

Assembly Bill No. 189--Committee on Government Affairs

CHAPTER.....

AN ACT relating to the public employees' retirement system; authorizing legislators who are also public employees to obtain credit for retirement under the system for periods of service in the Nevada Legislature while on leave from public employment in certain circumstances; requiring certain members of the Nevada gaming commission to participate in the system; authorizing the system to calculate the elective service of certain members as regular service under certain circumstances; amending the benefit formula in certain circumstances; authorizing a public employer to contribute to a retirement fund that is not a part of the system on behalf of certain retired employees; authorizing members to use money from various retirement plans for the purchase of service under certain circumstances; increasing certain survivor benefits; raising the amounts of certain minimum cumulative benefits; eliminating the requirement of marriage to receive benefits under certain circumstances; and providing other matters properly relating thereto.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise required as a result of NRS 286.535 or 286.537:

1. A public employee on a leave of absence to serve in the Nevada legislature may remain a contributing member of the system during the leave of absence if retirement contributions to the system are paid by the legislator at the contribution rate otherwise applicable to him as a public employee during the period in which he is on the leave of absence to serve in the Nevada legislature.

2. When a public employee on a leave of absence to serve in the Nevada legislature continues to be a contributing member of the system pursuant to subsection 1, the employee shall pay the contributions required directly to the system. The system shall ensure that the employer of the public employee who is on a leave of absence to serve in the Nevada legislature provides to the system documentation of the period during which the employee is on the leave of absence. The public employer is not required to pay the employer contribution during the leave of absence.

3. A public employee on a leave of absence to serve in the Nevada legislature may elect to have the amount deducted pursuant to NRS 218.2387 paid to the system to partially offset the contributions that the employee is required to pay to remain a member of the system.

4. A public employee who makes the election authorized pursuant to this section does not accrue any service credit for retirement under the legislators' retirement system after the date of his election pursuant to this section becomes effective.

5. For the purposes of this section, “compensation” shall be deemed to be the salary paid for the position from which the employee is on leave.

Sec. 2. NRS 286.025 is hereby amended to read as follows:

286.025 1. Except as otherwise provided by specific statute, “compensation” is the salary paid to a member by his principal public employer.

2. The term includes:

(a) Base pay, which is the monthly rate of pay excluding all fringe benefits.

(b) Additional payment for longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal work week or pay period for that employee, holding oneself ready for duty while off duty and returning to duty after one’s regular working hours.

(c) Payment for extra duty assignments if it is the standard practice of the public employer to include such pay in the employment contract or official job description for the calendar or academic year in which it is paid and such pay is specifically included in the member’s employment contract or official job description.

(d) The aggregate compensation paid by two separate public employers ~~if~~ if one member is employed half time or more by one, and half time or less by the other, if the total does not exceed full-time employment ~~and~~, **if** the duties of both positions are similar and **if** the employment is pursuant to a continuing relationship between the employers.

3. The term does not include ~~the~~:

~~—(a) Payment for overtime, terminal leave or secondary employment.~~
~~—(b) Payment for employment which is not eligible service.~~
~~—(c) Except as provided in NRS 286.477, any bonus or additional salary which is paid to an employee on account of his promise, express or implied, to retire on a specified date or within a specified period, or any bonus or additional salary paid to an employee predicated upon his eligibility to retire whether promised or not. Failure to pay a like bonus or additional salary to another employee in like circumstances who has not promised so to retire creates a rebuttable presumption that payment to the first employee was on account of his promise.] any type of payment not specifically described in subsection 2.~~

Sec. 3. NRS 286.293 is hereby amended to read as follows:

286.293 1. The following employees of public employers shall participate in the system:

~~1.]~~ **(a)** Those employed on or after July 1, 1977, in positions considered to be half time or more according to the full-time work schedule established for that public employer.

~~2.]~~ **(b)** Elected officials or persons appointed to elective positions who are elected or appointed after July 1, 1975, except where excluded by NRS 286.297.

~~13.1~~ (c) A member whose allowance is vested or who is contributing immediately before a legislative session who is employed on or after January 1, 1981, by either house of the legislature or by the legislative counsel bureau.

(d) A member of the Nevada gaming commission.

2. The board shall establish standards for determining what constitutes a full-time work schedule pursuant to paragraph (a) of subsection 1.

Sec. 4. NRS 286.300 is hereby amended to read as follows:

286.300 Except as otherwise required as a result of NRS 286.537:

1. Any member of the system may purchase all previous creditable service performed with his present employing agency if that service was performed before the enrollment of his agency in the system, even if the service is still creditable in some other system where it cannot be canceled. The public employer must certify the inclusive dates of employment and number of hours regularly worked by the member to validate the service. The member must pay the full actuarial cost as determined by the actuary.

