



Legislative
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SB 18-200

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 19, 2018)

Drafting Number: LLS 18-0477 **Date:** April 6, 2018
Prime Sponsors: Sen. Tate; Priola **Bill Status:** House Finance
Rep. Becker K.; Pabon **Fiscal Analyst:** Erin Reynolds | 303-866-4146
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Bill Topic: MODIFICATIONS TO PERA TO ELIMINATE UNFUNDED LIABILITY

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government and School District
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Statutory Public Entity

This bill makes modifications to the Colorado Public Employees' Retirement Association (PERA). It creates ongoing state revenue reductions, state and local expenditure and workload increases, and increases net revenue to PERA.

Appropriation Summary: For FY 2018-19, the bill requires and includes an appropriation of \$200,000 to the Legislative Department.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 18-200***

		FY 2018-19	FY 2019-20	FY 2020-21
Revenue	General Fund	(at least \$3.8 million)	(at least \$11.6 million)	(at least \$14.2 million)
Expenditures	General Fund	\$200,000	Not estimated.	
Transfers		-	-	-
TABOR Refund	General Fund	(at least \$3.8 million)	(at least \$11.6 million)	(at least \$14.2 million)

*State revenue and TABOR refund impacts are estimated to current law as of writing. If an across-the-board salary increase for state employees is signed into law, these impacts will be partially reduced.

Summary of Legislation

This bill makes several changes related to the Colorado Public Employees' Retirement Association (PERA). These are described in order of the bill.

Change to number of years in the highest average salary calculation. Under current law, the retirement benefit paid to a PERA member depends on his or her date of hire, years of service credit, and age at retirement, and is calculated using a percentage of the member's highest annual salary (HAS) over a period of time, including a base salary year. The bill changes the number of years factored into the HAS calculation for members who are not vested by or are hired on or after January 1, 2020, as shown in Table 2.

**Table 2
 Highest Annual Salary Period Under SB 18-200 After Base Year**

As of 1/1/20	All Divisions except Judicial	Judicial
Vested	3 periods of 12 months	1 period of 12 months
Not Vested	7 periods of 12 months	3 periods of 12 months

Salary definition. The bill modifies the definition of salary so that pre-tax payroll deductions are counted towards salary, as is unused sick leave converted to cash payments. The bill clarifies that insurance premiums paid by employers are not counted as salary.

Requirements for local government employers that terminate PERA affiliation. The bill clarifies provisions related to a local government division employer that ceases operations or participation in PERA, so that when an employer has terminated its affiliation with PERA, it is the PERA board that determines the amount to be paid by that employer to fully fund its share of the unfunded liability of the defined benefit plan and of the health care trust fund. The board's determination may be appealed by the employer through the administrative review process established in PERA rule. The local government's employees become inactive members of PERA effective on the termination date, and may elect to have their member contributions credited to an alternative pension plan or refunded. In the absence of such election, the member contributions will remain with PERA.

Increase in member contribution rates. The bill increases the PERA employee contribution rates by the percentages shown in Table 3.

**Table 3
 Phase-in of 3% Member Contribution Rate Increase Under SB 18-200**

	State	Troopers	School	DPS	Local	Judicial
Current Law	8.0%	10.0%	8.0%	8.0%	8.0%	8.0%
As of 7/1/18	8.5%	10.5%	8.5%	8.5%	8.5%	8.5%
As of 1/1/19	9.0%	11.0%	9.0%	9.0%	9.0%	9.0%
As of 7/1/19	10.0%	12.0%	10.0%	10.0%	10.0%	10.0%
As of 1/1/20	11.0%	13.0%	11.0%	11.0%	11.0%	11.0%

Automatic contribution and cost of living rate adjustments. Beginning January 1, 2020, the bill requires employee contribution rates and the cost of living adjustment (COLA) to remain unchanged unless triggered by certain circumstances, as shown in Table 4. These increased amounts rely on the following definitions in the bill:

- *"Weighted average"* means the most recent valuation of the proportion of unfunded actuarial accrued liability attributable to each division.
- *"Blended total contribution amount"* is the weighted average of the total amounts paid by employers and members to PERA by all divisions, not to include the portions of employer contributions remitted to the health care trust fund and the COLA reserve.
- *"Blended total required contribution"* is the weighted average of the total reported actuarially determined contribution rates and member contribution rates for PERA's trusts.

