FISCAL IMPACT REPORT

		ORIGINAL DATE	01/25/13		
SPONSOR	HAFC	**LAST UPDATED**	02/22/13	**HB**	95 & 169/HAFCS
SHORT TITLE	Judicial Retirement Changes			**SB**	
				ANALYST	Jorgensen/Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation			Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**		
$5,000.0	$5,000.0	$5,000.0	Recurring FY14 & FY15	General Fund
$2,667.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**		
$3,666.0	$3,666.0	$3,666.0	Recurring FY14 & FY15	Judicial Retirement Fund
$1,333.0	$1,333.0	$1,333.0	Recurring FY14 & FY15	Magistrate Retirement Fund
$2,667.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Employees Retirement Association (PERA)
Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

The proposed House Appropriations and Finance Committee substitute for House Bill 95 (HB 95) combines HB 95 and HB 169 and adds a new tier of benefit structure for new members of the Judicial Retirement Act (JRA) and the Magistrate Retirement Act (MRA).

HB 95 implements the following changes:

Cost of Living Adjustment (COLA)

- Suspends the COLA for FY14 and FY15.
- Applies a 2 percent COLA for FY16.
- Beginning FY16, applies a 2 percent COLA provided the funding ratios are above 70 percent. If the funding ratios are below 70 percent, the COLA is suspended for that year. The COLA may be suspended for no more than 2 consecutive years so that on the third year, a COLA of 2 percent will be applied regardless of the funded ratio.
- Delays the COLA eligibility period for future retirees from 2 full calendar years to 7 full calendar years, subject to a 4-year phase-in period.

Employee and Employer Contribution Rates:

- For FY14, increases employee contributions to 10.5 percent of salary.
- Converts employer contributions to a percentage of salary rather than a combination of employer contributions and docket fees:
  - For FY14 for the JRA the employer contribution will be 28.72 percent of salary. For FY15, the employer contribution will increase 3 percent; to 31.72 percent of salary.
  - For FY14 for the MRA the employer contribution will be 24.77 percent of salary. For FY15, the employer contribution will increase 4 percent; to 28.77 percent of salary.
- Diverts docket fees to the general fund to pay for employer contribution increases.

New Benefit Structure after July 1, 2013:

- Increases age and service requirements:
  JRA: 60 years with 15 years of service credit or 65 years with 8 years
  MRA: 60 years with 15 years of service credit or 65 years with 8 years, 24 years any age
- Lengthens the final average salary calculation to 5 years, from the last year in office.
- Lowers the annual service credit to 3.5 percent for both plans.
- Increases the vesting period to 8 years from 5 years.
- Increases the pension maximum to 85 percent from 75 percent.
- Adjusts proportionately the earned service credit under different PERA plans for a “blended” benefit.

The bill provides a continuing $2.67 million non-reverting appropriation beginning FY14 from the general fund to the Supreme Court, Court of Appeals, District Courts, Bernalillo Metropolitan Court and the AOC for a portion of the employer contributions.

The bill contains a $15 million appropriation from the general fund to immediately help improve funded ratios: $11 million to the JRA and $4 million to the MRA. The appropriation is divided across three fiscal years; any remaining balance at the end of FY16 reverts to the general fund. **The fiscal year 2015 and 2016 amounts are contingent upon funding by the legislature.**

FISCAL IMPLICATIONS

The appropriations table above reflects an annual appropriation of $5 million from the general fund over three fiscal years to help decrease unfunded liabilities in the JRA and MRA. As of June 30, 2012, the MRA is 53.2 percent funded and has a $27.2 million unfunded liability. The bill's appropriation of $4 million over 3 fiscal years reduces unfunded liabilities for the MRA 15 percent. The JRA is 51 percent funded and has a $72.4 million unfunded liability. The bill's appropriation of $11 million over 3 fiscal years reduces unfunded liabilities for the JRA 15 percent.

The $2.67 million reflected in the appropriation table above is part of the docket-fee-for-general fund swap. The bill proposes to appropriate $2.67 million from the general fund to the courts for employer contributions and transfer all docket fees generated by the court to the general fund. In FY12, the docket fees generated totaled $2.67 million and there could be an additional general fund impact if docket fee revenues decrease in the future.

SIGNIFICANT ISSUES

The increased employee and employer contribution rates proposed by the bill are insufficient to fund the long-term pension obligations. It is likely that in a few years further legislation will be necessary to achieve solvency. The table below suggests that the changes proposed by the bill will leave the JRA 20 percent under the actuarial required contributions to achieve solvency. For the MRA, the proposed changes would leave the plan 39 percent under-funded.

FY12 Actuarial Valuation				
Fund	**Actuarial Required Contributions (ARC)**	**Current Statutory Contributions**	**HB95CS FY14**	**Percent Difference between ARC and HB95CS**
JRA	Normal Cost 29.61% UAAL 30.29% **ARC 59.90%**	Employer 8.75% Docket Fee 16.72% Employee 10.75% **Total 36.22%**	Employer 28.72% Employee 10.50% **Total 39.22%**	**(20.68%)**
MRA	Normal Cost 29.44% UAAL 44.85% **ARC 74.29%**	Employer 7.75% Docket Fee 13.77% Employee 10.75% **Total 32.27%**	Employer 24.77% Employee 10.50% **Total 35.27%**	**(39.02%)**

The replacement of revenues from fluctuating docket fees with general fund will provide more stability to the plans and allow for a more accurate actuarial analysis of the funds.

Both plans pay out more to retiree-members than they receive from members who are still working. As of the close of FY12, there were 42 actives contributing and 85 retirees drawing benefits in the MRA. In the JRA, there were 118 actives contributing and 127 retirees drawing benefits.

Given the proposed 3.5 percent annual service credit, the average district court judge (JRA member) who takes the bench at age 45 would be eligible for a full pension benefit of 85 percent of final average salary, or $95 thousand annually, at age 70. The average magistrate court judge

(MRA member) who takes the bench at age 43 would be eligible for a full pension benefit of 85 percent of final average salary, or $67.6 thousand annually, at age 67.

The LFC has noted concerns that the assumptions used in the valuations, particularly for future investment earnings of 7.75 percent, may overstate the positive impact of enactment of the bill.

ADMINISTRATIVE IMPLICATIONS

The PERA notes it will be required to make modifications to its pension administration system to administer the new benefits under the magistrate and judicial retirement systems.

TECHNICAL ISSUES

The bill contains the following provisions:

1) the COLA is applied every third year regardless of the funded ratios of the plans; and
2) the trigger to pay the COLA is set low, at a 70 percent funded ratio.

Considered separately, these provisions are problematic, but in combination they have the potential to keep the plans chronically under-funded.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 25 changes age and service requirements under the Judicial and Magistrate Retirement Acts.

SB 26 authorizes the PERA Board to require supplemental employee contribution increases and set annual cost-of-living adjustments, subject to certain criteria.

SB 27 implements the PERA board’s pension reform proposal.

ALTERNATIVES

To achieve solvency, suspend the COLA for a longer period of time and reduce the annual service credit further as the 3.5 percent proposed in the bill is 1 percent higher than the PERA proposal for state employees and 0.5 percent higher than proposed for public safety employees.

NCJ:AHO/svb:blm