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| LFC Requester: | Sunny Liu |
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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: Date 2/5/19
 Original Amendment Bill No: SB446
 Correction Substitute

Sponsor: Sen. Ron Griggs Agency Code: 924
 Short Title: PUBLIC EMPLOYEE RETIREMENT CHANGES Person Writing: Daniel Manzano
 Phone: 505-670-3820 Email: Daniel.Manzano@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY19 | FY20 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|---------|---------------------------|---------------|
| FY19 | FY20 | FY21 | | |
| | Unknown | Unknown | Recurring | PERA Funds |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 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:

SB446 removes existing return-to-work (RTW) provisions of the Public Employees Retirement Act and provides new provisions that allow for RTW employees to work for certain public employers while concurrently drawing a pension benefit, with certain restrictions.

FISCAL IMPLICATIONS

SB 446 appears designed to remove RTW limitations for retired, certified law enforcement officers (p.11 lines 18-23) and promote their reemployment. It also appears concerned with public employers that are class A counties with a population over 600,000 (p.11. lines 9-13), the county qualifying most obviously being Albuquerque (though others do qualify). However, changing the RTW provisions of the PERA may also have the unintended consequences of incentivizing early retirement for other groups of employees that seek to sit out three months and become RTW employees with full benefits.

The long term solvency of PERA and ERB public pensions is not in danger. However, recent accounting changes require sustainability measures to be developed, the most common of which is the funded ratio (or unfunded actuarially accrued liability). Bonding rating agencies have begun looking at these sustainability measures as a source of risk for debt service. If the provisions of SB 446 were to incentivize increased rates of early retirement, thereby limiting the length of time contributions may be invested, then SB 446 could negatively impact the PERA funds.

SIGNIFICANT ISSUES

Current law in the Public Employees Retirement Act provides certain restrictions by which a retired employee may return to work for any public employer (where public employer is defined as any entity within the meaning of governmental plan as that term is used in Section 414(d) of the Internal Revenue Code of 1986, as amended), and suspends pension benefits. SB446 seeks to remove the restriction of suspended pension benefits. The differences between current law and the proposed RTW policies of SB 446 are summarized in the table below.

| | | |
|---|--|---|
| Restriction | Current Law | SB446 |
| Period of Inactivity | 12 consecutive months without public employment or being retained as an independent contractor | 180 consecutive days without public employment or being retained as an independent contractor |
| RTW Pension Benefit | Suspended, unless in an excepted category wherein service credit is not accrued. | Continues to be paid, but COLA suspended. |
| Service Credit/Membership | RTW employee and associated employer not members unless RTW employee elects to become a member wherein if the RTW employee has 3 years or more of additional service credit the benefit may be recalculated upon the RTW employees second retirement, but only if it positively benefits the RTW employee. | RTW Employee not a member but both RTW Employee and Employer must make contributions. Employer may choose to make RTW employee contributions for them. |
| ERB Act, Judicial Retirement Act, Magistrate Retirement Act, Other Municipalities | PERA RTW Employees in these Employer pension plans have COLA suspended if hired after a certain target date. | PERA RTW Employees in these Employer pension plans have COLA suspended if hired after a certain target date. Class A counties greater than 600,000 population or municipalities with over 50,000 in a class A county with greater than 600,000 shall not employ new RTW employees greater than 10 percent of authorized workforce and, when employing RTW law enforcement officers, may only employ them at ranks below sergeant and may not promote above the rank of sergeant unless recruiting for the chief of police position. |
| Exceptions | Legislative staff during session, Elections staff, Elected officials | Legislative staff during session, Elections staff, Elected officials |
| Grandfathered RTW Employees | After 7/1/10 RTW employees hired prior to this date have to make member contributions and had their COLA suspended after 7/1/13. | After 7/1/10 RTW employees hired prior to this date have to make member contributions and had their COLA suspended after 7/1/13. However, RTW employees hired between 7/1/10 and 6/30/19 are now subject to the RTW provisions in effect on hiring date. |

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Recently, large municipalities (most publicly Albuquerque) have complained that recruitment of law enforcement is difficult and the RTW provisions prevent municipalities from reaching full staffing. SB 446 appears to try and resolve this particular concern.

ALTERNATIVES

Large municipalities that are struggling to attract law enforcement employees may consider other methods of creating a favorable recruitment and retention environment; including wage increases, better benefit packages or improving community relations.

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