LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: CS/SB 150 | **50th Legislature, 2nd Session, 2012**

Tracking Number: .189339.3

Short Title: Educational Retirement Changes

Sponsor(s): Senator Stuart Ingle

Analyst: Kathleen Forrer | **Date: February 13, 2012**

SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 150

Bill Summary:

The Senate Finance Committee Substitute for Senate Bill 150 amends the *Educational Retirement Act* as follows:

Section 1: Contributions--Members--Local Administrative Units (pp. 1-6)

For Employees: Beginning in FY 14, employee contribution rate increases are phased in over a four-year period, reaching 11.3 percent for all Educational Retirement Board (ERB) members for FY 17 and beyond:

- FY 14 – 9.9 percent
- FY 15 – 10.4 percent
- FY 16 – 10.9 percent
- FY 17 – 11.3 percent

Under current statute, the rate for all employees will revert to 7.9 percent in FY 14.

For Employers: The top contribution rate for employers in both current statute and CS/SB 150 is 13.9 percent; however, CS/SB 150 phases in the increase over a six-year period beginning in FY 14 and becoming fully implemented in FY 19:

- FY 14 – 11.4 percent
- FY 15 – 11.9 percent
- FY 16 – 12.4 percent
- FY 17 – 12.9 percent
- FY 18 – 13.4 percent
- FY 19 – 13.9 percent

Under current statute, the 13.9 percent rate becomes effective in FY 15.

See Attachment for a comparison of the ERA employee and employer contribution rates in current statute with the proposed rates in HB 269, HB 270, SB 115, CS/SB 150, and SB 305.

Section 2: Retirement Eligibility--Initial Membership Prior to July 1, 2010 (pp. 6-8)

CS/SB 150 amends Section 22-11-23 NMSA 1978 to allow individuals who became members of the ERB prior to July 1, 2010 to retire under current eligibility requirements (Tier 1):

- the member has 25 or more years of earned and allowed service credit;
- the member is at least 65 years of age and has five or more years of earned service credit; or
- the sum of the member's age and years of earned service credit equals at least 75, provided that a member younger than 60 is subject to benefit reductions.

In addition, CS/SB 150 removes the formula for reducing the retirement benefits for members younger than 60, who are retiring under the "rule of 75," and places it in Section 7.

Section 3: Retirement Eligibility--Initial Membership on or after July 1, 2010 (pp. 8-10)

CS/SB 150 amends Section 22-11-23.1 NMSA 1978 to allow individuals who became members of the ERB on or after July 1, 2010 to retire under current eligibility requirements (Tier 2):

- the member has 30 or more years of earned and allowed service credit;
- the member is at least 67 years of age and has five or more years of earned service credit; or
- the sum of the member's age and years of earned service credit equals at least 80, provided that a member younger than 65 is subject to benefit reductions.

In addition, CS/SB 150 removes the formula for reducing the retirement benefits for members younger than 65, who are retiring under the "rule of 80," and places it in Section 7.

Section 4: Retirement Eligibility--Initial Membership on or after July 1, 2012 (pp. 10-11)

CS/SB 150 adds a new section to the *Educational Retirement Act* to create a third tier of retirement eligibility criteria for individuals who become members of ERB on or after July 1, 2012. These new criteria include a minimum retirement age and a longer vesting period:

- the member is at least 55 years of age and has 30 or more years of earned and allowed service credit;
- the member is at least 67 years of age and has eight or more years of earned service credit; or
- the member is at least 55 years of age and the sum of the member's age and years of earned service credit equals at least 80, provided that a member younger than 65 is subject to benefit reductions.

Section 5: Retirement Benefits—Minimum Contributory Employment (pp. 11-13)

CS/SB 150 specifies that an individual who becomes an ERB member on or after July 1, 2012 or who was a member prior to that date but has not by July 1, 2012 restored all contributions previously refunded must acquire at least eight years of contributory employment to be eligible for retirement benefits.

Section 6: Deferred Retirement—Restriction (pp. 13-15)

The term "deferred retirement" refers both to someone who continues to work after reaching retirement eligibility and to someone who terminates employment but remains vested in the former employer's retirement plan. With regard to ERB,

- a member eligible for retirement may continue in employment and continue to earn service credit so long as the member continues to make contributions to the fund; and
- a member who terminates employment with an ERB employer and is vested in the ERB retirement plan, i.e. has five or eight years of earned service credit as applicable, may apply for retirement when the member becomes eligible, so long as the member leaves his or her contributions in the fund.

Section 7: Retirement Benefits (pp. 15-20)

The formulas for reducing the retirement benefits for members younger than 60, who are retiring under the "rule of 75," and for members younger than 65, who are retiring under the "rule of 80," that were removed from sections 2 and 3 have been placed in this section.

CS/HB 150 has an effective date of July 1, 2012.

Fiscal Impact:

CS/SB 150 does not contain an appropriation.

