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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/09

SPONSOR Trujillo **LAST UPDATED** _____ **HB** 353

SHORT TITLE Volunteer Fire Fighter Retirement Procedures **SB** _____

ANALYST Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Minimal to Moderate	Minimal to Moderate	Recurring	Fire Protection Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal to Moderate			Nonrecurring	Fire Protection Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 353 amends the various sections of the Volunteer Firefighters Retirement Act, Section 10-11A-1 through 10-11A7 as follows:

- Clarifies the definition of “member” to be such that a volunteer firefighter who receives reimbursement for personal out-of-pocket cost should not be considered a salaried firefighter.

- Requires the Public Employees Retirement Association (PERA) to remove a member's information file from the active database and enter it into an inactive database if qualifying documentation has not been provided to the association for five consecutive years. If the member submits new qualifying documentation, then the member's information file shall be returned to the active database. Additionally, a member's information file that is in the inactive database shall not be included in the retirement board's annual actuarial evaluation of the fund.
- Reduces the minimal requirements to earn service credit:
 - From seventy-five to fifty percent of all scheduled fire drills, for which the member is responsible to attend;
 - From seventy-five to fifty percent of all scheduled business meetings, for which the member is responsible to attend.
- Allows a volunteer firefighter member to post or adjust prior service credit which has been earned but not credited at any time. However, the member shall acknowledge the truth of the records under oath before a notary public that are signed by the mayor if the fire department receives distributions from the fire protection fund. PERA may request the State Fire Marshal's office to verify member qualifications.
- Simplifies the documentation of qualification of each member which the department chief is required to submit to PERA, by March 31 of each year, in order to post service credit.
- Adds a temporary survivor benefit for a minor child until the age of eighteen. Current law only provides a survivor benefit to a surviving spouse.

The bill adds a new section to the Act, retroactivity. The bill proposes to make certain provisions of Laws 2003, Chapter 370 retroactive including

- 1) eliminating a maximum age for a volunteer non-salaried firefighter to establish a first year of service credit who was listed as an active member on the rolls of a fire department before the effective date of Chapter 370;
- 2) a volunteer non-salaried firefighter who retired before the effective date of Chapter 370 shall also be entitled to receive retirement benefits.

FISCAL IMPLICATIONS

The Volunteer Firefighters Retirement Plan ("Plan"), passed by the Legislature in 1983, 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. Rather, the benefits are provided by the Legislature and funded by the Legislature from the Fire Protection Fund. The source of funding to meet the Fund's statutory obligations is an annual appropriation of \$750,000. This amount is supplemented, as required, to meet unfunded obligations.

Adding new liabilities to the fund may increase the annual contribution to the Fund in order to keep it actuarially sound. The Plan is currently 258% funded for the year ending June 30, 2008.

PERA will incur operating costs related to printing, postage and dissemination of information

associated with changes to procedures and reporting forms. In addition, PERA will require increased staff utilization in order to review reporting records and to post eligible service credit. Changes in qualification requirements and reporting will require revisions to PERA's pension administration system ("RIO"), and PERA will be required to seek a BAR to cover the costs of these system changes.

No actuarial study has been requested or performed to determine the fiscal impact of adding a temporary survivor benefit under the Plan and retroactively applying Laws 2003, Chapter 370.

SIGNIFICANT ISSUES

PERA administers the present law so that volunteer firefighters who receive reimbursement for personal out-of-pocket costs are considered volunteer firefighters, therefore, this clarification will have no effect on current PERA practices. However, the provision highlights an ambiguity in the law resulting from the fact that the phrase "volunteer non-salaried firefighter" is not defined. In PERA's experience, volunteer fire departments pay their volunteers different types of compensation, and in many cases, the compensation does not clearly amount to a reimbursement for out-of-pocket costs. A definition of "volunteer non-salaried firefighter" would assist both PERA in administering the law and volunteer fire departments in crafting volunteer firefighter compensation/stipend policies.

The bill mandates that certain members must be excluded from the annual actuarial valuation, regardless of whether the actuary determines there are potential liabilities associated with these members. It is contrary to sound actuarial accounting principles to arbitrarily exclude someone who raises a potential liability.

No actuarial study has been requested to determine the impact of reducing the requirements to earn a year of service credit. This provision may enhance benefits for certain members by making service credit easier to obtain.

PERA does not have the demographic information or actuarial study to evaluate the fiscal impact of posting or adjust prior service credit not previously credited. However, PERA is aware that a significant portion of the Volunteer Firefighter Fund membership has not had service credit posted to their accounts. The volunteer nature of the fire departments that constitute the membership of the retirement plan has led to failures in the reporting of service credit.

PERA supports the submission of documentation of qualifications instead of the current records of emergency response calls, fire drills and business meetings. This approach will simplify the reporting process and reduce administrative claims made by members regarding the award of service credit.

PERA does not have the demographic information or actuarial study to evaluate the fiscal impact of adding an additional survivor benefit. This provision may enhance benefits for certain members.

The PERA board has adopted Resolution 08-04 opposing all benefit enhancements that are not prospective and that may create an unfunded liability to the retirement system. The funded status of all PERA plans have been negatively impacted since the last actuarial valuation was performed and due to this, PERA cannot support any legislative changes that allow for benefit increases, however minimal they may be.

ADMINISTRATIVE IMPLICATIONS

The provisions contained in the bill will require revisions to PERA's RIO system.

PERA cannot assess the precise administrative impact because it does not presently have sufficient information regarding the number of persons who will seek to post or adjust additional service credit earned for prior years but not posted to their member account. A 2005 legislation amendment which allowed an active member to post or adjust up to 5 years of service credit earned prior to January 1, 2005 created a significant impact on PERA's existing staff. Volunteer fire departments statewide reported past or adjusted service credit for approximately 1300-1500 individual volunteer firefighters. Existing PERA staff was required to absorb the additional service credit reporting and audit the information for posting to member accounts. It has been PERA's experience that significant follow-up with volunteer fire departments is required to ensure correct reporting for individual firefighter members.

PERA has experienced significant problems associated with reporting and posting service credit. The failure by the chiefs of volunteer firefighter departments to report on or before the March 31st statutory deadline has led to the member's loss of service credit for the preceding year. This provision of the bill should significantly simplify and streamline the reporting process, and PERA strongly supports it.

TECHNICAL ISSUES

As noted in "Significant Issues", an ambiguity in the law existing from the phrase "volunteer non-salaried firefighter" not being defined.

OTHER SUBSTANTIVE ISSUES

Although PERA did not provide analysis regarding the new section providing retroactivity, and the LFC does not have sufficient data to determine the extent of the impact to the fund, it is expected to negatively the actuarial soundness of the fund.

AMENDMENTS

On page 5, lines 11 through 13, strike:

"A member's information file that has been entered into an inactive database shall not be included in the board's annual actuarial evaluation of the fund."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA will continue to administer volunteer firefighter retirement benefits as mandated by the current statute.

DL/svb