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### FISCAL IMPACT REPORT

SPONSOR:	Taylor, J.G.	DATE TYPED:	02/27/01	HB	595
SHORT TITLE: Retirement Plan Statements of Law or Fact			SB		
ANALYST:				YST:	Eaton

### **REVENUE**

Estimated	l Revenue	Subsequent	Recurring	Fund	
FY01	FY02	Years Impact	or Non-Rec	Affected	
	Indeterminate	Indeterminate	Recurring	PERA	

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Public Employees Retirement Association (PERA)

## **SUMMARY**

Synopsis of Bill

This bill amends the Judicial Retirement and Magistrate Retirement Acts by striking the estoppel provision in each act.

### FISCAL IMPLICATIONS

The Public Employees Retirement Association (PERA) report that the potential fiscal implications could be significant. For example if an erroneous estimate is provided to a judge, and PERA is forced to continue paying for the mistake, the amount of unearned retirement dollars paid out could be sizeable.

### **ADMINISTRATIVE IMPLICATIONS**

The Public Employees Retirement Association (PERA) report that the administrative impact on PERA will also be significant and will also slow the flow of information out of PERA.

### OTHER SUBSTANTIVE ISSUES

Annually, PERA provides hundreds of thousands of pieces of information to over 54,000 active members, 16,700 retirees and over 600 state and local government units. Occasionally, PERA makes a mistake. Nonetheless, as a trust fund, PERA is obligated under trust law to correct the error. Counsel for PERA indicate that even without the statute, the New Mexico Supreme Court distinguishes those cases where estoppel is asserted against the state based on erroneous advice given by a state employee and "where estoppel would result in the receipt of benefits to which an individual

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would not otherwise be entitled." <u>Rainaldi v. Public Employees Retirement Board</u>, 115 N.M. 650, 658, 857 P.2d 761, 769 (1993). The New Mexico Supreme Court has specifically refused to apply the principles of estoppel when it would result in the receipt of pension benefits to a retiree who was not otherwise entitled to those benefits.

The PERA report that this bill appears to arise from a case involving a judge who received an erroneous estimate prior to retirement. Reciprocity retirement pension estimates (which was given) are complicated and calculated manually. PERA is currently in the process of updating its pension administration system and part of that update will include calculating reciprocity retirements, thus eliminating the potential for human error. The error was discovered and corrected 5 months prior to the member's selected retirement date. The error did not preclude the judge from being eligible to retire. PERA has resolved this case in a manner that did not violate the terms of the trust.

JBE/ar