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

ORIGINAL DATE 2-2-09
SPONSOR M.P. Garcia **LAST UPDATED** **HB** 246

SHORT TITLE PERA Return To Work For Certain Employees **SB**

ANALYST Aubel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Indeterminate	Indeterminate	Recurring	Retiree Health Care Authority*

*See Fiscal Impact

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$50.0		$50.0	Non-Rec	PERA
		(.01)*	(.01)*	(.01)*	Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)
*See Fiscal Impact

Relates to HBHB156, HB236 and SB145

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Transportation (DOT)
Administrative Office of the Courts (AOC)
Public Employees Retirement Association (PERA)
New Mexico Municipal League
State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

House Bill 246 amends the Public Employees Retirement Act (PERA Act) to significantly limit those PERA–affiliated public employers eligible to hire retired PERA members. Effective July 1, 2009, retired members would only be eligible for employment with PERA-affiliated employers who are:

1) a municipality with a population of less than 55,000 as shown in the last ten-year census; or
2) a county with a population of less than 50,000 by the most recent ten-year census.
If a PERA-affiliated employer meets these criteria, the requirements under current law requiring the employer to pay the statutory contributions on behalf of the re-hired retiree apply.

Essentially, this bill "sunsets" the current return-to-work program for PERA-affiliated employers except for small municipalities or counties, including working part time. The bill does retain the exemptions that allow certain retirees to return to work without meeting the new restrictions, such as a chief of police or a retired member employed by the Legislature for legislative session work.

The effective date of HB 246 is July 1, 2009.

FISCAL IMPLICATIONS

According to PERA, PERA's operating budget will be negatively impacted by HB 246 because it will require PERA to make additional changes to its computerized pension administration system, "RIO." Every revision to the PERA Act's post-retirement return-to-work provisions results in a change order with associated costs to PERA's existing contract with the vendor. For example, by incorporating removal of the PERA's post-retirement earnings limit into the pension system, PERA incurred approximately $50 thousand in change orders during FY05. If further revisions to the system are necessary in FY09, PERA will be required to seek a BAR to cover the costs of these system changes.

According to PERA, the current return-to-work (RTW) provisions are cost neutral to the retirement fund. However, it has also been noted by PERA that to the extent that the current statute encourages members to retire earlier than they would have otherwise, legislation discouraging early retirement would benefit the fund because employees would work longer and be drawing benefits for a shorter period of time

AOC notes that when current RTW employees leave an agency after July 1, 2009, agencies will no longer be able to hire retirees and will no longer be paying the employer <u>and</u> employee contributions to PERA. This will have a positive impact on state or large municipal budgets because the new hire would pay the employee portion. Currently, contributions to Retiree Health Care for RTW employees are not made. As new hires replace the RTW employees, these contributions will create a negative fiscal impact on budgets. The net effect of these two opposing fiscal impacts on operating budgets will be most likely to lower costs by an indeterminate amount because the PERA employee contribution rate is much higher than the employee RHCA contribution.

HB 246 would eventually increase revenues to RHCA as new hires replace the RTW employees and the contributions are made to the agency. The amount is estimated at $500 thousand for lost revenues to RHCA annually due to the current PERA RTW program.

SIGNIFICANT ISSUES

HB 246 will significantly limit those retired members who may return-to-work. Specifically, the State of New Mexico, ten counties and three municipal employers -- the cities of Albuquerque, Farmington, Las Cruces and Santa Fe -- will no longer be able to re-hire PERA retirees, unless the retiree chooses to suspend his or her pension. As time goes on, more and more entities may be excluded due to population growth.

According to SPO, there has been concern expressed that return to work programs have negatively impacted current employee morale and career advancement as employees in higher level positions typically held by experienced employees retire and come back into the public sector workforce.

The primary policy issue is whether only PERA-affiliated employers who are municipalities with a population of less than 55,000 or counties with a population of less than 50,000 (small local governments) can re-employ PERA retirees after July 1, 2009. The NM Municipal League maintains that "all municipalities in the state are facing labor shortages, and the situation is expected to become more critical in the future. The organization expresses a concern that "restricting larger municipalities and counties from rehiring retirees will result in increase recruiting and training costs at a time when the economy is shrinking while the qualified job pool for critical local government jobs remains scarce."

SPO points out that there can be a public perception problem of a system which allows a member to receive both a salary and a pension.

ADMINISTRATIVE IMPLICATIONS

PERA states that HB 246 will have an administrative impact on PERA. PERA staff will be required to monitor a two-tiered return-to-work program for 1) those retirees already reemployed prior to the July 1, 2009 effective date of this legislation; and 2) those eligible to be reemployed after July 1, 2009. PERA member handbooks and other informational publications will need to be revised and staff will have to provide additional training to municipalities to implement the legislation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 246 relates to:
House Bill 156, which deals with PERA reporting requirements;
House Bill 236, which deals with PERA service credit purchase; and
Senate Bill 145, which eliminates the sunset provision for the Educational Retirement Board RTW program.

OTHER SUBSTANTIVE ISSUES

Since January 1, 2007, PERA-affiliated employers that employ PERA retirees are required to make employer contributions in the amount specified in the PERA Act or in a higher amount adjusted for the full actuarial cost as determined annually by PERA. In 2006, PERA's actuaries conducted a supplemental actuarial cost determination study to measure the financial effect of allowing PERA retirees to be rehired after a 90-day "sit-out" period without suspending pension benefits and to determine a contribution rate to be charged to employers who rehire PERA retirees. PERA's actuaries recommended that PERA collect contributions on all retirees who return to work with PERA-affiliated employers in an amount equal to the sum of the statutory employer rate and the statutory employee rate for the plan applicable to the reemployed retiree's position. By doing so, PERA will collect between 96 percent and 111 percent of the costs generated by the In this regard, PERA retirees who return to work under existing law will be cost-neutral to the fund.

Currently, PERA has approximately 25,000 retirees. EPRA states that the number of retirees who have returned to work ranges around 10 percent. It is unknown whether current return-to-work provisions will require PERA's actuaries to modify the retirement trend assumptions used for valuation purposes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA's RTW program will continue as currently structured.

POSSIBLE QUESTIONS

1. How will employers grapple with demographic trends that show a reduced supply of skilled employees in out-years without being able to rehire retired workers?

2. Will PERA-affiliated employers need to hire full-time-equivalents to replace the part time RTW employees that leave?

3. Will SPO be creating "succession" plans for those in current RTW positions? Will training be provided to ensure that those positions have qualified and experienced employees filling them?

MA/mc