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FISCAL IMPACT REPORT

SPONSOR Stewart **ORIGINAL DATE** 02/07/11
LAST UPDATED _____ **HB** 272
SHORT TITLE Public Employees & Education Retirement Acts **SB** _____
ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|------------|------------|----------------------|-------------------------|------------------|
| Total | | NFI-\$25.0 | NFI-\$25.0 | NFI-\$50.0 | Recurring | ERB/PERA |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Educational Retirement Board (ERB)

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 272 requires the Public Employees Retirement Association and the Educational Retirement Board to provide actuarial and other solvency-related reports to the Legislature and to interim committees of the Legislature upon request.

FISCAL IMPLICATIONS

Assuming a constant level of requested reports, ERB does not anticipate any fiscal impact due to HB272, as follows:

“...the ERB covers the cost of actuarial and other solvency-related reports that it provides to the Legislature and its committees under the existing contract with its outside actuaries. To the extent that there is not a significant increase in the number of reports requested, ERB does not anticipate incurring additional costs.”

However, PERA assumes a fiscal impact to the fund of \$25 thousand based on the assumption that the Legislature would request over the five already included under the current actuarial contract, as described in PERA’s response:

“HB 272 will have a negative fiscal impact on PERA’s operating budget. PERA’s professional services agreement with its actuaries covers an annual valuation and experience studies for each of its 5 retirement funds. In addition, PERA has negotiated actuarial analyses of up to 5 legislative proposals annually at PERA’s request. Additional actuarial requests and studies average PERA between \$3,500 and \$5,000 each. Historically, it has been PERA’s policy that employer or employee groups requesting actuarial studies to determine the impact of benefit enhancements are responsible for their costs.”

Thus, the PERA projection would assume between five (@ \$5,000 each) and seven (@\$3,500 each) additional legislative requests over the five allotted by contract, totaling between 10 and 12 legislative requests.

Therefore, the fiscal impact to the funds hinges on the number and complexity of the requested reports. According to PERA, HB272 would have no fiscal impact as long as the number of reports requested was five or less. ERB did not specify what would constitute “a significant number.”

SIGNIFICANT ISSUES

During the last two years the Retirement System Solvency Task Force was hampered considerably by not being able to obtain timely actuarial reports to assess the current solvency status of the pension plans or assess impacts of various proposals to improve solvency or reduce the cost of the plans. The \$150 thousand appropriation made to the Legislative Council Service for FY10 allowed the LCS to hire a third party actuarial consultant but the results were somewhat compromised by the lack of complete data from PERA’s actuaries and the short time frame available for the reports.

The Investment Oversight Committee also requested nine scenario actuarial reports from PERA and was told that PERA could not provide them for “free.” The issue is whether the Legislature can request actuarial reports other than those being normally provided by the pension plans and who should pay for them.

From PERA’s point of view, the requests appeared to be burdensome:

“During the 2010 interim session, the Investment Oversight Committee asked PERA to provide information under no less than 15 different scenarios. Many of the scenarios presented addressed how to reduce benefits and provide cost savings to the State General Fund. PERA’s actuary estimated that the cost to answer this request would be approximately \$25,000.

PERA’s actuarial contract does not contemplate or provide funding for these kinds of “what if” scenarios. PERA’s actuaries can certainly provide this information to legislative and interim committees contemplating changes to PERA’s benefit plans as long as the legislative group is willing to pay for the studies requested. PERA trust fund monies can only be expended for the benefit of the members, retirees and their beneficiaries. To date, employers or employee groups have requested studies on the actuarial cost of benefit enhancements to specific plans. Each of these employers or employee groups has paid for the actuarial study requested. It would be inappropriate to use trust fund monies

to provide actuarial information for a specific group if the benefit of the study did not accrue to all members, retirees and beneficiaries.”

ERB seems to take a different view of the bill:

The ERB currently provides this type of data to multiple legislative entities. Examples of reports provided include actuarial valuations, experience studies, ad-hoc actuarial analysis of requested scenarios, actuarial data and presentations to the legislature and interim committees as needed. Actuarial valuations and experience studies are also made available to the general public via our website. The ERB believes that providing these reports to the Legislature assists legislators in their deliberations and keeps pension fund members and the public better informed.

The different viewpoints may arise from the fact that ERB essentially has one two-tiered plan and PERA has over 30 to deal with. Thus, an actuarial report requested for PERA, depending on the plan, could reasonably be expected to be more complex.

PERA notes that it routinely provides the Legislative Finance Committee, legislators and interim committees with relevant and requested actuarial reports and information related to its annual valuations. However, this does not address the issue of providing reports unique to the Legislative perspective.

ADMINISTRATIVE IMPLICATIONS

ERB and PERA would be required to coordinate the legislative requests with their respective actuaries.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 272 relates, in particular, to Senate Bill 204, for which no actuarial analysis was provided to assess the impact of reducing PERA’s 3 percent cost-of-living adjustment.

PERA believes the bill is in conflict with Constitution of New Mexico, Article XX, Section 22, which specifies that PERA trust fund monies can only be expended for the benefit of the members, retirees and their beneficiaries.

ALTERNATIVES

PERA suggests that requests for actuarial reports and pension-solvency-related requests be paid for by the Legislative Council Service.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Normal ERB and PERA actuarial reports will be provided to the Legislature but special requests from the Legislature may be denied, or the LCS may be charged for the cost of such reports, by either PERA or ERB.

POSSIBLE QUESTIONS

1. What five annual reports did the actuaries provide PERA over the last five years?
2. Why hasn't PERA provided actuarial analyses of 2011 legislation?
3. Is the affordability of the plans of concern to all pension members for solvency reasons?
4. What would be a reasonable number of special requests and a reasonable description of report complexity for the pension plans to provide legislative bodies at their request?

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