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## FISCAL IMPACT REPORT

SPONSOR Rhem/Black/Anderson  
/Sedillo Lopez ORIGINAL DATE 2/1/22  
/Hochman-Vigil LAST UPDATED \_\_\_\_\_ HB 105

SHORT TITLE Public Retirees Returning to Work SB \_\_\_\_\_

ANALYST Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate but Positive			Recurring	PERA Retirement

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB50

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
 New Mexico Municipal League (ML)  
 New Mexico Corrections Department (NMCD)  
 Public Employees Retirement Association (PERA)  
 State Personnel Office (SPO)

### SUMMARY

#### Synopsis of Bill

House Bill 105 (HB105) allows retirees from any PERA coverage plan to return to work for a PERA-affiliated employer without suspending payment of the pension benefit, provided that the former employee retired before December 31, 2021. The conditions for re-employment include:

1. A retiree returning to work must have retired at least 90 consecutive days before reemployment and may not have worked as an independent contractor for the agency from which the employee retired during that time.
2. An employee who returns to work may do so for up to 36 consecutive or nonconsecutive months.
3. Return to work employees will continue to receive a cost of living adjustment on their current PERA benefit.
4. Non-refundable employee and employer contributions shall be paid to the proper PERA coverage plan.

5. Return to work employees will not accrue additional service credit during the period of re-employment.
6. Return to work employees must be employed in entry-level positions.

The return to work provisions are effective through July 1, 2027.

HB105 is effective July 1, 2022.

### FISCAL IMPLICATIONS

PERA notes there will likely be a small positive impact to the pension funds as a result of enactment of HB105. There are two reasons for this:

1. During re-employment, return to work employees will pay normal, non-refundable contributions to the fund, but will not receive an added benefit as a result. The requirement for continued contributions increases revenue to the fund though no additional liability is created, thus improving the funded status of the plans.
2. To be eligible for return to work, an employee must have been retired as of December 31, 2021. Because this date has already passed, it cannot influence an employee’s decision to retire in order to return to work (RTW). RTW is often a net negative to a pension fund as employees tend to retire earlier than they would have otherwise, thus reducing contributions to the fund and shortening the period over which contributions may be invested before paying benefits. Therefore, creating an incentive for employees to retire early generally reduces pension funding. By setting eligibility criteria which remove the incentive for early retirement, HB105 limits any negative impact to the pension fund.

Because the number of RTW employees is not known, it is not possible to determine the impact to the pension funds. Therefore, the fiscal impact to the retirement fund is indeterminate but positive.

For the year ending June 30, 2021 the PERA Fund had an unfunded actuarial accrued liability (UAAL) of \$6.58 billion and was funded at 71.4 percent.

### SIGNIFICANT ISSUES

In 2021, the average age of a PERA retiree was 59.6 years, 2.4 years less than the social security early retirement age of 62. Because there are a number of retirees of working age in the state, it is likely the changes in HB105 will allow state and local governments to fill a number of vacant positions. The average ages and annual benefits for the five PERA coverage plans are shown below:

Plan	Average Retirement Age	Average Annual Benefit
State General	61.05	\$30,048
State Police/Corrections	52.72	\$37,752
Municipal General	61.25	\$28,644
Municipal Police	50.15	\$50,976
Municipal Fire	48.31	\$56,148
<b>Total</b>	<b>59.6</b>	<b>\$43,719</b>

The State Personnel Office observes:

HB105 has particular potential to benefit the New Mexico Corrections Department, State Police, State Fire Marshal's Office, and city and county municipalities who employ law enforcement and corrections employees, since these employees generally retire younger due to accelerated retirement plans. The bill could reduce vacancy rates in these hard to recruit/retain areas.

The New Mexico Corrections Department reports:

The passing of this bill would certainly have a positive impact on the agency, creating a larger pool of candidates for vacant positions within the Agency statewide. Dependent on the entry-level positions offered to interested returning employees, NMCD would likely already have funds allocated for relevant vacant positions, and because many positions are posted on an ongoing basis, there would be minimal fiscal impact on NMCD.

The Municipal League notes:

Allowing retirees to return to work for a public employer while continuing to collect pension benefits could be a useful tool for municipal governments and law enforcement departments to fill staff vacancies. Employment in municipal governments has lagged, even as private sector employment has recovered. For example, the Pew Charitable Trusts found that as of August 2021, local public payrolls were down 5.3 percent from pre-pandemic totals. The Municipal League is supportive of HB105 to give municipal governments more options for hiring.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB105 conflicts with HB50, which has identical provisions but requires a 12-month layout rather than the 90-day layout required in HB105.

### **TECHNICAL ISSUES**

The bill requires return to work employees to be employed in an "entry-level position", but does not define the term.

CJ/acv/rl