SB 18-200

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REVISED FISCAL NOTE

(replaces fiscal note dated April 6, 2018)

Drafting Number:	LLS 18-0477	**Date:**	April 24, 2018
Prime Sponsors:	Sen. Tate; Priola Rep. Becker K.; Pabon	**Bill Status:**	House Second Reading
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Bill Topic: MODIFICATIONS TO PERA TO ELIMINATE UNFUNDED LIABILITY

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☒ Local Government and School District
- ☒ Statutory Public Entity

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

Appropriation Summary: For FY 2018-19, the bill requires and includes an appropriation of $225 million to the Department of Treasury for disbursement to PERA.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the House Finance and the House Appropriations Committees.

Table 1
State Fiscal Impacts Under SB 18-200

		FY 2017-18 *(current year)*	FY 2018-19	FY 2019-20	FY 2020-21
Revenue	General Fund	($2.1 million)	($4.3 million)	($3.2 million)	($2.0 million)
Expenditures	General/Other Funds	-	$225.0 million	$255.8 million	$266.7 million
Transfers		-	-	-	-
TABOR Refund	General Fund	-	($4.3 million)	($3.2 million)	*not estimated*

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 average 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 Average 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	5 periods of 12 months	3 periods of 12 months

Assess PERA benefit on gross salary. For members hired on or after July 1, 2019, the bill modifies the definition of salary on which the PERA benefit is assessed to include additional items, such as pre-tax payroll deductions, and to exclude specific items, such as compensation for unused leave. An employer may request information from PERA to determine which salary definition to use depending on an employee's hire date.

Reclassification of certain peace officers as state troopers under PERA. The bill expands the definition of state trooper to include county sheriffs, undersheriffs, deputy sheriffs, noncertified deputy sheriffs, and detention officers hired by a local government division, and correctional officers hired by the state division in the same benefit structure as state troopers for those employees hired after January 1, 2020. As a result, for these reclassified members, the employer contribution rate will increase 2.7 percent, from 10.15 percent to 12.85 percent, and the employee contribution rate will increase 2.0 percent from 8.0 percent to 10.0 percent.

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.

Automatic adjustments to contribution rates and the COLA. Beginning July 1, 2019, with the first adjustment permitted on July 1, 2020, and each July 1 thereafter, PERA must annually determine whether an automatic adjustment to the employer and employee contribution rate and the cost of living adjustment (COLA) rate for retirees is required, based on certain conditions, as shown in Table 3. When an adjustment is made, it must be equally apportioned to employers, employees, and retirees, and may not exceed the maximum yearly adjustment amount.

Adjustments may occur only once in a calendar year, and are triggered when the blended total contribution amount is less than 98 percent or more than 110 percent of the blended total actuarially required contribution, using the following definitions in the bill:

- *"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.
- *"Weighted average"* means the most recent valuation of the proportion of unfunded actuarial accrued liability attributable to each division.

Table 3
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
Employer Contribution Rate	increased up to 0.5%; not to exceed statutory contribution rates plus 2% 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
Employer Contribution Rate	reduced up to 0.5%; not to be less than statutory contribution rates
Member Contribution Rate	reduced up to 0.5%; not to be less than statutory contribution rates

Direct distribution. The bill creates a direct distribution to PERA beginning in FY 2018-19, which continues until PERA determines that there is no unfunded liability for the state, judicial, school, or Denver Public Schools (DPS) divisions. In FY 2018-19 and FY 2019-20, the direct distribution is set at $225 million and $255.6 million, respectively. Beginning in FY 2020-21, the direct distribution amount is 3.0% of PERA's most current audited payroll for these four divisions. These amounts are paid to PERA from the General Fund, cash funds, and, potentially, federal funds, except in FY 2018-19 when the distribution is paid solely from the General Fund. PERA must allocate the direct distribution proportionately to the four divisions. PERA must also make a determination on the unfunded liability by September 1 of each year, and notify the Office of State Planning and Budgeting and the Joint Budget Committee when it determines that a direct distribution is no longer required to eliminate the unfunded liability.

Service retirement and reduced service retirement eligibility for new and current members. For PERA members who are hired on or after January 1, 2020, the bill modifies the number of service years required for full service retirement as shown in Table 4. The bill also modifies the number of service years required for reduced service retirement as shown in Table 5.

Table 4
Full Service Retirement Eligibility Under SB 18-200
for members hired on or after January 1, 2020

	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	
Division	***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	Age 60, 5 years*	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

** See Technical Note.*

Table 5
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

COLA timeout and rate reduction. 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 and shown in Table 3. 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.

