

<b>LFC Requester:</b>	<b>Malone, Caroline</b>
-----------------------	-------------------------

**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto: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 Feb 26, 2015  
**Original**     **Amendment**        **Bill No:** HB 577  
**Correction**     **Substitute**   

**Sponsor:** Rep. David E. Adkins    **Agency Code:** Attorney General's Office  
**Short**    **Person Writing**    Rebecca Parish, AAG  
**Title:**    MUNICIPAL POST-EMPLOYMENT    **Phone:** 827-6777    **Email** rparish@nmag.gov  
BENEFIT TRUST

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis: HB 577 authorizes municipalities of over 200,000 inhabitants to create “Other Post-Employment Benefit Trusts” (“OPEB Trusts”) to which a municipality may contribute funds that are dedicated exclusively to funding retirement benefits for municipal employees.

**FISCAL IMPLICATIONS**

None for this office.

**SIGNIFICANT ISSUES**

There appear to be no legal or constitutional barriers to enacting this Bill.

In the wake of the Government Accounting Standards Board calling for revised standards for state and local government pensions, OPEB Trusts appear to be a growing option to offset the costs of health care for retired municipal employees. These trusts can also cover costs associated with other benefits, such as life insurance, disability, legal, and other services when those benefits are provided separately from a pension plan. The trusts may serve as a reserve to account for the difference between projected health care costs for retirees and actual costs.

A number of cities, including Washington, D.C., Oklahoma City, OK, and Pittsburg, PA, had created such trusts. Trusts have also been created for other public employees, for example school teachers in some districts in Wisconsin. More information from the Government Accounting Standards Board about OPEB Trusts can be found here:

[http://www.gasb.org/jsp/GASB/Document\\_C/GASBDocumentPage&cid=1176164085261](http://www.gasb.org/jsp/GASB/Document_C/GASBDocumentPage&cid=1176164085261)  
 and [http://www.gasb.org/project\\_pages/opeb\\_summary.pdf](http://www.gasb.org/project_pages/opeb_summary.pdf)

In addition, the Government Finance Officers Association has prepared a Best Practices for Establishing and Administering OPEB Trusts:

<http://www.gfoa.org/establishing-and-administering-opeb-trust>

While none appear to set up an OPEB Trust, there are other New Mexico statutes that allow for the creation of post-retirement benefits for public employees, such as NMSA 1978, Section 4-

48B-17 – Governing boards of county hospitals authorized to establish retirement plans and programs for employees of county hospitals; Section 10-11A-3 – Volunteer firefighters retirement fund; and Section 22-11-11 – Educational retirement fund.

Historically, employees’ pension benefits from most state and local governments have been legally protected from being reduced or eliminated after the fact. OPEB trusts may not have the same protections if they are not a legal or contractual obligation of the government. Consequently, some governments may be able to change the benefits or employees’ eligibility to receive benefits, or even stop providing benefits altogether, whenever they wish. These facts raise questions about whether OPEB is a liability that should be reported in the financial statements.

See [http://www.gasb.org/jsp/GASB/Document\\_C/GASBDocumentPage&cid=1176164085261](http://www.gasb.org/jsp/GASB/Document_C/GASBDocumentPage&cid=1176164085261).

**PERFORMANCE IMPLICATIONS**

None for this office.

**ADMINISTRATIVE IMPLICATIONS**

None for this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

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

Status Quo

**AMENDMENTS**

N/A