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

ORIGINAL DATE 2-13-07
SPONSOR Barela **LAST UPDATED** 3-16-07 **HB** 765/aHAFC/aSJC

SHORT TITLE Probation Officer Alternative Retirement Plan **SB**

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	See narrative	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$50.0		$50.0	Non-Recurring	PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 280, HB 411, HB 595, HB 800 and SB 575 (duplicate of HB 595)
Conflicts with SJM6

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Employees Retirement Association (PERA)
Children, Youth & Families Department (CYFD)
Corrections Department (CD)
Adult Parole Board (APB)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendments make two significant changes:

1. The enhanced twenty-year plan is made applicable only to service credit for probation and parole officer members earned from the effective date of the plan becoming

applicable to those members going forward. It would no longer apply to past earned service credit.

2. The employee contribution rate is reduced from 16.11 percent to 11.14 percent. This rate may no longer be actuarial sufficient to fund the unfunded liability as required by the New Mexico Constitution.

   The actuarial rate developed by PERA's actuary to fund the plan enhancement was an additional 6.42 percent over the current rate. The new rate proposed by this amendment is only 4.72 percent more.

   The original actuarial report included past service credit, which would produce a greater unfunded liability over the plan as proposed now to allow only future service credit. Without a response from PERA or their actuaries it is unknown whether this new rate will amortize the new unfunded liability over the 30 year time period.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee requires an eligible employee to wait 36 months, rather than the 18 months originally specified, before retiring under the new plan. . PERA maintains that a 36-month mandatory waiting period is appropriate before members are eligible to retire from the plan to allow for payment of contributions at higher levels toward their enhanced benefit prior to retirement. This will lessen the impact of increased liabilities on the new plan that may occur if a number of members immediately retired with enhanced benefits sooner than normally projected.

Synopsis of Original Bill

House Bill 765 proposes to provide probation and parole officer members employed by the Children, Youth and Families Department or the Corrections Department the same benefits as provided under State Police Member and Adult Correctional Officer Coverage Plan 1. Specifically, probation and parole officer members, if approved by an election of the affected membership, would be eligible for a 20 percent increase in all credited service (past and future), a 3 percent pension factor, and an 80 percent pension maximum that is now only available to state police and adult correctional officers. Only actual service under the new State Police Member, Adult Correctional Officer Member Coverage Plan 1 would be eligible for its benefit enhancements.

FISCAL IMPLICATIONS

The estimated increase in unfunded liabilities to the PERA fund due to HB 765 is calculated at approximately $7.3 million, which is not pre-funded under the bill. Providing an appropriation to reduce any portion of the $7.3 million unfunded liability would reduce the required statutory contribution rates for the new coverage plan going forward.

The actuarial report estimated the contribution rate to amortize the $7.3 million over 30 years at a combined employee and employer rate of 30.43 percent, 6.42 percent higher than the current rate of 24.01 under the current plan covering probation and parole officers. HB 765 places the entire increase on the employee; therefore, neither department has an operating fiscal impact due to an increased employer contribution to fund the liability and future benefits under the enhanced plan.

PERA's operating budget will be negatively impacted by HB 765. Every new coverage plan added to the PERA Act requires system changes to PERA's computerized integrated pension administration system, which have cost up to $50.0 thousand for similar changes. If further revisions to the system are necessary in FY08, PERA will be required to seek a Budget Adjustment Request to cover the costs of these system changes

SIGNIFICANT ISSUES

A primary issue is whether probation and parole officer members employed by CYFD or CD should receive a 20 percent service credit increase in all credited service (past and future). Testimony presented during the interim suggest that these employees face the same "hazardous duty" and potential for loss of life as the current members of the State Police and Correctional Officers Plan 1. APD maintains that any program that would encourage quality employees to take jobs and remain with probation-parole would be valuable in providing quality supervision to probationers and parolees.

A corollary consideration is who should bear the cost of the enhanced benefits: the employee, the employer, or both in some combination.

HB 765 increases the member contribution from 7.42 percent to 16.59 percent. Both CYFD and CD note that earlier retirement may help retention and recruitment but also expressed concern that the resulting reduction in take-home pay may actually increase turnover. For example, CYFD notes that on average juvenile probation and parole officers would be paying more than double, or an additional two thousand nine hundred and fifty-two dollars ($2,952) per year than their current contribution. For a probation and parole officer making $16.50 per hour (average salary), the additional bi-weekly contribution to the fund would be $115 and the annual additional contribution would be nearly $3 thousand.

