F I S C A L   I M P A C T   R E P O R T

SPONSOR	HJC	**ORIGINAL DATE** **LAST UPDATED**	03/16/09 03/30/09	**HB**	CS/CS/573/aHFl#1/aHFl#2/aSEC/aSFC/aSFl#1/aSFl#2
SHORT TITLE	Adjustment of Retirement Plans			**SB**	
				ANALYST	Aubel/Archuleta

TABLE 1: REVENUE[1] (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
$23,500.0*	$34,500.0*	$45,500.0*	Recurring	RHCA Fund
$3,000.0*	$3,000.0*	$3,000.0*	Recurring	RHCA Fund

(Parenthesis ( ) Indicate Revenue Decreases)

*Revenue estimates prepared by RHCA. Estimated revenue increases to RHCA Fund correspond to the additional operating requirements for employers noted in Table 2.

Duplicates House Bill 351 – Retiree Health Care Fund Contributions

Relates to Senate Bill 366 – Continuing a Certain Tax Distribution to the Retiree Health Care Fund.

TABLE 2: ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT[1] (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Suspense Fund	$3,000.0	$3,000.0	$3,000.0	$9,000.0	Recurring	General Fund Tax Suspense Fund
Employer Contribution Increase	$7,800.0	$11,500.0	$15,200.0	$34,500.0	Recurring	General Fund
Employer Contribution Increase	$7,800.0	$11,500.0	$15,200.0	$34,500.0	Recurring	Other State Funds for LPBs, Schools & Universities
Total	$10,900.0	$14,500.0	$18,100.0	$43,500.0	Recurring	All Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

[1] Fiscal Impact due to RHCA increase in contribution rates and continuing payment from the General Fund Tax Suspense Fund.

The HAFC recommendation for general appropriations includes reductions in some areas where federal funds can be used. These reductions will have to be made up to maintain the current level of appropriations in FY11 and FY12. In FY11, $150 million will have to be restored and in FY12, $330 million will have to be restored. This is in addition to other appropriation increases required in FY11 to maintain current service levels or to implement statutorily scheduled funding increases, such as ERB contributions, instructional material funding replacement, and restoring Medicaid funding from the general fund instead of the tobacco settlement program fund. These add up to $80 million to $100 million.

Table 3: REVENUE (dollars in thousands)

Estimated Revenue			Recurring	Fund
	FY10	**FY11**		
Return-to-Work ERB Employer Contributions	$1,023.4**	$1,417.1**	Recurring	Retiree Health Care Authority
Service Credit Purchase	Unknown	Unknown	Recurring	Retiree Health Care Authority
RTW Employee Contributions**	$4,146.2**	$4,146.2**	Recurring**	ERB

**Estimate based on ERB data on RTW employees.

Table 4: ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	**FY10**	**FY11**	**3 Year Total Cost**	**Recurring or Non-Rec**	**Fund Affected**
ERB RTW Employee Contributions		Up to $4,146.2**	Up to $4,146.2**	Up to $8,292.4**	Recurring	ERB Affiliates: Public Schools, Special Schools and Higher Ed Various Funds
PERA/ERB Contributions[3]		Minimal	Minimal	Minimal	Recurring	State Agencies/Municipalities
RIO Computer Change		$100.0		$100.0	Nonrecurring	PERA
IRIS Computer Change		$50.0		$50.0	Nonrecurring	ERB
ERB/PERA Operating		$.01	$.01	$.01	Recurring	PERA/ERB
Legislative Council Services		$1.0-$5.0	$1.0-$5.0	$1.0-$5.0	Nonrecurring	General Fund
Actuarial Study		$250.0				PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

[3]Will be able to reduce contributions over time.

Duplicates provisions of HB351 and duplicate SB366, HB453, HB683/HLCS, HB721 and duplicate SB476, HB798
Companion to HJM45
Relates or conflicts with to HB65, HB246, HB271 and companion HB355, HB631, HB765, SB145, SB428, SB499HB236, HB525, HB601, HB631, HB648, HB731, HB854, HB 684 and SB231

SOURCES OF INFORMATION
LFC Files

Responses Received From (for Original Bills)
Public Employees Retirement Association (PERA)
Educational Retirement Board (ERB)
Retiree Health Care Authority (RHCA)
Public Education Department (PED)
Higher Education Department (HED)
State Personnel Board (SPB)
Corrections Department (CD)

SUMMARY

Synopsis of SFl#2 Amendment

The Senate Floor Amendment #2 changes the effective dates for the renumbered sections from Senate Floor Amendment #1, as follows:

Sections 1 through 5, 11, 13, 16 and 18: July 1, 2010.

