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

		ORIGINAL DATE	2/15/09		
SPONSOR	Feldman	**LAST UPDATED**	3/10/09	**HB**	
SHORT TITLE	Retiree Health Definitions and Contributions			**SB**	428/aSCORC
				ANALYST	Archuleta

REVENUE (dollars in thousands)

Estimated Revenue			**Recurring or Non-Rec**	**Fund Affected**
FY10	**FY11**	**FY12**		
$3,500.0	$3,800.0	$4,200.0	Recurring	RHCA Fund (from Domestic Partner Contributions)*
$1,500.0	$2,100.0	$2,100.0	Recurring	RHCA Fund (from Return to Work Retiree Contributions)*

(Parenthesis ( ) Indicate Revenue Decreases)

*Estimate based on ERB/PERA data on return to work employees.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	**FY09**	**FY10**	**3 Year Total Cost**	**Recurring or Non-Rec**	**Fund Affected**
Total	$5,200.0	$5,700.0	$5,700.0	$16,600.0	Recurring	RHCA Fund*

(Parenthesis ( ) Indicate Expenditure Decreases)

*Estimates provided by RHCA.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General's Office (AGO)
Retiree Health Care Authority (RHCA)
Department of Finance and Administration (DFA)
Public Employees Retirement Association (PERA)
Human Services Department (HSD)

SUMMARY

Synopsis of SCORC amendment to Senate Bill 428

The Senate Corporations and Transportation Committee amendment to Senate Bill 428 changes the contribution requirements for certain eligible retirees for whom the employer's participation in the Retiree Health Care Act occurs after July 1, 2009 and requires that the person and the employer contribute to the RHCA fund an amount equal the full actuarial present value of the accrued benefits as determined by RHCA.

The amendment also changes the new Subsection C of Section 10-7C-5 to indicate that on or after July 1, 2009, no person who has obtained service credit pursuant to Section 10-11-6, 10-11-7 or 22-11-34 NMSA 1978 may enroll with the authority unless that person makes a contribution to the fund equal to the full actuarial present value of the amount of the increase in the person's health care benefit as determined by RHCA.

Lastly, the amendment to Section 10-11-16, 10-11-17 and 22-11-34 requiring that members who purchase PERA and ERA service credit pursuant to those sections and who enroll in the Retiree Health Care Authority must make contributions to RHCA pursuant to the new subsection C of Section 10-7C-15.

Synopsis of Original Bill

Senate Bill 428 adds provisions to the Retiree Health Care Act allowing a domestic partner of a current retiree to obtain the coverages afforded by the Retiree Health Care Act. It also requires retirees who return to employment and their participating employers to make contributions to the retiree health care fund. It also conditions the grant by the educational retirement system and the public employees retirement system of certain types of service credit to members upon those members paying a contribution to the retiree health care fund.

FISCAL IMPLICATIONS

According to RHCA, Current utilization/participating rates of domestic partners among participating entities (GSD, NMPSIA, etc.) is approximately 4 percent. As such, RHCA could expect to add as many as 1,600 domestic partners. These members would receive subsidies from RHCA at an average of 32.5 percent depending on which plan they enrolled in. Gross additional costs would total approximately $5.2 million. RHCA's additional net costs (the subsidies it provides) would total approximately $1.1 to $1.9 million. This will be a recurring expense that will escalate in accordance with prevailing medical cost trends, currently estimated at 8 percent annually.

As the result of an interpretation by DFA, return to work employees who return to work for an PERA or ERB employer are not required to contribute the employee share of the employer and employee contribution to the RHCA fund. RHCA estimates the revenue loss at $1.5 million per year for approximately 500 PERA return to work employees alone. Senate Bill 428 would clarify that all return to work employees and their employers are required to pay the employee and employer share of the RHCA contributions respectively.

SIGNIFICANT ISSUES

Senate Bill 428 requires public employees who purchase service credit for retirement purposes to also purchase air time for retirement health benefits at the full actuarial value of those benefits. In addition, the bill requires that return to work employees pay the employee share of RHCA contributions and allows for public entities that join the RHCA program to include retired employees if the entity pays fiver years of the employee and employer contribution to the RHCA fund. Lastly, the bill extends coverage of RHCA benefits to domestic partners for those employees or participating RHCA entities.

