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## FISCAL IMPACT REPORT

SPONSOR Campos ORIGINAL DATE 01/31/18  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Special Hospital Districts in PERA SB 200

ANALYST Hanika-Ortiz

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

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal				PERA Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 200 includes special hospital districts as public employers pursuant to the Public Employees Retirement Act.

### FISCAL IMPLICATIONS

PERA should be able to absorb the additional administrative costs with existing resources.

### SIGNIFICANT ISSUES

PERA reports the Internal Revenue Code includes plans established for employees by a “political subdivision” of the state within the ambit of governmental plans. SB 186’s proposed expansion of the statutory definition of “public employer” to include special hospital districts as an entity eligible for PERA affiliation complies with the requirements of the Internal Revenue Code and is consistent with the tax-deferred status of PERA as a 401(a) governmental plan.

Special hospital districts are typically located in more rural areas. The bill will help improve recruitment and retention efforts from the ability to offer nurses and others a retirement benefit. Over time, this should help reduce the number of higher-paid travel nurses and improve morale.

## **ADMINISTRATIVE IMPLICATIONS**

PERA administers over 30 different retirement plans for employees of state, city, county and other governmental entities in New Mexico. PERA will be required to process applications for affiliation by special hospital districts as it does for all other new governmental employer groups.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB 200 duplicates SB 186 and SB 207 except SB 207 carries an appropriation to PERA.

## **OTHER SUBSTANTIVE ISSUES**

PERA provided the following with regards to special hospital districts as public employers:

The PERA Act provides that only "public employers" can affiliate with PERA so long as they fall within the meaning of "governmental plan" as used in Section 414(d) of the Internal Revenue Code. The Internal Revenue Code requires that to qualify, a plan must be "established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing."

Currently, the statutory definition of "public employer" includes "the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer."

An entity is defined as a political subdivision if it was "formed or maintained for the more effectual or convenient exercise of political power within certain boundaries or localities, to whom the electors residing therein are, to some extent, granted power to locally self-govern themselves." Tompkins v. Carlsbad Irrigation Dist., 96 N.M. 368, 370, 630 P.2d 767, 769 (Ct. App. 1981). Special hospital districts are organized for the purpose of constructing or acquiring funding for a public hospital. See NMSA 1978, § 4-48A-3(A) (1978) (amended 1983). The districts facilitate a more efficient and effectual operation of a public hospital by being able to raise money for its operation and enter into contracts with the federal or state governments for the treatment or hospitalization of patients. See NMSA 1978, § 4-48A-9 (1978) (amended 2005). For these reasons, the Attorney General has concluded a special hospital district is both a "political subdivision" and "local public body." NM Attorney General Advisory Letter (Sept. 24, 2008).

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

Special hospital districts will continue to be ineligible for PERA affiliation.

AHO/sb/jle