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FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/09
 LAST UPDATED 03/17/09 **HB** _____

SPONSOR Morales

SHORT TITLE Motor Transportation Officer Retirement **SB** 499/aSCORC

ANALYST Aubel

UNFUNDED LIABILITY (dollars in thousands)

Appropriation*		Recurring or Non-Rec	Fund Affected
FY07	FY08		
Enhance DPS Motor Transportation Benefit*	\$3,715.6	N/A	PERA

(Parenthesis () Indicate Expenditure Decreases)

*The bill proposes amortizing this unfunded liability over 30 years.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$513.6	\$513.6	Recurring	PERA

(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
Employer Contribution Increase			\$503.0	\$503.0	Recurring	General Fund**
RIO		\$50.0		\$50.0	Nonrecurring	PERA

(Parenthesis () Indicate Expenditure Decreases)

**May included federal funds and other state funds.

Conflicts with CS/HB 573/HJCS/aHFI#1/aHFI#2

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

Department of Public Safety (DPS)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee Amendment to House Bill 499 shortens the time a member is required to work under the new plan before retiring, from 36 months to 24 months, and makes the qualifying member eligible six months earlier, on January 1, 2010 rather than July 1, 2010. The amendment also makes a technical correction to remove a reference to Special Investigations Officers from Section 10-11-27.1 NMSA 1978 to clarify that the bill only applies to Public Safety Motor Transportation Division officers.

Synopsis of Original Bill

Senate Bill 499 proposes to provide certified officers of the Department of Public Safety Motor Transportation Division (MTD) the same benefits as provided under State Police Member and Adult Correctional Officer Coverage Plan 1. If approved by election of the affected membership, these officers would be eligible for a 20 percent service credit increase in all credited service (past and future), a 3 percent pension factor, and an 80 percent pension maximum.

SB 499 renames “State Police and Adult Correctional Officer Plan” [NMSA 1978, Sections 10-11-27 through 10-11-32] “State Officer Coverage Plan 1.”

FISCAL IMPLICATIONS

An actuarial study conducted by Gabriel, Roeder, Smith & Company and submitted to the New Mexico Public Employees’ Retirement Association on December 4th, 2008, shows an unfunded actuarial accrued liability (UAAL) of \$3.7 million (amortized over 30 years) if Motor Transportation officers are moved into the State Officer Member Coverage Plan 1. This is an increase of 4.7 percent from UAAL of \$3.5 million determined from the 2007 actuarial study. The actuarial assumes that there will be a 20 percent increase in all credit service (past and future) for Motor Transportation commissioned officers.

The employer contribution rate for the affected employees (currently in State Plan 3) will increase over 8 percent, from 16.59 percent to 25.1 percent, resulting in increased retirement funding of approximately \$502.9 thousand for the DPS operating budget that would be recurring.

<u>Motor Transportation</u>	
Number of Employees	119
Payroll	\$5,910,350
8.51% Increase	\$502,970

Any decrease in vacancy and turnover rates will most likely reduce overtime costs for DPS operating budget. Employee rates would rise by 0.18 percent, for a cumulative increase in contributions of \$10.6 thousand.

According to the February 2009 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

The HAFC recommendation for general appropriations includes reductions in some areas where federal funds can be used. These reductions will have to be made up to maintain the current level of appropriations in FY11 and FY12. In FY11, \$150 million will have to be restored and in FY12, \$330 million will have to be restored. This is in addition to other appropriation increases required in FY11 to maintain current service levels or to implement statutorily scheduled funding increases, such as ERB contributions, instructional material funding replacement, and restoring Medicaid funding from the general fund instead of the tobacco settlement program fund. These add up to \$80 million to \$100 million.

PERA's operating budget will be negatively impacted by SB 499. Every new coverage plan added to the PERA Act requires system changes to PERA's computerized integrated pension administration system. If further revisions to the system are necessary in FY08, PERA will be required to seek a BAR to cover the costs of these system changes, which in the past have cost up to \$50.0 thousand.

SIGNIFICANT ISSUES

The Motor Transportation Police Division was transferred into the Department of Public Safety in 1998 from the Taxation and Revenue Department. The division has attempted to obtain enhanced retirement benefits for the past 10 years with actuarial studies being completed in 2003, 2005, 2006, 2007 and 2008.

Motor Transportation police officers currently fall under the general PERA plan, which is available to all state employees (State Member Plan 3), for which these officers must complete twenty-six years and eight months of service before they can retire at any age and be eligible for a pension equivalent to 80 percent of the highest three years of their salary.

