
ASSEMBLY BILL NO. 1—COMMITTEE OF THE WHOLE

JULY 9, 2020

Referred to Committee of the Whole

SUMMARY—Revises provisions relating to public employment.
(BDR 23-11)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to programs for public personnel; temporarily increasing the limitation on the amount of annual leave that certain state employees are authorized to carry forward to the next calendar year; providing for a 1-month suspension during Fiscal Year 2020-2021 of the payment of subsidies by the State to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees; requiring state employees to take a certain number of hours of unpaid furlough leave during Fiscal Year 2020-2021; providing exceptions to the furlough requirement; providing that employees who take certain furlough leave are held harmless in the accumulation of service credit and reported salary for retirement under the Public Employees' Retirement System; prohibiting the granting of any merit pay increases to state employees during Fiscal Year 2020-2021; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, employees in the Executive Department of the State
2 Government are entitled to a prescribed amount of annual leave for each month of
3 continuous public service. With certain exceptions, existing law provides that any
4 annual leave in excess of 30 working days must be used before January 1 of the
5 year following the year in which the annual leave in excess of 30 working days is
6 accumulated or the amount of annual leave in excess of 30 working days is
7 forfeited on that date. (NRS 284.350) For purposes of calendar years 2020 and
8 2021, **sections 1 and 8** of this bill increase to 40 working days the limitation on the



9 amount of annual leave that an employee is authorized to carry forward from each
10 of those calendar years to the next calendar year.

11 Existing law requires each state agency that participates in the Public
12 Employees' Benefits Program to pay to the Program a monthly assessment for each
13 state officer and employee who is employed by the agency on a permanent and full-
14 time basis and who elects to participate in the Program. (NRS 287.044, 287.0445)
15 In addition, the State is also required to pay to the Program a portion of the cost of
16 the premiums or contributions for group insurance for persons who retire with state
17 service and continue to participate in the Program. (NRS 287.046) The monthly
18 amounts of these subsidies are established for each fiscal year biennially. (*See, e.g.*,
19 chapter 523, Statutes of Nevada 2019, p. 3118) **Section 2** of this bill provides for a
20 state agency premium holiday by requiring that a participating state agency only
21 pay such subsidies for 11 months in Fiscal Year 2020-2021. Although a
22 corresponding premium holiday is not provided for the state officers and employees
23 and retirees in this bill, **section 2** specifically provides that those state officers and
24 employees and retirees must not be required to pay the portion of the cost of the
25 premiums and contributions that would have otherwise been paid by the State
26 during the one month of the premium holiday.

27 **Section 3** of this bill requires each full-time state employee to take 96 hours of
28 unpaid furlough leave, and part-time employees to take a proportional amount of
29 such hours, in Fiscal Year 2020-2021 unless: (1) the employee's position is
30 exempted from this requirement pursuant to **section 5** of this bill because the
31 employee is determined to fill a position of critical need; or (2) the employee is
32 employed by the Department of Tourism and Cultural Affairs and has a standard
33 workweek of 32 hours. If an employee's position is exempted from the furlough
34 requirement, **section 5** requires that the employee's salary be reduced by 4.6
35 percent, or a prorated amount if the employee is employed part-time, during the
36 period in Fiscal Year 2020-2021 that the position is not subject to furlough leave.
37 **Section 4** of this bill provides that state employees and employees of the other
38 employers who participate in the Public Employees' Retirement System who take
39 furlough leave due to extreme financial need are held harmless in the accumulation
40 of retirement service credit and reported salary for purposes of their retirement.

41 **Section 6** of this bill prohibits the granting of any merit pay increases to state
42 employees during Fiscal Year 2020-2021.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 284.350 is hereby amended to read as follows:
2 284.350 1. Except as otherwise provided in subsections 2, 3
3 and 4, an employee in the public service, whether in the classified or
4 unclassified service, is entitled to annual leave with pay of 1 1/4
5 working days for each month of continuous public service. The
6 annual leave may be cumulative from year to year not to exceed
7 ~~30~~ 40 working days. The Commission may by regulation provide
8 for additional annual leave for long-term employees and for prorated
9 annual leave for part-time employees.