Fiscal Issues:

In November 2011, ERB's actuaries presented a report regarding the June 30, 2011 actuarial valuation of the fund to the board. In that report, the actuaries noted that the unfunded actuarial accrued liability (UAAL)[1] increased from $4.9 billion at the end of FY 10 to $5.7 billion at the end of FY 11 and that the funding period as of the valuation date was infinite:

> This is a theoretical calculation of the period that will be required to amortize the UAAL, assuming that the current year's amortization payment increases at the payroll growth rate (3.75%) each year in the future. The infinite period compares with 62.5 years funding period calculated as of the prior actuarial valuation. An infinite period means that the principal on the UAAL will never be paid down.

The actuaries also noted that:

> The funded ratio (the ratio of the actuarial value of assets to the actuarial accrued liability) decreased from last year. The funded ratio at June 30, 2010 was 65.7%, while it is now 63.0%. Five years ago the ratio stood at 68.3%, and ten years ago the ratio was 91.9%.

Numerous sources, including the US Government Accountability Office (GAO), note that the Governmental Accounting Standards Board (GASB) standard for the funding period is 30 years

[1] The unfunded actuarial accrued liability (UAAL) is the present value of benefits earned to date that are not covered by current plan assets.

and that a funded ratio of about 80 percent is considered sound for state and local government pensions.

In the November 2011 actuarial valuation report, the following membership data are presented. These data illustrate that while the number of active members, i.e., those making contributions to the plan, is decreasing, the number of retirees receiving benefits is increasing.

CATEGORY	**June 30, 2010**	**June 30, 2011**	**Increase/ Decrease**
Active members	*63,295*	*61,673*	*(1,622)*
Vested inactive members	9,054	9,333	279
Nonvested inactive members (includes those awaiting refunds)	22,782	23,678	896
Service retirees	*30,377*	*31,974*	*1,597*
Disabled retirees	759	774	15
Beneficiaries	2,611	2,709	98

In this regard, the Legislative Finance Committee notes in Volume I that both the ERB and the Public Employees Retirement Association (PERA) funds are mature plans with net cash outflows:

> …which means employer and employee contributions are less than the pensions paid out. Thus, the funds depend on investment returns to keep the plans afloat. The growth in retirees who are healthier and living longer makes the dynamic even more critical going forward. An issue rarely addressed when speaking about pension fund solvency is the lack of hiring and no increase in pay to current employees. Benefits have continued to increase, however the contribution side of the pension funds has seen no growth outside of an increase in contribution rates.

In its analysis of CS/SB 150, ERB states that enactment of the bill would help to ensure the solvency of the Educational Retirement Fund:

> The Committee Substitute will increase member and employer contributions to the Educational Retirement Fund (the "Fund"), improving revenues to the fund, as well as helping to enhance actuarial soundness. In addition, the Committee Substitute will spread increases in member and employer contributions over longer periods. As with the original bill, spreading the increases over a longer period will allow the increases to be better absorbed as the economic situation improves and general fund revenues increase.

<u>Substantive Issues</u>:

In its analysis of the original version of SB 150, ERB notes that the proposal chosen by the board to modify New Mexico's educational pension plan was the result of a process that included a review of over 40 solvency scenarios. From those 40 scenarios, the board approved six to be presented to ERB members, retirees, and the public in 13 public meetings around the state. The result, incorporated in SB 150, was endorsed by the Investments and Pension Oversight Committee.

In its analysis of CS/SB 150, ERB indicates that the two pieces of legislation (SB 150 and CS/SB 150) are consistent in their approach:

> If the Committee Substitute becomes law it will improve the actuarial soundness of the Educational Retirement Fund and reduce the UAAL. The changes to the Educational Retirement Act proposed by the Committee Substitute are consistent with the ERB's original pension redesign proposal contained in SB 150 as originally introduced to modify the state's educational pension plan to improve its long term actuarial soundness and reduce the plan's unfunded actuarial accrued liability ("UAAL"). The ERB has requested a revised actuarial analysis of the Committee Substitute; this FIR will be revised when it is received.

Background:

- In 2005, the Legislature addressed the insolvency of the Educational Retirement Fund through legislation that increased both the employer's and the employee's contribution rates. The employer's contribution rate, which was 8.65 percent in FY 05, was increased by 0.75 percent each year for seven years, and was scheduled reach 13.9 percent in FY 12. The employee's contribution rate, which was 7.6 percent in FY 05, was increased by 0.075 percent per year for a period of four years, and reached 7.9 percent in FY 09.

- The 2009 Legislature increased the employee's contribution for individuals with an annual salary greater than $20,000 to 9.4 percent for FY 10 and FY 11; however, the contribution for all employees was scheduled to revert to 7.9 percent in FY 12.

- In 2010, the enactment of legislation again revised the schedule of employer contribution rates, maintaining the employer contribution rate at 10.9 percent for FY 11 and pushing back the implementation date for the 13.9 percent employer contribution to FY 13.

