

LFC Requester:

Joseph Simon

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment Correction Substitute X

Date 03FEB2024

Bill No: HB 236s

Sponsor: Gail Chasey, Mimi Stewart, T. Ryan Lane

Agency Name and Code Number: 790-Department of Public Safety

Person Writing Carolyn Huynh

Short Title: Public Safety Retirees Returning to Work

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with 4 columns: Appropriation (FY24, FY25), Recurring or Nonrecurring, Fund Affected. Data: NFI, NFI, N/A, N/A.

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Table with 5 columns: Estimated Revenue (FY24, FY25, FY26), Recurring or Nonrecurring, Fund Affected. Data: NFI, NFI, NFI, N/A, N/A.

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

- 2024 HB-154, SB-87 and SB-123
- 2023 HB-64 and HB-65

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This bill proposes to allow public safety PERA members to return to public service work under certain conditions through July 1, 2027, and applies to positions including adult and juvenile detention and corrections officers, municipal police officers, sheriff’s deputies, and state police officers.

The bill’s language tracks with House Bills 64 and 65 from the 2023 regular session and House Bill 157 from the 2024 regular session, and places various conditions upon certain retired public safety employees, including: requiring a 90 day waiting period upon retirement before returning to work; disallowing the retiree to become a secondary PERA member upon reemployment; imposing required nonrefundable retirement contributions on the retiree and their employer during all periods of subsequent employment; requiring that the retiree upon return to work not be afforded seniority for shift scheduling; allowing the retired member to receive up to 36 consecutive months of pension payments while re-employed; requiring public employers to develop and implement tracking mechanisms to ensure the appropriate application of the program and to focus initially on retired members for any lay-offs; and allowing employers to participate in the reemployment of retired members if their vacancy rate is above 10 percent.

House Labor, Veterans’ and Military Affairs Committee Substitute for HB236 adds five categories of positions in which a retired member may be employed: courthouse security officer, emergency medical dispatcher, emergency medical technician or paramedic, firefighter, and public safety telecommunicator. It adds definitions for these positions. The remainder of the original bill is intact.

In its substituted form, HB236 permits certain retired public safety employees to return to work for an affiliated public employer after a hiatus of at least 90 days. Applies to retired adult correctional officers, adult detention officers, courthouse security officers, emergency medical dispatchers, emergency medical technicians or paramedics, firefighters, juvenile correctional officers, juvenile detention officers, municipal police officers, public safety telecommunicators, sheriff’s deputies, and state police officers, with certain conditions.

Imposes the following conditions:

- The member must have retired prior to December 31, 2023, and subsequent employment must begin prior to July 1, 2027.
- The pension shall continue to be paid for up to 36 months during the subsequent employment; however, no service credit will accrue during subsequent employment.
- Retiree and employer must make required contributions to the applicable coverage plan, which are not refundable at termination of the subsequent employment.
- A retired member shall not be hired for reemployment into a position with a vacancy rate below 10%.
- Requires the subsequent employer to track and document data concerning the retired member's employment, and directs that, if a layoff is needed due to budgetary restrictions, the retired member is to be laid off before any other members.

Effective date is July 1, 2024.

ADDED DEFINITIONS:

"courthouse security officer" means a person who is employed by the Administrative Office of the Courts who provides security or protective services for a courthouse

"emergency medical dispatcher" means a person who is trained and licensed pursuant to the Emergency Medical Services Act and who receives calls for emergency medical assistance, provides pre-arrival medical instructions, dispatches emergency medical assistance and coordinates its response

"emergency medical technician" means a person who is licensed as an emergency medical technician or paramedic and who provides patient care pursuant to the Emergency Medical Services Act

"firefighter" means a person who is employed as a full-time non-volunteer firefighter by an affiliated public employer who has taken the oath for firefighters and who serves in a non-management position serving or supporting the delivery of emergency services in a front line capacity

"public safety telecommunicator" means a person who is an employee of a safety agency who receives calls or dispatches the appropriate personnel or equipment in response to calls for police, fire or medical services and makes decisions affecting the life, health or welfare of the public or safety employees and who has qualified for the certification set forth in the Public Safety Telecommunicator Training Act.

FISCAL IMPLICATIONS

No additional fiscal implications to DPS have been identified as potential return-to-work members would be hired into vacant positions that DPS has projected in Personal Service and Employee Benefit (PSEB) costs.

SIGNIFICANT ISSUES

This legislation imposes new conditions for participation:

1. The pension shall continue to be paid for up to 36 months during the subsequent employment; however, no service credit will accrue during subsequent employment;
2. Retiree and employer must make required contributions to the applicable coverage plan, which are not refundable at termination of the subsequent employment;
3. A retired member shall not be hired for reemployment into a position with a vacancy rate below 10%; and
4. Requires the subsequent employer to track and document data concerning the retired member's employment, and directs that, if a layoff is needed due to budgetary restrictions, the retired member is to be laid off before any other members.

These four (4) items may reduce the pool of interested applicants who might otherwise be eligible for hiring by law enforcement agencies:

1. Retired officers may not be willing to seek re-employment with participating PERA agencies if they are unable to build three (3) higher new years of service credit for an increased retirement benefit;
2. Retirees cannot request a refund of their employee contributions at the end of their 36-month limit;
3. If an eligible law enforcement agency has a commissioned officer vacancy rate below ten percent (10%), they cannot hire return-to-work officers; and
4. If a law enforcement agency incurs budget restrictions and may have to layoff commissioned officers, these return-to-work members would have to be laid off first.

PERFORMANCE IMPLICATIONS

This bill could lead to a large number of retired police officers "returning to work," which could assist with staffing challenges plaguing law enforcement in the state. This assumption is based on several factors, including the lower age at which many law enforcement officers retire and the significant number of officers who returned to work when an earlier version of this law was in place. Overall DPS believes this bill would be beneficial for law enforcement and overall state public safety.

ADMINISTRATIVE IMPLICATIONS

No significant administrative implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB-154 – PERA Return To Work For Certain Retirees

SB-87 – Law Enforcement Retirement Changes

SB-123 – PERA Retired Law Enforcement or Firefighter Return to Service

TECHNICAL ISSUES

No technical issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.