2. In addition to the purchase authorized pursuant to the provisions of subsection 1, any member who has 5 years of creditable service may purchase up to 5 years of service. The member must pay the full actuarial cost of the service as determined by an actuary of the system.

3. In addition to the purchase authorized pursuant to the provisions of subsection 1, any member who:

(a) Is a licensed teacher;

(b) Has 5 years of creditable service;

(c) Is, pursuant to statute, regulation or contract, entitled to payment for unused sick leave; and

(d) Is employed by the board of trustees of a school district that has, pursuant to subsection 5 of NRS 391.180, provided for the payment of unused sick leave in the form of purchase of service, may cause to be purchased on his behalf service credit, not to exceed the number of hours of unused sick leave or 1 year, whichever is less. The full actuarial cost of the service as determined by an actuary of the system must be paid for such a purchase. Any service credit purchased pursuant to this subsection must be included as a part of, and is not in addition to, service purchased pursuant to subsection 2.

4. Any member of the system may use:

(a) All or any portion of the balance of the member's interest in a qualified trust pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. § 401(a); or

(b) The money contained in an individual retirement account or an individual retirement annuity of a member, the entire amount of which is:

(1) Attributable to a qualified distribution from a qualified trust pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. § 401(a); and

(2) Qualified as an eligible rollover distribution pursuant to section 402 of the Internal Revenue Code, 26 U.S.C. § 402, to purchase creditable service pursuant to subsection 1 or 2.

Sec. 5. NRS 286.470 is hereby amended to read as follows:

286.470 1. Except as otherwise required as a result of NRS 286.535 or 286.537, ***or as otherwise provided in subsection 3,*** average compensation for service performed as a county commissioner, councilman or mayor must be calculated as follows for those members whose effective date of retirement is after May 19, 1975:

(a) Service retirement allowance for elective service must be computed on the basis of the highest 36 consecutive months of elective service multiplied by the percentage of average compensation earned during such service.

(b) Service retirement allowance for regular service must be computed on the basis of the highest 36 consecutive months of regular service multiplied by the percentage of average compensation earned during such service.

(c) The service retirement allowances for elective service and for regular service are added together to provide the total unmodified service retirement allowance earned by the member.

(d) Average compensation for service before July 1, 1977, is computed from the sum of both salaries when a member is employed simultaneously as a regular member and as a county commissioner, councilman or mayor.

2. A member who has service as a county commissioner, councilman or mayor may, upon retirement, waive such service and have his allowances computed as a regular member.

3. If a member who has service as a county commissioner, councilman or mayor has an average salary for the entire period of elective service that is equal to or greater than the average salary of a member for regular service for the same period, the calculations required pursuant to subsection 1 do not apply and the member must receive credit for regular service.

Sec. 6. NRS 286.481 is hereby amended to read as follows:

286.481 A member shall not be credited with service for:

1. ~~{Leave}~~ ***Except as otherwise provided in section 1 of this act, leave*** of absence without pay;

2. Overtime work;

3. Employment in a position which does not qualify him for participation in the system;

4. More than 1 day within a day, 1 month within a month, or 1 year of service in any 12-month period; or

5. Any period for which compensation is not received by the member unless specifically otherwise provided in this chapter.

Sec. 7. NRS 286.501 is hereby amended to read as follows:

286.501 Each member who is employed by a school district for less than 12 months per school year and each member of the professional staff

of the University and Community College System of Nevada employed for the academic year who is employed for less than 12 months per fiscal year is credited with service as follows:

1. Service is credited on the basis of a full year if the member works full time for the full school year.
 2. Employment for a part of a school year is credited on a ratio of one and one-third days for each day worked, but credit may not be given in advance or until the appropriate period has expired.
 3. A full year of service is not credited until the full 12-month period has expired. If the employee begins work under a new contract before the expiration of the 12-month period for the old contract, credit must be granted for the period of overlap, as certified by the school district, at the first period in which there is a lapse in service.
 4. Service credit under this section must be computed according to:
 - (a) The school year ~~extending from September 1 to August 31~~ for school district employees.
 - (b) The fiscal year for members of the professional staff of the University and Community College System of Nevada.
 5. A member receives full credit while on sabbatical leave if the public employer certifies that the compensation and contributions reported for the member are the same as if he were employed full time. If the employer does not so certify, the member receives credit in the proportion that his actual compensation bears to his previous compensation.
- No member may receive less credit under this section than was provided under the law in force when the credit was earned.