When the blended total contribution amount is less than 98 percent or more than 110 percent of the blended total actuarially required contribution, adjustments must be determined by PERA, equally apportioned, and be the maximum yearly adjustment allowed with certain exceptions. Adjustments may occur only once in a calendar year.

Table 4
Automatic Contribution and COLA Rate Adjustments Under SB 18-200

When the blended total contribution amount is less than 98% of the blended total actuarially required contribution:

COLA Rate	reduced up to 0.25%; not to be reduced to less than 0.5% total
Member Contribution Rate	increased up to 0.5%; not to exceed statutory contribution rates plus 2% total

When the blended total contribution amount is greater than or equal to 110% of the blended total actuarially required contribution:

COLA Rate	increased up to 0.25%; not to exceed 2% total
Member Contribution Rate	reduced up to 0.5%; not to be less than statutory contribution rates

Defined contribution supplement. Beginning January 1, 2021, the bill requires an adjustment to each PERA division's employer contribution rates in order to include a "defined contribution supplement." The defined contribution supplement will be the amount that would have otherwise gone to the defined benefit trusts to pay down the unfunded liability, plus investment earnings on that amount, and will be made on behalf of employees who begin employment on or after January 1, 2019.

Earned service credit for part-time work for new members. The bill modifies the way service credit is earned for part-time work for PERA members who begin employment on or after January 1, 2020. Under the bill, part-time members will earn a full year of service credit if the member works at least 8 months but less than 12 months in a year. If the member works less than 8 months a year, his or her earned service credit will be determined by the ratio of part-time work to full-time work and the number of months for which contributions are remitted to the number of months required for a year of service credit.

Service retirement and reduced service retirement eligibility for new and current members. For PERA members who begin employment on or after January 1, 2020, the bill modifies service retirement eligibility as shown in Table 5, and clarifies that no contractual right is created related to an age requirement. The bill also modifies the reduced service retirement eligibility as shown in Table 6.

Table 5
Service Retirement Eligibility Under SB 18-200
for members hired on or after January 1, 2020

Division	Years of Service Required to Retire at Any Age		Years of Service Required to Retire at a Specific Retirement Age		Years of Service Required to Retire at Age 65	
	Current Hires	SB 18-200	Current Hires	SB 18-200	Current Hires	SB 18-200
State, Local, and Judicial	35 years	40 years	Age 60, 30 years	No amount specified	5 years	5 years
Troopers	30 years	35 years	Age 50, 25 years Age 55, 20 years	Age 55, 25 years	5 years	5 years
School and DPS	35 years	40 years	Age 58, 30 years	No amount specified	5 years	5 years

Table 6
Reduced Service Retirement Eligibility Under SB 18-200
for members hired on or after January 1, 2020

	Current Law		SB 18-200	
	Age Requirement	Service Credit Requirement	Age Requirement	Service Credit Requirement
All Divisions	50 years old 55 years old 60 years old	25 years of service 20 years of service 5 years of service	55 years old 60 years old	25 years of service 5 years of service
State Troopers	50 years old	20 years of service	50 years old	20 years of service

Cost of living adjustment. The annual COLA for benefit recipients who were PERA members prior to January 1, 2007, is currently 2 percent. For the years 2018 and 2019, the bill reduces the COLA to 0 percent. For each year thereafter, the bill sets the COLA at 1.25 percent. This amount may be otherwise adjusted by the automatic adjustment provisions explained above in Table 4. The bill also requires that benefit recipients whose effective date of retirement is on or after January 1, 2011, and who have not received a COLA on or before May 1, 2018, not receive a COLA for at least three years following initial receipt of retirement benefits.