Sections 6 through 10,12,14,15, 17, and 20: July 1, 2011.

Synopsis of SFl#1 Amendment

Senate Floor Amendment #1 removes the sections relating to the new 25-year service requirement for the following plans:

- Section7: State Police Member and Correctional Officers;
- Section 12: Municipal Police Member Coverage Plan 3;
- Section 13: Municipal Police Member Coverage plan 4;
- Section 14: Municipal Police Member Coverage Plan 5;
- Section 15: Municipal Fire Member Coverage Plan 3;
- Section 16: Municipal Fire Member Coverage Plan 4;
- Section 17: Municipal Fire Member Coverage Plan 5; and
- Section 18: Municipal Detention Officer Member Coverage Plan 1.

Sections and section references are renumbered accordingly. The amendment leaves these plans at the current 20-year or enhanced 25-year plan structure.

Synopsis of SFC Amendment

The Senate Finance Committee reinstates the sunset date of 2022 for the ERB return-to-work program.

Synopsis of SEC Amendment

The Senate Education Committee Amendment removes the 2022 sunset date for the ERB return-to-work program.

Synopsis of HFl#2 Amendment

The House Floor Amendment #2 removes the anti-spiking provision for PERA.

Synopsis of HFl#1 Amendment

The House Floor Amendment #1 strikes the anti-spiking provision for ERB that limits the calculation of final average salary by 35 percent for three years. It leaves the anti-spiking provision that excludes lump sum payments for accrued sick leave or annual leave from the calculation.

SIGNIFICANT ISSUES

The "anti-spiking" provision addresses occasions where an employee works most of his or her career at a lower salary and works only a few years at a higher salary, which increases the pension benefit. For example, a state employee who works 22 years as a Management Analyst at an average annual salary of $40 thousand per year and then spends the last three years serving under a political appointment at $98 thousand per year will have a pension benefit based on the higher three year average salary. However, contributions for the employee will have been made to PERA at a lower salary for most of his career. Spiking of pension benefits has a negative fiscal impact to plan solvency.

Synopsis of Original Bill

The House Judiciary Committee Substitute for the House Education Committee Substitute for House Bill 573 amends the Educational Retirement Act, the Public Employees Retirement Act and Retiree Health Care Act to help promote the long term solvency of the Educational Retirement Board (ERB), the Public Employees Retirement Association (PERA), and the Retiree Health Care Authority (RCHA) through pension reform. The bill increases revenues, increases contribution rates, and requires payments for certain return-to-work or service credit purchases for Retiree Health Care effective July 1, 2009; establishes new retirement eligibility requirements and implements "anti-spiking" provisions for ERB and PERA effective July 1, 2010; amends the return-to-work provisions for ERB effective July 1, 2009; amends purchasing military time for ERB effective July 1, 2009; adds training and education requirements for members of the ERB and PERA boards effective July 1, 2009; and creates a "retirement systems solvency task force" of 25 members to study the actuarial soundness of the retirement plans and submit recommendations to the interim Investments and Pension Oversight Committee, the Legislative Finanance Committee and the Governor no later than October 1, 2009.

This bill contains an emergency clause.

The bill proposes the following:

Retiree Health Care Act (Effective July 1, 2009)

1. Increase funding to the Retiree Health Care program by increasing employee and employer contributions from the current rate of 1.95 percent to 3 percent over a 4 year period;
2. Establish a higher contribution for employees who retire under a current enhanced plan (less than 21 years of service). The employer and employee increase for these employees

would increase from 1.95 percent to 3.75 percent, again, graduated over a four year period with the increase in the first year deferred;

3. Add a provision to require employee and employer contributions for employees working for non-affiliated employers that become affiliated, based on the actuarial present value as determined by RHC;
4. Remove the sunset on a $3 million yearly supplemental disbursement from the General Fund Tax Suspense initiated in 2007, which is scheduled to sunset on June 30, 2010;
5. Require persons obtaining service credit for service in uniform or other designated circumstances make a contribution to the Retiree Health Care Fund equal to the actuarial present value if they work for an employer who is enrolled in that program except for "free" service credit for certain military time earned

