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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2-17-09  
**LAST UPDATED** 2/17/09     **HB** 684

**SPONSOR** Barreras

**SHORT TITLE** Congressional Employee NM Service Credit     **SB** \_\_\_\_\_

**ANALYST** Aubel

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Indeterminate See Below	Indeterminate See Below	Recurring	PERA

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with SB 428 and HB 573;  
 Relates to HB 65, HB 616, HB 683, HJM 45, HM 27 and SB 231

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$4.0		\$4.0	Non- Recurring	PERA
		\$50.0		\$50.0	Non- Recurring	PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)  
 State Personnel Office (SPO)

### SUMMARY

#### Synopsis of Bill

House Bill 684 amends the Public Employees Retirement Act to allow a PERA member who was employed by an elected member of the United States House of Representatives or United States Senate to purchase PERA service credit for the period of employment with the United States Congress. The aggregate amount of credited service purchased for congressional service must not exceed five years. The purchasing member would be required to pay the association the

incremental amount of the actuarial present value of the pension of the member as a consequence of the purchase, as determined by PERA. The purchasing member must have five or more years of service credit with a PERA-affiliated employer and not be qualified for vesting in a federal government pension.

## **FISCAL IMPLICATIONS**

PERA maintains that HB 684 presents a significant change to the benefits offered by the PERA Act. This change will have fiscal implications that cannot be determined at this time. Though HB 684 requires payment of the actuarial present value for the time purchased, PERA's actuaries have not had the opportunity to evaluate this proposal. Additionally, PERA's actuaries will charge PERA a fee for each actuarial present value requested to be calculated in connection with purchases under HB 684, which have run approximately \$4.0 thousand for prior reports. These actuarial reports have been paid by the affected employee group; however, it is not known at this time how many employees will request to purchase this time.

PERA's operating budget will be negatively impacted by HB 684. Changes to how service credit is posted to a member's account will require significant changes to PERA's recently implemented computerized pension administration system, with associated costs, under PERA's existing post-warranty contract with the system vendor. For example, PERA has incurred approximately \$500 thousand in change orders since FY05. If further revisions to the system are necessary in FY10, PERA will be required to seek a BAR to cover the costs of these system changes.

## **SIGNIFICANT ISSUES**

Current un-earned service credit purchase (or "airtime") is currently limited to one year for PERA-affiliated employees. PERA members with prior federal uniformed military service or who was a civilian prisoner of war captured while in service to the United States or employed by a federal government contractor are allowed to purchase up to five years of service credit. HB 684 would extend the same five-year eligibility to staff of elected federal congressional officials representing New Mexico.

PERA notes that because HB 684 would permit the purchase of five years of service credit not associated with service to a PERA-affiliated employer, it would operate to create a 20-year plan, allowing those eligible to purchase service credit for congressional employment and with sufficient resources to make the purchase to retire with 20 years of actual service to PERA-affiliated employers.

To date, all employee groups that are eligible for the enhanced benefits of a 20-year retirement plan or that have each year of service credit enhanced by 20 percent (state police, adult correctional officers, municipal police/fire, and municipal detention officers) have a commonality of danger to life as an integral part of the job. PERA cautioned that expanding enhanced benefits to employee groups beyond these "hazardous duty" employee groups may set precedent for all employer groups to seek enhanced benefits from the retirement system. PERA has expressed concern of the cumulative effect of enhanced plans on the solvency of the fund. Increasing liabilities increases the risk to the fund if actuarial assumptions do not hold, such as the 8 percent investment return.

In 1998, the State Constitution was amended to require funding in connection with expansion of the retirement plan benefits. Article XX, Section 22 of the Constitution of the State of New Mexico was enacted, which now requires that an increase in benefits under the retirement system be adequately funded to preserve the retirement fund's actuarial soundness. Thus, any future expansion of the category of persons eligible to purchase this expanded "air-time" must provide a purchase cost that reflects the full actuarial present value of the amount of the increase in the member's pension as a consequence of the congressional service credit. HB 684 requires the member pay full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase and so the plan enhancement would be properly funded once the actuarial present value was determined.

### **ADMINISTRATIVE IMPLICATIONS**

The administrative impact of the amended bill on PERA will be in calculating the actuarial present value and processing the purchased service credit.

### **CONFLICT**

Conflicts with SB 428, which amends the service purchase provisions of the PERA Act to require that contributions to Retiree Health Care Authority ("RHCA") be made for purchases of permissive service credit.

Conflicts with HB 573, which amends the service purchase provisions of the PERA Act to require that contributions to Retiree Health Care Authority ("RHCA") be made for purchases of permissive service credit.

Relates to HB65, HB601, HB616, HB683, HJM45, HM27 and SB231, which all propose various changes to the retirement plans or to study changes.

### **OTHER SUBSTANTIVE ISSUES**

PERA states that almost all PERA members have worked for employers outside the PERA system. Much of this service is for public employers such as federal employers other than congress, state and local government employers from other states, and non-governmental organizations providing public services. Airtime, already permitted under the PERA Act, allows all PERA members with at least 5 years of service credit, including those with previous employment as a congressional employee, to buy a year of PERA service credit. By contrast, HB 684 is designed to benefit only a very limited category of PERA members and treats other PERA members in very similar situations differently. PERA notes this inequality is likely to lead to a succession of further requests by other special interests for a similar benefit enhancement and possibly to legal challenges.

PERA Board Resolution No. 08-04 opposes any benefit enhancement legislation that is not prospective and that may create an unfunded liability to the retirement systems it administers unless such unfunded accrued liability is pre-funded from sources other than the retirement trust fund. To the extent that HB 684 requires that the member pays full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase, it is properly funded.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Vested PERA-affiliated employees with past congressional service credit will be able to buy one year of “airtime.”

MA/mt