

## **SUMMARY OF RECENT LEGISLATION INVESTMENTS OVERSIGHT COMMITTEE**

**June 14, 2010**

### **Senate Finance Committee Substitute for Senate Rules Committee Substitute for Senate Bills 18, 218 and 238 (Laws 2010, Chapter 14)**

- implements some of the "best practices" recommendations made by the Ennis Knupp firm;
- changes the makeup of the state investment council by replacing the state investment officer and the three public members appointed by the governor with four public members appointed by the New Mexico legislative council and two public members appointed by the governor;
- requires that the six new members must have at least 10 years of experience in investment or finance;
- transfers the investment decision-making power from the state investment officer to the state investment council;
- authorizes the state investment council to contract for its own custodial bank;
- clarifies that the state investment officer and the state investment council are fiduciaries of all funds under management;
- requires the council to provide opportunity for public comment at any meeting;
- requires greater reporting to the legislature of fund performance and council policies; and
- prohibits a council member from contracting to do business with the council, investment office, office of the state treasurer, educational retirement board, public employees retirement association (PERA), New Mexico finance authority or state board of finance for two calendar years before the member's appointment or two years after the member's term on the council.

### **House Bill 16 (Laws 2010, Chapter 19)**

- provides retirees in the PERA a one-time irrevocable opportunity to deselect their original pension beneficiary and choose another payment option. Previously, a PERA retiree could only have payments changed pursuant to a divorce court order or if the beneficiary predeceased the retiree; and
- in order to avoid a negative fiscal impact on the retirement fund, the amount of the pension under the form of payment chosen will be recalculated to have the same actuarial present value as the current pension. In other words, if a retiree selects a younger beneficiary under this new law, the amount of the pension payment will be reduced to compensate for the longer expected lifetime of the new beneficiary.



**SUMMARY OF RECENT LEGISLATION**  
**RETIREMENT SYSTEMS SOLVENCY TASK FORCE**

**June 8, 2010**

**2009 SESSION**

**House Bill 854 (Laws 2009, Chapter 127):**

- provides for the swap of 1.5% of retirement contribution from employers to the employees, saving the general fund \$42 million in fiscal year 2010;
- applies equally to the public employees retirement association (PERA) and the educational retirement board (ERB); and
- is effective from July 1, 2009 through June 30, 2011.

**House Bill 351 (Laws 2009, Chapter 287):**

- is intended to increase the actuarial soundness of the retiree health care fund;
- removes the sunset date for the monthly distribution of tax revenues to the fund and increases both the employer and employee contributions to the fund;
- increased contributions will begin on July 1, 2010 and will increase annually through July 1, 2012; and
- provides for higher employer and employee contributions for employees in "enhanced retirement plans", which are those plans that allow members to retire at any age with less than 25 years of service credit.

**House Judiciary Committee Substitute for House Education Committee Substitute for House Bill 573 (Laws 2009, Chapter 288):**

- removes the sunset date for the monthly distribution of tax revenues to the retiree health care fund and increases both the employer and employee contributions to the fund, beginning July 1, 2010 and increasing annually through July 1, 2012;
- provides for higher employer and employee contributions for employees in enhanced retirement plans and requires contributions to the fund from ERB and PERA members who purchase additional service credit;
- for members of the PERA, creates new retirement plans for state and municipal general members other than peace officers;
- sets retirement eligibility under the new plans at any age and 30 or more years of service credit, age 67 or older and five or more years of service credit or any age if the sum of the member's age and service credit equals at least 80, a provision known as the "rule of 80";
- contains a new retirement plan for members of the ERB for which retirement eligibility is the same as under the new PERA plans, except benefits are reduced for a member retiring under the rule of 80 if the member is under 60 years old;
- the new retirement plans are effective July 1, 2011 and will apply to employees hired on or

after July 1, 2010;

- extends the period during which a retired member under the ERB may return to work;
- changes the provisions for acquiring service credit for military time under the ERB;
- requires annual training for PERA and ERB board members; and
- creates the retirement systems solvency task force.

**Senate Bill 572 (Laws 2009, Chapter 9):**

- amends the Educational Retirement Act to allow an employee under an alternative retirement plan a one-time election to become a member under the Educational Retirement Act;
- option may be exercised in 2009 for an employee who already has seven years under an alternative plan and, for other employees, within 120 days of obtaining seven years under the alternative plan; and
- clarifies that the alternative plans may be rolled over upon leaving employment and changes criteria for selecting plan administrators.