<u>Educational Retirement Act (Effective July 1, 2009)</u>

1. Extend the sunset date for the ERB return-to-work (RTW) program to 2022;
2. Clarify who can participate in the RTW program without suspension of benefits, as follows:
   Beginning July 1, 2003 and continuing through July 1, 2022:

- A member who retired after July 1, 2001 and has not rendered service to an affiliated employer for at least 12 consecutive months after the date of retirement;
- A retired member who was retired on or before January 1, 2001 and has not subsequently suspended or been required to suspend retirement benefits;
- A retired member who retired on or before January 1, 2001, who subsequently voluntarily or was required to suspend benefits and who has not rendered service to an affiliated employer for at least 90 days (that does not include any part of the summer or other scheduled break or vacation period) and was not employed for an additional 12 or more consecutive months after the initial date of retirement.
- The bill places in statute the ERB rule that an application to begin the RTW work program has been submitted to ERB and approved by the Board;
- Require that, when a retiree returns to work at an ERB-affiliated employer, both the retiree and the employer must make contributions to the Retiree Health Care Fund;
- Require the employer to pay both portions of the employee and employer contributions to ERB for RTW employees;

<u>Educational Retirement Act (Effective July 1, 2010)</u>

3. Change retirement eligibility for new members to a minimum of 30 years of service;
4. Increase the age of 65 to 67 to qualify for eligibility with five years of service;
5. Increase the early retirement provision of the "Rule of 75", which is the combination of age and service equaling at least 75 or more, to the "Rule of 80;"
6. Apply the benefit reductions for retiring with less than 30 years of service, as follows: 0.6% per quarter prior to age 65 and 1.8% reduction per quarter prior to age 60;
7. Cap the size of salary increases used to calculate the pension benefit by excluding year to year increases over 35 percent and excludes lump sum payments for accrued sick leave or annual leave after July 1, 2009 for the from calculation of the five-year average salary;
8. Revise the purchase of service credit for military time by allowing a member to purchase up to five years of service credit after five years of service;
9. For those employees working for employers enrolled in RHCA, require contributions to the Retiree Health Care Fund pursuant to the new Subsection C of Section 10-7C-15 NMSA 1978 (which requires the actuarial present value) for purchases of service credit except for the free military time as defined in Section 22-11-34 A (2) NMSA 1978; and

10. Requires a minimum eight hours of training in pension fund investing, fiduciary obligations or ethics annually for ERB Board members. A member who fails to complete this training two consecutive years would be deemed to have resigned from the Board.

Public Employees Retirement Act (Effective July 1, 2010)

1. Change retirement eligibility for new members in state and municipal general plans, which currently allow retirement at any age with 25 years of service, to a minimum service requirement of 30 years of service;
2. Change retirement eligibility for new members who are not peace officers to add two to three years of service to qualify for retirement at various ages, as well as to provide for retirement after 67 years old, instead of the current maximum of 65;
3. Adjust calculation of service credit under certain "hazardous duty" retirement plans to equalize the eligibility at 25 years with no age requirement (including peace officers in General plan 3);
4. Cap the size of salary increases used to calculate the pension benefit by excluding year to year increases over 35 percent; and
5. Require a minimum eight hours of training in pension fund investing, fiduciary obligations or ethics annually for PERA Board members. A member who fails to complete this training two consecutive years would be deemed to have resigned from the Board.

FISCAL IMPLICATIONS

Table1 and Table 2 identify fiscal impacts due to the Retiree Health Care rate increase and continued payment of from the General Fund Tax Suspense Fund. CS/HB 573/HJCS would increase the employer and employee contribution for Retiree Health Care Authority from 1.95 percent (1.3 percent for the employer and .65 percent for the employee) to 3 percent (2 percent for the employer and 1 percent for the employee) by FY13. The bill would defer the start of the increase until FY11 and then phase it in over the next three years. The bill also extends the payment of $3 million annually from the General Fund Tax Suspense Fund into RHCA indefinitely.

