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November 26, 2018

Summary of Proposed Plan Changes of Educational Retirement Act—2019 Legislative Session

These proposed changes to the Educational Retirement Act are brought about by the overarching goal of making the Educational Retirement Fund more sustainable and to reach fully funded status within a reasonable period of time (30 years). Having the Fund fully funded is desirable because:

1. It's good public policy;
2. The fund will be better able to withstand market downturns;
3. Contribution rates can be lower;
4. COLA reductions will end;
5. GASB 68 reporting to employers will not be necessary;
6. It will improve the state's and participating employers' credit rating.

The proposed changes detailed below were approved by the Educational Retirement Board on November 16, 2018, after a lengthy process that included a state tour to meet with ERB members to discuss improving sustainability; a survey of active and retired members; two board retreats on sustainability; and input and feedback from various stakeholders representing active and retired members throughout the K-12 and higher education institutions.

There are eight proposed substantive changes to the Educational Retirement Act:

1. **Tiered Multipliers**
2. **Increase of Employer Contributions**
3. **Anti-spiking**
4. **Revise Return-to-Work provisions**
5. **Require PERA retirees who work for ERB employers to pay contributions**
6. **Reduce pension benefits for those who retire before age 58**
7. **Substitute teachers who work more than .25 FTE will pay contributions**
8. **Restitution to Fund of losses brought about by contribution swaps and delay of contribution increases**

Each of these proposed changes is described below.

1. Tiered Multipliers

The formula for calculation of an ERB pension benefit is:

Average Annual Salary X Years of Service X Pension Multiplier (currently 2.35%)

ERB proposes that rather than use a flat multiplier of 2.35%, there should be four tiered multipliers which are applied depending on a member's years of service. This approach would encourage longer careers by providing slightly more generous benefits to those educational employees who serve the longest. It also assists the sustainability of the fund by providing less generous benefits for those members who have shorter careers in the New Mexico educational system, and therefore make less contributions over a shorter time period to the fund. As shown in the table below, for the first ten years of service, benefits are calculated with only a multiplier of 1.35%. After ten years, the multiplier increases to 2.35%. Between 20-30 years, the multiplier increases to 3.35%, so that an employee with 30 years of service would have an average of 2.35% as a multiplier for their entire career. Any service credit over 30 years would use a multiplier of 2.4%.

Years of Service	**Multiplier**
10 or less	1.35%
10.25 to 20	2.35%
20.25 to 30	3.35%
30 plus	2.4%

2. Increase of Employer Contributions

The ERB employer contribution rate is currently 13.9%. Employer contributions would increase by 1% for three consecutive years, reaching 16.9% by FY22 and remain at this level thereafter. Each 1% increase translates into $27 million for the Fund. There would be no increase in employee contributions.

For contributions made for employees who participate in the Alternative Retirement Plan (ARP), the increase in employer contributions would go directly to the Fund, supplementing the 3% of employer contributions that already are provided to the Fund through the ARP.

3. Anti-spiking

For members whose average annual salary is greater than $60,000, the five-year average annual salary calculation will be adjusted to exclude any salary increases that are greater than 30 percent of the immediately preceding 12-month period. The $60,000 threshold for this anti-spiking provision will be adjusted each year based on any increases in the consumer price index. The language in this provision is similar to the language in SB 86 from the 2013 legislative session.

This provision would apply to all ERB members retiring on or after July 1, 2019.

4. **Revise Return to Work provisions**

All ERB retirees who wish to return to work for ERB employers and still receive their ERB retirement benefit must either lay out from any work with an ERB employer for six consecutive months after retirement or limit work with an ERB employer during retirement to no more than .25 FTE (full-time equivalent). In all cases, both working retirees and employers will pay ERB contributions if the retiree returns to work. Return to Work retirees would not earn additional service credit. However, nothing will prevent retirees from suspending their retirement benefits and returning to work to earn more service credit. The expected impact from this provision is an increase of $4.1 million in contributions.

This provision would apply to all retirees beginning July 1, 2019.

5. **Require PERA retirees who work for ERB employers to pay contributions**

PERA retirees will pay ERB contributions if they work for an ERB employer. Currently, all PERA retirees who work for ERB employers do not pay ERB contributions. PERA retirees will continue to earn no service credit while they work for ERB employers. Here, too, PERA retirees could suspend their PERA retirement, earn ERB service and retire as reciprocity retirees. ERB employers will continue to pay employer contributions to the fund for these PERA retirees as they do now. The expected impact from this provision is an increase of $2.2 million in contributions.

This provision would apply to all PERA retirees working for ERB employers on and after July 1, 2019.

6. **Reduce pension benefits for those who retire before age 58**

New employees will be subject to a reduction in their pension benefit if they retire before they reach the age of 58. Their benefits will be reduced to the actuarial equivalent of the benefit the member would receive if the member had retired at age 58. This proposal is similar to the current provision in statute for those hired after July 1, 2013 who have their benefits reduced if they retire before the age of 55.

This provision would only apply to new employees hired on or after July 1, 2019.

7. **Substitute teachers who work more than .25 FTE will pay contributions**

ERB will eliminate its current dichotomy of “short-term” substitutes (who are not ERB members) and “long-term” substitutes (who are obligated to be members), and simply treat all substitute teachers like all other regular ERB members. All substitutes who work more than .25

FTE will be members and pay contributions. All substitutes who work .25 FTE or less will not be members.

8. Restitution to Fund of losses brought about by contribution swaps and delay of contribution increases

ERB will request a supplemental appropriation of $248.3 million to make up for losses to the fund due to a series of legislative acts enacted between 2009-2011 which temporarily transferred 1.5% of ERB employer contribution requirements to employees, and delayed scheduled increases in employer contributions. This past legislation resulted in an impact to the fund of $51.3 million from the contribution swaps and $197 million from the delay in increase of employer contributions. This request is in accordance with the AFSCME litigation settlement: *American Federation of State, County and Municipal Employees, Council 18, AFL-CIO et al. v. State of New Mexico et al.,* Case No. D-202-CV-2009-07148.

For further information on the NMERB's legislative proposal, please see the NMERB Draft Bill Summary for Proposed 2019 Legislation.