Defined contribution plan. Under current law, members in the state division hired after January 1, 2006, may elect to participate in PERA's defined contribution plan rather than its defined benefit plan. A defined contribution account receives the monthly employer contribution, as outlined in Table 3 above, while the amortization equalization disbursement (AED) and supplemental amortization equalization disbursement (SAED) payments are credited to pay down the unfunded liability of the defined benefit plan. Beginning January 1, 2020, anyone hired in the

school, Denver Public Schools, local government, and judicial divisions may elect to participate in the defined contribution plan. An employee who elects the defined contribution plan will receive their full employee contribution amount, and the employer contribution amount under current law.

Public Pension Legislative Oversight Committee. The bill replaces the existing Police Officers' and Firefighters' Pension Reform Commission, a standing legislative interim committee, with the Public Pension Legislative Oversight Committee, which is required to study and develop proposed legislation relating to the funding and benefit designs of both PERA and the Fire and Police Pension Association. The committee is comprised of four senators appointed by the Senate President; four representatives appointed by the House Speaker; and four non-voting members appointed by the State Treasurer, who are experts in the area of pensions or retirement plan designs. The committee may commission an independent review of the economic and investment assumptions used to model the PERA financial situation every three years.

State Revenue

State income tax reduction from employee contribution increase. The bill's increase in employee contributions and change in salary definition will reduce taxable income for PERA members, which will reduce state income tax collections. These estimated amounts are shown in Table 7 and use the state income tax rate of 4.63 percent and PERA's December 31, 2016, divisional payroll, which assumes a payroll growth rate of 3.5 percent per year. If a state division salary increase equal to the change in the state division employee contribution increase is signed into law, the portion of the state income tax reduction resulting from the state division employee contribution increases will be partially offset.

**Table 7
 Reduction of State Income Tax Collection Under SB 18-200***

Fiscal Year	Total Impact from Employee Contribution Rate Increase for All Divisions	Total Impact from Change to Gross Salary Definition for All Divisions	Total Impact
FY 2018-19	(\$3,100,000)	(\$700,000)	(\$3,800,000)
FY 2019-20	(\$10,700,000)	(\$900,000)	(\$11,600,000)
FY 2020-21	(\$13,200,000)	(\$1,000,000)	(\$14,200,000)

* Totals have been rounded.

Automatic rate adjustments to employee contribution. Beginning in the second half of FY 2019-20, the bill creates a mechanism in statute to automatically raise or lower employee contribution rates for all PERA divisions, as shown in Table 4. If these adjustment mechanisms are triggered, member contributions may increase up to 0.5 percent per year, capped at an additional overall 2 percent. As such, the bill will potentially reduce state income tax collections to the General Fund by additional amounts beginning in tax year 2020. This potential General Fund reduction has not been estimated.

State income tax reduction — HAS and COLA. The bill's HAS calculation and COLA reduction will reduce benefit payments from the PERA trusts, which will also reduce state income tax collections. These General Fund reductions have not been estimated.

TABOR Refund

This bill reduces state income tax revenue, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill reduces revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money for the General Fund budget in the future during years when the state does not collect revenue above the TABOR limit. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

The bill will increase state General Fund expenditures by \$200,000 for the Legislative Department in FY 2018-19. The bill may also require the state to increase its contribution rate to address defined contribution plan participation impacts on the defined benefit trusts beginning in 2022. State agency workload will increase to update payrolls to reflect new employee benefit rates and related information materials about PERA for employees. The bill may also impact the value of total compensation and employee behavior. These impacts are discussed below.

Public Pension Legislative Oversight Committee. The newly created committee is authorized to commission an independent review of the assumptions used to model PERA's financial situation, which the fiscal note estimates will be conducted in FY 2018-19 at a contract cost of \$200,000, and every three years thereafter. Legislative Department expenditures will increase for per diem and staffing costs related to the Public Pension Legislative Oversight Committee; however, because the new committee replaces an existing committee of the same size and scope, these costs continue an existing appropriation.

State and judicial division contributions. State employer's payrolls are already budgeted to include health- and transportation-related pre-tax deductions; therefore, there is no anticipated expenditure increase to these divisions from the salary definition change.

