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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/03/14  
**LAST UPDATED** 02/07/14    **HB** 195/HLCS

**SPONSOR**    HLC

**SHORT TITLE**    Judicial Retirement Benefit Changes    **SB** \_\_\_\_\_

**ANALYST**    Hanika Ortiz

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Impact			Recurring	JRA/MRA

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

The House Labor and Human Resources Committee Substitute for House Bill 195 changes the survivor benefit for judges and magistrates whose initial terms of office begin on or after July 1, 2014 to ensure that they have the same beneficiary provisions and forms of pension payments as provided for state employees pursuant to the Public Employees Retirement Act. Currently, a judge's or magistrate's surviving spouse or designated beneficiary no matter their age receives 75 percent of the judges' or magistrate's public pension benefit until death.

### FISCAL IMPLICATIONS

Changing the survivor benefit would positively impact the judicial pension funds.

Currently, under the JRA plan 28 people are receiving a survivor benefit; the average age is 75 years and the average annual benefit is \$50,253. Under the MRA plan, 12 people are receiving a survivor benefit; the average age is 71 years and the average annual benefit is \$39,877.

Under the PERA State General Plan, 1,832 people are receiving a survivor benefit; the average age is 69 years and the average annual benefit is \$16,155.

### SIGNIFICANT ISSUES

The original Administrative Office of the Courts pension reform proposals endorsed by the Investments, Pension and Oversight Committee during 2013 changed the survivor benefit for

both current and future judges and magistrates. However, since then, the AOC has changed its opinion and is now requesting that it apply only to new members on or after July 1, 2014.

Currently, under the JRA and MRA plans a judge or magistrate may designate anyone, including a young child, to receive the full pension benefit of 75 percent for life. The current provisions under the other PERA plans are different in that they provide beneficiary payments to be actuarially adjusted in accordance with the life expectancy of the designated beneficiary. For instance, a retiree can designate a young child beneficiary. The difference is, unlike the provisions in the JRA and MRA, in PERA the amount of the benefit paid to the beneficiary is actuarially calculated based upon the life expectancy of the beneficiary - in this case, a young child. Consequently, the young child beneficiary would receive a substantially reduced payment.

## **RELATIONSHIP**

HB 33, HB 216 and SB 160 are comprehensive pension reform proposals to improve the solvency of either the MRA, JRA or both funds and include changes to the survivor benefit.

## **OTHER SUBSTANTIVE ISSUES**

In 2013, four retired educators challenged the constitutionality of the annual cost-of-living adjustment (COLA) that was enacted as part of SB 115. The retirees argued that the COLA was part of the retirement benefit, and thus constitutionally protected. The State argued that the COLA was not part of the retirement benefit, and thus *not* constitutionally protected. On December 19, 2013, the Supreme Court held that the New Mexico Legislature lawfully passed SB 115, which does not infringe on retirees' constitutional rights. The Supreme Court, however, made it clear that the question before them was whether the COLA was part of the retirement benefit and declined to decide the full scope of a vested property right in a retirement plan.

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

Existing retirement survivor payment options under judicial retirement systems for current judges and magistrates will continue to be more generous than other PERA coverage plans.

AHO/svb:ds