10 2. Except as otherwise provided in this subsection, any annual
11 leave in excess of ~~30~~ 40 working days must be used before
12 January 1 of the year following the year in which the annual leave in



1 excess of ~~30~~ 40 working days is accumulated or the amount of
2 annual leave in excess of ~~30~~ 40 working days is forfeited on that
3 date. If an employee:

4 (a) On or before October 15, requests permission to take annual
5 leave; and

6 (b) The employee's request for leave is denied in writing for any
7 reason,

8 ➤ the employee is entitled to payment for any annual leave in
9 excess of ~~30~~ 40 working days which the employee requested to
10 take and which the employee would otherwise forfeit as the result of
11 the denial of the employee's request, unless the employee has final
12 authority to approve use of the employee's own accrued leave and
13 the employee received payment pursuant to this subsection for any
14 unused annual leave in excess of ~~30~~ 40 working days accumulated
15 during the immediately preceding calendar year. The payment for
16 the employee's unused annual leave must be made to the employee
17 not later than January 31.

18 3. Officers and members of the faculty of the Nevada System
19 of Higher Education are entitled to annual leave as provided by the
20 regulations adopted pursuant to subsection 2 of NRS 284.345.

21 4. The Commission shall establish by regulation a schedule for
22 the accrual of annual leave for employees who regularly work more
23 than 40 hours per week or 80 hours biweekly. The schedule must
24 provide for the accrual of annual leave at the same rate
25 proportionately as employees who work a 40-hour week accrue
26 annual leave.

27 5. No elected state officer may be paid for accumulated annual
28 leave upon termination of the officer's service.

29 6. During the first 6 months of employment of any employee in
30 the public service, annual leave accrues as provided in subsection 1,
31 but no annual leave may be taken during that period.

32 7. No employee in the public service may be paid for
33 accumulated annual leave upon termination of employment unless
34 the employee has been employed for 6 months or more.

35 8. Upon the request of an employee, the appointing authority of
36 the employee may approve the reduction or satisfaction of an
37 overpayment of the salary of the employee that was not obtained by
38 the fraud or willful misrepresentation of the employee with a
39 corresponding amount of the accrued annual leave of the employee.

40 **Sec. 2.** 1. Notwithstanding any provision of law to the
41 contrary:

42 (a) A participating state agency is required to pay the State's
43 share of the cost of premiums or contributions for group insurance
44 to the Public Employees' Benefits Program for only 11 months of
45 Fiscal Year 2020-2021 for each permanent, full-time state officer or



1 employee who elects to participate in the Program or person who
2 retires with state service and who elects to continue to participate in
3 the Program.

4 (b) No increase in deductions from the compensation of such a
5 state officer or employee, or from the retirement benefit of such a
6 retired person from the Public Employees' Retirement System, for
7 the cost of his or her premiums or contributions for group insurance
8 may result from the provisions of paragraph (a).

9 2. Each participating state agency that received an
10 appropriation from the State General Fund, or is authorized to
11 expend money from the State General Fund, for its operations
12 during Fiscal Year 2020-2021 shall determine the amount of those
13 appropriations or authorizations that it would have paid to the Public
14 Employees' Benefits Program for the one month of Fiscal Year
15 2020-2021 for which it is not required to make payments to the
16 Program. Upon approval of the Chief of the Budget Division of the
17 Office of Finance, the Senate Fiscal Analyst and the Assembly
18 Fiscal Analyst, revisions in the work programs for Fiscal Year 2020-
19 2021 for those participating state agencies must be processed and
20 carried out without further approval by the Legislature or the
21 Interim Finance Committee, to transfer the amount determined by
22 the participating state agency pursuant to this subsection to Category
23 93, Reserve for Reversion, within the appropriate account of the
24 participating state agency.

25 3. Notwithstanding any other provision of law to the contrary,
26 all money transferred to Category 93, Reserve for Reversion,
27 pursuant to subsection 2 must, as soon as practicable, be transferred
28 to Budget Account 101-9015, Budget Reserve, and must be reverted
29 to the State General Fund on or before September 17, 2021.

30 4. As used in this section, "participating state agency" means a
31 department, commission, board, bureau or other agency of the
32 Executive, Legislative or Judicial Department of the State
33 Government, including, without limitation, the Public Employees'
34 Retirement System, the Nevada System of Higher Education and a
35 regulatory body, as defined in NRS 622.060.

36 **Sec. 3.** 1. Except as otherwise provided in section 5 of this
37 act:

38 (a) For the period beginning on July 1, 2020, and ending on
39 June 30, 2021, each employee of the State shall:

40 (1) If he or she is a full-time employee, take 96 hours of
41 unpaid furlough leave during the fiscal year.