Table 3 estimates the fiscal impact due to additional RHC contributions and ERB contributions for RTW employees. Currently, the RHCA 1.3 percent employer and 0.65 percent employee contributions are not paid when a PERA or ERB RTW employee takes a position, thereby reducing the revenue that normally would be paid to RHCA commensurately. ERB RTW employees account for an estimated $1 million is "lost" revenue to RHCA. Requiring the standard employer and employee contributions to RHCA for RTW employees will close this loophole without a significant fiscal impact because this cost is already budgeted for each FTE. It is unclear whether these payments to RHCA would represent additional revenue above the revenue estimates provided in Table 1 from FY11 going forward. Contributions to RHCA due to purchases of service credit are unknown.

Currently, the employee 7.9 percent contribution for ERB RTW employees is not paid by either the employee or the employer. Section 22-11-25.1 (D) specifies that a retired member who returns to employment pursuant to the RTW program does not make the employee contribution and, unlike PERA, ERB statute does not require the employer pick up this cost to help maintain fund solvency. Thus, a RTW employee represents lost revenue to the fund versus a regular employee filling that position under the current program structure. PED reports 1,343 RTW retirees worked in the 2008-2009 school year. Based on the reported RTW salaries, the amount estimated not paid into the ERB fund by these RTW employees is approximately $4.1 million. This bill requires the employer to pay both employee and employer contributions for the retired member. This contribution represents added revenue to the fund, replacing what the fund would have received if the positions had been filled by regular employees.

The fiscal impact to the operating budgets of ERB-affiliated employers is less certain. The 7.9 percent employee contribution is part of the salary budgeted for an employee. Assuming employers have not already reduced salaries by 7.9 percent to compensate for the employee not paying this contribution, employers could reduce RTW salaries by the 7.9 percent to cover the added employee amount and there would be no fiscal impact. However, to the extent that RTW salaries are not reduced by 7.9 percent, this would represent an incremental cost to the employer -- and operating budgets for FY10 would need to absorb the amount. An indeterminate amount would be recurring, again, dependent on whether salaries are reduced to compensate for the extra payment to ERB. Exact funding sources are unknown but generally include general fund, federal fund and other state revenues.

According to the February 2009 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is $575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

The actuarial fiscal impacts of the proposed legislation need to be determined. However, it is reasonable to conclude that the proposed reforms will improve the solvency of the pension funds and the RHCA program by extending the contribution period and reducing the timeframe that benefits are paid. Because the retirement eligibility requirements are effective only for new employees hired after July 1, 2010, the impact will not appear in the immediate years but will show up in the “out years” on actuarial reports and accrue over time.
While current contribution rates remain unchanged in this bill, reducing the liabilities will also allow employer and employee contributions to be reduced at some point, which would trim the general fund portion needed to meet this obligation and also allow employees to keep more of their paychecks. For example, according to PERA’s actuary, the “normal cost” (the level percentage of pay required to fund the benefits for a new member) to fund benefits would fully decline over 25 years to 30 years, with the resulting reduction in annual contributions paid on behalf of state employees as follows:

PLAN	Reduction in Normal Cost	$ DIFFERENCE*
State General Plan 3	1.3%	$12 million
State Police	3.0%	$1 million
State Corrections Officers		$1.5 million
Juvenile Corrections		$150,000
Municipal General	1.66%	
Municipal Police	3.67%	
Municipal Fire	3.52%	

*Source: PERA -- Based on FY08 annual payroll

Changing or adding plans will require both PERA and ERB to modify their computer systems, costing an estimated at $50 thousand for ERB (IRIS) and $100 thousand for PERA (RIO). ERB, PERA, and RHCA suggest HB 573/HECS implies additional operating costs to maintain the two-tier plans and process changes to RHCA contributions. The amount would not appear to be significant for the agencies, although RHCA operations are funded from general fund.

The bill requires a task force be formed, including 19 public members eligible for per diem and mileage. There is no appropriation made to cover these costs, which presumable will be covered by the LCS. It also directs Legislative Council Service, the Legislative Finance Committee, ERB, PERA and the RHCA to provide staff for the task force. This staff time is presumably provided within current budgets. The estimated cost for PERA's actuarial study related to the task force and House Joint Memorial 45 is $250 thousand.

SIGNIFICANT ISSUES

The provisions for RHCA incur significant general fund fiscal impact in future years as the increases take effect. In light of decreases revenues the ability to meet this obligation is a concern.

