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FISCAL IMPACT REPORT

SPONSOR <u>Herndon</u>	LAST UPDATED <u>2/26/2023</u> ORIGINAL DATE <u>2/8/2023</u>
SHORT TITLE <u>Law Enforcement Retirement Changes</u>	BILL NUMBER <u>House Bill 227/aHLVMC</u>
ANALYST <u>Hanika-Ortiz</u>	

REVENUE* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Recurring	PERA

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS (for retention bonus)	No fiscal impact	\$338.3	\$431.9	\$770.2	Recurring	LERF (LEFP residual balances)
DPS (for RHCA premium)	No fiscal impact	\$155.0	\$318.4	\$473.4	Recurring	General Fund
DPS (for IT upgrades)	No fiscal impact	\$250.0	\$0.0	\$250.0	Nonrecurring	General Fund
**LEAs (for retention bonus and RHCA premium)	No fiscal impact	\$507.4	\$647.8	\$1,155.2	Recurring	Local Government and LERF (LEFP residual balances)

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

**Assumes based on membership, impact about 50 percent higher than DPS/Corrections.

Sources of Information

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)
 New Mexico Retiree Health Care Authority (NMRHCA)
 Department of Public Safety (DPS)

No Responses Received From

New Mexico Municipal League (NMML)
 Association of Counties (AOC)

SUMMARY

Synopsis of HLMVC Amendment to House Bill 227

The House Labor, Veterans and Military Affairs Committee Amendment to House Bill 227 strikes the return-to-work provisions for law enforcement officers in the bill.

Synopsis of Original House Bill 227

House Bill 227 (HB227) amends Section 9-19-14 NMSA 1978 of the Public Employees Retirement Association (PERA) Act, to allow officers to receive additional retention differentials from the law enforcement retention fund (LERF) equal to five percent of their salary for every year of service after 20 years. The bill also amends Section 10-7C-13 NMSA 1978 of the New Mexico Retiree Health Care Act to allow, for every year an officer serves beyond full retirement, that officer to earn one year of credit for health care premiums paid for by public employers.

HB227 also amends numerous sections in the PERA Act to allow any certified law enforcement officer to surpass the current allowable maximum benefit of 90 percent of their final average salary (FAS) and earn up to 100 percent of FAS. The legislation includes an applicability section that prohibits retroactive calculations or adjustments of credited service prior to enactment.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

Beginning July 1, 2023, uncommitted LEPF cash balances over \$100 thousand revert to the LERF. The LFC cash balance report suggests as of January 1, 2023, there was a negative balance in the LEPF. At current revenue levels, the retention program will have to reduce distributions in FY24 and will be insolvent by FY25, resulting in about 20 percent of law enforcement officers receiving a five percent retention stipend in FY23, 20 percent will receive a smaller stipend in FY24, and the remaining 60 percent will receive no stipend at all in FY25, FY26, and FY27.

With the additional retention payments in the bill for 20 or more years of service, there will be an increase in distributions from the LERF. In FY23, the LERF received a \$5 million nonrecurring appropriation and in FY24 will begin receiving residual balances from the law enforcement protection fund (LEPF), which were anticipated to be sufficient to cover the costs of the program when it was established during the 2022 legislative session. However, substantial reductions in LEPF revenues make it impossible for the fund to support any increased distributions. LEPF receives 10 percent of insurance tax revenue from life, general casualty, and title insurance businesses, and was managed by the Office of the Superintendent of Insurance until 2020, when the program transferred to the Taxation and Revenue Department (TRD). Since then, TRD has updated tax returns for the program, which it says allows them to manage the program, but the agency has been unable to provide data documenting accurate revenues and distributions.

These changes have created uncertainty in revenue to the LEPF, which comes after the Legislature substantially increased distributions from the fund based on potentially incorrect prior year revenues. Using projections based on past revenues and anticipated increases, the Legislature increased distributions from the fund in the 2020 and 2022 legislative sessions,

which resulted in an additional distribution of \$4.8 million in FY23 and an anticipated increase of \$10.1 million more in FY24, with substantial projected unused revenue (\$3.9 million in FY24 and \$5.4 million in FY25) reverting to the LERF to allow the program to continue. In FY21, the LERF received \$16.4 million in revenue, 17 percent less than the prior year, and in FY22 \$5.9 million, less than a third of its FY21 revenue and far below the \$24.1 million projected.

