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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/18

SPONSOR Campos LAST UPDATED _____ HB _____

SHORT TITLE Special Hospital Districts in PERA SB 186

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal				PERA Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

Senate Bill 186 includes special hospital districts as public employers pursuant to the Public Employees Retirement Act.

FISCAL IMPLICATIONS

PERA reports a minimal fiscal impact from processing applications for affiliation by special hospital districts as it does for all other new governmental employer groups. PERA currently administers over 30 different retirement plans for the state and many other governmental entities.

SIGNIFICANT ISSUES

Special hospital districts are located in rural areas and provide emergency care, primary care, specialty care, inpatient care, assisted-living care and many outpatient services to patients.

PERA reports the Internal Revenue Code includes plans established for employees by a “political subdivision” of the state within the ambit of governmental plans. SB 186’s proposed expansion of the statutory definition of “public employer” to include special hospital districts as an entity eligible for PERA affiliation complies with the requirements of the Internal Revenue Code and is consistent with the tax-deferred status of PERA as a 401(a) governmental plan.

Because of challenges unique to providing healthcare services in rural areas, the bill will help special hospital districts recruit permanent healthcare staff by providing a retirement benefit, improve staff morale, and reduce the need for traveling nurses and other contract healthcare staff.

Presently, only one PERA municipal plan is open to new employer groups and because employees of the special hospital districts will be Tier 2 members, the vesting period is 8 years.

OTHER SUBSTANTIVE ISSUES

PERA provided the following with regards to special hospital districts as public employers:

The PERA Act 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, 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."

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 a special hospital district is both a "political subdivision" and "local public body." NM Attorney General Advisory Letter (Sept. 24, 2008).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

AHO/sb