Both pension plans are defined benefit plans, which provide a monthly annuity payment for the retiree based on years of service, final average salary, and a pension-calculation factor established by the Legislature. Both PERA and ERB are mature plans, meaning that contributions made into the plan are less than the benefits being paid out. In order to maintain solvency, actuaries estimate that the earnings on fund investments must average 8 percent over the long term.

With the current 25-year, enhanced 25 year, and 20-year service credit eligibility requirements, PERA and ERB allow employees to retire at a relatively young age and join the retiree health care system long before they are eligible for Medicare. Given longer life expectancy of participants, the resulting liabilities will continue to pressure fund solvency of these plans.

Adding to this pressure is the significant decline in asset values of the funds over the last year. As of December 31, 2008, the ERB fund (including contributions and distributions) reported a fund value of $6.6 billion, down $2.8 billion from a year earlier. Over the same period, the PERA fund has lost about one-third of its value, reporting a fund value down to $8.9 billion from over $13 billion. Results from January 2009 have continued this downward trend. Looking forward, new market conditions increase the uncertainty of achieving the 8 percent actuarial return on investments for the pension plans.

This bill represents the first steps to address solvency for the three retirement plans. According to a recent publication on public sector retirement benefits by the Pew Center on the States, the primary public policy issue is the need to "intelligently control and manage the cost of post-retirement benefits" in order to meet competing needs -- such as adequate roads, water infrastructure, and high quality public education -- while ensuring that qualified individuals continue to be attracted to careers in public service. New economic conditions that project lower state revenues put all programs on the table for assessing reasonable cost reductions. Pension reforms that reduce future costs are a viable option for ensuring an efficient allocation of limited resources across all state needs. Given that PERA's benefit structure is considered the best in the nation for public plans and ERB's benefits are ranked at about number seven within its peer group, it appears that the proposed pension structures would still compare favorably with the private sector in New Mexico in terms of total compensation, including salaries and benefits.

Article XX Section 22 of the Constitution of the State of New Mexico gives PERA members with five or more years of service credit a vested property right with due process protections. Regarding the "anti-spiking" provisions to reduce the ability to inflate pension benefits, PERA maintains that restricting the final average salary calculation for vested members may violate this article of the Constitution. In addition, PERA states a concern that effective July 1, 2009, HAFC CS/HB 616 would once again shift the responsibility for paying a portion of the applicable contribution rate back to the re-employed PERA retiree. PERA believes that any statutory provision requiring PERA retired members to make nonrefundable contributions without receiving any associated benefit may violate the Federal Age Discrimination in Employment Act ("ADEA").

ERB suggests that although pension spiking may not be a significant issue at present, the proposed language could help prevent a problem from developing as it has in some public pension plans outside New Mexico.

The specific plan proposals for the pension plans are detailed in Attachment A. Under this bill, pension factors and contribution rates would remain as currently structured.

PERFORMANCE IMPLICATIONS

HB 537 would increase RHCA's estimated solvency period from 2019 to 2027. Furthermore, it would also result in future decreases to the State's unfunded liability and annual required contribution to fund present and future benefits.

ADMINISTRATIVE IMPLICATIONS

Changing and adding plans will require both ERB and PERA to modify their respective computer systems. The bill implies additional retirement plans that would need to be administered. The added payments for RTW employees to RHCA would not appear to represent an administrative burden because employers currently make these payments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 573/HECS incorporates the provisions of HB 351 and duplicate SB 366 (RHCA contribution increases), HB 453 (ERB military credit), and HB683/HLCS (exclude retirees that are elected officials from mandated PERA membership), HB 721 and duplicate SB 476 (ERB RTW), and HB 798 (same retirement eligibility requirements for PERA plans).

The bill is now a companion to the following bill:

HJM 45 – PUBLIC EMPLOYEE & EDUCATION SOLVENCY PLANS STUDY

HB 573/HECS conflicts with the following bills:

HB 271/HB 355 – REOPEN MUNICIPAL EMPLOYEE RETIREMENT PLAN 4
SB 145 – ELIMINATE END DATE FOR RETURN TO WORK
SB 499 – MOTOR TRANSPORTATION OFFICER RETIREMENT
HB 631 – EDUCATIONAL RETIREMENT ELIGIBILITY (65 year eligibility)

HB 573/HECS relates to the following bills:

HB 65 – LEGISLATIVE RETIREMENT CONTRIBUTIONS
HB 236 – PERA SERVICE CREDIT PURCHASE (Expands service credit purchase)

HB 525 – ALTERNATIVE EDUCATIONAL RETIREMENT PLANS
HB 573 – ADJUSTMENT OF RETIREMENT PLANS
HB 601 – PERA EXCLUSION OF SENIOR EMPLOYMENT TRAINEES
HB 648 – JUDICIAL RETIREMENT FROM GENERAL FUND
HB 684 – CONGRESSIONAL EMPLOYEE NM SERVICE CREDIT
HB 731 – SESSION EMPLOYEE PERA CREDIT PURCHASES
HB 765 – PUBLIC EMPLOYEES RETURNING TO WORK
HB 854 – PERA MEMBER & STATE CONTRIBUTION CHANGES
SB 231 – PERA ELIGIBILITY FOR MUTUAL DOMESTICS

OTHER SUBSTANTIVE ISSUES

<u>RHCA</u>

RHCA was created in 1990 to provide health care benefits for retired public employees. RHCA currently provides coverage to approximately 42,000 retirees and eligible dependents. RHCA offers comprehensive health, dental, vision and life insurance for Medicare and non Medicare eligible retirees. Currently, RHCA has 276 participating entities, including State agencies, cities, counties, public and charter schools, and universities.

RHCA's main revenue sources include employer and employee contributions, premiums paid by retirees, and investment income. In FY05, employer and employee contributions equaled approximately 46 percent of RHCA's revenue, while in FY10 employer and employee contributions is expected to equal 36 percent of RHCA's revenue. In FY19, employer and employee contributions will only account for 18 percent of RHCA's revenue.

RHCA is facing a number of significant challenges including rising medical costs related to healthcare trends, an aging population, increased participation and unsustainable benefit plan options. According to the 2007 actuarial valuation, RHCA was projected to become insolvent by 2014. The valuation also placed the unfunded actuarial accrued liability (UAAL) of the program at nearly $5 billion with a nearly $400 million gap in contributions needed to support the plan and pre-fund future benefits as measured annually.

In 2007, House Bill 728 formed a work group comprised of legislative, executive and RHCA representatives to study long-term financing options and develop a set of recommendations to the Governor and Legislature addressing solvency issues. As a result of the recommendations made RHCA increased retiree premiums by an average of 9 percent across all plans on January 1, 2008. Then on July 1, 2008, RHCA increased the contributions paid by retirees on average of 15.5 percent across all medical plans. However, medical premiums are scheduled to remain flat until January 2010, despite medical trend increasing on an annual basis. Some retirees, particularly those in the richer, more heavily subsidized plans, saw their contributions increase by as much as 70 percent. This actions increased RHCA's solvency period, reduced the UAAL, and narrowed the gap in the annual required contribution.

Taken together, these actions have improved RHCA's financial outlook. Program solvency has been extended from 2014 to 2019. New Mexico's unfunded liability has now been reduced by more than a $1 billion to $2.9 billion, and the annual required contribution gap was decreased by $100 million.

For many years premium increases have lagged behind the rate of increase in the cost of providing medical care. RHCA had adopted a policy of using long-term investment income and fund balance to offset these costs.

PERA

PERA offers 31 pension plans covering state, county, and municipal employees; municipal and volunteer firefighters; judges, magistrates, and legislators. As of June 30, 2008, PERA had 52,401 active members and 24,763 retirees. According to the June 30, 2008, actuarial valuation, the average normal pension paid from PERA is $23,863 and all pensions being paid total $570 million. Active member contributions totaled $196.1 million and employer contributions totaled $302.5 million for FY08. The average age of retirement for the general plan is 58 and the average for safety officers is 48. It appears that employees in the general plans do not retire when first eligible while those in the "hazardous duty" plans do.

Despite the -7.4 percent investment return for FY08, PERA's actuarial position remains unchanged from 2007 due to the smoothing method used to calculate solvency indicators. As of June 30, 2008, PERA's aggregate funded ratio (fund actuarial asset value divided by plan liabilities) is 93 percent, remaining above the Governmental Accounting Standards Board (GASB) standard of 80 percent. However, individual plans within PERA range in funding status. For example, the State General Plan is only 85 percent funded and the Municipal Fire coverage plan is 83 percent. The continued volatility in the market raises concerns over future investment performance, and reasonable scenarios indicate a decline in the aggregate funded ratio below 80 percent is possible within the next four years.

