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Fiscal Note

Drafting Number:	LLS 24-0698	Date:	February 13, 2024
Prime Sponsors:	Rep. Wilson	Bill Status:	House Education
		Fiscal Analyst:	John Armstrong 303-866-6289 john.armstrong@coleg.gov

Bill Topic: **CONTRACTED PRIVATE EMPLOYEE EXCLUSION FROM PERA**

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> School District
	<input type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input checked="" type="checkbox"/> Statutory Public Entity

The bill excludes third-party contractors from PERA membership through June 30, 2025. The bill may impact school district expenditures and will impact PERA revenues and expenditures in FY 2024-25 only.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill prevents the Public Employees' Retirement Association (PERA) from adding third-party employees who contract with a public entity as members of PERA from the effective date of the bill through June 30, 2025. The bill repeals on July 1, 2025.

Background

Current law allows school districts and charter schools to employ independent contractors provided the individual completes a criminal background check and otherwise meets the requirements for employment with the school for a particular position. PERA has determined that these employees are eligible for PERA.

Under current [rules](#) for PERA membership, if a PERA retiree returns to work for a PERA affiliate and is employed as an independent contractor, both the working retiree and their employer are subject to the required contributions to PERA that non-contracted employees pay. Each PERA affiliate is responsible for determining which of its employees are classified as "employees" or "independent contractors."

School District

Schools that employ third-party employees will experience cost savings from employer contributions no longer being made on behalf of third-party contract employees.

Statutory Public Entity

The bill is expected to reduce PERA's membership in FY 2024-25, which will decrease PERA's revenues and expenditures. The overall impact will vary considerably based on the number of employees who are exempt from PERA membership that are hired by PERA affiliates. Currently, the School Division of the PERA Trust Fund is projected to be fully funded in 34 years, and the Denver Public Schools (DPS) Division is projected to be fully funded in 13 years. This projection includes an expectation that membership in PERA will grow at a rate of 1 percent per year.

For informational purposes, if school districts hire enough contract employees who are exempt from PERA that the net result is no growth in membership for the next two years, with a return to 1 percent growth in the following years, the date of full funding for the School Division will be delayed by 1 year, while the DPS Division will remain in line with current projections.

Changes to the projected date in full funding may trigger PERA's Automatic Adjustment Provision, which would automatically increase employer and employee contributions to PERA while reducing retiree cost of living adjustments.

Effective Date

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

State and Local Government Contacts

Education Public Employees' Retirement Association School Districts

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).