Sec. 8. NRS 286.520 is hereby amended to read as follows:

286.520 1. Except as otherwise provided in subsections 4, 5 and 6 and NRS 286.525, the consequences of the employment of a retired employee are:

(a) A retired employee who accepts employment or an independent contract with a public employer under this system is disqualified from receiving any allowances under this system for the duration of that employment or contract if:

- (1) He accepted the employment or contract within 90 calendar days after the effective date of his retirement; or
- (2) He is employed in a position which is eligible to participate in this system.

(b) If a retired employee accepts employment or an independent contract with a public employer under this system more than 90 calendar days after the effective date of his retirement in a position which is not eligible to participate in this system his allowance under this system terminates upon his earning an amount equal to one-half of the average salary for participating public employees who are not police officers or firemen in any fiscal year, for the duration of that employment or contract.

(c) If a retired employee accepts employment with an employer who is not a public employer under this system, the employee is entitled to the same allowances as a retired employee who has no employment.

2. The retired employee and the public employer shall notify the system:

(a) Within 10 days after the first day of an employment or contract governed by paragraph (a);

(b) Within 30 days after the first day of an employment or contract governed by paragraph (b); and

(c) Within 10 days after a retired employee earns more than one-half of the average salary for participating public employees who are not police officers or firemen in any fiscal year from an employment or contract governed by paragraph (b),
of subsection 1.

3. For the purposes of this section, the average salary for participating public employees who are not police officers or firemen must be computed on the basis of the most recent actuarial valuation of the system.

4. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member. *A public employer may pay contributions on behalf of such a retired employee to a retirement fund which is not a part of the system in an amount not to exceed the amount of the contributions that the public employer would pay to the system on behalf of a participating public employee who serves in the same office.*

5. The system may waive for one period of 30 days or less a retired employee's disqualification under this section if the public employer certifies in writing, in advance, that the retired employee is recalled to meet an emergency and that no other qualified person is immediately available.

6. A person who accepts employment or an independent contract with either house of the legislature or by the legislative counsel bureau is exempt from the provisions of subsections 1 and 2 for the duration of that employment or contract.

Sec. 9. NRS 286.525 is hereby amended to read as follows:

286.525 1. A retired employee who accepts employment in a position *whose occupant is thereby* eligible for membership may enroll in the system as of the effective date of that employment. ~~[If he so enrolls:]~~ *As of the date of enrollment:*

(a) He forfeits all retirement allowances for the duration of that employment.

(b) ~~[Upon termination of the employment, he]~~ *He* is entitled to receive, *after the termination of the employment and* upon written request, a refund of all contributions made by him during the employment. Except as otherwise required as a result of NRS 286.535 or 286.537, if he does not request the refund and the duration of the employment was at least 6

months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment was:

(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance.

(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 286.545.

2. The original service retirement allowance of such a retired employee must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:

(a) NRS 286.551; and

(b) Section 415 of the Internal Revenue Code , ~~{H}~~ 26 U.S.C. § 415 , ~~{D}~~ if the member's effective date of membership is on or after January 1, 1990.

3. Except as otherwise required as a result of NRS ~~286.470~~, 286.535 or 286.537, a retired employee who has been receiving a retirement allowance and who is reemployed and ~~{enrolls}~~ **is enrolled** in the system for at least 5 years may ~~{elect to return all retirement allowances plus interest from the date of return to employment to the date of repayment and}~~ have his additional credit for service added to his previous credit for service. ~~{If he chooses to do so, he shall be deemed a continuing employee with a break in service. This election}~~ **This additional credit for service** must not apply to more than one period of employment after the original retirement.

4. The survivor of a deceased member who had previously retired and was rehired and enrolled in the system, who qualifies for benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible for the benefits based on the service accrued through the second period of employment . ~~{if the member elected to receive his service retirement allowance without modification.}~~

Sec. 10. NRS 286.667 is hereby amended to read as follows:

286.667 1. A retired employee whose service or disability retirement allowance is payable from the police and firemen's retirement fund is entitled to receive his allowance without modification.

2. Upon the death of such a person, a person who was his spouse ~~{both}~~ at the time of his retirement ~~{and the time of his death}~~ is entitled, upon attaining the age of 50 years, to receive a benefit equal to 50 percent of the allowance to which the retired employee was entitled.

3. This section does not apply to a person who:

(a) Begins receiving a service or disability retirement allowance or a benefit from the police and firemen's retirement fund before July 1, 1981.

(b) At the time of his retirement, elects one of the alternatives to an unmodified retirement allowance.