ERB

ERB offers a pension plan to public school and higher education employees. As of June 30, 2008, this pension plan had 63,698 active members and 31,192 retirees. The average pension benefit is $18,788 as of June 30, 2008, and the total benefit payroll is about $586 million. Total contributions for FY08 total $496 million, with employer contributions accounting for $286 million of this amount. The average benefit of normal retirees is $19,557 (excluding disability and beneficiaries) -- with a total benefit payroll of about $586 million.

As of June 30, 2008, ERB's funded ratio increased slightly, from 70.5 percent in FY07 to 71.5 percent as of June 30, 2008. However, this calculation is based on an actuarial value of plan assets that is higher than the market value as of the valuation date. If the ratio was calculated using the market value, it would be 67.6 percent. ERB's -6.4 percent performance for FY08 has been compounded by negative returns so far in FY09, which produce a 25 percent decline in fund value to $6.5 billion as of November 30, 2008.

As of June 30, 2008, ERB's unfunded accrued actuarial liability (UAAL) increased during FY08 from $3.6 billion to $3.7 billion. The plan's funding period is 61.4 years, which compares with an infinite funding period calculated in the prior actuarial valuation. Incorporating future employer contributions contained in Laws 2005, Chapter 173 (Senate Bill 181), ERB's actuary estimates that the UAAL would be fully amortized in about 31 years as of the 2008 valuation. However, GASB does not permit the consideration of contribution rates not yet in effect.

This estimate also does not take into consideration the significant asset value declines since the June. The actuary cautions that without a turnaround by the fiscal yearend, ERB will once again have an infinite funding period—meaning that the current contributions would be insufficient to pay off the plan's obligations. Assuming a -20 percent return for FY09 and 8 percent in subsequent years, the actuary projects a funded ratio of 51 percent and an UAAL increase to $8.2 billion from the current $3.7 billion by FY13.

TECHNICAL ISSUES

PERA listed the following technical issues, as noted below.

> Currently, retirement board members are encouraged to participate in national educational seminars regarding all aspects of pension administration, including investments, benefit administration, and fiduciary responsibility practices. PERA's current budget is sufficient to allow non-ex-officio members (10) to attend one out-of-state educational seminar per year. The statutory directive in HB 573 will require an increase in PERA's operating budget to allow for the expanded training requirements. In addition, no reporting mechanism is put in place to verify reporting of ongoing education. Given the severity of the failure to comply (resignation), reporting should be required.
>
> HB 573 does not reflect the 2007 amendment to Section 10-11-7(D) that requires payment of the full actuarial cost for the purchase of cooperative study periods of employment.

The ERB plan covers approximately 180 "first responders" at higher education facilitates, including police, paramedics, and fire personnel. This group will be requesting to "opt out" of the proposed ERB plan due to recruitment and retention issues. The group maintains these issues, which has been already been problematic given ERB's retirement benefit structure compared to other enhanced plans for hazardous duty officers, will become even worse under the new plan due to even greater disparity. In addition, the group cautioned that the new retirement requirements proposed in this bill would require first responders to work past their physical prime and put them and the public at risk. ERB has stated that it would be difficult to maintain two disparate plans. One option that has been proposed in the past is moving these officers to an appropriate PERA plan. That solution, while addressing parity issues, involves the technical issue of moving assets, which could be problematic given the severe decline in fund asset values.

POSSIBLE AMMENDMENTS

This bill focuses on long term solutions to ensure pension and retiree health care plan solvency. Immediate concerns lie outside the scope of this legislation except for closing certain "loopholes" that reduce revenue to RHCA or inflate benefits. One possible amendment would address the instances where workers who work most of their careers as part-time employees move to full time for shorter period of time and retire under full-time salaries. Another amendment would allocate benefits according to the PERA plans under which they were earned. Currently, the pension of a member who has three or more years of service credit under each of two or more coverage plans is determined in accordance with the coverage plan that produces the highest pension. Both of these issues would require additional research to effectively implement.

