F I S C A L   I M P A C T   R E P O R T

SPONSOR	Gentry/Ivey-Soto/ Ruiloba	**ORIGINAL DATE** **LAST UPDATED**	1/24/2018 1/30/2018	**HB**	21
SHORT TITLE	Law Enforcement Protect Fund Distributions			**SB**	
				ANALYST	Edwards

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	**FY19**		
$0	Up to $7 million	Recurring	Law Enforcement Protection Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	**FY19**	**FY20**		
$0	(Up to $7 million)	(Up to $7 million)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 215.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Employee Retirement Association (PERA)

Responses Not Received From
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 21 amends 29-13-7 NMSA 1978 by proposing a new distribution from the Law Enforcement Protection Fund (LEPF) authorizing the Department of Finance and Administration (DFA) Local Government Division (LGD) to make distributions of $7,500 to municipalities and counties for retention bonus payments for tenured law enforcement officers who are otherwise eligible to retire. The municipality or county law enforcement agencies requesting the distribution must match the retention payment with $7,500 and must have at least a 10 percent vacancy rate. With both state and local matches, each eligible officer could receive a total $15 thousand retention incentive. Officers eligible for the retention payments must perform primarily patrol duties, have 20 years of experience, and have not received a previous retention payment. The retention lump sum payments would not constitute base salary or wages under the Public Employee Retirement Association (PERA) act for pension purposes. Distributions for retention lump sum payments are effective until June 30, 2021.

FISCAL IMPLICATIONS

By making an appropriation from the LEPF, the general fund is **negatively** impacted by an estimated $7 million per year less in reversions.

Continuing Appropriations

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

Fiscal Analysis

Remaining balances in the LEPF at the end of the fiscal year currently revert back to the general fund. DFA, in past analyses on similar bills, and LFC analysis states that increasing LEPF distributions results in a corresponding decrease in the balance available for reversion to the general fund. As detailed below, increasing LEPF distributions will result in a corresponding decrease in the balance available for reversion to the general fund.

While HB 21 does not contain a specific appropriation amount, the authorization of lump sum payments to officers with significant experience could have a substantial impact on LEPF balances and reversions to the general fund.

There is no information available detailing the vacancy rate at each police department around the state and how many officers would meet eligibility requirements. However, assumptions may be made using data provided on the Department of Finance and Administration (DFA) website detailing LEPF distributions made to municipal and county police departments. According to DFA data, 3,752 certified officers work for county and municipal police departments around the state, not including the Department of Public Safety. For the purposes of this analysis, it is assumed that all the police departments have a 10 percent vacancy rate.

Assuming that one quarter of the 3,752 officers have been employed for more than 20 years and provide primarily patrol services, 938 officers could qualify for retention payments of $7,500 from the LEPF through the provisions of the bill. Retention payments to those 938 officers could cost up to $7 million per year and $21.1 million over the course of three years.

As a result, the bill would increase LEPF distributions by up to $7 million annually beginning in FY19 and ending in FY21 with a corresponding annual decrease of up to $7 million in reversions to the general fund.

Historical Reversions from the LEPF		
FY10	$	9,920.2
FY11	$	9,089.3
FY12	$	8,291.1
FY13	$	4,575.5
FY14	$	3,936.3
FY15	$	7,641.5
FY16	$	15,277.2
FY17	$	18,382.6
FY18 (projected)	$	14,000.0
FY19 (projected)	$	14,600.0

Source: Audit Reports

PERA states "HB 21 rewards seasoned law enforcement officers for continued public service with bonuses, which will not be considered to be salary under the PERA Act and 'spike'" PERA pensions. Those officers agreeing to work longer will continue to accrue service credit up to a maximum of 90 percent of the final average salary and therefore receive a higher lifetime pension benefit, as well as the bonus."

In past analysis of bills making distributions from the LEPF, DFA has explained that "per 29-13-3 NMSA 1978, the LEPF is funded from 10 percent of all money received for fees, licenses, penalties and taxes from life, general casualty, and title insurance business pursuant to the New Mexico Insurance Code. This implies that the revenue received will fluctuate from year to year depending on volume of related insurance business activity. there are uncertainties surrounding the amount of annual revenue received by the LEPF. Annual revenues into the LEPF are dependent on the business activity of specific types of insurance. Changes in the insurance industry can make it difficult to make accurate annual revenue projections."

SIGNIFICANT ISSUES

PERA explains "lump-sum retention bonuses are not included with the definition of salary for PERA pension calculation purposes and will not produce pension spiking that is inconsistent with actuarial assumptions used by PERA's actuaries to measure future liabilities."

PERA also states that "SB 27, passed during the 2013 Legislative Session, increased the maximum pension amount from 80 percent to 90 percent of final average salary. For the average Municipal Police Officer in a 20-year retirement plan, this could mean an additional $600 thousand in lifetime retirement benefits by working 25.72 years instead of retiring at first eligibility. The PERA Board specifically included this provision in its reform proposal to address concerns expressed at the time about potential retention issues in public safety positions."

Finally, PERA explains their fund balance was $15.1 billion on June 30, 2017. "During this same period, PERA paid out benefits to retirees and beneficiaries in the amount of $1.1 billion. For the year ending June 30, 2017, the Municipal Police Plan's unfunded actuarial accrued liability (UAAL) increased from $500.7 million to $535.2 million. The funded ratio increased from 79.6 percent to 79.1 percent, primarily due to salary increases that exceeded actuarial assumptions."

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