F I S C A L I M P A C T R E P O R T

		ORIGINAL DATE	02/11/21		
SPONSOR	Munoz	**LAST UPDATED**	03/09/21	**HB**	
SHORT TITLE	Public Safety Officer Retirement			**SB**	315/aSFC
				ANALYST	Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$101.2	$68.8	$170.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act of 2021

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Public Safety (DPS)
Public Employees Retirement Association (PERA)
Retiree Health Care Authority (RHCA)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 315 (SB315) strikes the $5 million appropriation for PERA in Section 4 and the $340 thousand appropriation contained in Section 5.

Synopsis of Original Bill

Senate Bill 315 (SB315) amends the Public Employees Retirement Association Act's definition of "state police member" to include officers who were previously excluded from coverage under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1. Officers excluded were officers of the former motor transportation division certified and commissioned prior to June 30, 2015, and employees of the defunct special investigations division of DPS.
Sections 2 and 3 of the bill provide for members affected by the change to vote on whether to move to the state police plan from the normal state general plan 3. Service credit earned by affected members from July 1, 2015 to the present will be credited under the state police plan rather than the general plan.

Section 4 contains a $5 million appropriation to the PERA fund to offset projected actuarial costs of moving the affected employees to the State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1.

Section 5 contains a $340 thousand appropriation to Retiree Health Care Authority to offset projected actuarial costs of moving the affected employees to an enhanced retiree health benefit.

FISCAL IMPLICATIONS

SB315 appropriates $5 million to PERA to offset the actuarial costs incurred from awarding higher service credit retroactively to employees previously excluded from participation in the state police retirement plan. Additionally, $340 thousand is appropriated to the RHCA to offset costs of inclusion of these employees under an enhanced benefit plan.

SB315 will increase DPS compensation costs slightly; employer contributions for members covered under state general plan 3 are 18.24 percent in FY22, while state police plan employer contributions are 25.5 percent. However, state police plan members do not receive a social security benefit which is assessed on employers at cost of 6.2 percent of salary. The total payroll of affected members is approximately $6.5 million. Based on this, DPS will pay $102 thousand more per year for benefits in FY22 than it currently does. The difference is shown in the table below:

Summary of Rate and Cost Difference Between Enhanced and Normal Retirement Plans

(dollars in thousands)

	State Police Retirement	Normal Retirement		State Police Retirement	Normal Retirement	Difference
PERA	25.50%	18.24%		$ 1,655.0	$ 1,183.8	$ 471.2
Social Security	0.00%	6.20%		$ -	$ 402.4	$ (402.4)
RHCA Regular	0.00%	2.00%		$ -	$ 129.8	$ (129.8)
RHCA Enhanced	2.50%	0.00%		$ 162.3	$ -	$ 162.3
Total	**28.00%**	**26.44%**		**$ 1,817.3**	**$ 1,716.0**	**$ 101.2**

Laws 2020, Chapter 11 (Senate Bill 72) provided that employee and employer pension contributions for state general plan 3 would increase by 0.5 percent each year from FY21 through FY24. That bill did not increase contribution rates for the state police plan as it is already over 100 percent funded. As the normal retirement contribution rate increases, the difference in cost between the state police and state general retirement plan narrows. In FY23, the difference will shrink from $101.2 thousand to $68.8 thousand. By FY24, the difference in the cost of the two plans will be $32 thousand.

SIGNIFICANT ISSUES

Motor Transit Division (MTD) officers were transferred to the DPS in FY16. MTD officers were not included in the state police retirement plan at the time of the transfer and continued being covered under PERA's state general plan 3, the normal retirement plan. However, while these officers were entitled to receive social security benefits under state general plan 3, DPS stopped making social security payments on behalf of these officers in FY16. There are 94 affected officers still employed by DPS with a combined salary of $6.5 million per year. Based on this, LFC analysis shows DPS should have contributed approximately $2.4 million to social security on behalf of these officers between FY16 and FY21.

