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## FISCAL IMPACT REPORT

**SPONSOR** Larranaga **ORIGINAL DATE** 01/26/16  
**LAST UPDATED** 01/31/16 **HB** 171/aHSCAC

**SHORT TITLE** Law Enforcement Officers Returning to Work **SB** \_\_\_\_\_

**ANALYST** Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY16                    | FY17 | FY18 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------------------|------|------|-------------------|---------------------------|---------------|
| <b>Total</b> | No net actuarial impact |      |      |                   |                           | PERA Fund     |

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)

New Mexico Municipal League (NMML)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Amendment

The House Safety and Civil Affairs Committee amendment recognizes that some law enforcement employers pick up a portion of their employee’s contribution to PERA; requires the screening process for rehiring officers to be in accordance with an employer’s established hiring processes; and clarifies that only the City of Albuquerque and Bernalillo County will be subject to the requirement that rehired retired officers fill ranks below sergeant and rehired retired officers not exceed 10 percent of their police force (excluding grandfathered RTW officers).

#### Synopsis of Bill

House Bill 171 adds an exemption to the PERA Act to allow certain retired police officers to return to work (RTW) and continue to collect their pension during the rehire period.

More specifically, HB 171

- applies only to law enforcement officers that retired on or before December 31, 2015;
- requires a 90-day break in service as an employee or contractor prior to reemployment;
- allows the rehired officer to collect a pension with COLA and salary while reemployed;
- does not allow the rehired officer to accrue additional pension benefits while reemployed;

- requires nonrefundable employee and employer contributions while reemployed;
- restricts the reemployment period to no more than five years from date of rehire;
- gives the senior-most-ranking officer sole discretion to select retirees for rehire; and
- requires a class A county or municipality in a class A county to rehire officers only for ranks below sergeant and the rehires must not exceed 10 percent of the police force (existing employees rehired before the date of the act do not count against that total).

HB 171 contains an emergency clause.

### **FISCAL IMPLICATIONS**

Because the bill is limited to existing retirees as of December 31, 2015 and because the retired officer and employer make contributions to the fund without any additional accrual of pension benefits to the officer, there is no net actuarial impact to the fund, according to PERA and APD.

PERA notes that if the proposed legislation treats members grandfathered under prior RTW provisions as eligible under HB 171's RTW provisions, the grandfathered members' COLAs would no longer be suspended which would have a negative actuarial impact to the PERA Fund.

For FY15, the Municipal Police Plan's unfunded liabilities increased from \$491.4 million to \$537.2 million, due to overall investment returns of 1.9 percent, and the plan's ratio of assets to liabilities decreased from 78.3 to 77.6 percent, due to higher than expected salary increases.

### **SIGNIFICANT ISSUES**

House Bill 171 seeks to allow law enforcement agencies to address police officer shortages by rehiring retired police officers while at the same time addressing the solvency of the PERA Fund.

The bill applies primarily to retirees working as certified law enforcement officers in patrol positions for entities such as police departments, sheriff's departments, etc. Smaller law enforcement agencies, however, may rehire retired officers for any position, including chief.

The exemption in the bill is open-ended. Typically, return-to-work programs of this type address short-term shortages during which time an employer can fully assess the reasons why and fix any structural problems. The bill does not include a future date when the exemption would expire.

The bill does not suspend the annual COLA to pension benefits for retirees selected for rehire. All other PERA retirees who return to work have their COLA suspended while in RTW status.

NMML reports some law enforcement agencies are finding it difficult to recruit, train and retain qualified persons to fill vacancies in law enforcement because of the inability to pay adequate wages, the inability of applicants to pass tests or meet the physical and/or mental requirements of the job, or the lack of interest among the populace to become a law enforcement officer.

### **ADMINISTRATIVE IMPLICATIONS**

DPS reports savings in officer training costs if it were permitted to rehire retired officers.

PERA will be required to periodically audit the RTW payrolls to ensure compliance with the new exemption and suspend the pensions of any rehired police officers if not in compliance.

### **CONFLICT**

Conflicts with SJM 3 and HJM 2 requesting a moratorium on changes to the PERA benefit to allow sufficient experience to be developed and pension reform measures to take full effect.

### **OTHER SUBSTANTIVE ISSUES**

In 2010, the PERA Act was amended to end double-dipping under PERA. At that time, existing RTW retirees were “grandfathered” in. According to PERA, there are 146 reemployed retired police officers and 18 reemployed retired state police and adult correctional officers remaining.

PERA notes that HB 171 singles out a particular membership group for special treatment while excluding other PERA member groups facing similar challenges in retaining employees.

PERA notes that a provision of pension reform in 2013 was designed to address retention issues especially for police officers by creating an incentive to delay retirement. Specifically, SB 27 increased the maximum pension amount from 80 percent to 90 percent of one’s final average salary. For the average police officer in a 20-year plan, this could mean an additional \$500,000 in lifetime retirement benefits by working about 26 years instead of retiring when first eligible.

### **ALTERNATIVES**

PERA reports that affiliated employers are allowed to implement retention bonuses and longevity pay programs to address retention issues as they are outside the pension system. For example, Albuquerque Police Department (APD) implemented a longevity program for officers with 18 plus years of service that equals up to an annual salary increase of \$12,500 depending on years of service. More than 100 APD members signed up for the program, delaying retirement.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

No relaxing of the current return-to-work provisions for police officers under a PERA plan. In addition, law enforcement agencies will be without this tool to address their staffing shortages.

### **AMENDMENTS**

LFC staff proposes the following considerations:

- A delayed repeal date of June 30, 2021 (or other date) when the exemption would expire.
- Require PERA to suspend a retired officer’s pension COLA during the rehire period.

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