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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/11
 SPONSOR Madalena LAST UPDATED 03/07/11 HB 146/aSEC
 SHORT TITLE Retirement Beneficiary Designation Of Spouse SB _____
 ANALYST Haug/Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$20.0 - \$135.0*	\$35.0	\$25.0 - \$170.0*	Nonrecurring and Recurring	PERA
		NFI	NFI	NFI		ERB

(Parenthesis () Indicate Expenditure Decreases)

* See Fiscal Impact Narrative

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$1.0 - \$10.0*	\$1.0 - \$10.0*	Recurring	PERA and ERB

(Parenthesis () Indicate Revenue Decreases)

See Fiscal Impact Narrative

Duplicates Senate Bill 119

SOURCES OF INFORMATION

LFC Files

Responses Received From

Educational Retirement Board (ERB)

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee Amendment to House Bill 146 broadens the scope of the bill from “spouse” to any “named beneficiary” for purposes of naming a successor beneficiary on the death of the initial beneficiary. House Bill 146 and Senate Bill 119 are now identical as a result of the amendment.

Synopsis of Original Bill

House Bill 146 as it pertains to PERA, amends the PERA Act to:

- Allow a PERA retiree who is receiving a pension under form of payment A after the death of a spouse who has the designated survivor beneficiary, to exercise a one-time irrevocable option to designate a current spouse as beneficiary under form of payment B or C;
- Provide a deadline for the survivor beneficiary designation of six months from the date of remarriage, provided, however, that if the retired member remarried prior to July 1, 2011, the designation shall be made prior to January 1, 2012;
- Recalculate the pension under form of payment B or C to have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A; and
- Require a retired member to pay \$100 to the Fund to defray the cost of calculating the new pension amount.

With respect to ERB, House Bill 146 changes the Educational Retirement Act to allow retired members who received pension benefits under Option B or C (both of which provide a survivor pension benefit) that were converted to Option A pension (straight life, no survivor pension benefit) after the death of the retired member's spouse to exercise a one-time option upon remarriage to designate the new spouse as the survivor pension beneficiary and again receive pension benefits under either Options B or C. The designation must be made within 6 months of a retired member's remarriage, or by Jan. 11, 2012 if the remarriage occurred prior to July 1, 2011. The pension benefit under the new selection must have the same actuarial present value as the pension under Option A. Any change in a beneficiary designation will be subject to any court orders dividing a retiree's pension benefit due to the division of community property. Retired members must pay \$100 to defray the cost of calculating the new pension amount.

FISCAL IMPLICATIONS

The ERB states that the fiscal implication is indeterminate but there should not be a net cost to the ERB. Staff administrative costs should be offset by the \$100 fee. ERB is obtaining an estimate of the cost of reprogramming its retirement software system, but expects that it will cover this within its existing maintenance contract, without incurring additional costs. As new benefit amounts will be calculated on an actuarially neutral basis, the ERB does not expect there to be a cost to the Educational Retirement Fund.

According to the PERA, PERA will require increased staff utilization in order to recalculate pension benefits, verify survivor-beneficiary designations and verify supporting documents. If 10% of retirees were to take advantage of this provision, that would require the recalculation of over 3,000 benefits. This would definitely require PERA to request an additional FTE to handle the additional workload. This would be at the Customer Service Representative level and would cost approximately \$35,000.

Changes in qualification requirements and reporting will require revisions to PERA's pension administration system ("RIO) and will require associated funding. In addition, PERA will incur operating costs related to printing, postage and dissemination of information associated with changes to procedures and survivor designation forms.

An estimate for these additional costs, in the range of \$20 thousand to \$135 thousand would almost certainly cover all of the costs enumerated above. This estimate range is used in the table above. One-time costs to adapt computer systems and change forms are non-recurring. The cost of the Customer Service Representative additional position is reflected as a recurring cost.

On the Revenue side, assuming a range of 10 to 100 beneficiaries annually wishing to take advantage of the new provisions, \$1 thousand to \$10 thousand would be received to help defray the cost of calculating the revised pension benefit for both pension systems.

SIGNIFICANT ISSUES

The ERB notes:

As this type of change in pension benefits was not allowed by state law previously, the ERB cannot estimate how many retirees will use the new option.