A primary policy issue is whether motor transportation officers employed by DPS are to receive a 20 percent service credit increase in all credited service (past and future). DPS maintains that the duties and scope of work performed by the commissioned personnel of MTD is similar, if not identical, to the duties performed by other police personnel. DPS provides additional background information, as follows:

The Motor Transportation Police continue to have a difficult time in attracting and retaining qualified law enforcement officers due to the majority of New Mexico police agencies offering twenty (20) year retirement plans. 74.7% of all New Mexico police officers are currently participating in 20year/enhanced retirement plans. There are currently 61 police agencies in New Mexico that participate in twenty (20) year/enhanced retirement plans.

The agency continues to experience significantly high turnovers within the commissioned ranks. Exit interviews indicate that the majority of employees that transferred to other law enforcement agencies enjoyed working for the Department of Public Safety and would have remained if the agency offered a 20 year retirement plan.

The mean years of service for commissioned officers within MTPD is 8.1 years. This number has been declining due to tenured officers transferring to other law enforcement agencies.

Maintaining PERA fund solvency is also an essential consideration. 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 percent 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 without a substantial recovery or a continued downturn in the near-term future performance of the PERA portfolio, could cause a decrease in the funded status of the existing State Police and Correctional Officer plan below 100% and also have a measurable effect on the funded status of the overall PERA system.

Due to these potential impacts to fund solvency, PERA Board Resolution No. 08-044 opposes any benefit enhancement legislation that is not prospective and that may create an unfunded liability to the retirement systems it administers unless such unfunded accrued liability is prefunded from sources other than the retirement trust fund. This bill does not prefund the liability. In addition, given the significant downturn in fund assets of about 30 percent over the last 18 months, PERA Board Resolution No. 08-17 supports a moratorium on all benefit enhancement legislation to the public employees retirement systems administered by PERA.

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 liability that the enhanced retirement benefits will cause.

PERFORMANCE IMPLICATIONS

DPS relates that the agency is attempting to bring salary and retirement parity to its law enforcement divisions. The department notes that successful increases in officer salaries have begun in phases and asserts that providing fair and equal retirement benefits for all sworn police officers employed by DPS is vital to the agency's efforts to provide a healthy work environment for its officers. DPS points out that all the officers play important roles in the mission of DPS and must all work as a cohesive group in order to carry out that mission.

DPS reports it has hired and trained sworn personnel only to lose them to agencies that offer benefits such as a 20 year retirement and concludes that the successful enactment of SB 499 will aid in the efforts of the department to retain and attract the additional personnel to reduce current vacancy rates. The agency reports a current vacancy rate of 21.1 percent for the Motor Transportation Policy division, or 33 vacancies out of 156 authorized commissioned officer full-time equivalents (FTE). In contrast, the agency reports a 2.3 percent vacancy rate (2 out of 86 FTE) for the transportation inspector positions. DPS concludes that the potential for increased retention will improve performance in achieving agency objectives.

According to DPS, high officer turnover has also resulted in increased advertising, recruiting and training expenditures. The high cost to hire an officer (advertising/recruiting, interviews, background investigation, polygraph, and drug testing, medical and psychological exams) -- coupled with basic law enforcement academy training -- will be greatly reduced with officer retention. The average turnover in commissioned personnel for the past eight (8) years is 11.64%. This translates to an estimated cost of slightly over \$1,000,000 per year to train these officers to a basic level.

ADMINISTRATIVE IMPLICATIONS

PERA will need to coordinate the election for adoption of the new coverage plan by the motor transportation officers and DPS on or before October 1, 2009. 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

SB 499 conflicts with HB 573/HECS that changes the “hazardous duty” enhanced plan and 20-year plans to straight 25-year plans.

TECHNICAL ISSUES

Page 9, line 5, specifies that both “motor transportation or special investigation officers” must have 36-months of credit earned under the plan to be eligible to receive the enhanced benefit. This language including special investigation officers conflicts with the intent of the bill to cover only the motor transportation officers. DPS suggests that not including special investigations division officers will sustain the disparity in retirement benefits within the law enforcement program.

PERA notes that page 8, line 16, states that the retirement board shall certify that “a majority of the members voting have voted to approve adoption of the plan.” Line 5 should be corrected to state, “a majority of eligible motor transportation and special investigation members have voted to approve adoption of the plan.”

OTHER SUBSTANTIVE ISSUES

In addition to providing the unfunded liability estimate, the study indicates that the present funding status of the State Police and Adult Correctional Officer Coverage Plan 1 would be sufficient to provide the additional coverage and benefits for these officers, as the bill proposes. However, funding status was based on the June 30, 2008, actuarial solvency status and the fund has experienced significant decline since that time.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB 499 is not enacted, sworn members of MTD will remain under the general state retirement coverage plan instead of being transitioned into a hazardous-duty-type retirement plan. DPS maintains that this may result in further difficulties in the areas of hiring and retention in what has become a very competitive job market despite the economic downturn. Additionally, efforts by DPS to bring parity and equality to their law enforcement program will be delayed.