# FISCAL IMPACT REPORT

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| **SPONSOR** | Lundstrom/Roybal Caballero/Chandler/Gonzales | **LAST UPDATED** | |
| | | **ORIGINAL DATE** | 02/09/2023 |
| **SHORT TITLE** | Temporary Payments to Certain PERA Members | **BILL NUMBER** | House Bill 210 |
| | | **ANALYST** | Simon |

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

| FY24 | FY25 | FY26 | FY27 | FY28 | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| | | $89,245.0 | | | Nonrecurring | PERA Fund |

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Responses Received From
Public Employees Retirement Association (PERA)

No Response Received
Department of Finance and Administration (DFA)

## SUMMARY

### Synopsis of House Bill 210

House Bill 210 (HB210) requires the Public Employees Retirement Association (PERA) to pay pension recipients who are at least 65 years old an additional, non-compounding payment equal to two percent of the member's annual benefit. The two percent payment would be calculated each fiscal year based on the total payment for that year. Payments would be inclusive of all previously granted cost-of-living adjustments. Payments would be made from FY24 through FY28.

The effective date of this bill is July 1, 2023.

## FISCAL IMPLICATIONS

PERA reports HB210 is estimated to have an $89.2 million impact to the PERA fund over the five years payments would be required, a cost of approximately $17.9 million per year. However, PERA's actuaries report the present day cost to providing these benefits over five years and analysis does not include a cost estimate by year. Presumably, costs would be lower in the first year, with payment growing in out years, as accrued cost-of-living adjustments increase. PERA's previous additional payment plan, which ran from three years between 2020 and 2022, cost $17.4 million in 2020, $18.3 million in 2021, and $19.3 million in 2022. However, that additional payment applied to members who were under 75 as of July 1, 2020, were not disability retirees, and had a benefit of more than $25 thousand per year (members who did not qualify for the additional payment continued to receive a 2.5 percent cost-of-living adjustment). HB210 would apply to only those 65 years of age and older. While this applies to most PERA retirees (PERA reports an average age of 68.8 for service retirees), restricting payment to those over 65 would likely have a lower cost than the $19.3 million paid in 2022.

Article XX, Section 22, of the New Mexico Constitution prohibits the Legislature from enacting any law that increases the benefits paid by PERA unless adequate funding is provided. That section assigns the PERA board the sole and exclusive power to adopt actuarial assumptions, based on recommendations from an independent actuary. HB210 would increase benefits payments for retirees and does not include an appropriation; if funding is not provided the additional payment required by HB210 may not meet the requirements of this section. PERA notes if payments were made contingent upon receiving an appropriation from the Legislature, the payment could satisfy the constitutional requirement for adequate funding.

## SIGNIFICANT ISSUES

In 2020, the Legislature passed Senate Bill 72, which amended the Public Employees Retirement Act to eliminate an annual 2.5 percent cost-of-living adjustment (COLA) required by state law. The annual COLA was temporarily replaced by an additional, non-compounding payment of two percent of the member's benefit. Those additional payments, sometimes called the "13th check" were made for three years and the Legislature appropriated $55 million from the general fund to cover the costs of these payment. PERA records show the total three year cost of these payment were close to the initial estimate, with a surplus of only $43 thousand. Following the three-year period a new, "risk-sharing" cost-of-living adjustment would be implemented. Unlike the 13th check, this payment would compound. The COLA would be based on the plan's investment performance and the plan's funded status—or the percentage of total liabilities for which the plan has invested assets. Under this COLA, rates would vary from 0.5 percent to 3 percent, until the plan is fully funded, at which point COLAs could go as high as 5 percent. Beginning in 2023, PERA will begin adjusting members' benefits pursuant to this COLA. Because investment returns were negative in FY22, members will receive only a 0.5 percent COLA, the plan minimum.

SB72 was passed to address chronic underfunding issues at PERA. At the time, PERA's actuaries estimated the fund held about 70 percent of the assets needed to pay all accrued benefits, but over time that gap was expected to grow because contributions into the fund were not sufficient to pay all protected benefits, make additional annual cost-of-living adjustments, and pay off the plan's unfunded liability. SB72 increased employee and employer contributions to the funds, which PERA reports has raised $32.4 million per year in additional revenue, with that amount increasing in future years, and lowering cost-of-living adjustments.

**Annual Cost-of-Living Adjustments for PERA and Social Security**

| Year | Social Security | PERA |
|---|---|---|
| 2010 | 0.0% | 2.5% |
| 2011 | 0.0% | 2.5% |
| 2012 | 3.6% | 2.5% |
| 2013 | 1.7% | 2.5% |
| 2014 | 1.5% | 2.5% |
| 2015 | 1.7% | 2.5% |
| 2016 | 0.0% | 2.5% |
| 2017 | 0.3% | 2.5% |
| 2018 | 2.0% | 2.5% |
| 2019 | 2.8% | 2.5% |
| 2020 | 1.6% | 2.0% * |
| 2021 | 1.3% | 2.0% * |
| 2022 | 5.9% | 2.0% * |
| 2023 | 8.7% | 0.5% |

Source: Social Security Administration and LFC Files

*Non-compounding

SB72 was passed at a time when an annual 2.5 percent COLA was significantly outpacing inflation. Annual COLAs for social security, which are tied to inflation, averaged 1.4 percent between 2010 and 2020. But more recent increases in the cost of living have led these amounts to spike. Social security COLAs in 2022 were nearly 6 percent and were almost 9 percent in 2023, which illustrates the challenges faced by retirees in meeting basic needs on fixed incomes.

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