SB315 proposes to move the 94 former MTD officers into the state police retirement plan. Members of the state police retirement plan receive a richer retirement benefit than general plan members, but are not eligible to receive social security. The move would be retroactive so that officers would receive enhanced service credit back to FY16 under the state police plan. Should SB315 be enacted, it is the intention of DPS that the affected officers would receive a richer retirement benefit through PERA, but that the officers would not be eligible to receive social security credit in addition to the state police retirement benefit.

PERA estimates the cost of this proposal to be $5.6 million and retiree health estimates $391 thousand. The PERA estimate is based on the cost to fully fund the benefit for those moving into the state police plan rather than the cost of the employer and employee contributions that would have been made on behalf of these members. Had MTD officers been transferred to the state police retirement fund at the time of the merger, the additional contributions made to the state police fund would have been $2.9 million. Actual investment earnings on these contributions would have increased that amount by $330.8 thousand to $3.2 million as shown in the table below:

Amount of Additional Contributions had Affected Members Transferred from State Genereal to State Police Division as of 7/1/2015

Fiscal Year	Active Headcount	State Contribution Increase	Contribution with Investment Earnings
2016	134	661,275	825,203
2017	121	642,947	759,274
2018	108	553,030	599,110
2019	98	523,587	531,823
2020	93	494,011	490,242
Total Contributions		**2,874,850**	**3,205,652**

As of the 2019 valuation, the state police plan was funded at 130 percent of liabilities with a $297 million surplus while state general plan 3 was funded at 61 percent with a $3.1 billion unfunded liability. However, because all of the five PERA funds are held in a common pool, the state police surplus essentially offsets part of the liability of the state general plan so that there is no gain to the PERA fund from moving individuals from an underfunded plan to an overfunded plan.

RELATIONSHIP

The LFC recommendation includes a special appropriation of $2.4 million to DPS to pay the costs of social security benefits that should have been paid between FY16 and FY21. If SB315 is enacted, employees will be moved into the state police retirement plan and would not be eligible to receive social security. In this case, the appropriation should go to offsetting the costs to PERA of transferring these employees from a normal to an enhanced retirement plan. Additionally, the special appropriation included of $194.1 thousand for RHCA to make up for the 0.5 percent contribution increase that affected members would have paid between FY16 and FY20.

OTHER SUBSTANTIVE ISSUES

DPS reports:

> The New Mexico Department of Public Safety (NMDPS) is in violation of the FICA exemption for state and local governments who provide alternative or enhanced retirement and pension plans to employees per Section 218. [42 U.S.C. 418] (a)(l) . The State Police & Adult Correctional Officer Plan is federally recognized as an enhanced plan whose active members are required to contribute 1.45 percent Medicare only. State General Plan 3 is not an enhanced plan whose active members are required to contribute 6.20 percent Social Security in addition to Medicare. Once these officers transitioned from the State Personnel's Offices (SPO) Classified system to the State Police system, they were no longer required to pay the 6.20 percent Social Security share; however, their PERA service credit, deductions and contributions, and accrued interest has continued for a non-enhanced retirement plan.

PERA notes the differences between enhanced and normal retirement plans as follows:

> Tier 1 members under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 are eligible to have actual service credit enhanced by 20 percent, which allows a state police officer to retire at any age with 20 years and 10 months of service credit with a 3 percent multiplier. Tier 2 members under State Police, Adult Correctional Officer and Probation and Parole Officer Plan 1 have retirement eligibility at any age with 25 years of service credit with a 3 percent multiplier.
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> Tier 1 members under 1 State General Member Plan 3 are eligible to retire at 25 years of service credit with a 3 percent multiplier and a 90 percent pension maximum. Under Tier 2, members can retire at 25 years of service credit with a 2.5 percent multiplier and a 90 percent pension maximum.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Social security contributions will have to be made retroactively. LFC estimates the cost of these contributions to be at least $2.4 million for active employees. Additional contributions will have to be made on behalf of members who have left the state system as well as any penalties, fees, or interest assessed by the IRS.

CJ/al/sb