4. Service performed after July 1, 1981, in positions other than as a police officer or fireman, except military service, may not be credited toward the benefit conferred by this section. A police officer or fireman who has performed service which is not creditable toward this benefit may elect to:

- (a) Select a retirement option other than one permitted by this section;
- (b) Receive the benefit conferred by this section ~~H~~ with a spouse's benefit reduced by a proportion equal to that which the service which is not creditable bears to his total service; or
- (c) Purchase the additional spouse's benefit at the time he retires by paying the full actuarial cost as computed for his situation by the actuary of the system.

5. The entire cost of the benefit conferred by this section must be paid by the employee. Each employer must adjust the salaries of its employees who are eligible for the benefit to offset its cost to the employer. Employers who adjust salaries pursuant to this subsection do not by doing so violate any collective bargaining agreement or other contract.

Sec. 11. NRS 286.673 is hereby amended to read as follows:

286.673 1. Except as limited by NRS 286.6775, each child of a deceased member is entitled to receive a cumulative benefit of at least ~~[\$350]~~ \$400 per month, beginning on the first day of the month following the member's death.

2. Except as *otherwise* provided in subsections 3 and 4, payments to any child cease on the last day of the month of:

- (a) His adoption;
- (b) His death;
- (c) His marriage; or
- (d) His attaining the age of 18 years.

3. These benefits may be paid to the child of a deceased member until the last day of the month of his 23rd birthday if he was, at the time of the member's death, and continues thereafter to be, a full-time student in any accredited:

- (a) High school;
- (b) Vocational or technical school; or
- (c) College or university.

4. These benefits may be commenced or extended indefinitely beyond a child's 18th birthday if and so long as he is determined by the system to be:

- (a) Financially dependent; and
- (b) Physically or mentally incompetent.

5. All benefits under this section may be paid by the system to the child's:

- (a) Surviving parent; or
- (b) Legal guardian.

6. The board shall establish uniform standards and procedures for determining whether a child is:

- (a) A full-time student;
- (b) Financially dependent; and
- (c) Physically or mentally incompetent.

Sec. 12. NRS 286.674 is hereby amended to read as follows:

286.674 1. The spouse of a deceased member is entitled to receive a cumulative benefit of at least ~~[\$400]~~ \$450 per month. The payments must begin on the first day of the month immediately following the death of the member and must cease on the last day of the month in which the spouse dies. ~~[for remarries.]~~ If payments cease before the total amount of contributions made by the deceased member have been received by the spouse, the surplus of contributions over payments received must be paid to the spouse.

2. The benefits paid pursuant to this section are in addition to any benefits paid pursuant to NRS 286.673.

Sec. 13. NRS 286.676 is hereby amended to read as follows:

286.676 1. Except as limited by subsections 3 and 4, the spouse of a deceased member who had 10 or more years of accredited contributing service is entitled to receive a monthly allowance equivalent to that provided by:

- (a) Option 3 in NRS 286.590, if the deceased member had less than ~~[20]~~ 15 years of service on the date of his death; or
- (b) Option 2 in NRS 286.590, if the deceased member had more than ~~[20]~~ 15 years of service on the date of his death.

~~[For purposes of applying]~~ To apply the provisions of Options 2 and 3, the deceased member shall be deemed to have retired on the date of his death immediately after having named the spouse as beneficiary under the applicable option. This benefit must be computed without any reduction for age for the deceased member. The benefits provided by this subsection must be paid to the spouse for the remainder of the spouse's life.

2. The spouse may elect to receive the benefits provided by any one of the following only:

- (a) This section;
- (b) NRS 286.674; or
- (c) NRS 286.678.

3. The benefit payable to the spouse of a member who died before May 19, 1975, is limited to a spouse who received at least 50 percent of his support from the member during the 6 months immediately preceding the member's death and to the amounts provided in this subsection. ~~[If, at the time of his death, the member had 15 or more years of service, his spouse, upon attaining the age of 60 years, may receive a cumulative benefit of at least \$400 per month or 50 percent of the average salary received by the deceased member for the 3 consecutive highest salaried years of his last 10 years of service, whichever is less.]~~ If, at the time of his death, the member had ~~[20]~~ 15 or more years of service and did not elect an optional retirement plan as offered in this chapter, his spouse, upon attaining the age of 60 years, may receive a cumulative benefit of at least ~~[\$400]~~ \$450 per

month or 50 percent of the average salary received by the member for the 3 consecutive highest salaried years of his last 10 years of service, whichever is less. Payments, or the right to receive payments, must cease upon the death ~~for remarriage~~ of the spouse. Benefits under this section are not renewable following termination.

4. The benefits provided by paragraph (a) of subsection 1 may only be paid to the spouses of members who died on or after May 19, 1975.