**House Bill 631 (Laws 2009, Chapter 286):**

- contains a new retirement plan for educational employees that includes the identical provisions for retirement eligibility found in House Bill 573 but with a different effective date; and
- is effective July 1, 2010 and applies to members hired after that date.

**House Bill 722 (Laws 2009, Chapter 248) and Senate Bill 490 (Laws 2009, Chapter 240):**

- prohibits the ERB or any employee or contractor of the board from allowing public inspection or disclosure of certain private information about members or retired members under the ERB; and
- provides a criminal penalty for violations.

**Senate Bill 399 (Laws 2009, Chapter 209):**

- amends the Educational Retirement Act to authorize the director of the ERB to audit the records of any local administrative unit to ensure compliance with the act and rules of the board; and
- addresses the reporting and resolution of audit discrepancies.

**House Labor and Human Resources Committee Substitute for House Bill 683 (Laws 2009, Chapter 285):**

- allows retired members of the PERA to return to employment with an affiliated public employer as elected officials without a break in retirement benefits; and
- allows these elected officials to collect both their pensions and a salary without requiring contributions to the retirement fund for the term of their office.

**House Bill 601 (Laws 2009, Chapter 137):**

- exempts trainee participants of the federally funded and state-funded senior employment trainee program, administered by the aging and long-term services department; and
- because the trainees, although employees, were not employed long enough to become vested, prior to passage of this bill, their contributions had to be collected and subsequently refunded.

**House Bill 353 (Laws 2009, Chapter 262):**

- amends various sections of the Volunteer Firefighters Retirement Act and adds a new section providing for the retroactive application of a law enacted in 2003 that eliminated a maximum age for a volunteer firefighter to establish a first year of service credit;
- clarifies that a volunteer firefighter may receive reimbursement for out-of-pocket costs without being considered a salaried firefighter and reduces the requirements for earning service credit by lowering the percentage of scheduled fire drills and scheduled business meetings a volunteer firefighter must attend from 75% to 50%; and
- allows a volunteer firefighter to now designate a dependent child as a beneficiary.

**2010 SESSION**

**Senate Bill 91 (Laws 2010, Chapter 67):**

- addresses the employer contribution rate under the Educational Retirement Act, which was scheduled to increase each year from fiscal year 2006 through fiscal year 2011;
- freezes the fiscal year 2011 contribution rate at the same rate used in fiscal year 2010 and extends the annual increase through fiscal year 2012; and
- by not allowing the employer contribution rate to increase, will save the state \$18.3 million in fiscal year 2011.

**House Bill 239 (Laws 2010, Chapter 81):**

- provides that for retirees 65 and over, under the Educational Retirement Act retirement annuities will be adjusted annually using the consumer price index; and
- prevents a retiree's pension from being decreased below a current entitlement in the event there is a decrease in the consumer price index.

**Senate Floor Substitute for Senate Public Affairs Committee Substitute for Senate Bill 207 (Laws 2010, Chapter 18) (so-called "double dipping bill"):**

- eliminates the ability of a public employee to retire and then be subsequently employed by an affiliated public employer while receiving a Public Employees Retirement Act pension, effective July 1, 2010;
- under the new provisions, allows a retiree to be subsequently employed only if the retiree has not been employed by or has not contracted with an affiliated public employer — the

same employer from which the retiree retired, if an independent contractor — for a period of 12 months from retirement until commencement of the subsequent employment;

- upon reemployment, suspends the previously retired member's pension and the member may choose either not to pay contributions and not earn service credit or to pay contributions and earn service credit;
- when a reemployed member retires again, the member's pension resumes as provided in the Public Employees Retirement Act;
- appointments as chief of police or undersheriff of an affiliated public employer are no longer exceptions to the reemployment limitations;
- subjects previously retired members who are subsequently employed prior to July 1, 2010 to the provisions of law that applied to their subsequent employment at the time they were reemployed; and
- employment with the legislature for a legislative session is not covered by the restrictions on reemployment.

**House Bill 16 (Laws 2010, Chapter 19):**

- allows retirees in the PERA a one-time irrevocable opportunity to deselect their original pension beneficiary and choose another payment option;
- previously, a PERA retiree could have payments changed only pursuant to a divorce court order or if the beneficiary predeceased the retiree; and
- to avoid a negative fiscal impact on the retirement fund, the amount of the pension under the form of payment chosen will be recalculated to have the same actuarial present value as the current pension — that is, if a retiree selects a younger beneficiary under this new law, the amount of the pension payment will be reduced to compensate for the longer expected lifetime of the new beneficiary.