The rates proposed in HB 765 bill differ from the rates that are currently in statute for existing members of the state police and adult correctional officers' coverage plans:

	State Police and Adult Correction Officers	Proposed Rates for Parole/Probation Officers
Employee Contribution	7.6%	16.11%
Employer Contribution	25.1%	16.59%

Regarding the retirement fund solvency, the cumulative effect of multiple benefit enhancements is unknown. However, the combination of enhancing members' prior service credit, providing salary increases in excess of PERA's assumed rate of 4.5% per year for existing members of the State Police and Adult Correctional Officer Plan (as well as those members being proposed to enter the plan), and any downturn in the near-term future performance of the PERA portfolio could possibly cause a decrease in the funded status of the existing State Police and Correctional Officer plan below 100 percent and also have a measurable effect on the funded status of the overall PERA system.

ADMINISTRATIVE IMPLICATIONS

PERA will be required to coordinate the election for adoption of the new coverage plan by probation and parole members in CYFD and CD on or before October 1, 2007. PERA would be required to move affected membership, along with corresponding assets and liabilities, from State General Plan 3 into the proposed State Officer Member Coverage Plan 1.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 765 relates to HB 280, HB 411, HB 595 (SB 576), and HB 800, all which propose adding additional groups of employees to State Police Member and Adult Correctional Officer Member Coverage Plan 1.

HB 765 conflicts with SJM 6 proposes a 2-year moratorium on benefit enhancement legislation affecting the Public Employees Retirement Association

OTHER SUBSTANTIVE ISSUES

Article XX Section 22 of the Constitution of the State of New Mexico requires that an increase in benefits under the retirement system be adequately funded to preserve the PERA Fund's actuarial soundness.

PERA's actuaries determined that a combined contribution rate of 30.43 percent would be sufficient to fund both the normal cost (ongoing liabilities) and amortize the unfunded liabilities (past service credit liabilities) over 30 years. Rather, HB 765 provides for a combined employee and employer contribution rate of 32.7 percent, which is sufficient to amortize the $7.3 million unfunded liability in less than 30 years. The consensus of the PERA Board is that unfunded liabilities for benefit enhancements should be pre-funded through a special appropriation as a safeguard to the fund's solvency. Providing an appropriation to reduce any portion of the $7.3 million unfunded liability would reduce the required statutory contribution rates for the new coverage plan going forward.

HB 765 provides for an 18-month eligibility period for probation and parole officer members to first become eligible to retire with enhanced benefits under the plan. PERA maintains that a 36-month mandatory waiting period is appropriate before members are eligible to retire from the plan to allow for payment of contributions at higher levels toward their enhanced benefit prior to retirement. This will lessen the impact of increased liabilities on the new plan that may occur if a number of members immediately retired with enhanced benefits sooner than normally projected.

CD primarily attributes its high turnover rate of 22.3 percent (FY06 average) for probation and parole officers on their low pay and relates that many probation and parole officers leave the Correction Department to work in federal and county entities that pay higher salaries. Approximately 40% of probation and parole officers have less than two years of experience. It appears that if probation and parole officers had to pay a higher contribution to the fund as required under HB 765, the turnover rate might increase because of less take-home pay.

It should be noted that short term evidence supporting the theory that enhanced retirement plans improve hiring and retention has so far remained elusive. Using the experience of the Department of Corrections, which instituted the enhanced plan effective July 1, 2004, performance results are inconclusive:

Performance Measure	**FY02**	**FY03**	**FY04**	**FY05**	**FY06**
Percent turnover of correction officers	10.97%	9.97%	11.8%	10.8%	20.91%*
Number of cadets entering corrections department training academy	274	236	215	206	206

*In 2006, 85 officers retired the first month of eligibility under the new plan.

ALTERNATIVES

CD suggests that one option is to increase the employer contribution rate and correspondingly decrease the employee contribution rate to lessen the impact on take-home pay for probation and parole officers, such as matching the current contribution rates of the state police and adult correctional officers. CD asserts that although this alternative will have a larger financial impact to the state, it may be offset somewhat by the reduction in turnover related training and administrative expenses for probation and parole officers.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Probation and parole officer members will continue to be covered by State General Plan 3 and are eligible to retire at any age with 25 or more years of service credit. The retirement benefit will continue to be calculated with a 3% pension factor and is capped at 80 percent of the final average salary. For State General Plan 3, members pay 7.42 % of their salary in contributions and their employer pays 16.59% of salary in contributions.

MA/mt