Sec. 14. NRS 286.677 is hereby amended to read as follows:

286.677 If payments or refunds are not made under the provisions of NRS 286.673, 286.674 or 286.676 , the dependent parent of a deceased member is entitled to receive a cumulative benefit of at least ~~[\$350]~~ \$400 per month, and if there are two dependent parents each is entitled to receive a cumulative benefit of at least ~~[\$350]~~ \$400 per month. Payments to any parent under this section must cease upon the death ~~for remarriage~~ of that parent.

Sec. 15. NRS 218.2379 is hereby amended to read as follows:

218.2379 1. Within a reasonable time after July 1, 1967, the board shall notify all incumbent legislators in writing concerning credit for service, other than legislative service, covered under the public employees' retirement system. Unless the legislator requests in writing within 30 days after receipt of such written notice that his service, other than legislative service, be continued under the public employees' retirement system, the board shall transfer from the public employees' retirement fund all sums contributed by the legislator through service, other than legislative service, together with the sums contributed by his employer for such service. The service so transferred shall be accredited under the legislators' retirement system as if performed in a legislative capacity. Service so transferred may be retransferred to the public employees' retirement system, and the related contributions shall then be returned to the public employees' retirement fund, at any time when the person ceases to be a legislator and reestablishes membership in the public employees' retirement system.

2. Except *as otherwise provided in section 1 of this act or* for the transfer of service from the public employees' retirement system to the legislators' retirement system, as provided in this section, service after July 1, 1967, as a legislator cannot be accredited under the public employees' retirement system and service in capacities covered by the public employees' retirement system cannot be accredited under the legislators' retirement system.

3. Nothing in NRS 218.2371 to 218.2395, inclusive, or in any other law prevents or prohibits coverage of a person under both the public employees' retirement system and the legislators' retirement system when service is compatible with the provisions of each system.

4. Legislators receiving retirement allowances from the public employees' retirement system on July 1, 1967, are not eligible for transfer to the legislators' retirement system.

Sec. 16. NRS 218.2381 is hereby amended to read as follows:

218.2381 1. Except as otherwise *provided in section 1 of this act or* required as a result of NRS 218.23815, each legislator shall be a member of the legislators' retirement system and shall make contributions to the legislators' retirement fund in the amounts and manner provided in NRS 218.2371 to 218.2395, inclusive.

2. Within 5 days after the commencement of each regular or special session of the legislature each legislator who has not previously filed a beneficiary designation form with the board shall file with the board, upon a form provided by the board, the designation of a beneficiary who is entitled to receive the contributions of the legislator in case of death before retirement or termination of services as a legislator and subsequent withdrawal of contributions. If no beneficiary is designated, payment must be made to the estate of the deceased legislator. Payment may be made directly to the designated beneficiary without probate or administration of the estate of the deceased legislator.

3. A beneficiary may be changed at any time by written notice given by a legislator to the board on a form prescribed by the board.

Sec. 17. NRS 218.2387 is hereby amended to read as follows:

218.2387 ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* director of the legislative counsel bureau shall:

1. Deduct from the compensation of each legislator an amount equal to 15 percent of the gross compensation earned as a legislator and transmit that amount to the board together with the necessary forms prescribed by the board at intervals designated by the board; and

2. Pay to the board from the legislative fund an amount as the contribution of the State of Nevada as employer which is actuarially determined to be sufficient to provide the system with enough money to pay all benefits for which the system will be liable.

Sec. 18. 1. In addition to the election authorized pursuant to section 1 of this act, a legislator who is also a member of the public employees' retirement system may elect to waive any service credit that he has accrued for retirement under the legislators' retirement system while on leave as a public employee and take that service credit as credit in the public employees' retirement system.

2. A legislator who makes the election authorized pursuant to subsection 1 shall pay to the public employees' retirement system the contributions applicable to the periods in which he was on a leave of absence as a public employee, plus interest accrued, for each period to be credited.

3. An election pursuant to subsection 1 must be made on or before December 31, 1999.

Sec. 19. Notwithstanding the provisions of NRS 286.293, as amended by section 3 of this act, any member of the Nevada gaming commission who is appointed to the commission before July 1, 1999, may elect to

participate in the public employees' retirement system on or before July 30, 1999. Such a member may not elect to become a member of the public employees' retirement system after July 30, 1999.

Sec. 20. The provisions of NRS 286.667, as amended by section 10 of this act, apply to any person who is receiving benefits pursuant to that section on July 1, 1999.

Sec. 21. 1. This section and sections 1, 2, 3 and 5 to 20, inclusive, of this act become effective on July 1, 1999.

2. Section 4 of this act becomes effective on July 1, 2000.

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