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

ORIGINAL DATE 10/20/09
SPONSOR Jennings **LAST UPDATED** **HB**

SHORT TITLE Educational Retirement & Retiree Health Care **SB** 18

ANALYST Aubel/Archuleta

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
($9,146.0)*	($18,292.0)**	Nonrecurring	General Fund (ERB)
($1,500.0)*	($3,000.0)	Nonrecurring	Tax Suspense Fund/ General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

*Fiscal impact for six months - January 1- June 30, 2009. The ERB reduction will need an amendment to this bill to implement the FY10 reduction.
** The incremental annual fiscal impact to the general fund associated with the 0.75 percent increase is $18,292 per year. See Fiscal Impact.

Duplicates HB11

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
($9,146.0)	($36,584.0)	($36,584.0)	Nonrecurring	Educational Retirement Board (ERB)
		$18,292.0*	Recurring	Educational Retirement Board (ERB)
($1,500.0)	($3,000.0)		Nonrecurring	RHCA
		$3,000.0**	Recurring	RHCA

(Parenthesis ( ) Indicate Revenue Decreases)

*Incremental revenue due to first year of resuming 0.75% employer contribution. This amount represents the increased general fund appropriation needed in FY12. However, total cumulative revenue for FY12 would have been $54,876 thousand under the original funding schedule set by Laws 2005, Chapter 273.
**Resumption of $3,000 thousand distribution from Tax Suspense Fund.

SOURCES OF INFORMATION
LFC Files

Responses Received From
This FIR does not incorporate official responses from affected agencies. However, prior testimony presented by the agencies is included as part of this analysis.

SUMMARY

Synopsis of Bill

Senate Bill 18 delays increased contributions to the Education Retirement Board (ERB) and delays continuing contributions to the Retiree Health Care Authority (RHCA). The reduced contributions to ERB and RHCA represent savings to the general fund.

The bill temporarily suspends the increase in the employer contribution for the Education Retirement Board (ERB) under Laws 2005, Chapter 273, that incrementally raised the employer contribution by 0.75 percent annually from 8.65 percent in FY05 to 13.9 percent by FY12. The bill rolls back the rate beginning January 1, 2010, and then resumes the 0.75 percent annual increase beginning July 1, 2011. Thus, the original rates would take full effect by FY14, two years later than originally scheduled.

SB18 also suspends implementation of Laws 2009, Chapter 287, which continued a $250 thousand monthly distribution from the Tax Suspense Fund to the Retiree Health Care Authority, from January 1, 2010 until July 1, 2011. Thus, this distribution would flow to the general fund instead for that period.

The effective date of the bill is January 1, 2010.

FISCAL IMPLICATIONS

Educational Retirement Board
Laws 2005, Chapter 273, increased the employer contribution rate 0.75 percent annually from FY06 through FY12 to a final 12.9 percent (Attachment A – Table A.) FY10 represents the fifth year of this schedule. Based on the appropriation included in Laws 2009, Chapter 124 (Attachment A – Table B), going forward each of these 0.75 percent increments equates to an approximate additional $18.3 million general fund appropriation. SB18 proposes to suspend the 0.75 percent increase for the last half of FY10 and all of FY11, generating savings of $9.1 million for FY10 and an incremental savings of $18.3 million for FY11. To produce the general fund savings as intended by the bill for FY10, an amendment is required to cut the FY10 appropriation for the ERB 0.75 percent contribution increase included as part of Laws 2009, Chapter 124 (See Technical Issues).

The following discussion provides more detail by comparing the employer contributions set under current statute to that which would occur as proposed by this bill. Using the FY10 appropriation of $18.3 million and assuming zero salary increases, Table 1 shows the estimated incremental and cumulative funding requirements under Scenario 1 – the original funding schedule – and under Scenario 2 – as contemplated by this bill. These numbers represent revenue to ERB.

Table 1 – Revenue to ERB Due to Annual Employer Contribution Increase

Scenario 1 - Current Statute	**FY10**	**FY11**	**FY12**	**FY13**	**FY14**
FY10	$18,292	$18,292	$18,292	$18,292	$18,292
FY11		$18,292	$18,292	$18,292	$18,292
FY12			$18,292	$18,292	$18,292
FY13				N/A	N/A
FY14					N/A
Total Increase Revenue	$18,292	$36,584	$54,876	$54,876	$54,876
Scenario 2 – SB18	**FY10**	**FY11**	**FY12**	**FY13**	**FY14**
FY10	$9,146	0	0		
FY11		0	0		
FY12			$18,292	$18,292	$18,292
FY13				$18,292	$18,292
FY14					$18,292
Total Increase Revenue	$9,146	$0	$18,292	$36,584	$54,876

ERB has noted the fiscal impact of not having these additional funds in investments as originally planned, totaling $100.6 million over this period, represents an opportunity cost to the fund that would depend on investment returns over this period. Preliminary fund value as of September 30, 2009 is $7.9 billion.

Table 2 shows the projected impact of delaying the employer contribution increase on actuarial solvency measures, the funded ratio (actuarial value of assets compared to the actuarial value of liabilities) and funding period (the amount of time estimated to pay off the unfunded liability). The impact appears deminimus.