The following is provided for informational purposes only as the ERB does not have experience on which to estimate the possible actuarial impact on the Educational Retirement Fund were the event described below to occur. There is some concern regarding a retired member's health at the time of remarriage and the designation of a new spouse as beneficiary. A retiree in poor health could exercise the option to create a new survivor benefit that would substantially outlive the retiree. Age-based actuarial reduction factors work when applied to large groups but cannot offset the cost to the Educational Retirement Fund of a retiree who was older or in poor health designating a new beneficiary with a potentially long life span remaining. However, it would be very difficult to define "good health" for purposes of determining whether a retiree would be excluded from designating a new spouse as a beneficiary, other than in those cases where a retiree had an existing terminal disease and a relatively short remaining life expectancy at the time a new beneficiary was designated. The ERB does not have authority to preclude the designation of a spouse as a survivor beneficiary based on the ages of the retiree and the new spouse. As noted, the ERB does not have information on which to estimate whether a situation of this type might occur with sufficient frequency to have a significant actuarial effect on the Fund.

The PERA states:

The PERA Act provides for both normal and optional forms of payment to its retirees. *See* NMSA 1978, Section 10-11-116 (2010). The normal form of payment is for life, Option A, which provides a monthly benefit to the retiree for his or her lifetime. Upon death, all payments stop. Optional contingent survivor beneficiary forms of payment are available on an actuarial equivalent basis, meaning the normal pension monthly benefit is reduced depending on the survivor option chosen, the retiree's age, and the age of the named beneficiary. Contingent survivor benefits, Options B and C, provide a 100% or 50% survivor benefit, respectively. The PERA Act requires that the amount of pension payable under forms of payment B and C shall have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under form of payment A. *See* NMSA 1978, Section 10-11-116 (B) (2010). In other words, under Options B and C, a reduced benefit is paid to the retiree during his or her lifetime, which pays for the cost of the survivor benefit.

Historically, a named survivor pension beneficiary could not be changed after the date the first pension payment is made if Option B or C was selected. The only exceptions were: (1) if the named survivor beneficiary dies before the member, NMSA 1978, Section 10-11-117(B) & (C) (1997); or (2) if the member named his spouse as survivor beneficiary and they later divorce. NMSA 1978, Section 10-11-116(C) (1991). In both situations, the payment option could be changed to Option A upon satisfaction of all PERA requirements. The reason that a pension benefit may be “popped-up” to Option A after a death or divorce is because there is no additional cost to the retirement system. In 2010, NMSA 1978, Section 10-11-116(D) was added to allow a PERA retiree who has designated a survivor beneficiary other than a spouse under form of payment B or C, to exercise a one-time irrevocable option to deselect the designated beneficiary, subject to certain conditions. The retiree may now have future payments made under form of payment A, or designate another beneficiary to receive a reduced-benefit pension under the current form of payment.

In the case of a retired member who is being paid under option B or C with the member’s spouse as the designated survivor beneficiary, a court order is required directing PERA to change the form of payment. *See* NMSA 1978, Section 10-11-116(C).

HB 146 seeks to remedy the issue that exists when a PERA member retires, names his or her spouse under form of payment B or C, and the designated survivor beneficiary predeceases the retired member. Under current law, this member has the option to have his or her benefit “popped-up” to Option A. PERA is a governmental defined benefit plan qualified under section 401(a) of the Internal Revenue Code. In general, pension payments, whether paid over a participant’s life or over the lives of the retiree and his or her beneficiary, must be non-increasing. The “pop-up” features of the PERA Act resulting from a beneficiary’s death or the participant’s divorce does not violate this rule.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 146 duplicates Senate Bill 119.

TECHNICAL ISSUES

PERA point out that Page 3, line 4 through 8 defines a very narrow circumstance in which a PERA member retires, names his or her spouse under form of payment B or C, and the designated survivor beneficiary predeceases the retired member. House Bill 146 will allow this retired member, upon remarriage, to designate his or her current spouse as a new beneficiary under form of payment B or C.

House Bill 146 will not allow a retired member who originally retired under form of A to name a current spouse upon remarriage.

GH/MA:mew