

LFC Requester:	Anne Hanika-Ortiz
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**AGENCY BILL ANALYSIS
2015 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:
Original **Amendment**
Correction **Substitute**

Date February 12, 2015
Bill No: SB 529-305

Sponsor: Sen. Clemente Sánchez
Short Title: Actuarial Liability Paid by Employer

Agency Code: Attorney General's Office
Person Writing: Sally Malavé, AAG
Phone: (505)827-6031 **Email:** smalave@nmag.gov

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)

	FY15	FY16	FY17	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

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: Senate Bill 529 adds new material to the New Mexico Public Employees Retirement Act, NMSA 1978, Section 10-11-1 to -142 (1987 and as amended) (PERA), that would hold affiliated public employers accountable for any action taken by the affiliated employers that would impact the funds administered by PERA. It authorizes the Public Employee Retirement Board (PERB), in its sole discretion, to order a study to determine the full actuarial present value attributable to actions taken or proposed by an affiliated public employer, if the action, as determined by PERB, is likely to create an actuarial liability to PERA funds in an amount equal to greater than \$1 million. If the action taken or proposed is likely to create an actuarial liability greater than \$1 million, the cost of the study shall be paid in full by the affiliated public employer in a time and manner prescribed by rules promulgated by the PERB. Action taken or proposed by an affiliated public employer includes actions applicable to any or all members of a PERA coverage plan and includes any action that exceeds the actuarial assumptions adopted by PERB.

SB 529 further provides that if an affiliated public employer takes action that the aforementioned study determines creates an actuarial liability in an amount greater than \$1 million, the employer is required to provide written acknowledgment of the liability and pay in full or contract to pay to PERA an amount equal to the full actuarial present value attributable to the affiliated employer. Affiliated public employers who fail to pay the full actuarial value shall be assessed a late fee and interest in accordance with PERB rules. SB 529 authorizes PERB to bring such action as it deems necessary to enforce its provisions.

FISCAL IMPLICATIONS There may be indeterminate fiscal implications to this office, as SB 529 authorizes PERB, through the AGO or other counsel, to initiate enforcement actions.

SIGNIFICANT ISSUES There is no appeal procedure for affiliated public employers who may need to challenge or respond to results of study.

PERFORMANCE IMPLICATIONS There may be indeterminate performance implications to this office, as SB 529 authorizes PERB, through the AGO or other counsel, to initiate enforcement actions.

ADMINISTRATIVE IMPLICATIONS See above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP None at this time.

TECHNICAL ISSUES None.

OTHER SUBSTANTIVE ISSUES None.

ALTERNATIVES None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status quo.
Affiliated public employers may take actions that may result in unforeseen adverse consequences to the funds administered by PERB.

AMENDMENTS