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FISCAL IMPACT REPORT

SPONSOR: Ingle DATE TYPED: 03/20/03 HB _____

SHORT TITLE: Legislative Retirement SB 620/aSFC/aHAFC/aHFI#1

ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 See Narrative	Recurring	PERA

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 621, SB 376, SB 503, HB 111, HB 348

SOURCES OF INFORMATION

LFC Files

Response Received From

Public Employees Retirement Association (PERA)

Retiree Health Care Authority (RCA)

SUMMARY

Synopsis of HFI Amendment

House Floor Amendment #1 to Senate Bill 620 strikes SFC Amendment #3 which changed the amount of legislator member coverage plan option (A) pension.

Currently, the per diem rate in effect pursuant to Section 2-1-8 NMSA 1978 is \$145 per day. Therefore, the annual pension amount for a legislator member with 15 years of relevant service credit would be calculated as follows:

((.11X\$145)X60)X 15 years) = a pension of \$14,355 per year for life.

The amendments track as follows:

Senate Finance Committee Amendment 3 Language

12% of the per diem rate in effect, pursuant to Section 2-1-8 NMSA 1978, on De-

ember 31 of each calendar year multiplied by 60 and further multiplied by credited service as a legislator or lieutenant governor; to

HFI#1 Amendment Language

11% of the per diem rate in effect, pursuant to Section 2-1-8 NMSA 1978, on December 31 of the calendar year that the legislator or lieutenant governor retires multiplied by sixty and further multiplied by credited service as a legislator or lieutenant governor.

Synopsis of HAFC Amendment

House Appropriations and Finance Committee amendment to Senate Bill 620 lowers the age and service requirements for normal retirement at any age for state legislator member coverage plan 2 from 12 years to 10 years

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 620 makes the following changes to the original bill:

- The definition of eligible "legislative member" was changed from a person who is not a retiree and who served as a member of the New Mexico legislature for at least four years to a person who is not a retiree and who served as a member of the New Mexico legislature for at least two years.
- Section 7 on page 20 was amended to require a state legislator or lieutenant governor to elect coverage for the new legislator coverage plan 2 within 180 days after first taking office, or for a state legislator or lieutenant governor in office on July 1, 2003, coverage must be elected with 180 days of that date.
- The SFC amendment to SB 620 changes the formula for pension benefits calculation for option A to 12% of the per diem rate in effect, pursuant to Section 2-1-8 NMSA 1978, on December 31 of each calendar year multiplied by 60.
- The SFC amendment also specifies that a cost-of-living adjustment for legislator member coverage plan 2 shall be implemented pursuant to Section 10-11-118 NMSA 1978 for a legislator or lieutenant governor who has been retired for at least two full calendar years from the effective date of the latest retirement.

Synopsis of Original Bill

Senate Bill 620 makes three substantive changes affecting retirees and legislators.

- It amends the Public Employees Retirement Act by altering State Legislator Member Coverage Plan 1 and by adding a new State Legislator Member Coverage Plan 2.

The amendments to State Legislator Member Coverage Plan 1 grant increased pension benefits to legislators who serve terms prior to January 1, 2004 ("current legislators").

Current state legislator members could elect increased retirement benefits upon making additional member contributions of \$100 per year for prior service. If the additional contributions (totaling \$200.00 per year of service) were made, state legislator members would receive an annual pension benefit of \$500, multiplied by their years of credited legislative service. State Legislator Member Coverage Plan 1 would be closed to new members after December 31, 2003.

SB 620 also creates a new State Legislator Member Coverage Plan 2 applicable to legislators and lieutenant governors who serve terms of office that end after December 31, 2002. Additionally, "current legislators" may elect to be covered under the new Plan 2. State legislator members would receive a retirement annuity payment equal to 1% of the New Mexico Supreme Court salary in effect for the fiscal year that ends in the calendar year the pension is paid, multiplied by the total number of years served. State legislative members covered by this plan will be eligible to retire at any age with 12 years of service credit. Currently, state legislative members may retire at any age with 14 years of service credit.

