

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 631a

**49th Legislature, 1st Session, 2009**

**Short Title:** Educational Retirement Eligibility

**Sponsor(s):** Representatives Rhonda S. King and Rick Miera

**Analyst:** Kathleen Forrer

**Date:** March 21, 2009

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**AS AMENDED**

**The Senate Finance Committee amendments:**

- change the age at which a member may be eligible to retire with five years of earned service credit from 65 to 67 years of age; and
- provides that lump-sum payments of sick or annual leave made after July 1, 2010 shall be excluded from the calculation of a member's salary for retirement benefits.

**The Senate Education Committee amendments strike the House Appropriations and Finance Committee amendments.**

**The House Appropriations and Finance Committee (HAFC) amendments:**

- change the applicability of the new retirement eligibility criteria from individuals retiring on or after July 1, 2010 to individuals retiring on or after July 1, 2009; and
- change the effective date of the bill from July 1, 2010 to July 1, 2009.

**Technical Issues:**

In its analysis of HB 631a, the Educational Retirement Board notes that, although the HAFC amendments change the effective date of the new retirement criteria to correspond with the effective date in CS/HB 573, the amendments do not change the provision allowing a member who reaches the age of 65 to retire with five years of earned service credit. CS/HB 573 requires that the member be at least 67 years of age before he or she is eligible to retire with five years of earned service credit.

**Original Bill Summary:**

HB 631 adds a new section to and amends various sections of the *Educational Retirement Act* to change retirement eligibility provisions for individuals who become members on or after July 1, 2010. After that date, a new member will be eligible for retirement if:

- the member is any age and has 30 or more years of earned service credit (current statute requires 25 or more years of earned and allowed service credit);
- the member is at least 65 years of age and has five or more years of earned service credit (no difference); or
- the sum of the member's age and years of earned service credit equals at least 80 (current statute specifies 75).

Both HB 631 and current statute specify that individuals retiring before a certain age will have their benefits reduced:

- HB 631 includes reduced benefits for members who retire below the age of 65 with fewer than 30 years of service credit.
- Current statute provides reduced benefits for members who retire below the age of 60 with fewer than 25 years of service.

HB 631 does not change the formula used to calculate retirement benefits:

$$\text{Final Average Salary (FAS)} \times \text{Service Credit} \times .0235 = \text{Annual Benefit}$$

**Fiscal Impact:**

HB 631 makes no appropriation.

**Fiscal Issues:**

In its analysis of HB 631, the Educational Retirement Board (ERB) notes that, if enacted, the provisions in HB 631 will improve the Educational Retirement Fund’s actuarial soundness.

The Department of Finance and Administration concurs, stating that “if HB 631 is not enacted, alternative plans to address the fund’s long term solvency will need to be developed.”

Both the Public Education Department and the Higher Education Department indicate that the changes to the educational retirement system might result in difficulties recruiting teachers and other personnel. However, ERB states that because “many, if not most, educational pension plans require members to have far more than 25 years service credit to retire, increasing New Mexico’s requirement should not adversely affect New Mexico’s ability to recruit educators.”

**Background:**

In 2005, the Legislature addressed the insolvency of the Educational Retirement Fund through legislation that increased both the employer’s and the employee’s contribution rates. The employer’s contribution rate, which was 8.65 percent in FY 05, was increased by 0.75 percent each year for seven years, and will reach 13.9 percent in FY 12. The employee’s contribution rate, which was 7.6 percent in FY 05, was increased by 0.075 percent per year for a period of four years, and reached 7.9 percent in FY 09.

**Related Bills:**

HB 453 *Educational Retirement Service Credits* (As introduced, HB 453 and SB 623 are duplicates.)

\*HB 525a *Alternative Educational Retirement Plans*

\*CS/CS/HB 573a *Adjustment of Retirement Plans*

HB 721a *Educational Retirees Returning to Work*

HJM 45 *Public Employee & Education Solvency Plans*

SB 145 *Eliminate End Date for Return to Work*

SB 476a *Educational Retirees Returning to Work*

\*SB 572a *Alternative Educational Retirement Plans*

SB 623 *Educational Retirement Service Credits*