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FISCAL IMPACT REPORT

ORIGINAL DATE 3-03-09

SPONSOR Sandoval LAST UPDATED _____ HB 867

SHORT TITLE Public Employee Return To Employment Changes SB _____

ANALYST Aubel

ACTUARIAL IMPACT (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	.01	.01	Recurring	PERA

(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		\$50.0		\$50.0	Non-Rec	PERA

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 246, HB 573, and HB 616

Relates to HJM 45, HB 79, HB 236, HB 271 and companion HB 355, HB 351 and duplicate SB 366, HB 353, HB 453, HB 631, HB 648, HB 683, HB 684, HB 721, HB 731, HB 765, HB 798, HB 854, SB 145, SB 231, SB 261, SB 428, SB 476, and SB 499

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

State Personnel Office (SPO)

Department of Finance and Administration (DFA)

Public Employer Labor Relations (PELR)

SUMMARY

Synopsis of Bill

House Bill 867 amends the Public Employees Retirement Act to limit the return-to-work (RTW) program to those who have returned to work prior to July 1, 2009 and who have not terminated their subsequent employment under existing law. The bill provides an exemption for retirees

who return to work as chiefs of police, undersheriffs and those employed by the Legislature for legislative session work. Any other retiree returning to work after the effective date would need to suspend his or her pension and be reemployed as a normal employee.

FISCAL IMPLICATIONS

According to PERA, its current return-to-work provisions are cost neutral to the retirement fund because both employee and employer contributions are paid by the employer. In prior testimony PERA has indicated that the RTW program would have a negative effect on the fund to the extent the current RTW program encourages employees to retire earlier than they would have otherwise, wait out the three month suspension of service, and return as a RTW employee. To this extent, the bill would have an indeterminate positive impact to the fund by removing this option.

PERA notes its operating budget will be negatively impacted by HB 867 since it will require PERA to make additional changes to its computer pension administration system, RIO, estimated at \$50 thousand.

SIGNIFICANT ISSUES

Current RTW statute allows a retired employee to “sit out” for three months from working for a PERA-affiliated employer and return to work without suspension of benefits. This bill would effectively end this program, allowing only those already in the program on the effective date -- and a few exceptions -- to participate. Prior testimony has indicated that the program may be dampening morale of younger workers who see their upward mobility impaired by retirees taking top management positions. No analysis has been presented to validate this perception and to measure what degree state careers are being sidelined by RTW employees.

SPO notes that HB 867 would significantly limit the ability and number of retired members returning to work for an affiliated public employer after July 1, 2009. A demographic forecast presented to interim committee in 2008 shows a shrinking workforce, indicating that older workers may be needed to fill workforce gaps. This bill would limit the flexibility of employers to hire retired employees to fill positions.

The main policy decision is whether to allow people to retire and come back to work without suspending their pension benefits.

Other Comments

In response to other legislation relating to the PERA RTW program, the New Mexico Municipal League stated a concern about small municipalities being able to hire qualified employees for certain hard-to-fill positions and proposed a transparent method that would allow a governing body to hire a RTW employee by declaring the position a “critical need” by resolution for two year periods. HB 867 does not include this provision.

PERFORMANCE IMPLICATIONS

RTW employees in the program prior to July 1, 2009 would be able to continue in their positions, so there should not be a disruption to state agencies that would have occurred if all had to quit on that date or suspend pensions.

ADMINISTRATIVE IMPLICATIONS

PERA would need to update its computer system and instruct employers on the change in the RTW program. State agencies would need to fill positions without considering the pool of skilled retirees.

CONFLICT

HB 867 conflicts with the following bills:

HB 246 – PERA RETURN TO WORK FOR CERTAIN EMPLOYEES (contains provision for small municipalities or counties.)

HB 573 – ADJUSTMENT OF RETIREMENT PLANS (originally extended 3-month period to 12 months; amended to duplicate HB 616 RTW provisions.)

HB 616 – PUBLIC RETIREES RETURNING TO WORK (limits salaries to \$30,000 after retirement before suspension of benefit.)

RELATIONSHIP

HB 867 relates to the following bills:

HJM 45 – PUBLIC EMPLOYEE & EDUCATION SOLVENCY PLANS STUDY

HB 65 – LEGISLATIVE RETIREMENT CONTRIBUTIONS

HB 79 – PUBLIC EMPLOYEE RETIREMENT INFO DISCLOSURE

HB 236 – PERA SERVICE CREDIT PURCHASE (Expands service credit purchase)

HB 271/HB 355 – REOPEN MUNICIPAL EMPLOYEE RETIREMENT PLAN 4

HB 351/SB 366 – RETIREE HEALTH CARE FUND CONTRIBUTIONS

HB 525 – ALTERNATIVE EDUCATIONAL RETIREMENT PLANS

HB 631 – EDUCATIONAL RETIREMENT ELIGIBILITY

HB 648 – JUDICIAL RETIREMENT FROM GENERAL FUND

HB 683 – RETIRED PUBLIC EMPLOYEE RETURNING AS SHERIFF

HB 684 – CONGRESSIONAL EMPLOYEE NM SERVICE CREDIT

HB 721 – EDUCATIONAL RETIREES RETURNING TO WORK

HB 731 – SESSION EMPLOYEE PERA CREDIT PURCHASES

HB 765 – PUBLIC EMPLOYEES RETURNING TO WORK

HB 798 – NEW PERA MEMBER ELIGIBILITY

HB 854 – PERA MEMBER & STATE CONTRIBUTION CHANGES

SB 145 – ELIMINATE END DATE FOR RETURN TO WORK

SB 231 – PERA ELIGIBILITY FOR MUTUAL DOMESTICS

SB 428 – RETIREE HEALTH DEFINITIONS & CONTRIBUTIONS

SB 499 – MOTOR TRANSPORTATION OFFICER RETIREMENT

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PERA RTW program would continue as currently structured or as amended by another bill enacted dealing with this issue.

MA/mt