

LFC Requester:	Simon, Joseph
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.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**

Date 2/3/24

Bill No: HB 236

Sponsor: Representative Chasey,
Representative Stewart,
Representative Lan
Short Title: Public Safety Retirees
Returning to work

Agency Name and Code 366-PERA
Number: _____
Person Writing Anna Williams
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Effective July 1, 2024, HB 236 amends the Public Employees Retirement Act [NMSA 1978 10-11-8] to allow certain members to return-to-work ninety days after retirement. Any retired member may return-to-work in the following positions: adult correctional officer, adult detention officer, courthouse security officer, emergency medical dispatcher, emergency medical technician, firefighter, correctional officer, juvenile detention officer, municipal police officer, public safety telecommunicator, sheriff's deputy, or state police officer. Return-to-work is subject to the following:

1. Pension benefits shall continue during the period of return-to-work;
2. Return-to-work retirees shall have retired prior to December 31, 2023;
3. Member must have not been employed by an affiliated public employer as an employee or independent contractor for one hundred twenty consecutive days;
4. Cost-of-living adjustments (COLA) shall continue during the period of return-to-work;
5. Return-to-work retirees will not accrue additional service credit during the period of re-employment;
6. Requires nonrefundable employee and employer contributions be made under the applicable coverage plan for the period of re-employment;
7. The return-to-work retiree shall have no seniority based on pre-retirement status;
8. The return-to-work retiree can only receive 36 consecutive months of pension payments while reemployed;
9. Public employers are required to develop a policy regarding layoffs and return-to-work retirees;
10. Public employers shall not hire any additional return-to-work retirees if that public employer has a vacancy rate of 10% or less; and
11. Return-to-work employment must begin prior to July 1, 2027.
12. The affiliated public employer shall track and document;
 - a. The date of hire and separation;
 - b. The retired member's employment position prior to retirement;
 - c. The salary of each reemployed retired member; and
 - d. The monthly vacancy rate and layoffs.

FISCAL IMPLICATIONS

Because HB 236 requires the member and employer to pay the employee and employer contributions it has a small positive impact to the funding ratio. For the year ending June 30, 2023 the State Police/Correction Division was funded at 124.90%, and the Municipal Police Division was funded at 70.90%, and the Municipal General Division was funded at 71.50%. The bill is currently undergoing an actuarial analysis for the impact to the fund.

HB 236 should not have an impact to PERA's operating budget.

SIGNIFICANT ISSUES

PERA does not independently collect or maintain information related to employer vacancy rates or employer policies on seniority or layoffs. Additionally, PERA is unable to monitor employers or employees to ensure that re-employed employees are performing only the specific duties of the eligible positions listed within the bill. To carry out these provisions of the legislation, PERA will need to rely on the information provided by employers as true and accurate.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

PERA will have to make system modifications to its pension administration system so it will not automatically suspend pensions when a retiree chooses to Return to Work and so that PERA continues to process their COLA. PERA would also have to make system modifications to its pension administration system to ensure that the pension is suspended if the member works beyond the 36 months.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicate Bills HB 154, SB 123 and SB 87.

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

There may be ambiguity in the requirement that "retired member shall have retired prior to December 31, 2023." If the intent is only allow members who retired before December 31, 2023 adding clarity to revise the provision to state "shall have been a retired member on December 31, 2023."

Additionally, there may be ambiguity in the requirement that “retired member shall have no limitation on the length of time that the retired member can be subsequently employed or reemployed by an affiliated public employer; provided that the retired member shall only receive up to thirty-six consecutive months of pension payments while reemployed.” If the intent is only allow members who retired to work for thirty-six months adding clarity to revise that provision to state, “retired member shall have no limitation on the length of time that the retired member can be subsequently employed or reemployed by an affiliated public employer; in no circumstances shall a retired member who is re-employed under the provisions of this Subsection receive more than 36 months of pension payments while reemployed”

ALTERNATIVES

Most, if not all, PERA affiliated employers have the ability to implement retention bonus and longevity pay programs for their employees and many have, including the City of Albuquerque. Providing retention bonuses outside the pension system could address any short-term retention issues.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PERA retirees will continue to be barred from returning to work with affiliated public employers, subject to certain statutory exceptions.

AMENDMENTS

None