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FISCAL IMPACT REPORT

SPONSOR Silva DATE TYPED 2/22/05 HB 896

SHORT TITLE Congressional Employee Service Credit SB

ANALYST Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to
Conflicts with

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 896 amends the Public Employees Retirement Act to allow a PERA member who was employed by an elected member of the US House of Representatives or US Senate to purchase PERA service credit for the period of employment with the United States Congress. The aggregate amount of credited service purchased for congressional service must not exceed five years. The purchasing member would be required to pay the association the amount of the increase in the actuarial present value of the pension of the member as a consequence of the purchase, as determined by the association. The purchasing member must have 5 or more years of service credit with a PERA-affiliated employer and not be qualified for vesting in a federal government pension.

Significant Issues

PERA has identified two significant issues with HB 896:

HB 896 proposes a benefit enhancement. Because HB 896 would permit the purchase of five years of service credit not associated with service to a PERA-affiliated employer, it would operate to create a 20-year plan, allowing those eligible to purchase service credit for congressional employment and with sufficient resources to make the purchase to retire with 20 years of actual service to PERA-affiliated employers. This enhancement would be in conflict with proposed moratorium on benefit enhancement legislation affecting the public employees and educators retirement systems which is supported by PERA.

HB 896 does not treat all PERA members with previous employment equally. Almost all PERA members have worked for employers outside the PERA system. Airtime, already permitted under the PERA Act, allows all PERA members with at least 5 years of service credit, including those with previous employment as a congressional employee, to buy a year of PERA service credit. By contrast, allowing purchase of up to 5 years of service by credit by former New Mexico Congressional employees who have not vested in a federal government pension (a very limited group) is likely to lead to a succession of further requests by other special interests for a similar benefit enhancement, and possibly may lead to legal challenges from PERA members who are not eligible for the same enhanced benefit.

FISCAL IMPLICATIONS

To the extent that HB 896 would require members to pay the actuarial present value of the purchased credit, the benefit enhancement would be funded. However, there are certain limitations applicable to the purchase of “airtime” under Section 10-11-7 H that are not applicable to the purchase of congressional time under HB 896. The absence of these limitations could influence the analysis of whether HB 896 is adequately funded as required by the New Mexico constitution. Below see suggested amendments.

ADMINISTRATIVE IMPLICATIONS

The administrative impact of HB 896 on PERA will be in calculating the actuarial present value and processing the purchased service credit. PERA’s actuaries will charge PERA a fee for this additional work, but it is unknown at this time what that added cost will be or how many requests PERA will receive.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

As noted above, HB 896 conflicts with Senate Joint Memorial 18 and House Joint Memorial 5 which propose a moratorium on benefit enhancement legislation affecting the public employees and educators retirement systems through 2006.

Possible conflict with New Mexico Constitution, Article XX, Section 22 (C), prohibiting the legislature from enhancing benefits without adequate funding.

OTHER SUBSTANTIVE ISSUES

PERA suggests the limitations on airtime found in 10-11-7 H should apply equally to the congressional time proposed by HB 896. Section 10-11-7 H permits PERA members with at least five years of service credit to purchase service credit commonly referred to as airtime of up to one year. The member must pay the full actuarial present value within 60 days of the date the member is informed of the cost of the airtime. The service credit purchased as airtime cannot be used to determine the final average salary or the pension factor or be used to exceed the pension maximum. Airtime is very similar to the congressional time proposed by HB 896 because it represents an opportunity to acquire PERA service credit for time that was not service to a PERA-affiliated employer. PERA recommends amending the bill to clarify that the limitations on airtime found in 10-11-7 H should apply equally to the congressional time proposed by HB 896.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Former congressional employees, now employed by a PERA-affiliated employer would not be able to buy 5 years of PERA service credit for their congressional service but would be able to buy one year of airtime under Section 10-11-7 H.

AMENDMENTS

To clarify that the service credit purchase price covers the cost of the enhanced benefit PERA suggests amending Section I, provision 1, to read:

the member pays full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association;

PERA recommends adding two additional provision Section I to clarify that the limitations on airtime found in 10-11-7 should apply equally to the congressional time proposed by HB 896:

1) *the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment; and*

2) *the purchase of service under this subsection cannot be used to determine the final average salary or the pension factor or be used to exceed the pension maximum.*

GG/lg