Table 2 – Impact on Actuarial Solvency Measures*

Fiscal Year	**Without Two-Year Delay**		**With Two-Year Delay**	
	Funded Ratio	**Funding Period**	**Funded Ratio**	**Funding Period**
FY10	67.3%	48.7	67.3%	48.7
FY11	63.3%	55.1	63.3%	94.3
FY12	59.3%	61.5	59.1%	infinite
FY13	54.9%	infinite	54.4%	infinite
FY38	61%	34.2	59.6%	37.1

*Source: ERB **Preliminary** Actuarial Estimates for the 2009 Valuation

Minimum industry standards require 80 percent for the funded ratio and 30 years for the funding period. The bill's impact primarily influences the funding period, adding two years of an infinite funding status. In both cases the indicators fall substantially below industry standards, portraying a situation where the obligations promised to current retirees and active members are being pushed out to future generations to fulfill. Delaying the employer contribution increase for two years will not substantially alter this picture. However, deviations from assumptions, such as over or under performing the 8 percent assumed rate of investment return, could materially impact this dynamic.

Retiree Health Care Authority

The fiscal impact is based upon a $1.5 million reduction in projected revenue from the Tax Suspense Fund in FY10 and a $3 million reduction in FY11, which is based on the current $250 thousand monthly distribution. The agency expects this action to reduce RHCA's solvency period from 2028 to 2027, at which time expenditures will exceed all available resources.

SIGNIFICANT ISSUES

The deficit estimated for FY10 has spiraled to over $650 million and revenue projections for FY11 have also been lowered. This bill would aid the state in balancing its budget as part of the solvency package to reduce general fund appropriations in FY10 and in adopting a balanced budget for FY11. The bill preserves the intent of the Legislature to improve fund solvency for both ERB and RHCA through additional revenues but delays implementation for two years. A primary policy issue is whether this bill would impair the funds over the long run by delaying the increase in the employer contribution rate for ERB and discontinuing the additional monthly $250 thousand distribution to RHCA for the period January 1, 2010 though June 30, 2011. A second main issue is whether the current Legislature chooses to modify an agreement reached between the prior Legislature and stakeholders that created the increased rates for both employers and employers under Laws 2005, Chapter 273.

In testimony presented to the Investment Oversight Committee, ERB noted that the delay would set a "bad precedent," and may set the stage for additional rate holidays that would be detrimental to fund solvency.

RHCA notes that changes to current revenue assumptions will likely carry a significant fiscal impact by accelerating the insolvency period currently projected at 2028.

ADMINISTRATIVE IMPLICATIONS

ERB notes that it would need to educate members and employers on the rate change. FY10 operating budgets would require adjustments to generate the general fund savings. Budget recommendations for FY11 would need to reflect the proposed rate for FY11.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 18 duplicates House Bill 11 but does not duplicate the proposed HAFC Committee Substitute that includes the recommended amendment.

TECHNICAL ISSUES

An amendment to SB 18 is required to reduce FY10 appropriations from Laws 2009, Chapter 124. The amendment should use language similar to that used for a pay increase that directs the Department of Finance and Administration to make the budget adjustment.

If no amendment is adopted, the FY10 general fund savings of $9.1 million will not materialize.

OTHER SUBSTANTIVE ISSUES

Attachment A – Table D depicts the final rates proposed under SB18 for ERB including those implemented by Laws 2009, Chapter 127. The fiscal impact on the general fund of increasing from 10.15 percent in FY11 to 12.4 percent in FY12 for ERB-affiliated employers would appear significant, representing the combination of the $18.3 million due to resumption of the 0.75 employer contribution increase and about $33 million due to the sunset of the 1.5 percent employee-employer swap ($23.7 million for public education and $9.6 million for higher education). In addition, approximately $10 million general fund will be required to replace the 1.5 percent employee-employer contribution swap for state agencies.

Finally, the $3 million distributed annually to RHCA from the Tax Suspense Fund would also resume in FY12, reducing the revenue flowing to the general fund by that amount.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Other avenues to generate general fund savings of $10.6 million ($9.1 million for ERB and $1.5 million for RHCA) in FY10 and $21.3 million ($18.3 million ERB and $3 million RHCA) in FY11 would need to be pursued.

MA:DA/svb

Attachment A

Table A – Laws 2005, Chapter 273

Fiscal year	Employee Contribution Rate	Employer Contribution Rate	Incremental Change in Employer Rate
FY05	7.6%	8.65%	
FY06	7.675%	9.4%	0.75%
FY07	7.75%	10.15%	0.75%
FY08	7.825%	10.9%	0.75%
FY09	7.9%	11.65%	0.75%
FY10	7.9%	12.4%	0.75%
FY11	7.9%	13.15%	0.75%
FY12	7.9%	13.9%	0.75%

Table B – Fiscal Impact of 0.75% increase in Employer Contribution Rate for FY10
(in thousands)

Public School Support *	
Program Costs	$12,073.2
Transportation	$194.8
Higher Education**	$6,024
TOTAL	**$18,292.0**

*Source: Public Education Department
**Source: Laws 2009, Chapter 124, page 188

Table C – Current Rates: Laws 2005, Chapter 273 and Temporary 1.5% Employer-Employee Swap (Laws 2009, Chapter 127)
(in thousands)

Fiscal year	Employee Contribution Rate > $20,000	Employer Contribution Rate	Incremental Change in Employer Rate
FY10*	7.9%+1.5% = 9.4%%	12.4% - 1.5% = 10.9%	0.75%
FY11*	7.9%+1.5% = 9.4%	13.15% - 1.5% = 11.65%	0.75%
FY12	7.9%	13.9%	0.75%

*Laws 2009, Chapter 127

Table D – Effective Combined Rate Changes*

Fiscal Year	Employee>$20,000	Employer
*FY10 July 1-Dec 31	9.4%	10.9%
*FY10 January 1 – June 30	9.4%	10.9%-0.75% = **10.15%**
*FY11	9.4%	11.65%-0.75% = **10.15%**
FY12	7.9%	12.4%
FY13	7.9*	13.15%
FY14	7.9*	13.9%

*Includes 1.5% employee-employer swap enacted by Laws 2009, Chapter 127 and rates proposed by SB18.