42 (2) If he or she is employed less than full time, take a number
43 of hours of unpaid furlough leave during the fiscal year which is
44 equal to the average number of hours worked per working day
45 multiplied by 12.



1 (b) Except as otherwise provided in subsections 4 and 5, the
2 requirements in paragraph (a) apply to all Departments of the State
3 Government and includes the Nevada System of Higher Education,
4 the Public Employees' Retirement System and all other entities of
5 the State Government.

6 2. Furlough leave pursuant to this section must be scheduled
7 and approved in the same manner as other leave. Notwithstanding
8 any statute or regulation to the contrary and except as otherwise
9 provided pursuant to subsections 3 and 4, an employee who is on
10 furlough leave is considered to have worked that day or portion of a
11 day, as applicable, for all purposes except payment of salary and
12 determination of overtime, including without limitation:

- 13 (a) Accrual of sick and annual leave;
- 14 (b) Determining the employee's pay progression date;
- 15 (c) The duration of a probationary period;
- 16 (d) Determining eligibility for holiday pay if the shift
17 immediately precedes a holiday;
- 18 (e) Seniority for all purposes, including layoffs;
- 19 (f) The Public Employees' Benefits Program; and
- 20 (g) The Public Employees' Retirement System, including for the
21 purposes of contributions to the System, subject to the requirements
22 of sections 4 and 5 of this act.

23 3. Except as otherwise provided in subsection 4, the Personnel
24 Commission shall adopt regulations to carry out the provisions of
25 this section for the employees of the Executive Department of the
26 State Government.

27 4. For the purposes of this section:

28 (a) The Board of Regents of the University of Nevada shall
29 determine and implement the method by which the professional
30 employees of the Nevada System of Higher Education will
31 participate in the requirements pertaining to furlough leave pursuant
32 to this section.

33 (b) The Public Employees' Retirement Board shall determine
34 and implement the method by which the employees of the Public
35 Employees' Retirement System will participate in the requirements
36 pertaining to furlough leave pursuant to this section.

37 (c) The Supreme Court of Nevada shall determine and
38 implement the method by which the employees of the Judicial
39 Department of the State Government will participate in the
40 requirements pertaining to furlough leave pursuant to this section.

41 (d) The Legislative Commission shall determine and implement
42 the method by which the employees of the Legislative Department
43 of the State Government will participate in the requirements
44 pertaining to furlough leave pursuant to this section.



1 5. The requirements of this section do not apply to employees
2 of the Department of Tourism and Cultural Affairs whose standard
3 workweek is 32 hours.

4 **Sec. 4.** 1. It is the intent of the Legislature to establish a
5 program whereby employees of the State and other participating
6 employers who take furlough leave due to extreme fiscal need,
7 including employees required to take furlough leave pursuant to
8 section 3 of this act, be held harmless in the accumulation of
9 retirement service credit and reported salary pursuant to chapter 286
10 of NRS.

11 2. Except as otherwise required as a result of NRS 286.537 and
12 notwithstanding the provisions of NRS 286.481, an employee is
13 entitled to receive full service credit for time taken as furlough leave
14 pursuant to the program established pursuant to section 3 of this act
15 if:

16 (a) The employee does not take more than 96 hours of furlough
17 leave in the fiscal year; and

18 (b) The public employer certifies to the System that the
19 employer is participating in the furlough program established
20 pursuant to section 3 of this act and that the furlough leave which is
21 reported for the employee is taken in accordance with the
22 requirements of section 3 of this act.

23 3. In any month in which a day, or a portion of a day, of
24 furlough leave is taken, an employee is entitled to receive full-time
25 service credit for the furlough leave in accordance with the normal
26 workday for the employee. An employee who is less than full time
27 is entitled to service credit in the same manner and to the same
28 extent as though the employee had worked the hours taken as
29 furlough leave.

30 4. When a member is on furlough leave pursuant to the
31 program certified by the public employer in accordance with this
32 section, the public employer must:

33 (a) Include all information required by the System on the public
34 employer's regular monthly retirement report as provided in NRS
35 286.460; and

36 (b) Pay all required employer and employee contributions to the
37 System based on the compensation that would have been paid to
38 the member but for the member's participation in the program. The
39 public employer may recover from the employee the amount of the
40 employee contributions set forth in NRS 286.410.

