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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/10
 LAST UPDATED 02/17/10 **HB** _____

SPONSOR Harden

SHORT TITLE Hospital Districts as Public Employees **SB** 225a/SFC

ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal		Minimal	Recurring	PERA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates House Bill 273

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

No Response From

Department of Health (DOH)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 225 changes the service credit reinstatement provision in Section 10-11-4 (D) NMSA 1978 to require that the purchase cost for each month of service credit must be equal to “the full actuarial present value of the amount of the increase in the employee’s pension as a consequence of the purchase as determined by” PERA.

Currently, when new employers are added to PERA, their employees are allowed to purchase service credit for their time with the employer by paying what would have been the combination of the employer and employee contributions. This allowed employees to purchase up to the maximum amount of service credit (21 years 8 months) after vesting with five years of PERA service credit (to equal the maximum 26 months 8 months) for less than the actuarial cost to the fund.

This provision will enhance the actuarial soundness of the fund.

Synopsis of Original Bill

Senate Bill 225 expands the definition of “public employer” to include special hospital districts for the purpose of affiliation with the Public Employee Retirement Association (PERA). SB225 would allow employees of special hospital districts to become members of PERA.

The effective date is July 1, 2010.

FISCAL IMPLICATIONS

PERA notes that SB225 would “have minimal impact on PERA.” Presumably the agency will have additional members to service within the plan.

SIGNIFICANT ISSUES

The main issue is whether special hospital districts fall within the meaning of “governmental plan” as used by Section 414(d) of the Internal Revenue Code.

According to PERA, “the statutory definition of ‘public employer’ includes ‘the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer.’ This definition does not specifically include all political subdivisions or local public bodies.”

PERA reports that the Attorney General has concluded that a special hospital district is both a “political subdivision” and “a local body” (New Mexico Attorney Advisory Letter September 2008).

Thus, PERA concludes that “SB 225’s proposed expansion of the statutory definition of ‘public employer’ to include special hospital districts as one of the enumerated entities eligible for PERA affiliation will comply with the requirements of the Internal Revenue Code and is consistent with the tax-deferred status of PERA as a 401(a) governmental plan.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Special hospital districts will continue to be denied eligibility for PERA affiliation.

MA/mt:mew