For informational purposes, total state and judicial division employee contributions are expected to increase by approximately \$27.2 million in FY 2018-19, \$82.3 million in FY 2019-20, and \$101.1 million in FY 2020-21. These amounts use PERA's December 31, 2016, divisional payroll, with an assumed payroll growth rate of 3.5 percent per year, and include employees of institutions of higher education who participate in PERA. The bill's automatic adjustment mechanism for employee contribution rates, if triggered, may increase employee contributions up to 0.5 percent per year, capped at an additional overall 2 percent.

Employer-paid defined contribution supplement. Beginning in the second half of FY 2021-22, the bill requires an adjustment to the employer contribution rate equal to the amount that would have otherwise gone to the defined benefit trusts to pay down the unfunded liability, plus any investment earnings on that amount, that occur as a result of defined contribution plan elections by employees hired after January 1, 2020. This additional contribution is conditional on the financial health of the PERA trusts and has not been estimated.

All state agencies. Beginning in the current FY 2017-18, all state agencies will have an increase in workload and costs to update employee information and put payroll deductions in place.

Total compensation. If the value of the state's retirement benefit is reduced in a future Colorado Department of Personnel and Administration Annual Compensation Report, state expenditures will increase. This potential impact has not been estimated.

Impact on state employee behavior. The fiscal note does not estimate any change to employee behavior related to retention and retirement as a result of the bill.

Local Governments and Special Districts

Similar to the state, the bill will increase expenditures for local governments.

Background. According to the most recent PERA comprehensive annual financial report, the local government division is comprised of 1 county, 27 municipalities, and 120 special districts.

All local government agencies. The bill's salary definition change is effective upon signature of the Governor, which will create an expenditure increase for local governments to modify existing budgets beginning in the current FY 2017-18.

Local government division contributions. The expenditure increase from the salary definition change for all local government division employers is expected to be \$2.7 million in FY 2018-19, \$2.9 million in FY 2019-20, and \$3.0 million in FY 2020-21, as shown in Table 8. These amounts use PERA's December 31, 2016, divisional payroll, which assumes a payroll growth rate of 3.5 percent per year.

Table 8
Local Government Division Impacts Under SB 18-200*

Impact	Year	Amount
	FY 2018-19	\$2,700,000
Employer Increase from Salary Definition Change	FY 2019-20	\$2,900,000
	FY 2020-21	\$3,000,000

**Totals have been rounded.*

For informational purposes, total local government division employee contributions are expected to increase by approximately \$6.0 million in FY 2018-19, \$18.1 million in FY 2019-20, and \$22.3 million in FY 2020-21. The bill's automatic adjustment mechanism for employee contribution rates, if triggered, may increase employee contributions up to 0.5 percent per year, capped at an additional overall 2 percent.

PERACare. Defined contribution plan participants are not eligible for the disability, survivorship, and retiree health care benefits that defined benefit plan participants are eligible for; however, defined contribution plan members may enroll in PERACare, PERA's health insurance plan. If local government division employers elect to offer this benefit to defined contribution plan participants, their costs will increase. These impacts have not been estimated.

School Districts

Similar to state and local governments, the bill will increase expenditures for school districts.

Background. There are 178 school districts in the state; 177 of which comprise the school division in PERA. Denver Public Schools merged its retirement system with PERA in 2009, and has its own PERA trust as a result.

All school districts. The bill's salary definition change is effective upon signature of the Governor, which will create an expenditure increase for school districts to modify existing budgets beginning in the current FY 2017-18.

School division contributions. The expenditure increase from the salary definition change for the school division (not including Denver Public Schools) is expected to be \$19.5 million in FY 2018-19, \$21.2 million in FY 2019-20, and \$21.9 million in FY 2020-21, as shown in Table 9. These amounts use PERA's December 31, 2016, divisional payroll, which assumes a payroll growth rate of 3.5 percent per year.

**Table 9
 School Division Impacts Under SB 18-200***

Impact	Year	Amount
	FY 2018-19	\$19,500,000
Employer Increase from Salary Definition Change	FY 2019-20	\$21,200,000
	FY 2020-21	\$21,900,000

** Totals have been rounded.*

For informational purposes, total school division employee contributions are expected to increase by approximately \$42.8 million in FY 2018-19, \$129.7 million in FY 2019-20, and \$159.4 million in FY 2020-21. The bill's automatic adjustment mechanism for employee contribution rates, if triggered, may increase employee contributions up to 0.5 percent per year, capped at an additional overall 2 percent.

