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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11

SPONSOR Harden LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Some Hospital Districts as Public Employers SB 380

ANALYST Aubel

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	Indeterminate	Indeterminate	Recurring	PERA

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to Senate Bill 43 and Senate Bill 241  
Conflicts with House Bill 525

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)

### SUMMARY

Senate Bill 380 amends the PERA Act to:

- Expand the definition of “public employer” to include special hospital districts for purposes of PERA affiliation; and
- Requires the calculation of the purchase cost of prior service credit to be the full actuarial value of the amount of the increase in a member’s pension rather than based on the current statutory computation of the final average salary multiplied by the sum of the employer and employee contribution rates under the member coverage plan applicable to the member at the time of purchase.

### FISCAL IMPLICATIONS

PERA states SB 380 will be cost neutral to the PERA Fund, noting that the proposed purchase cost of prior service credit has been changed from the current calculation based on the member’s final average salary to the full actuarial value of the amount of the increase in a member’s pension as a consequence of the purchase. Because PERA assumes that the resulting actuarial calculation of the purchase cost would be significantly higher than the calculation currently in

law, the bill would increase revenue to the PERA fund by an indeterminate amount that would be based on the number of members purchasing service credit and the plans under which the members worked.

The increase in revenue would result in higher cost to the employees purchasing the service credit.

### **SIGNIFICANT ISSUES**

PERA concludes that the special hospital districts would meet the criteria under federal law to participate in PERA as a public employer, as follows:

#### **Special Hospital Districts as Public Employer**

The PERA Act specifically provides that only "public employers" can affiliate with PERA so long as they fall within the meaning of "governmental plan" as used in Section 414(d) of the Internal Revenue Code. The Internal Revenue Code requires that to qualify as a "governmental plan," a plan must be "established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing."

Currently, 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.

An entity is defined as a political subdivision if it was "formed or maintained for the more effectual or convenient exercise of political power within certain boundaries or localities, to whom the electors residing therein are, to some extent, granted power to locally self-govern themselves." *Tompkins v. Carlsbad Irrigation Dist.*, 96 N.M. 368, 370, 630 P.2d 767, 769 (Ct. App. 1981). Special hospital districts are organized for the purpose of constructing or acquiring funding for a public hospital. See NMSA 1978, § 4-48A-3(A) (1978) (amended 1983). The districts facilitate a more efficient and effectual operation of a public hospital by being able to raise money for its operation and enter into contracts with the federal or state governments for the treatment or hospitalization of patients. See NMSA 1978, § 4-48A-9 (1978) (amended 2005). For these reasons, the Attorney General has concluded that a special hospital district is both a "political subdivision" and a "local public body." N.M. Att'y Gen. Advisory Letter (Sept. 24, 2008).

The Internal Revenue Code broadly includes plans established and maintained for employees by a "political subdivision" of the state within the ambit of governmental plans. Therefore, SB 380'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.

PERA also details the result of calculating the cost of purchasing service credit on the actuarial

value rather than the current calculation:

**Cost to Purchase Prior Service**

The PERA Act allows members to purchase personal service performed with an affiliated public employer but prior to the employer’s affiliation with PERA subject to certain conditions. The purchase cost for service under existing law is equal to the member’s final average salary multiplied by the sum of the employee and employer contribution rates under the member coverage plan applicable to the member at the time of purchase. SB 380 requires that the calculation of the purchase cost be the full actuarial value of the amount of the increase in a member’s pension as a consequence of the purchase. SB 380’s proposed purchase cost calculation represents a substantial increase for the purchase of prior service credit than currently required in law.

**ADMINISTRATIVE IMPLICATIONS**

PERA points out the following administrative implications of SB 380:

PERA will be required to process applications for affiliation by special hospital districts as it does for all entities seeking PERA affiliation.

SB 380 will increase the volume of prior service credit purchases pursuant to NMSA 1978, Section 10-11-7 by PERA members processed by PERA. PERA will be required to alter its calculation process for the purchase of prior service credit.

However, PERA does not see the bill resulting in a fiscal impact to its operating budget, so presumably these additional administrative tasks will be accomplished with existing resources.

**CONFLICT, RELATIONSHIP**

Senate Bill 380 relates to Senate Bill 43, which expands the definition of “public employer” to include domestic water associations for purposes of PERA affiliation.

Senate Bill 380 relates to Senate Bill 241, which expands the definition of “public employer” to include domestic water associations for purposes of PERA affiliation.

Senate Bill 380 might conflict with HB 525, which adds “hospital or medical districts” to the list of eligible employees who can purchase service credit when taken over by a PERA-affiliated employer but maintains the current method of calculating purchase of service credit that bill also requires the employer to pay the first year of the credit.

**OTHER SUBSTANTIVE ISSUES**

The PERA plan reported a 78.5 percent funded ratio as of June 30, 2010, down from 84.2 percent the prior valuation year.

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

Special hospital districts will continue to be ineligible for PERA affiliation.