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FISCAL IMPACT REPORT

ORIGINAL DATE 2-2-08

SPONSOR Nava LAST UPDATED _____ HB _____

SHORT TITLE Volunteer Firefighters Retirement Amendments SJM 44

ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.01*		\$.01*	Non-Recurring	See narrative

(Parenthesis () Indicate Expenditure Decreases)

*Minimal

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

No Response From

Public Regulatory Commission (Fire Marshal Office)

New Mexico Municipal league

New Mexico Association of Counties

SUMMARY

Synopsis of Bill

Senate Joint Memorial 44 cites the difficulty of administering the Volunteer Firefighters Retirement Act and requests the Public Employee Retirement Association (PERA), the State Fire Marshal's Office, the State Volunteer Firefighter Association, the Fire Service Council, the New Mexico Municipal League and the New Mexico Association of Counties to report to the appropriate interim committee after June 1, 2008 to propose amendments to the Act to remedy the problems identified.

FISCAL IMPLICATIONS

The participating parties would incur operating expenses to fulfill the requirement to meet and determine amendments, which would most likely be minimal.

SIGNIFICANT ISSUES

PERA has testified before interim legislative committees that administering the State Volunteer Firefighters Retirement program has become problematic in determining service credit, reporting service credit, calculating benefits, and removing inactive members for the retirement database. These issues with data unreliability have made a reliable actuarial assessment of the plan difficult.

The agency notes one of the primary issues is whether a significant number of volunteer fire departments will voluntarily participate in the data-clean up effort and provides the following background information:

In July 2007, a letter under the signatures of PERA Executive Director Terry Slattery, CEBS, and State Fire Marshal John Standefer was sent to all volunteer fire departments requesting an update on the status of members reported active in PERA's database. A roster of active members was provided to each fire chief. As of December 31, 2007, 249 out of a 365 active volunteer fire departments had returned corrected rosters to PERA, with 116 volunteer fire departments – approximately 1/3 of the total – not responding. Requests for corrected rosters were again sent to all volunteer fire departments in January 2008 with the annual reporting certifications. The deadline to submit attendance information by each fire department is March 31, 2008.

The Volunteer Firefighters Retirement Plan is unlike any other PERA coverage plan in that it is not funded based upon contributions from salary. Volunteer firefighters are not salaried employees and their "retirement benefits" do not derive from employment. Thus, payroll data used to account for service credit for other retirement plans is unavailable, and PERA can only depend on the information voluntarily provided by each fire chief.

PERA maintains that its joint work with the State Fire Marshal's office, the Fire Service Council and the interim committee to which these issues are assigned can remedy ongoing statutory impediments that negatively impact administration of the Act.

PERFORMANCE IMPLICATIONS

As it currently is administered, the Volunteer Firefighters Retirement Plan is difficult to provide reliable actuarial information.

ADMINISTRATIVE IMPLICATIONS

The listed agencies will be required to participate with the assigned interim committee to study the provisions of the Volunteer Firefighters Retirement Act and consider necessary amendments to remedy administrative problems it experiences.

OTHER SUBSTANTIVE ISSUES

PERA provides additional information as follows:

Service credit is reported on behalf of volunteer firefighters by the chief of each volunteer fire department on or before a March 31st statutory deadline. Failure to meet this

deadline results in the member's loss of service credit for the preceding year. Recent legislative changes have attempted to remedy this problem. For example, in 2005 legislation allowed an active member to post or adjust up to 5 years of service credit earned prior to January 1, 2005. Volunteer fire departments statewide reported past or adjusted service credit for approximately 1300-1500 individual volunteer firefighters. It has been PERA's experience that significant follow-up with volunteer fire departments is required to ensure correct reporting for individual firefighter members. Nonetheless, PERA is aware of many inquiries by volunteer firefighters since this reporting window closed that still have not had their earned service credit reported to PERA.

In addition, prior to July 1, 2003, a volunteer firefighter whose first year of service credit was accumulated during or later than the year in which the firefighter attained age forty five (45) was not entitled to membership under the Volunteer Firefighters Retirement Act. In 2003, the legislature amended the law to remove this maximum starting age limitation. However, in *Gill v. Public Employees Retirement Board*, 2004-NMSC-016, the New Mexico Supreme Court held that the 2003 amendment could not be applied retroactively; therefore, the 2003 amendment did not resolve all of the service credit reporting issues raised by former firefighters who had been excluded from membership under the pre-2003 law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Amendments to improve the administration of the Volunteer Firefighters Retirement Plan will most likely not be identified and related to the appropriate interim committee for legislative consideration. In addition, PERA notes that service credit that is not reported on behalf of volunteer firefighters by the chief of each volunteer firefighter department on or before a March 31st statutory deadline each year is not credited to a member's account.

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