Pension Review Committee. The bill renames the existing Police Officers' and Firefighters' Pension Reform Commission, a standing legislative interim committee, as the Pension Review Committee. In addition to its work studying and developing legislation concerning the Fire and Police Pension Association, the committee is required to study and develop legislation concerning PERA and has the ability to determine the necessity of continuing the direct distribution of state funds to PERA.

Implementation schedule. Table 6 highlights key implementation dates in the bill.

Table 6
Implementation Schedule for SB 18-200

Proposal	Effective Date
Bill takes effect ...	upon signature
Pension Review Committee in effect ...	upon signature
Two calendar year COLA timeout takes effect ...	CY 2018
Annual direct distribution takes effect ...	July 1, 2018
Salary definition change takes effect for members hired on or after ...	July 1, 2019
Contribution rate change takes effect for certain peace officers hired on or after ...	January 1, 2020
HAS calculation change takes effect for members not vested by or hired on or after ...	January 1, 2020
Retirement eligibility change takes effect for members hired on or after ...	January 1, 2020
Automatic rate adjustment may be levied (first assessed July 1, 2019) ...	July 1, 2020

State Revenue

The bill will reduce state income tax revenue collections to the General Fund by at least $2.1 million in the current FY 2017-18, $4.3 million in FY 2018-19, $3.2 million in FY 2019-20, and $2.0 million in FY 2020-21, as a result of the change in the definition of salary used to calculate the PERA benefit, the two-year COLA timeout, and the reclassification of certain peace officers to a higher benefit structure. The change in the HAS calculation for employees not vested by January 1, 2020, will create a future reduction in state income tax revenue collections. Finally, the automatic rate adjustments, if triggered, will also create a reduction in state income tax revenue collections.

State income tax reduction — salary definition change, COLA timeout, and officer reclassification. The bill will reduce state income tax revenue collections by the amounts shown in Table 7 and detailed below.

Salary definition change. Beginning in FY 2019-20, the change in the definition of salary that takes effect for members hired on or after July 1, 2019, will reduce state income tax revenue collections to the General Fund. To estimate the impact of the salary definition change, the fiscal note uses PERA's actuarial staffing projection for FY 2019-20 and beyond.

COLA timeout. Beginning in the current FY 2017-18, the 0 percent COLA rate for calendar years 2018 and 2019, and 1.25 percent COLA thereafter will reduce state income tax collections to the General Fund. To estimate the impact of the COLA timeout on state income tax collections, the fiscal note uses PERA's January 2018 benefit payroll and applies the COLA rates of 0 percent and 1.25 percent relative to the 2 percent COLA under current law.

Officer reclassification. Beginning in FY 2019-20, the reclassification of corrections officers will reduce state income tax revenue collections to the General Fund. To estimate the impact of the officer reclassification, the fiscal note uses recent average attrition and hire rates in the Departments of Corrections and Human Services, as discussed in the State Expenditures section. County-level information was not available at the time of writing. These estimates do not take into consideration future salary increases, which may partially or fully offset these impacts to the General Fund.

Table 7
Estimated Reduction in State Income Tax Collections Under SB 18-200*

FY	Salary Definition Change Reduction	Two-year COLA Timeout Reduction	Officer Reclassification Reduction	Total Reduction
FY 17-18	-	($2,114,000)	-	**($2,114,000)**
FY 18-19	-	($4,269,000)	-	**($4,269,000)**
FY 19-20	($165,000)	($3,033,000)	($16,000)	**($3,214,000)**
FY 20-21	($171,000)	($1,783,000)	($78,000)	**($2,032,000)**

** Totals have been rounded.*

Future state income tax reduction — HAS. The change in the HAS calculation for employees who are not vested by or who are hired after January 1, 2020, will reduce future benefit payments from the PERA trusts, which will also reduce state income tax collections. These General Fund reductions will likely begin around 2050, and have not been estimated.

Conditional state income tax reduction — automatic contribution and COLA rate adjustments. The automatic rate adjustment mechanism will raise or lower employer and employee contribution rates for all PERA divisions, as well as the COLA for retirees, if certain conditions are met, as shown in Table 3. If conditions are met, state income tax collections to the General Fund will be further reduced. An automatic rate adjustment may first be levied on or after July 1, 2020. The fiscal note assumes a rate adjustment will not occur until an economic recession; therefore, no estimate has been made.