Denver Public Schools division contributions. The expenditure increase from the salary definition change for the Denver Public Schools division is expected to be \$9.1 million in FY 2018-19, \$9.7 million in FY 2019-20, and \$10.4 million in FY 2020-21, as shown in Table 10. These amounts use Denver Public Schools' covered payroll projections for each calendar year calculated to match fiscal years, and assume growth of 3 percent in CY 2018 and 3.5 percent each year thereafter. Net to gross salary increases are based on actual FY 2017-18 totals through February 2018, with projections for remainder of the fiscal year, and a 7 percent expense increase for each year thereafter.

**Table 10
 Denver Public Schools Division Impacts Under SB 18-200***

Impact	Year	Amount
	FY 2018-19	\$9,100,000
Employer Increase from Salary Definition Change	FY 2019-20	\$9,700,000
	FY 2020-21	\$10,400,000

** Totals have been rounded.*

For informational purposes, total Denver Public School division employee contributions are expected to increase by approximately \$9.3 million in FY 2018-19, \$23.5 million in FY 2019-20, and \$28.5 million in FY 2020-21. The bill's automatic adjustment mechanism for employee contribution rates, if triggered, may increase employee contributions up to 0.5 percent per year, capped at an additional overall 2 percent.

PERACare. As discussed in the Local Government section, defined contribution plan participants are not eligible for the disability, survivorship, and retiree health care benefits that defined benefit plan participants are eligible for; however, defined contribution plan members may enroll in PERACare, PERA's health insurance plan. If school division employers elect to offer this benefit to defined contribution plan participants, their costs will increase. These impacts have not been estimated.

Statutory Public Entity Impact

The bill will increase revenue to the PERA trusts, with the exception of its health care trusts.

Projected actuarial funded status for PERA's trusts. The bill reduces the estimated amortization periods necessary to eliminate the unfunded actuarial accrued liability in all of PERA's trusts, as shown in Table 11. These amounts use 2016 valuations.

**Table 11
 PERA's Unfunded Liability Under SB 18-200**

Division	Amortization Period Under Current Law	Amortization Period Under SB 18-200	Total Amortization Period Reduction
State	57 years	27 years	30 years
School	77 years	28 years	49 years
Local Government	54 years	16 years	38 years
Judicial	53 years	21 years	32 years
Denver Public Schools	55 years	23 years	32 years

Cost of living adjustment impact. The bill's adjustment to the COLA payment is expected to reduce PERA benefit payments by \$91.3 million in CY 2018, \$93.1 million in CY 2019, and \$37.9 million in CY 2020. This estimate uses an annualized January 2018 benefit payroll and applies 0 percent increase in 2018 and 2019, and 1.25 percent increase for 2020. The impact to future PERA benefit payments as a result of the three-year timeout for benefit recipients whose effective date of retirement is on or after January 1, 2011, and who have not received a COLA on or before May 1, 2018, has not been estimated.

Automatic rate adjustments. The fiscal note has not estimated the potential revenue increase to PERA's trusts from the automatic COLA and employee rate adjustments.

Defined contribution supplement. Beginning in 2022, PERA will annually calculate an additional employer contribution rate to be paid by each division to supplement the amount that would have otherwise gone to the defined benefit trusts to pay down the unfunded liability, plus any investment earnings on that amount, that occur as a result of defined contribution plan elections

for employees hired after January 1, 2020. The potential additional contribution is conditional on the financial health of the PERA trusts. Because of this mechanism, any impact to PERA's trusts resulting from members electing the defined contribution plan will be offset by the defined contribution supplement paid by each division.

Impact on the PERA health care trust funds. The defined contribution election will have a negative impact on the PERA health care trust funds, resulting in an extended amortization period for these divisional health care trust funds. The fiscal note has not estimated this decrease.

State Appropriations

The bill requires and includes a General Fund appropriation of \$200,000 to the Legislative Department in FY 2018-19.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

All State, Local, and Statutory Agencies