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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-12-07

SPONSOR Vigil LAST UPDATED \_\_\_\_\_ HB 800

SHORT TITLE Motor Transportation Officer Retirement SB \_\_\_\_\_

ANALYST Aubel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$3,000.0	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$3,000.0		Non-Recurring	PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$50.0		\$50.0	Non- Recurring	PERA
			\$476.4		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 280, HB 411, HB 595, HB 765 and SB 575 (duplicate of HB 595)

Conflicts with SJM6

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)

Department of Public Safety (DPS)

## SUMMARY

### Synopsis of Bill

House Bill 800 proposes to provide certified officers of the Department of Public Safety Motor Transportation Division (MTD) and Special Investigations Division (SID) the same benefits as provided under State Police Member and Adult Correctional Officer Coverage Plan 1. If approved by election of the affected membership, these officers would be eligible for a 20 percent service credit increase in all credited service (past and future), a 3 percent pension factor, and an 80 percent pension maximum.

HB 800 renames “State Police and Adult Correctional Officer Plan” [NMSA 1978, Sections 10-11-27 through 10-11-32] “State Officer Coverage Plan 1.”

## FISCAL IMPLICATIONS

The estimated increase in unfunded liabilities to the PERA fund is calculated at approximately \$2.7 million for MTD Police Officers and \$259,121.00 for SID Agents. HB 800 provides for a \$3 million appropriation to pre-fund the \$2.7 million unfunded liability that results from the new liabilities being added to the existing State Police and Adult Correctional Officer coverage plan.

The employer contribution rate for the affected employees (currently in State Plan 3) will increase over 8 percent, from 16.59 percent to 25.1 percent, resulting in increased retirement funding of approximately \$476 thousand for the DPS operating budget that would be recurring.

	<u>Motor Transportation</u>	<u>Special Investigations</u>
Number of Employees	129	22
Payroll	\$4,759,236	\$838,666
8.51% Increase	\$405,011	\$71,370

Any decrease in vacancy and turnover rates will most likely reduce overtime costs for DPS operating budget.

PERA’s operating budget will be negatively impacted by HB 800. Every new coverage plan added to the PERA Act requires system changes to PERA’s computerized integrated pension administration system. If further revisions to the system are necessary in FY08, PERA will be required to seek a BAR to cover the costs of these system changes, which in the past have cost up to \$50.0 thousand.

## SIGNIFICANT ISSUES

Motor Transportation and Special Investigations Division police officers and agents have not been included in a hazardous duty retirement plan. They currently fall under the general PERA plan, which is available to all state employees (State Member Plan 3), for which these officers must complete twenty-six years (26), eight (8) months of service before they can retire at any age and be eligible for a pension equivalent to eighty percent (80 percent) of the highest three (3) years of their salary.

A primary policy issue is whether motor transportation officers and special investigations members employed by DPS are to receive a 20 percent service credit increase in all credited service (past and future). DPS maintains that the duties and scope of work performed by the commissioned personnel of MTD and SID is similar, if not identical, to the duties performed by other police personnel.

Maintaining PERA fund solvency is also an essential consideration. The cumulative effect of multiple benefit enhancements is unknown. However, the combination of enhancing members' prior service credit, providing salary increases in excess of PERA's assumed rate of 4.5 percent per year for existing members of the State Police and Adult Correctional Officer Plan (as well as those members being proposed to enter the plan), and any downturn in the near-term future performance of the PERA portfolio could possibly cause a decrease in the funded status of the existing State Police and Correctional Officer plan below 100% and also have a measurable effect on the funded status of the overall PERA system.

### **PERFORMANCE IMPLICATIONS**

DPS relates that the agency is attempting to bring salary and retirement parity to all three of its law enforcement divisions. The department notes that successful increases in officer salaries have begun in phases and asserts that providing fair and equal retirement benefits for all sworn police officers employed by DPS is vital to the agency's efforts to provide a healthy work environment for its officers. DPS points out that all the officers play important roles in the mission of DPS and must all work as a cohesive group in order to carry out that mission.