The New Mexico State Patrol (NMSP) says it will have 73 eligible officers at or exceeding 20 years of service in FY24. The five percent retention payouts plus 1.45 percent Medicare contribution will cost \$338,314. NMSP reports FY25 payouts will increase for 89 eligible officers at a cost of \$431,906, including the five percent pay increase anticipated for FY24.

HB227 will also permit a member to earn up to 100 percent of FAS, which will allow for increased pension benefits. However, because a member whose benefit increases under these provisions will work for a longer period, they will collect a pension for fewer years than if they had retired earlier. PERA’s actuaries report there would be a small negative impact to the fund. For the fiscal year ending June 30, 2022, the Municipal Police Division was funded at 73 percent and State Police/Corrections was funded at 127 percent. Although PERA maintains different coverage plans and tiers for employers, the fund accrues for the benefit of all members. The total PERA fund has an unfunded liability of \$7.2 billion and is funded at just over 70 percent.

RHCA says because law enforcement employers are paying for premiums on behalf of the officer, there is no fiscal impact to the fund. However, the impact is significant – and exponentially so - for employers that participate in the RHCA fund. There is also an administrative impact expected for RHCA, for tracking the portion of the premium the employee now owes, if they chose a benefit plan other than the basic plan. In addition, the credit may not be earned beyond Medicare age which may also result in an additional administrative burden.

PERA financial documents show that 79 percent of current retirees in the public safety/corrections plan served for 20 years or more and with more than half serving 25 years. The average age at retirement is 51, so it is assumed that members will be able to fully use earned retiree health care credit well before hitting the Medicare eligibility age of 65.

Number of Retirees Covered		Estimated Cost to DPS/Corrections (GF)	Estimated Cost to Municipalities	Total Cost
FY24	40	\$155.0	\$232.5	\$387.5
FY25	77	\$318.4	\$477.6	\$796.0
FY26	114	\$500.1	\$750.1	\$1,250.2
FY27	140	\$646.2	\$969.3	\$1,615.5
FY28	165	\$807.3	\$1,210.9	\$2,018.2
FY29	190	\$985.4	\$1,478.2	\$2,463.6

Cost for Municipalities is based on the relative size of the membership. Municipal public safety plans appear to be about 1.5 times the size of the State Police/Adult Corrections PERA plan. Based on PERA reporting, LFC assumes 50 retirements per year. Of those 50 retirements, it is also assumed 25 percent have three years of RHCA credit and 50 percent have seven years of RHCA credit.

SIGNIFICANT ISSUES

The bill allows officers to earn one year of credit for retiree health care premiums for every year of service after they are eligible for retirement under their respective coverage plan. It also increases the maximum pension benefit an officer can receive to 100 percent of their FAS.

The bill also allows officers to receive additional payments from the LERF every year after their 20th year. DPS said the LERF was created to encourage retention on the force. Under current law, officers receive payments from the fund for meeting levels of tenure during their career. They are paid five percent of their annual base salary after reaching four, nine, 14 and finally 19 years of service, and for serving one additional year with their same law enforcement agency.

The existing definition in this section for "law enforcement officer" is a full-time salaried public employee of a law enforcement agency, or a certified part-time salaried police officer employed by a law enforcement agency, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes.

PERFORMANCE IMPLICATIONS

For FY23, through the LERF, DPS distributed funding to 46 law enforcement agencies for 663 officers. Through these efforts, DPS found out the State does not have the ability to track agency rosters and officer certifications for the administrative purpose of this bill. Without this ability, DPS does not have the ability to determine eligibility for every active eligible law enforcement officer in the State in a timely manner. DPS estimates the cost of the module at \$250 thousand.

ADMINISTRATIVE IMPLICATIONS

PERA reported it would need to modify its pension administration system.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB64, HB 65, HB66, SB124
Duplicates in part HB106 and SB96

TECHNICAL ISSUES

Clarification may be needed as to what would be considered a “basic plan” under RHCA.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA members will continue to receive up to a “90 percent of salary” lifetime retirement benefit with an annual cost of living adjustment during retirement. Law enforcement officers will continue to receive five percent of their salary retention payments during their 20-year careers.

AHO/mg/ne/mg/rl/ne