According to PERA, the bill will require retirees who return to work with affiliated public employers to make contributions to RHCA until such reemployment is terminated. PERA's operating budget will be negatively impacted. PERA currently has approximately 61,000 active and deferred members. If further revisions to the RIO system are necessary in FY09, PERA will be required to seek a BAR to cover the costs of these system changes.

As part of Senate Bill 428, RHCA would be authorized to provide coverage for qualified domestic partners of eligible retirees. Currently an employee of an eligible RHCA employer, such as a State agency, who has coverage for his or her domestic partner while an active employee, loses that coverage when the move to RHCA as a retiree. The bills establishes requirements for determining qualified domestic partners including a properly executed affidavit stipulating that the retiree and partner are in an exclusive relationship, share a primary residence for 12 or more consecutive months and that the partners are jointly responsible for each others common welfare and share financial obligations. RHCA estimates that, based on the number of domestic partners participating in PSIA, GSD and APS which offers coverage for domestic partners, the additional cost to RHCA would be between $1.1 and $1.9 million per year.

ADMINISTRATIVE IMPLICATIONS

PERA will be required to coordinate all service credit purchase with RHCA, within 60 days of the date of the purchase cost estimate. PERA currently processes approximately 106 air time requests and 34 military service credit purchases per month. Currently, the response time for calculating purchase cost contracts has increased from 45-60 days to 60-90 days. The increase in member requests is coinciding with the economic downturn as many members rollover other retirement plan funds to purchase service credit.

According to PERA, the administrative and system programming changes necessary to implement the proposed changes to the retirement system cannot be implemented on or before July 1, 2009.

RELATIONSHIP

Relates to HB 21 (Domestic Partner Rights and Responsibilities); SB 12 (same).

HB 573, in part, duplicates that portion of SB 428 that amends the service purchase provisions of the PERA Act to require that contributions to RHCA be made for purchases of permissive service credit.

TECHNICAL ISSUES

The Attorney General's Office notes the following:

(1) At section 1, the bill extends the "spousal" dependency benefits of coverage under the Retiree Health Care Act to domestic partners, evidenced by a domestic partnership affidavit. The bill permits an affidavit to be filed by the current retiree notifying the Retiree Health Care Authority in the event the current retiree's domestic partnership relationship is terminated, but no provision of the bill requires the current retiree to do so in that event.

(2) At section 1, the bill retains current law's ineligibility, at the new subsection M, for "dependents created by common law relationships," which raises the question whether male and female domestic partnerships are covered by the new provisions of this bill.

(3) Whether the manner in which the authority's actuary will compute the "actuarial present value of the amount of the increase in the person's health care benefit" and the "actuarial present value of the accrued [health care] benefits" is sufficiently clear, especially in relation to Section 10-7C-13 (D), which provides: "For eligible retirees who become eligible for participation on or after July 1, 2001, the board may determine monthly premiums based on the retirees' years of credited service with participating employers."

OTHER SUBSTANTIVE ISSUES

According to RHCA, employees who purchase service credit from PERA or ERB are not required to purchase service credit from RHCA. Instead, RHCA uses a lower subsidy rate in calculating benefit levels for these retirees. The RHCA calculation does not capture the full actuarial value of the benefit of the purchased time. Senate Bill 428 would require the same actuarial valuation of the benefit for RHCA as for PERA and ERB.

ALTERNATIVES

PERA has proposed the following alternative:

PERA will report all service credit purchases to RHCA for the calculation of associated retiree health care contributions. Purchase of service credit under the PERA Act should not be conditioned on payment of these contributions; rather, RHCA will require payment of associated contributions separately. If payment is not received within 60 days of purchase, the RHCA subsidy will be calculated based on the payment of the contributions associated with the purchased service credit. If the member chooses to make the contributions upon application for RHCA, interest from the date of the purchase of the service credit can be paid on the associated contributions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The purchase and posting of service credit under the PERA Act would not be conditioned on payment of contributions to the Retiree Health Care Fund and domestic partners would not be considered eligible dependents for coverage under RHCA.

DA/svb:mt