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FISCAL IMPACT REPORT

SPONSOR <u>Gonzales/Brandt</u>	LAST UPDATED <u>2/14/24</u>
	ORIGINAL DATE <u>2/7/24</u>
SHORT TITLE <u>Legislative Retirement Changes</u>	BILL NUMBER <u>Senate Bill 165/aHAFC</u>
	ANALYST <u>Simon</u>

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
			\$1,500.0	\$1,500.0	\$1,500.0	Recurring	Legislative Retirement Fund
			(\$1,500.0)	(\$1,500.0)	(\$1,500.0)	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Public Employees Retirement Association (PERA)

State Ethics Commission (SEC)

SUMMARY

Synopsis of HAFC Amendment to Senate Bill 165

The House Appropriations and Finance Committee amendment to Senate Bill 165 (SB165/aHAFC) strikes the \$25 thousand appropriation.

Synopsis of Senate Bill 165

Senate Bill 165 (SB165) would increase pension payments to future retirees of the state legislator plan 2 of the Public Employees Retirement Association (PERA). The enhancement would apply to members who retire after the effective date of the bill, but it would apply to service credit accrued before and after the effective date.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

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. PERA reports an actuarial analysis of SB165 indicates contributions to the fund would need to increase by \$1.5 million annually. Current law includes a funding mechanism that would increase revenue to the fund for the full cost of the change, beginning in FY26.

Under current law, the legislative retirement fund will receive, beginning in FY26, a distribution of tax revenue collected under the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act. The distribution will be the greater of \$75 thousand per month or the amount necessary to pay out legislative retirement benefits. Section 7-1-6.43 NMSA 1978 requires PERA, with the assistance of the Legislative Council Service, to determine the amount needed for retirement benefits in the coming year. If the amount needed to pay retirement benefits exceeds \$75 thousand per month, PERA is required to notify the Taxation and Revenue Department and the department is required to increase the distribution. This increased distribution would reduce revenue into the general fund.

Between FY21 and FY26, tax distributions to the legislative retirement fund were suspended. PERA reports that the fund currently has a surplus, with sufficient funds invested to pay 116 percent of benefits that have been earned to date. PERA reports SB165 would eliminate this surplus, leaving the fund with slightly more than 100 percent of the assets needed to pay all promised benefits.

SIGNIFICANT ISSUES

Under current law, state legislators may opt-into a defined benefit pension plan offered by PERA. Members must pay \$1,000 for each year of service to be eligible. In addition, the fund receives tax distributions. Members' pensions are based on 14 percent of the per diem rate in effect on the first day of the fiscal year in which they retire, multiplied by 60, for each year of service. For FY24, that rate was \$231, meaning a member retiring in 2024 would receive about \$1,940 for each year of service. SB165 would change calculation of pension benefits by increasing the multiplier from 60 to 90. At the current per diem rate of \$231, that would increase the payment to \$2,911 for each year of service for new retirees.

A member must have at least 10 years of service before becoming eligible for a pension. PERA's financial reports indicate 210 retirees and beneficiaries in the legislative retirement plan, with an average benefit of \$11,774 per year.

JWS/ne/ss