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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>SB28</u>	<b>Sponsor</b>	<u>Sen. Kernan and Rep. Salazar, T</u>
<b>Tracking Number</b>	<u>.204848.2SA</u>	<b>Committee Referrals</b>	<u>SEC/SFC;HEC/HAFC</u>
<b>Short Title</b>	<u>Educational Retirement Changes</u>		
<b>Analyst</b>	<u>Simon</u>	<b>Original Date</b>	<u>1/25/17</u>
		<b>Last Updated</b>	<u>3/9/17</u>

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**FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**BILL SUMMARY**

Synopsis of Bill

Senate Bill 28 (SB28) amends the Educational Retirement Act to provide that eligible employees who are not teaching, nursing, or administrative employees are considered “regular” rather than “provisional” members; eliminates the requirement that members seeking disability benefits be examined by a medical doctor designated or employed by the New Mexico Educational Retirement Board (ERB) and instead requires members seeking disability benefits to submit required medical records to ERB; and eliminates a provision that allows, at ERB discretion, members who are eligible to purchase service credit to pay for the service credit in installments.

**FISCAL IMPACT**

SB28 does not contain an appropriation. Educational Retirement Board staff project no fiscal impact from SB28.

**SUBSTANTIVE ISSUES**

SB28 formally eliminates the designation of “provisional member” for employees of ERB-covered employers who are not in teaching, nursing, or administrative positions. Other employees including janitorial staff, maintenance staff, school bus drivers, and cafeteria workers are currently “provisional members”; however, there is currently no effective difference between “regular” and “provisional” membership. According to ERB, the law prior to 1971 allowed optional ERB membership for employees who were not in teaching, nursing, or administrative positions. The option became a requirement in 1971. Members who are currently considered “provisional members” will not see changes to their contributions or retirement benefits from SB28.

SB28 would not completely eliminate provisional membership. Employees of the Public Education Department, New Mexico School for the Deaf, New Mexico School for the Blind and

Visually Impaired, New Mexico Boys' School, New Mexico Girls' School, the Los Lunas Medical Center, and the northern New Mexico state school (Northern New Mexico College) who have the option of joining the Public Employees Retirement Association (PERA) are considered "provisional members." Provisional ERB members must choose to become a PERA member within the first six months of employment or they will remain ERB members.

SB28 updates statute to reflect ERB's current practice regarding applications for disability benefit. Current law requires a member who is applying for disability benefit to submit to a medical examination by a doctor designated or employed by ERB. SB28 would not require a medical examination from an ERB-approved doctor but would require the member to submit his or her medical records for review by an ERB-approved doctor or medical review panel. The board may require that a member applying for disability benefit undergo an independent medical exam and that exam must be paid for by ERB.

SB28 removes a provision that allows ERB to accept payment for allowed service credit in installments. Allowed service credit may be purchased by an ERB member who has vested in the system and has certain kinds of previous employment, for example military service or work at a public school in another state. To acquire allowed service credit, members must pay ERB an amount based on the actuarial cost of the credit. Currently, ERB is not required to accept installment payments, but the board may allow installment payments at its discretion. Staff of ERB has said it does not currently accept installment payments; however, ERB members are not required to purchase all of the service credit they are allowed to purchase at one time. Members who are eligible to purchase service credit may effectively pay in installments by purchasing a small amount of service credit on several occasions, rather than making one larger purchase.

#### **SOURCES OF INFORMATION**

- LESC Files
- Educational Retirement Board

**JWS/rab**