F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2-19-07
SPONSOR Garcia, M.J. **LAST UPDATED** **HB** 1162

SHORT TITLE Public Retirees Returning to Work **SB**

ANALYST Aubel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	See narrative			PERA

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$50.0		$50.0	Non-Rec	PERA

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Employees Retirement Association (PERA)
Department of Finance Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 1162 amends the PERA Act to significantly limit those PERA–affiliated public employers eligible to hire retired PERA members. Effective July 1, 2007, retired members would only be eligible for post-retirement employment with PERA-affiliated employers who are: 1) a municipality with a population of less than 20 thousand; or 2) a county with a population of less than 50 thousand. If an affiliated employer meets this requirement, the current requirements for the employer contribution in an amount adjusted for the full actuarial cost on behalf of the re-hired retiree apply. In effect, this bill aims to remove the incentives for state employees to retire early and go back to the work for a state agency by sun-setting the current return-to-work (RTW) program on June 30, 2007.

FISCAL IMPLICATIONS

A primary concern for RTW programs is the potential fiscal impact on fund solvency and whether the RTW programs encourage people to retire sooner than they would have otherwise. Any such program means that the pension is being paid out longer than actuarially anticipated. Sufficient numbers of retirees retiring earlier than anticipated could seriously impact fund solvency.

PERA notes that HB 1162 may have a positive fiscal impact on the fund because the bill will reduce the ability for a retired member to return to work after retirement. PERA actuaries make assumptions regarding retirement trends for actuarial valuation purposes. In general, actuarial experience indicates that members are retiring during the first several years of service-based eligibility at significantly higher rates than currently assumed. It is important to note that 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. Currently, PERA has approximately 23 thousand retirees; the number of retirees who have returned to work represents approximately 10 to12 percent of annuitant payroll. If the effective sun-setting of the current RTW program for PERA triggers later retirements, there may be a gain to the fund.

PERA's operating budget will be negatively impacted by HB 1162. Every revision to the PERA Act's post-retirement RTW provisions results in a change order with associated costs to PERA's existing contract with the vendor. For example, by incorporating removal of the PERA's post-retirement earnings limit into the pension system, PERA incurred approximately $50 thousand in change orders during FY05. If further revisions to the system are necessary in FY08, PERA will be required to seek a Budget Adjustment Authority to cover the costs of these system changes.

SIGNIFICANT ISSUES

PERA identifies the primary policy issue as whether only PERA-affiliated employers who are municipalities with a population of less than 20 thousand or counties with a population of less than 50 thousand (small local governments) should be able to re-employ PERA retirees. HB 1024 will significantly limit those retired members who may return-to-work. Specifically, employers such as the City of Albuquerque and the State, will no longer be able to re-hire PERA retirees, unless the retiree chooses to suspend his or her pension.

There has been concern expressed that RTW programs have negatively impacted current employee morale and upward mobility, particularly for the state employee system. There can also be a public perception problem of a system which allows a member to receive both a salary and a pension.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB 310, amending the PERA Act to reinstate an earnings limitation of $15 thousand for PERA retirees who initially return-to-work after July 1, 2007 with a PERA–affiliated public employer before suspension of pension benefits.

Conflicts with SB 86, amending the PERA Act's return-to-work provisions by reinstating and raising the threshold for remitting nonrefundable retired member contributions for post-retirement earnings to $30 thousand. SB 86 lengthens the back-to-work separation from service requirement from 90 days to 12 months, and makes the sit-out requirement applicable to independent contractors. SB 86 provides an exception to the proposed 12-month separation from service requirement for retired members receiving the maximum pension available under coverage plan (have "maxed-out") and return to work as a peace officer or water or wastewater facility operator.

Conflicts with HB 179, amending the PERA Act to reinstate an earnings limitation of $25 thousand for PERA retirees who initially return-to-work after July 1, 2007, with a PERA–affiliated public employer before suspension of pension benefits. HB 179's earnings limitation will not be applicable to retired members who are already employed by an affiliated-public employer on or before June 30, 2007, who will be grandfathered under existing law.

Conflicts with HB 313/aHHGAC/aHJC, amending the PERA Act to reinstate an earnings limitation of $15 thousand for PERA retirees returning to work with a PERA–affiliated public employer before suspension of pension benefits, with an exception for 1) retired members who are already employed by an affiliated-public employer on or before June 30, 2007 (who will be grandfathered under existing law); or 2) certain retired members who are reemployed by an entity whose governing body has adopted a resolution declaring the employment to be fulfilling a "critical need" and the term of such employment may be for a term of 2 years, subject to renewal upon a finding of continuing need. HB 313, as amended, extends the mandatory 90-day sit-out period for retirees who return to work with PERA employers to independent contractors as well.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

All retirees who return to work with PERA affiliates will be covered under existing law. Beginning with the first full pay period after January 1, 2007, PERA-affiliated employers who choose to re-employ PERA retirees will continue to be responsible for paying employer contributions in an amount equal to the sum of the statutory employer rate and the statutory employee rate for the related plan. PERA actuaries will adjust the employer contribution rate annually, at the determination of PERA, to cover the full actuarial cost of PERA retirees for post-retirement employment with PERA affiliates.

In addition, with a minimal 90-day "wait-out" period for all employees remaining in effect, the potential incentive to retire early will remain, which could negatively impact both the fund and employee morale.

MA/nt