- It amends the Public Employees Retirement Act by allowing Public Employees Retirement Association (PERA) retirees, who wait 90 days prior to returning to work, to accept employment with a PERA affiliated employer, without suspension of their pension benefits. However, such retirees would not accrue service credit for such post-retirement employment and would be required to pay PERA employee contributions as specified in the PERA Act. In addition, public employers must remit employer contributions as specified in the PERA Act or as adjusted for the full actuarial cost, as determined by PERA. Under current law, if an affiliated employer subsequently reemploys a PERA retiree, the retiree's pension is suspended when post-retirement earnings reach \$15.0.
- The Retiree Health Care Act is amended to allow a "legislative member" who served in the New Mexico legislature for at least four years, but is no longer a member of the legislature to participate in Retiree Health Care group insurance benefit programs. A legislative member shall pay a monthly premium for any selected plan equal to one-twelfth of the annual cost of the claims and administrative costs of that plan allocated to the member by the board. In addition, a legislative member shall pay the additional monthly participation fee set by the board as a consideration and condition for participation in the Retiree Health Care Act. According to the Retiree Health Care Authority (RCA), this bill adds a new class of eligible retirees. However, legislators would be required to pay 100% of associated RHC plan costs.

FISCAL IMPLICATIONS

According to PERA, without a determination of its actuarial impact by PERA's actuary, SB 620 may be contrary to NM Const., Art. XX, Section 22 (no benefits may be enhanced unless the costs of those benefits are properly funded in accordance with actuarial standards).

Legislative Retirement Provisions

SB 620 represents a significant plan change to State Legislator Member Coverage Plan 1, and no actuarial study was requested for this change. The amount necessary to fund these benefit improvements is unknown. For the current fiscal year, the state will contribute \$235.0 as the

amount sufficient to finance State Legislator Member Coverage Plan 1 on an actuarial reserve basis.

Similarly, the cost to finance the enhanced benefits on an actuarial reserve basis for State Legislator Member Coverage Plan 2 is also unknown. This amount, however, would be funded from a newly created legislative retirement fund in the state treasury, which will be independently invested. SB 620 is contingent on adoption of SB 621, which generates revenue to be deposited in the legislative retirement fund.

Although PERA does not know how much it will cost to finance the enhanced benefit contained in SB 620, Section 10-11-43 NMSA 1978 allows PERA to annually request the amount of contributions needed to fund these plans on an actuarial reserve basis.

Retiree Return-to-Work Provisions

This bill appears to resolve the actuarial soundness issue with inclusion of the following language: *The affiliated public employer's contributions as specified in that act or as adjusted for full actuarial cost at the determination of the association shall be paid to the fund.* Therefore, this PERA benefit change appears to be cost neutral.

Legislator Retiree Healthcare Provisions

Since this new class of eligible retirees would pay 100% of their costs under the RHC plans, it is not anticipated that there would be any fiscal implications for RHC beyond the need for additional staff.

ADMINISTRATIVE IMPLICATIONS

According to PERA, SB 620 would result in minimal administrative impact to the Association. However, PERA would be required to amend its regulations to address the statutory changes to the PERA Act.

The RHC states that their staff growth has failed to keep pace with its enrollment growth. Adding a new class of eligible legislator retirees would further strain the administrative and service staff.

RELATIONSHIP

SB 621 provides for distribution of withholdings from certain oil and gas proceeds to the legislative retirement fund.

SB 503 also proposes to provide legislators with retiree health care coverage.

HB 348 proposes to allow a retiree to collect a pension and continue to work for a public affiliated employer without restriction if they remain unemployed for a period of 12 consecutive months after retirement.

HB 111 proposes to increase the earnings limit for PERA retirees from the current \$15,000 to \$25,000.

SB 376 proposes to allow a retiree to collect a pension and continue to work for a public-affiliated employer without restriction if they remain unemployed for a period of 90 days after retirement.

OTHER SUBSTANTIVE ISSUES

Legislative Retirement Provisions

As written, it is unclear whether SB 620 provides a fluctuating legislator member pension amount that will be adjusted each fiscal year.

Retiree Return-to-Work Provisions

If implemented, SB 620 could benefit public employers in two ways: they could utilize the expertise and knowledge of PERA retirees, and potentially reduce payroll costs associated with group insurance benefits, assuming such employees remain covered by the Retiree Health Care Authority (RHCA).

Historically, the Legislature has been adverse to “double dipping” from two public pension systems. For example, the Volunteer Firefighters Retirement Act excludes volunteers who are receiving a pension from another New Mexico public retirement system. NMSA 1978, §10-11A-2(E). Retirees from the Education Retirement Act system are exempt from membership in PERA. NMSA 1978, §10-11-3(B)(6). Judges and Magistrates have their pension suspended upon employment by an affiliated public employer. NMSA 1978, §§ 10-12B-17 and 10-12C-16.

POSSIBLE QUESTIONS

Would retirees who return to work be allowed to participate in their employers’ group insurance plans, or would RHC coverage continue?

Upon returning to work with an affiliated public employer, would retirees be allowed under law to continue receiving payments from their deferred compensation plans?

RLG/prr:yr:njw