TABOR Refund

This bill reduces state income tax revenue, which will reduce the amount of money required to be refunded under TABOR by similar amounts. A TABOR refund obligation is not expected for the current FY 2017-18, and has not been estimated for FY 2020-21 and beyond. 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 Expenditures

The bill will increase state expenditures by a total of $225.0 million in FY 2018-19, $255.8 million in FY 2019-20, and $266.7 million in FY 2020-21 from both a direct distribution to PERA and an increase in the employer contribution rate for corrections officers employed by the Department of Corrections (DOC) and the Department of Human Services (DHS). The change in the salary definition on which the PERA benefit is calculated is not expected to have an impact on state budgets. The bill creates a future potential expenditure impact for all state employers related to the automatic contribution rate adjustment, and a workload impact for all state employers to update information materials in the current FY 2017-18. The newly renamed Pension Review Committee has additional work to consider PERA-related legislation, which can be accomplished within existing resources. Finally, the bill may have an impact on hiring and employee behavior related to retention and retirement which has not been estimated.

Direct distribution. In FY 2018-19 and FY 2019-20, the bill sets specific direct distribution amounts to be paid to PERA of $225.0 million and $255.6 million, respectively. Beginning in FY 2020-21, the estimates use PERA's most recent audited payroll from December 31, 2016, and a payroll growth rate of 3.0 percent. In FY 2018-19, the amount is to be paid solely from the General Fund. After FY 2018-19, the amounts may be paid from General Fund and other funds. The direct distribution amounts are shown in Table 8.

Table 8
Direct Distribution Under SB 18-200

Fiscal Year	Distribution Amount
FY 2018-19	$225,000,000
FY 2019-20	$255,606,000
FY 2020-21	$265,635,040

Change in benefit rate for corrections officers. Beginning January 1, 2020, newly hired corrections officers employed by DOC and DHS will be classified in the same PERA benefit structure as state troopers. As a result, the employer contribution rate for these employers will increase by 2.70 percent, creating a total expenditure increase of $216,292 in FY 2019-20 (half-year impact), and $1,038,058 in FY 2020-21 from the General Fund. These amounts are shown in Table 9 and are based on recent average attrition and hire rates, assume the General Fund paydate shift in FY 2019-20, and reflect the salary minimums.

Table 9
Contribution Increase for Employers of Corrections Officers

Department	FTE	FY 2019-20	FTE	FY 2020-21
DOC	316.5	$147,324	633	$707,157
DHS	145.0	$68,938	290	$330,901
Total		**$216,262**		**$1,038,058**

Salary definition change — state and judicial divisions. The fiscal note assumes that state employer payrolls are already budgeted to include health- and transportation- related pre-tax deductions; therefore, no expenditure increase to these divisions from the salary definition change is anticipated beginning in FY 2019-20. The total increase in contributions to PERA resulting from the salary definition change is shown in Table 10.

Conditional contribution rate increases. The automatic rate adjustment mechanism will raise or lower employer and employee contribution rates for the state and judicial divisions if certain conditions are met, as shown in Table 3. If these conditions are met, the employer rate will increase. An automatic rate adjustment may first be made on or after July 1, 2020, may not exceed 0.5 percent annually, and may not exceed 2.0 percent in total. The fiscal note assumes a rate adjustment will not occur until an economic recession; therefore, no estimate has been made.

Pension Review Committee. The newly renamed standing interim committee has an existing Legislative Department appropriation. Support staff can accomplish additional PERA-related workload within existing appropriations.

All state agencies — updates to benefit information. Beginning in the current FY 2017-18, all state agencies will have an increase in workload to update relevant websites and materials to reflect the bill's changes to the PERA benefit, which can be accomplished within existing appropriations.

All state agencies — hiring, retention, and retirement. The fiscal note does not estimate any change to employee behavior related to hiring, 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 and special districts. 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.

Salary definition change. The bill's salary definition change will create an expenditure increase for local governments beginning in FY 2020-21. The total increase in contributions to PERA resulting from the salary definition change is shown in Table 10.

Change in benefit rate for sheriffs. Beginning January 1, 2020, newly hired county sheriffs, undersheriffs, deputy sheriffs, and noncertified deputy sheriffs will be classified in the same PERA benefit structure as state troopers, which will result in local government expenditure increases resulting from the 2.7 percent increase in the employer contribution rate for these employees (from 10.15 percent to 12.85 percent). This amount has not been estimated.

Conditional contribution rate increases. The automatic rate adjustment mechanism will raise or lower employer and employee contribution rates for the local government division if certain conditions are met, as shown in Table 3. If these conditions are met, the employer rate will increase. An automatic rate adjustment may first be made on or after July 1, 2020, may not exceed 0.5 percent annually, and may not exceed 2.0 percent in total. The fiscal note assumes a rate adjustment will not occur until an economic recession; therefore, no estimate has been made.

