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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/15

SPONSOR Ingle LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Law Enforcement Return-to-Work SB 466

ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY14 | FY15 | FY16              | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|-------------------|-------------------|---------------------------|---------------|
| <b>Total</b> |      |      | See fiscal impact |                   |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Responses Received From

Attorney General’s Office (AGO)  
 Public Employees Retirement Association (PERA)  
 Department of Public Safety (DPS)  
 New Mexico Municipal League (NMML)

### SUMMARY

Synopsis of Bill

Senate Bill 466 amends the PERA Act to allow certain police member retirees to return to work (RTW) and receive both a pension and salary; requires both employee and employer contributions during reemployment; requires a 60-day break in service prior to reemployment; and does not allow these retirees to accrue additional service credit during reemployment.

### FISCAL IMPLICATIONS

Poorly designed RTW programs have been known to inadvertently create incentives for employees to retire at the earliest possible date, which increases liabilities for pension plans.

The State of New Mexico has a \$4.3 billion unfunded pension liability for PERA. PERA reports the bill adds \$60.6 million to unfunded pension liabilities for the Municipal Police Plan and \$7.3 million to unfunded pension liabilities for the State Police/Adult Correctional Officers Plan.

PERA’s actuarial valuations are dependent on demographic and economic assumptions about future events being met, including an optimistic investment earnings assumption of 7.75 percent.

Because of new GASB 68 reporting requirements, increases in unfunded pension liabilities as a

result of SB 466 will be apportioned to cities and counties to include in their financial statements.

### **SIGNIFICANT ISSUES**

NMML reports police departments are having difficulty retaining qualified law enforcement officers. DPS reports it is also having difficulty, in part, due to the dangerous nature of the job.

Under SB 466, certain police members will receive both a pension with a COLA, and a salary.

PERA RTW retirees currently make non-refundable contributions and have their COLA suspended. Under SB 466, employee contributions are refundable and COLAs are not suspended.

### **PERFORMANCE IMPLICATIONS**

Conflicts with NM Constitution, Art. XX, Sec. 22, which states the Legislature shall not enact laws that increase the benefits paid by the retirement system unless adequate funding is provided.

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

Conflicts with proposed SB 619 which limits RTW for a specified period of time; requires RTW employees to suspend their COLA; reduces the pension paid to RTW employees while in RTW status to 50 percent; requires RTW employees to have 20 years of actual service credit; and, makes the employer and employee contributions non-refundable, among other provisions.

### **TECHNICAL ISSUES**

“Commissioned police officer” and “undersheriff member” are not terms used in the PERA Act.

### **OTHER SUBSTANTIVE ISSUES**

Pension solvency legislation in 2013 increased the maximum pension amount to 90 percent of salary. For the average municipal police officer in a 20-year retirement plan, this means an additional \$500 thousand in lifetime benefits by working about 6 more years. Overall, the same member will receive \$2.5 million in lifetime benefits, and assuming the employer continues to pay 75 percent of his employee contribution, he will have made career contributions of \$50 thousand.

SB 466 excludes other PERA groups, even those facing similar challenges retaining employees.

The PERA Board has raised concerns with using a pension fund to address a labor issue. For instance, a longevity pay program implemented for Municipal Police members by the City of Albuquerque in 2014 added more than \$6 million in unfunded liabilities to the PERA Fund.

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

PERA members will continue to be able to receive up to 90 percent of their salary at retirement.