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## FISCAL IMPACT REPORT

SPONSOR Ingle DATE TYPED 01/26/05 HB \_\_\_\_\_

SHORT TITLE Retiree Health Care Authority Expenses SB 224

ANALYST Geisler

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
\$615.5				Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates: House Bill 117  
Relates to: Senate Bill 322

### SOURCES OF INFORMATION

Department of Finance and Administration (DFA)  
New Mexico Retiree Health Care Authority (RHCA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 224 would appropriate \$615.5 thousand to the Retiree Health Care Authority (RHCA) for operational expenses in FY05. Unexpended or unencumbered amounts would revert to the General Fund at the end of FY05. The bill contains an emergency clause which would make the bill effective upon enactment

#### Significant Issues

RHCA believes a supplemental appropriation is essential to continue FY05 operations. The Department of Finance and Administration (DFA) counters that supplemental funding is not required since RHCA can request an increase in operating budget funds thru the budget adjustment review (BAR) process.

RHCA provides: the Governor line-item vetoed \$1,231.0 of the RHCA's operating funds for FY05 and proposed to partially re-appropriate the funds to the vetoed categories via BARs from the Benefits Division of the agency's budget, for selected activities only. The RHCA and other interested parties filed a lawsuit claiming that this funding mechanism would unconstitutionally usurp the Legislature's sole authority to make appropriations; that suit is pending. An immediate

supplemental appropriation for FY05 is critical to maintain program operations. This approach would address the immediate crisis without compromising either the Governor's or the RHCA's position.

DFA notes that the agency already has statutory authority to increase its budget as necessary, without additional legislation and without having to draw upon the General Fund. This authority is provided in Section 11(E)(15) of the General Appropriation Act of 2004, which states "the retiree health care authority may request budget increases from internal service funds/interagency transfers and other state funds."

If the agency requires more funds to support its administrative costs, it can submit a budget adjustment request to DFA and draw upon the retiree health care fund to increase its program support budget.

### **FISCAL IMPLICATIONS**

RHCA provides: to continue operations, the RHCA transferred funding via BARs from the intact personal services category to the other category. However, without availing itself of a funding mechanism that it believes to be illegal and with inadequate funds remaining in Personal Services, the RHCA will exhaust available funds by March 2005.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 117 duplicates this bill. SB 322 provides RHCA with an appropriation of \$950 thousand for FY05.

### **OTHER SUBSTANTIVE ISSUES**

RHCA notes that the proposed appropriation of \$615.5 is inadequate and proposes an amendment below. Both DFA and RHCA believe that a general fund appropriation is not necessary—there are sufficient funds in the retiree health care fund.

### **ALTERNATIVES**

According to DFA, this bill is not necessary--the agency can request any necessary increases to its FY05 budget under existing statutory authority, subject to State Budget Division approval. RHCA believes this would be unconstitutional.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

RHCA states that their program operations for the remainder of FY05 will be jeopardized.

### **AMENDMENTS**

RHCA suggests:

- 1) Change the appropriation from \$615.5 to \$950.0.
- 2) Change the funding source from the general fund to the retiree health care fund.

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