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## FISCAL IMPACT REPORT

SPONSOR Varela DATE TYPED 02/07/05 HB HJM 5

SHORT TITLE Public Retirement Expansion Moratorium SB \_\_\_\_\_

ANALYST Geisler

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See narrative	Recurring	Educational Retirement Fund, Public Employees Retirement Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates: SJM 18

Conflicts with SB 266, SB 507, HB 287, HB 288

### SOURCES OF INFORMATION

LFC Files  
 Educational Retirement Board (ERB)  
 Public Employees Retirement Association (PERA)

### SUMMARY

#### Synopsis of Bill

House Joint Memorial 5 is Legislative Finance Committee sponsored legislation that proposes a two-year moratorium on benefit enhancements proposals to the public employees and educational retirement systems be imposed through December 31, 2006.

#### Significant Issues

1. The actuarial position of both the Educational Retirement Fund and the Public Employees Retirement fund has declined in recent years.
  - ERB's funded ratio, the actuarial value of assets as a percentage of actuarial accrued liabilities, declined from 81% to 75% in the last year. The funding period for their un-

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funded actuarial liability, which the Governmental Accounting Standards Board (GASB) states should be less than 30 years, is infinity. During FY 04, contributions of \$356 million were \$95 million less than distributions of \$451 million.

- PERA's actuarial position is still strong, but it has also declined in recent years. For example, at June 30, 2004 their funded ratio was 93%, but it has declined 10% from the FY 02 funded ratio of 103%. The funding period for PERA's unfunded actuarial liability increased from 17 to 21 years in the past year.

2. There have been a number of legislative changes in recent years which may have a negative impact on the pension funds and there are new proposals for enhanced pensions before the legislature this year.

- There is concern that the elimination of income limits in 2003 on PERA retirees returning to work is encouraging earlier retirements, which may have a long term negative impact of the solvency of the PERA fund because of increased payouts to retirees and reduced contributions to the fund.
- Bills have been introduced in 2005 to provide for enhanced retirements for juvenile correction officers and conservation officers. Other bills propose to enhance the ERB retirement multiplier and cost of living adjustments.

3. PERA and ERB have an actuarial target return of 8% on their investments. Over the next five years and likely longer, it is a widely held belief in the investment community that returns are going to be modest, which poses significant challenges to the investment staffs of both funds. Another significant market downturn could cause a rapid deterioration in the actuarial position of both funds.

House Joint Memorial 5 is endorsed by the boards of both PERA and ERB.

### **FISCAL IMPLICATIONS**

Delaying additional benefit enhancements is likely to have a positive actuarial impact on ERB and PERA. It will also allow for proper and thorough actuarial studies to be performed by the actuaries of each system to determine their soundness and provide specifics for the legislature to include proper funding as required by Article 20, Section 22 of the New Mexico Constitution.

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

Duplicates Senate Joint Memorial 18. Conflicts with Senate Bill 266, which proposes to provide a benefit enhancement for juvenile correctional officers and Senate Bill 507, which proposes to provide a benefit enhancement for conservation officers. Also conflicts with House Bill 287, which proposes to enhance the ERB pension plan and House Bill 288, which proposes to enhance the cost of living adjustment for ERB retirees.

## OTHER SUBSTANTIVE ISSUES

### Response to ERB Solvency Problem

By seeking a delay in near-term benefit enhancements, House Joint Memorial 5 complements a number of bills seeking to improve ERB's solvency. SB 181 and HB 270 both propose increasing employer contributions into the fund, with SB 181 also proposing a new, less costly retirement plan. With the objective of increasing future investment return, HB 55, HB 389, SB 392, and SB 60 seek to increase the flexibility of investing agencies (including ERB) by eliminating legal lists of allowable investments and allowing investments to be governed by the Uniform Prudent Investor Act (UPIA). SB 61 and HB 387 seek to reduce the time delays investing agencies face in hiring and firing investment managers by exempting the investing agencies from the procurement code when they procure investment related services.

On January 24, 2005, Governor Richardson appointed a task force of financial experts and legislators to recommend solutions to the educational retirement shortfall and report back in 30 days.

### Recent History of PERA Benefit Changes

The retirement benefits afforded to public employees of the State of New Mexico are among the most desirable nationwide, and need to be protected from further erosion. During the past decade, the Legislature has increased the benefit structure available to certain public employees groups by reducing normal retirement. For example, legislative proposals providing benefit enhancements for adult correctional officers and municipal detention officers have been enacted. In the past year, the following employee groups have either requested or inquired about actuarial studies to determine the cost of 20-year retirement plans or plans to enhance service credit by 20%:

- ✓ District Attorneys
- ✓ Public Defenders
- ✓ 911 Emergency Communication Workers
- ✓ Dept. of Transportation/ Public Safety – Motor Transportation and Special Investigators
- ✓ Children, Youth and Families Department – Juvenile Correctional Officers, Psychologists and Caseworkers
- ✓ Corrections Department – Probation and Parole Officers
- ✓ New Mexico Conservation Officers Association – Commissioned Officers
- ✓ Municipal Electrical Line Workers

Since removal of its earning limitation for retirees who return to work with affiliated-public employers, PERA has experienced historically heavier end-of-year retirements. For example, for the year 2004 PERA retired 1,878 of its members. The number of back-to-work-retirees has escalated from 363 on October 31, 2003 to 1,501 through December 31, 2004. The number of retirees who have returned to work correlates very closely with the increased retirements in 2004 and represents approximately 7% of annuitant payroll. Under current law, retired member contributions will continue to be required through December 31, 2006, allowing for two full years of actuarial experience to determine the full actuarial cost of PERA's expanded return-to-work provisions. Beginning January 1, 2007, the employer contribution rate will be adjusted annually at the determination of PERA to cover the full actuarial cost of PERA retirees for post-retirement employment with PERA affiliates. It is unknown whether removal of the earnings limitation for

post-retirement employment will require PERA's actuaries to modify the retirement trend assumptions used for valuation purposes. Until PERA's actuaries have sufficient experience to determine the actuarial cost of the return-to-work provisions, it is unknown what impact removal of the earnings limitation has had on the Fund. As it pertains to PERA, House Joint Memorial 5's two-year moratorium on benefit enhancements will coincide with the sunset of the PERA Act's provision requiring retired member contributions through December 31, 2006, allowing for two full years of actuarial experience to determine the full actuarial cost of PERA's return-to-work provisions;

Article 20, Section 22 of the Constitution of the State of New Mexico requires that the PERA Board and its independent actuary must establish funding periods for benefit enhancements that reflect sound actuarial principles and cover the cost of new benefits. Benefit enhancement legislation that does not reflect the cost of new benefits may carry with it a multi-million dollar UAAL that will negatively impact the overall funded status of PERA.

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

There will continue to be a proliferation of legislative proposals to enact benefit enhancements from different employee groups and special interests.

**GG/sb**