PERA suggests the following alternatives:

> An in-depth actuarial study of benefit plan restructuring is needed for both the PERA Board and the Legislature to make informed decisions. HJM 45 requires the pension plans study benefit options in conjunction with the Investment and Pensions Oversight Committee and the Legislative Finance Committee during the interim. Benefit restructuring proposals could then be implemented in the 2010 Legislative Session.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Plan benefits would remain as currently structured and the opportunity to lay the groundwork for ensuring plan solvency will be missed. Without addressing these issues, the current benefit structures may lead to accelerated decline in funded status of the retirement plans due to market and economic conditions. Current benefits may not be sustainable over the long term without contribution increases. Meeting the obligations as currently structured may require reductions in services or other expenditures of government due to shrinking revenues. ERB and PERA board members would continue to receive financial education as currently designed.

MA:DA/svb

ATTACHMENT A
Public Employees Retirement Association (PERA)
State General Plan 3

Eligibility by Age and Service	Pension Factor	Factor Cap	Example:
30 years of service,	Benefit is based on average 3 year salary and 3% pension factor.	80% which is reached at 26 years, 8 months of service	3% factor * 30 years *final average salary of 2,000 = $1,600 (capped by 80%)
Age and Service Retirements Without 30 Years			
Age 60 or older with 20 or more years of service	Same	N/A	Example: 20 years * 3% * 2000 = $1,200
Age 61 or older with 19 years or more of service credit	Same	N/A	Example: 19 years * 3% * 2000 = $1,140
Age 62 or older with 16 years or more of service credit	Same	N/A	Example: 16 years * 3% * 2000 = $960
Age 63 or older with 13 years or more of service credit	Same	N/A	Example: 13 years * 3% * 2000 = $780
Age 64 or older with 10 years or more of service credit	Same	N/A	Example: 10 years * 3% * 2000 = $600
Age 65 or older with 8 years or more of service credit	Same	N/A	Example: 8 years * 3% * 2000 = $480
Age 66 or older with 7 years or more of service credit	Same	N/A	Example: 7 years * 3% * 2000 = $420
Age 67 or older with 5 years or more of service credit	Same	N/A	Example: 5 years * 3% * 2000 = $300

"Grandfathered"	Number of Active Members
Employees prior to July 1, 2009	22,237*
Commissioned Peace Officers	450**
Includes Department of Public Safety Motor Transportation (156 authorized) and Special Investigators (32), Department of Game & Fish (111), Energy, Minerals and Natural Resources Department, Parks (98) and Forestry (3), NM Livestock Board Inspectors (32), District Attorney Investigators (10)	

*Source: PERA 6/30/08 Actuarial Valuation Report

**Estimated number

State Police and Adult Correctional Officers Plan 1
Municipal Detention Officer Plan 1

Eligibility by Service	Enhanced Service	Factor Cap	Example:
25 years of service, no age requirement	No enhanced service credit (Currently is 1.2 years for every year worked)	80% which is reached at 26 years, 8 months of service	3% factor * 30 years *final average salary of 2,000 = $1,600 (capped by 80%)

Municipal Police Plans 3, 4, 5
Municipal Fire Plans 3, 4, 5

Change from 20-year plan to 25-year plan; no age requirement.

Education Retirement Board (ERB)

Eligibility by Age and Service	Factor	Factor Cap	Example:
30 years of service	Benefit is based on average 5 year highest salary and 2.35% pension factor.	None. 2.35% is multiplied by the number of years of service with no cap	2.35% factor*30years*final average salary of 2,000=$1,410
Age 67 and 5 years of service			
Early retirement provisions for less than 30 years of service	Benefit Reduction		
Rule of 80: Combination of years of service and age	With less than 30 years of service: Age 60 to 65	6/10's of 1% for every one quarter year under 65	Example: At age 59, the pension would be reduced by 0.6*4 quarters = 2.4%
Rule of 80: Combination of years of service and age	With less than 30 years of service: Under 60	1 and 8/10s percent for each 1/4th year	Example: At age 54, the pension would be reduced by 1.8%*4 quarters=7.2%

Currently, ERB employees can receive up to 240 accumulated leave hours in a lump sum payment that can inflate pension payments. The bill eliminates lump sum payments from the final five-year average salary for computing retirement benefit. PERA already excludes such payments from the final average salary computation.

Both PERA and ERB

The "anti-spiking" provision limits the effect of a substantial increase in salary in the final years of employment, which inflates the final average salary calculation and pension. The bill excludes salary increases over 35 percent from the prior year for the final average salary calculation.