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FISCAL IMPACT REPORT

SPONSOR Leavell ORIGINAL DATE 02/08/11
LAST UPDATED _____ HB _____
SHORT TITLE Municipal Contributions To Retirement Plans SB 186
ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

Senate Bill 186 amends the PERA Act to prevent a municipal affiliated public employer from paying any portion of its employees' member contributions under a member coverage plan created on or after July 1, 2011. Currently, a municipal affiliated public employer may pay up to 75% of its employees' contributions to the PERA Fund.

FISCAL IMPLICATIONS

Senate Bill 186 contains no appropriation and has no fiscal implications for the PERA fund.

SIGNIFICANT ISSUES

The PERA states:

For purposes of Section 414(h) of the Internal Revenue Code (IRC), member contributions paid to the PERA Fund are treated as employer contributions for purposes of income tax obligations under the IRC. Practically, this means that employee contributions made to the PERA Fund are tax deferred. For PERA members who are state employees, this favorable tax treatment, or "pick-up" is automatic. See, NMSA

1978, Section 10-11-125.

For PERA members of affiliated public employers other than the State, implementation of favorable tax treatment is implemented by the employer's filing a resolution with PERA stating their intent to do so. In addition to providing favorable tax treatment for its employees, a municipal affiliated public employer may elect by resolution of its governing body to pay up to 75% of the member contributions on behalf of its employees. Such a resolution is irrevocable under NMSA 1978, Section 10-11-6.

Certain public safety employer groups negotiate pick ups through labor-contract negotiations. It is unclear whether SB 186 would prevent this practice from continuing.

According to the NMML the legislation will interfere with the employer/employee relationship in that a municipality will lose a tool to increase employee take home pay without incurring the additional cost of taxes associated with gross pay such as social security tax. The NMML notes further that this legislation could interfere in the contractual relationship between municipalities and unions representing employee groups

RELATIONSHIP

Senate Bill 186 relates to:

SB 87, which raises statutory contribution, rates by 2% per year for four consecutive years for the following member coverage plans under the PERA Act: State General Member Coverage Plan 3, Municipal Police Member Coverage Plans 1, 2, 3, 4 and 5 and Municipal Fire Member Coverage Plans 1, 2, 3, 4 and 5.

SB 88 amends both the Judicial Retirement Act and the Magistrate Retirement Act to increase the statutory contribution rates by 2% per year for four consecutive years for the Judicial and Magistrate member coverage plans.

ALTERNATIVES

The NMML suggests rather than prohibiting a municipality from making a portion of the employees contribution to PERA the New Mexico Municipal League believe that amending Section 10-11-5 A(1) to remove the provision that the election is irrevocable would grant municipalities greater flexibility in determining whether and in what amount they wish to participate in the employee's contributions to PERA. Elimination of the irrevocability clause would give flexibility to municipalities in responding to fiscal conditions that arise as a result of national, state or regional changes in the economy.

GH/bym