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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 41

SHORT TITLE: Temporary PERA Member Payment

SPONSOR: Borrego/Stefanics/Sanchez, J

LAST UPDATE: 2/6/2024 **ORIGINAL DATE:** 1/23/2026 **ANALYST:** Hanika-Ortiz/Simon

APPROPRIATION* (dollars in thousands)

FY26	FY27	FY28	Fund Affected
	\$70,000.0	Nonrecurring	General Fund

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 42

Sources of Information

LFC Files

Agency or Agencies Providing Analysis
Public Employees Retirement Association

SUMMARY

Synopsis of House Bill 41

House Bill 41 (HB41) would provide additional payments to those receiving pension benefits from the Public Employees Retirement Association (PERA) in FY27 and FY28. Payments would equal 2 percent of the benefit payment from the prior fiscal year. The additional payments would not be considered when calculating future cost-of-living adjustments.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026. However, the financial impact of the bill applies specifically to fiscal years 2027 and 2028.

FISCAL IMPLICATIONS

HB41 would provide for a temporary increase in benefits paid by PERA. 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 sole and exclusive power to adopt actuarial assumptions, based on recommendations from

an independent actuary. According to PERA, HB41 provides sufficient funding for these payments without increasing fund liabilities.

Previous actuarial estimates of the costs of additional non-compounding cost-of-living-adjustments (COLA) for PERA have been accurate. A previous appropriation for temporary, non-compounding COLAs had a cost of \$43,278.0 or 0.08 percent, below the \$55 million appropriation. PERA notes the need to make system modifications to its pension administration system but does not report the modifications will have a fiscal impact.

The appropriation included in this bill is from the general fund but would be sufficient to cover payments for retirees of local government plans managed by PERA. While PERA typically receives contributions for state employees that are funded with general fund revenue, local governments are typically required to make contributions for employees from their own funds. PERA's data indicates 56 percent of members are enrolled in municipal plans.

The temporary COLA payments provided by HB41 will be in addition to the compounding flexible COLAs provided by existing law, which have been 0.5 percent to 0.63 percent in recent years.

The appropriation of \$70 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY28 shall not revert to the general fund. The bill relies on PERA to time the payments appropriately over the two-year period.

SIGNIFICANT ISSUES

In 2020, the Legislature passed Senate Bill 72 (SB72), which amended the Public Employees Retirement Act to replace an annual 2 percent cost-of-living adjustment (COLA) for most members with a new “risk-sharing” COLA, following a suspension of the COLA from FY21 through FY23. In those years, the COLA was temporarily replaced by an additional, non-compounding payment of 2 percent of members’ 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 cost. Following the three-year period, the new “risk-sharing” COLA was implemented. Unlike the 13th check, this payment compounds. The COLAs are now based on the plan’s investment returns and the plan’s funded status – or the percentage of total liabilities for which the plan has invested assets. Under this COLA, rates 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. When calculating investment returns, PERA’s actuaries’ smooth returns over time to reduce volatility, delaying the impacts of particularly strong or particularly weak years of investment returns.

SB72 was passed to address chronic underfunding for PERA. At the time, actuaries estimated the fund held about 70 percent of the assets needed to pay all promised benefits (for current and future retirees), but over time that gap was expected to grow because contributions into the fund have never been sufficient to pay all promised benefits, make additional annual COLAs, and pay off the plan’s unfunded liability. Also impacting the fund, in recent years, salaries have increased more rapidly than they had over the prior decade which increases contributions into the fund but also means a higher final average salary when determining final benefit amounts when one retires.

SB72 passed at a time when an annual 2 percent COLA was 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 9 percent and were almost 3.2 percent in 2023, which illustrates the challenges faced by retirees in meeting basic needs such as housing and health increases on fixed incomes.

For 2025, PERA's regular COLA for eligible retirees was 0.63 percent replacing only about one-quarter of inflation, resulting in a real loss of purchasing power for retirees and survivors.

According to PERA, there are over 48 thousand retirees and beneficiaries (mostly survivors) with an average age of 70 and average annual benefit of \$33,173. According to the Social Security Administration, the average annual benefit is \$24,852. The Social Security Administration announced a 2.8 percent COLA for 2026 and expects a 2.5 percent COLA in 2027 and 2.4 percent COLA in 2028.

Exceptions. While most PERA members are subject to the variable COLA, some members continue to receive a fixed 2.5 percent COLA: disability retirees with an annual benefit of less than \$25 thousand, normal retirees with 25 years of service credit and a benefit of less than \$25 thousand and retirees who were 75 years old as of July 1, 2020.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB41 only applies to public employees who retired with PERA; however, similar legislation has been introduced that would apply to retirees from the Educational Retirement Board (ERB), House Bill 40. Since 2013, annual COLAs paid by ERB have been reduced to improve the fund's solvency. According to ERB's actuary, the plan's funding status is improving, from 60.4 percent in 2020 to 67.8 percent in 2025. Actuaries expect ERB to be fully funded in 19 years.

Funding additional COLAs for PERA recipients could reasonably lead to requests from ERB recipients for the same. In 2020, ERB commissioned a study to examine the differences in benefits between ERB and PERA, finding PERA members receive more in benefits than ERB members. This report has resulted in calls for the Legislature to "equalize" state pension benefit structures. House Bill 40 carries a \$65.5 million appropriation, for a combined fiscal impact of \$135.5 million.

OTHER SUBSTANTIVE ISSUES

About 1 in 8 New Mexicans are members of PERA or ERB and may become eligible to receive a publicly funded benefit. A larger portion of New Mexico workers have limited savings and must rely heavily on Social Security benefits.