMENTS

Corrections suggests the following amendments to clarify the language in the bill to make clear that it only applies to Corrections Department employees.

1. Page 1, line 25, change first word "officer" to "employee".
2. Page 2, line 2, after the words member coverage plan 1 remove the words "after January 1, 2003 but before".
3. Page 2, line 3, remove "January 1, 2007".

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Adult correctional employees covered by a plan other than state police member and adult correction officer member coverage plan 1 will not have their service credit increased by 33%.

GG/yr