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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Gonzales</u>	<b>LAST UPDATED</b> <u>2/05/2024</u>
	<b>ORIGINAL DATE</b> <u>1/23/2024</u>
<b>SHORT TITLE</b> <u>Public Employees Retiree Health Care Fund, CA</u>	<b>BILL NUMBER</b> <u>Senate Joint Resolution 5</u>
	<b>ANALYST</b> <u>Hanika-Ortiz</u>

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SoS Elections Program	No fiscal impact	\$75.0-\$85.0	No fiscal impact	\$75.0-\$85.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Health Care Authority (HCA)  
 Public Employees Retirement Association (PERA)  
 Retiree Health Care Authority (RHCA)  
 Administrative Office of the Courts (AOC)

Agency Analysis was Solicited but Not Received From  
 State Personnel Office (SPO)

## SUMMARY

### Synopsis of Senate Joint Resolution 5

Senate Joint Resolution 5 (SJR5) proposes an amendment to Article 20 of the Constitution of New Mexico by adding a new section prohibiting the expenditure of trust funds created through the retiree health care fund for any purpose except for the sole and exclusive benefit of the trust beneficiaries.

The joint resolution provides the amendment question be put before the voters at the next general election (November 2024) or a special election before that time called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

## FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$75 thousand to \$85 thousand, depending on the size and number of ballots and if additional ballot printing stations are needed.

Should this constitutional amendment be approved by voters, it may create a trust relationship between RHCA and its members, with vested property rights and due process protections.

SJR5 could also limit the ability of the Legislature to make changes to an existing earmark in state law regarding the diversion of personal income tax payments to the retiree health care fund. SJR5 would provide that the Legislature may not alter the funding formula for a retiree health care plan unless the Legislature preserves benefits and provides adequate funding. Currently, the fund receives \$46.3 million per year in income tax revenue, with the amount increasing by 12 percent per year. Although this currently accounts for only 2 percent of personal income tax revenue, by FY55 the distribution will grow to \$1.5 billion. Long-term revenue estimates from LFC show by FY76, all personal income tax collections would be directed to the retiree health care fund. Enacting SJR5 may prevent the Legislature from making changes to that earmark.

SJR5 could also restrict the Legislature from revising post-employment benefits. The RHCA trust is currently only 30 percent funded, despite its value of \$1.34 billion as of December 2023.

RHCA is concerned that use of the fund in any other manner would negatively impact benefits and increase projected liabilities for participating employers' financial statement disclosures.

HCA noted in its analysis, that the final HCA transition plan submitted to the Legislature on January 2, 2024, does not administratively tie the retiree health care trust to the new authority.

## SIGNIFICANT ISSUES

The new HCA is expected to serve as a single agency for health care purchasing, by leveraging the purchasing power of Medicaid along with joint contracting for health care benefits for public employees, teachers, and retirees to lower costs and improve health care quality, access, and outcomes for all New Mexicans. The resolution could conflict with those efforts if passed.

When creating the Retiree Health Care Act, the Legislature declared that “The expectation of receiving future benefits may be modified from year to year in order to respond to changing financial exigencies,” and stated, “The Legislature does not intend for the Retiree Health Care Act to create trust relationships among the participating employees, retirees, employers and the [RHCA]” (see Section 10-7C-3 NMSA 1978).

## **PERFORMANCE IMPLICATIONS**

An amendment that is approved by a majority of voters becomes part of the constitution.

## **ADMINISTRATIVE IMPLICATIONS**

HCA noted that a pending executive order will request the HCA, the Public Schools Insurance Authority, the Retiree Health Care Authority, and the other Interagency Benefits Advisory Committee member agencies to work together to develop a coordinated and comprehensive purchasing plan for health care benefits for public employees, teachers, and retirees that can be implemented by 7/1/25.

## **OTHER SUBSTANTIVE ISSUES**

According to information obtained from LFC Volume 1 for FY25, overall participation in state health plans has fallen in the past decade, from 132 thousand in FY12 to 103 thousand in FY23, making it increasingly difficult to leverage economies of scale to slow the rising cost of health care. Recent legislative changes present an opportunity for the state to consider its strategy for procuring health coverage. In 2023, the Legislature approved the creation of the Health Care Authority, with a stated goal of creating a single, unified department for healthcare purchasing. As part of a transition report coinciding with the creation of the new department, the executive recommended legislation to require member agencies in the IBAC to engage in joint contracting.

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