DPS reports it has hired and trained sworn personnel only to lose them to agencies that offer benefits such as a 20 year retirement and concludes that the successful enactment of HB 800 will aid in the efforts of the department to retain and attract the additional personnel to reduce current vacancy rates, which as of December 2006 stand at 34 percent (SID) and 11.5 percent (MTD). The potential for increased retention will improve performance in achieving agency objectives.

It should be noted that short term evidence supporting the theory that enhanced retirement plans improve hiring and retention has so far remained elusive. Using the experience of the Department of Corrections, which instituted the enhanced plan effective July 1, 2004, performance results are inconclusive:

<b>Performance Measure</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>FY06</b>
Percent turnover of correction officers	10.97%	9.97%	11.8%	10.8%	20.91%*
Number of cadets entering corrections department training academy	274	236	215	206	206

\*In 2006, 85 officers retired the first month of eligibility under the new plan.

### **ADMINISTRATIVE IMPLICATIONS**

PERA will need to coordinate the election for adoption of the new coverage plan by the motor transportation officers, special investigations members, and DPS on or before October 1, 2007. PERA would be required to move affected membership, along with corresponding assets and

liabilities, from State General Plan 3 into the proposed State Officer Member Coverage Plan 1.

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

HB 800 relates to HB 280, HB 411, HB 595 (SB 576), and HB 765, all which propose adding additional groups of employees to State Police Member and Adult Correctional Officer Member Coverage Plan 1.

HB 800 conflicts with SJM 6 proposes a 2-year moratorium on benefit enhancement legislation affecting the Public Employees Retirement Association

### **TECHNICAL ISSUES**

PERA notes that page 9, line 5, states that the retirement board shall certify that “a majority of the members voting have voted to approve adoption of the plan.” Line 5 should be corrected to state, “a majority of eligible motor transportation and special investigation members have voted to approve adoption of the plan.”

### **OTHER SUBSTANTIVE ISSUES**

Article XX Section 22 of the Constitution of the State of New Mexico requires that an increase in benefits under the retirement system be adequately funded to preserve the PERA fund’s actuarial soundness. The membership affected by the proposed legislation requested and received an actuarial study for the actuarial cost determination of the benefit increase. HB 800 provides for a \$3 million appropriation to pre-fund the unfunded accrued actuarial liability (“increased liabilities”) that the enhanced retirement benefits will cause, rather than amortizing the \$2.7 million unfunded liability over 30 years. The consensus of the PERA Board supports pre-funding of any unfunded liability created by benefit enhancement legislation as a safeguard to the fund’s solvency.

In addition to providing the unfunded liability estimate, the study indicates that the present funding status of the State Police and Adult Correctional Officer Coverage Plan 1 would be sufficient to provide the additional coverage and benefits for these officers, as the bill proposes.

HB 800 provides for an 18-month eligibility period for motor transportation officers and special investigations members to first become eligible to retire with enhanced benefits under the plan. PERA maintains that a 36-month mandatory waiting period is appropriate before members are eligible to retire from the plan to allow for payment of contributions at higher levels toward their enhanced benefit prior to retirement. This prudent strategy will lessen the impact of increased liabilities on the new plan that may occur if a number of members immediately retired with enhanced benefits sooner than normally projected.

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

If HB 800 is not enacted, sworn members of MTD and SID will remain under the general state retirement coverage plan instead of being transitioned into a hazardous-duty-type retirement plan. DPS maintains that this may result in further difficulties in the areas of hiring and retention in what has become a very competitive job market. Additionally, efforts by DPS to bring parity and equality to their law enforcement program will be delayed.

### **SUGGESTED AMENDMENTS**

**House Bill 800 – Page 5**

Page 9, line 5 should read:

a majority of eligible motor transportation and special investigation members have voted to approve adoption of the plan.

Page 9, line 20:

Replace “eighteen” with “thirty-six”

MA/csd