- In 2011, legislation was enacted that extended the 1.5 percent contribution shift from the employer to the employee for two more years (FY 12 and FY 13); implemented an additional 1.75 percent contribution shift for employees making over $20,000 for FY 12; and delayed the two remaining 0.75 percent employer increases set for FY 12 and FY 13 to FY 14 and FY 15. A temporary clause in the legislation would allow the additional 1.75 percent shift to be imposed in FY 13 if, based on the last consensus revenue forecast before the beginning of the 2012 legislative session:

    - General Fund revenues in FY 12 will be less than $100 million more than the General Fund revenue forecast reflected in the FY 12 budget; and
    - at the end of FY 12, the total amount in the state reserve funds will be less than 5.0 percent.

Related Bills:

SB 51 *Educational Retirees Returning to Work*
*SB 52 *No Precinct Worker Benefit Suspensions* (Identical to *SB 79)
*SB 79 *No Precinct Worker Benefit Suspensions* (Identical to *SB 52)
SB 115 *Public Employee Salary Tiers & Retirement*
SB 228 *Public Employee Retirement Contributions* (Identical to HB 226)

CS/SB 259 *Motor Vehicle Officer Retirement*
SB 274 *Public Employee Retirement Changes*
SB 305 *Educational Retirement Employee Contributions*
SM 18 *Evaluate Public Safety Members Retirement*
HB 41 *Minimum Age for Legislative Retirement*
*HB 42 *Legislative Retirement Contribution Changes*
HB 72 *Judicial Retirement Changes*
HB 120 *Acequia & Ditch Employees in PERA*
HB 141 *Public Retirees Returning to Work*
HB 209 *Motor Transportation Officer Retirement*
HB 226 *Public Employee Retirement Contributions*
HB 269 *Educational Retirement Contribution Increase*
HB 270 *State Employee & Teacher Retirement Changes*
HJM 19 *Study Changes to Public Employees Retirement*
HM 5 *Public Employee Retirement Change Options*

ATTACHMENT

COMPARISON OF EMPLOYEE AND EMPLOYER CONTRIBUTION RATES IN CURRENT STATUTE AND HB 269/HB 270, SB 115, CS/SB 150, AND SB 305

		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
		Employee					Employer					Total Contributions					
	Fiscal Year	Current Statute	HB 269*/ HB 270*	SB 115	CS/SB 150	SB 305	Current Statute	HB 269/ HB 270	SB 115	CS/SB 150	SB 305	Current Statute	HB 269/ HB 270	SB 115	CS/SB 150	SB 305	
1	**FY 12**																1
2	*Salaries $20,000 or less*	7.900%	7.900%	7.900%	7.900%	7.900%	12.400%	12.400%	12.400%	12.400%	12.400%	20.300%	20.300%	20.300%	20.300%	20.300%	2
3	*Salaries greater than $20,000*	11.150%	11.150%	11.150%	11.150%	11.150%	9.150%	9.150%	9.150%	9.150%	9.150%	20.300%	20.300%	20.300%	20.300%	20.300%	3
4	**FY 13**																4
5	*Salaries $20,000 or less*	7.900%	7.900%	7.900%	7.900%	7.900%	12.400%	12.400%	12.400%	12.400%	12.400%	20.300%	20.300%	20.300%	20.300%	20.300%	5
6	*Salaries between $20,000 and $50,000*	9.400%	9.400%	9.400%	9.400%	9.400%	10.900%	10.900%	10.900%	10.900%	10.900%	20.300%	20.300%	20.300%	20.300%	20.300%	6
7	*Salaries greater than $50,000*			11.150%					9.150%					20.300%			7
8	**FY 14**																8
9	*Salaries $100,000 or less*	7.900%	9.400%	7.900%	9.900%	9.900%	13.150%	13.150%	13.150%	11.400%	13.150%	21.050%	22.550%	21.050%	21.300%	23.050%	9
10	*Salaries greater than $100,000*			9.400%					10.900%					20.300%			10
11	**FY 15**																11
12	*All Employees*	7.900%	9.400%	7.900%	10.400%	10.400%	13.900%	13.900%	13.900%	11.900%	13.900%	21.800%	23.300%	21.800%	22.300%	24.300%	12
13	**FY 16**																13
14	*All Employees*	7.900%	9.400%	7.900%	10.900%	10.900%	13.900%	13.900%	13.900%	12.400%	13.900%	21.800%	23.300%	21.800%	23.300%	24.800%	14
15	**FY 17**																15
16	*All Employees*	7.900%	9.400%	7.900%	11.300%	11.300%	13.900%	13.900%	13.900%	12.900%	13.900%	21.800%	23.300%	21.800%	24.200%	25.200%	16
17	**FY 18**																17
18	*All Employees*	7.900%	9.400%	7.900%	11.300%	11.300%	13.900%	13.900%	13.900%	13.400%	13.900%	21.800%	23.300%	21.800%	24.700%	25.200%	18
19	**FY 19 & Beyond**																19
20	*All Employees*	7.900%	9.400%	7.900%	11.300%	11.300%	13.900%	13.900%	13.900%	13.900%	13.900%	21.800%	23.300%	21.800%	25.200%	25.200%	20

*HB 269 and HB 270 provide that if for FY 14 the local administrative unit's contribution rate is reduced to less than 13.15 percent, the member contribution rate will be reduced to 7.9 percent.