41 5. Service credit under the program established pursuant to this
42 section must be computed according to the fiscal year.

43 6. As used in this section:



1 (a) "Member" has the meaning ascribed to it in NRS 286.050.
2 (b) "Public employer" has the meaning ascribed to it in
3 NRS 286.070.

4 (c) "System" means the Public Employees' Retirement System.

5 **Sec. 5.** 1. It is the intent of the Legislature to limit
6 exceptions to the requirement of furlough leave for employees of the
7 State pursuant to section 3 of this act to identified areas of critical
8 need. If an employer, including the State, participating in the
9 program established pursuant to section 3 of this act determines that
10 a position cannot be subject to furlough leave because of the need to
11 provide appropriate services that are necessary to the protection of
12 public health, safety and welfare, the governing body of the agency
13 must make findings on the record in a public meeting that:

14 (a) The position is necessary to the protection of public health,
15 safety or welfare;

16 (b) The public health, safety or welfare will be significantly
17 diminished if mandatory furlough leave is implemented for
18 employees in these positions; and

19 (c) No alternatives exist to provide for the protection of public
20 health, safety or welfare.

21 2. For the purposes of subsection 1:

22 (a) Except as otherwise provided in this subsection, the State
23 Board of Examiners shall determine positions within the Executive
24 Department of the State Government that cannot be subject to
25 furlough leave.

26 (b) The Board of Regents of the University of Nevada shall
27 determine positions within the Nevada System of Higher Education
28 that cannot be subject to furlough leave.

29 (c) The Public Employees' Retirement Board shall determine
30 positions within the Public Employees' Retirement System that
31 cannot be subject to furlough leave.

32 (d) The Supreme Court of Nevada shall determine positions
33 within the Judicial Department of the State Government that cannot
34 be subject to furlough leave.

35 (e) The Legislative Commission shall determine positions
36 within the Legislative Department of the State Government that
37 cannot be subject to furlough leave.

38 3. The entities described in subsection 2 shall report to the
39 Interim Finance Committee on a quarterly basis all positions that
40 have been determined not to be subject to furlough leave pursuant to
41 this section and the reasons for such determinations.

42 4. If the position of a full-time employee is determined not to
43 be subject to furlough leave pursuant to this section, the salary of the
44 employee must be reduced by 4.6 percent for the portion of the
45 period beginning on July 1, 2020, and ending on June 30, 2021,



1 during which the position is not subject to furlough leave. If the
2 position of an employee who is employed less than full time is
3 determined not to be subject to furlough leave pursuant to this
4 section, the salary of the employee must be reduced by a prorated
5 amount of the 4.6 percent based on the number of hours worked by
6 the employee for the portion of the period beginning on July 1,
7 2020, and ending on June 30, 2021, during which the position is not
8 subject to furlough leave.

9 **Sec. 6.** Notwithstanding any provision of law to the contrary,
10 no merit pay increase to which a state employee would otherwise be
11 entitled during Fiscal Year 2020-2021 may be granted during that
12 fiscal year. For the purposes of merit pay increases granted on
13 or after July 1, 2021, a state employee is not entitled to any
14 increases that would otherwise have been granted during Fiscal Year
15 2020-2021.

16 **Sec. 7.** 1. Upon approval of the Chief of the Budget Division
17 of the Office of Finance, the Senate Fiscal Analyst and the
18 Assembly Fiscal Analyst, revisions in the work programs for Fiscal
19 Year 2020-2021 to implement the provisions of sections 3 to 6,
20 inclusive, of this act must be processed and carried out without
21 further approval by the Legislature or the Interim Finance
22 Committee, to transfer the amounts determined to implement those
23 provisions to Category 93, Reserve for Reversion, within the
24 appropriate account of the participating state agency.

25 2. Notwithstanding any other provision of law to the contrary,
26 all money transferred to Category 93, Reserve for Reversion,
27 pursuant to subsection 1 must, as soon as practicable, be transferred
28 to Budget Account 101-9015, Budget Reserve, and must be reverted
29 to the State General Fund on or before September 17, 2021.

30 **Sec. 8.** 1. This act becomes effective upon passage and
31 approval.

32 2. The amendatory provisions of section 1 of this act expire by
33 limitation on January 31, 2022.