School Districts

Similar to state and local governments, the bill will increase expenditures for school districts. There are 178 school districts in the state; 177 of which comprise the school division in PERA. Denver Public Schools (DPS) merged its retirement system with PERA in 2009, and has its own PERA division as a result.

Salary definition change — school and DPS divisions. The bill's salary definition change will create an expenditure increase for the school and DPS divisions beginning in FY 2020-21. The total increase in contributions to PERA resulting from the salary definition change is shown in Table 10.

Conditional contribution rate increases. The automatic rate adjustment mechanism will raise or lower employer and employee contribution rates for the school and DPS divisions if certain conditions are met, as shown in Table 3. If these conditions are met, the employer rate will increase. An automatic rate adjustment may first be made on or after July 1, 2020, may not exceed 0.5 percent annually, and may not exceed 2.0 percent in total. The fiscal note assumes a rate adjustment will not occur until an economic recession; therefore, no estimate has been made.

Statutory Public Entity

Beginning in CY 2018, the bill will increase revenue to the PERA trusts on an ongoing basis.

Direct distribution. As shown in Table 8 above, revenue to the PERA trusts will increase by $225 million in FY 2018-19, $255.6 million in FY 2019-20, and an estimated $265.6 in FY 2020-21, from a direct distribution of state funds to PERA.

COLA timeout and rate reduction. The bill's adjustment to the COLA rate will allow the PERA trusts to retain an estimated $91.3 million in CY 2018, $93.1 million in CY 2019, and $37.9 million in CY 2020. The fiscal note uses PERA's January 2018 benefit payroll and applies the COLA rates of 0 percent and 1.25 percent relative to the 2 percent COLA under current law. 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.

Salary definition change. The change in the salary definition will increase revenue to PERA by an estimated $3.6 million in FY 2019-20 and $3.7 million in FY 2020-21, as shown in Table 10.

Table 10
Increase in Revenue to PERA Trusts from Salary Definition Change

Employer Contribution Increase from Salary Definition Change						
FY	**State**	**School**	**Local Gov't**	**Judicial**	**DPS**	**Total**
FY 2019-20	$920,000	$1,339,000	$136,000	$15,000	$193,000	**$2,603,000**
FY 2020-21	$926,000	$1,385,000	$141,000	$16,000	$200,000	**$2,668,000**
Employee Contribution from Salary Definition Change						
FY	**State**	**School**	**Local Gov't**	**Judicial**	**DPS**	**Total**
FY 2019-20	$324,000	$531,000	$79,000	$5,000	$77,000	**$1,016,000**
FY 2020-21	$335,000	$550,000	$82,000	$6,000	$79,000	**$1,052,000**
					FY 2019-20 Total	**$3,619,000**
					FY 2020-21 Total	**$3,720,000**

Change in benefit rate for certain officers. Employers and corrections officers hired after January 1, 2020, will pay increased contribution rates to PERA under the state trooper definition. These higher rates will cover future increased benefits for these employees, resulting in a neutral impact to PERA.

Conditional contribution rate increases. The fiscal note has not estimated the potential revenue increase to PERA's trusts from the automatic COLA, employer, and employee rate adjustments, which may first be issued on or after July 1, 2020. The fiscal note assumes a rate adjustment will not occur until an economic recession; therefore, no estimate has been made.

Projected actuarial funded status for PERA's trusts. The bill's changes to the PERA benefit — specifically the increase in years used to calculate the HAS in order to determine a member's benefit, the increased amount of salary on which the PERA benefit will be calculated on, the direct distribution of state funding to PERA, the raising of retirement ages across divisions, and a two-year COLA timeout and future COLA rate reduction — reduce 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	**29 years**	28 years
School	77 years	**30 years**	47 years
Local Government	54 years	**26 years**	28 years
Judicial	53 years	**24 years**	29 years
Denver Public Schools	55 years	**26 years**	29 years

Technical Note

In all calculations, the fiscal note assumes age 60 and 30 years of service for state division members, rather than age 60 and 5 years, which is assumed to be an unintended change.

Effective Date

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

State Appropriations

In FY 2018-19, the bill requires and includes a General Fund appropriation of $225,000,000 to the Department of Treasury for disbursement to the Colorado Public Employees' Retirement Association.

State and Local Government Contacts

All State, Local, and Statutory Agencies