

ASSEMBLY BILL NO. 189—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM)

FEBRUARY 10, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to public employees' retirement system. (BDR 23-786)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to the public employees' retirement system; 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:

- 1 **Section 1.** NRS 286.025 is hereby amended to read as follows:
2 286.025 1. Except as otherwise provided by specific statute,
3 “compensation” is the salary paid to a member by his principal public
4 employer.
5 2. The term includes:
6 (a) Base pay, which is the monthly rate of pay excluding all fringe
7 benefits.
8 (b) Additional payment for longevity, shift differential, hazardous duty,
9 work performed on a holiday if it does not exceed the working hours of the
10 normal work week or pay period for that employee, holding oneself ready

1 for duty while off duty and returning to duty after one's regular working
2 hours.

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

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

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

14 ~~—(a) Payment for overtime, terminal leave or secondary employment.~~

15 ~~—(b) Payment for employment which is not eligible service.~~

16 ~~—(c) Except as provided in NRS 286.477, any bonus or additional salary~~
17 ~~which is paid to an employee on account of his promise, express or~~
18 ~~implied, to retire on a specified date or within a specified period, or any~~
19 ~~bonus or additional salary paid to an employee predicated upon his~~
20 ~~eligibility to retire whether promised or not. Failure to pay a like bonus or~~
21 ~~additional salary to another employee in like circumstances who has not~~
22 ~~promised so to retire creates a rebuttable presumption that payment to the~~
23 ~~first employee was on account of his promise.]~~ *any type of payment not*
24 *specifically described in subsection 2.*

25 **Sec. 2.** NRS 286.293 is hereby amended to read as follows:

26 286.293 **1.** The following employees of public employers shall
27 participate in the system:

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

31 ~~2.]~~ *(b)* Elected officials or persons appointed to elective positions who
32 are elected or appointed after July 1, 1975, except where excluded by NRS
33 286.297.

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

38 *(d) A member of the Nevada gaming commission.*

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

1 **Sec. 3.** NRS 286.300 is hereby amended to read as follows:

2 286.300 Except as otherwise required as a result of NRS 286.537:

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

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

14 **3. Any member of the system may use:**

15 **(a) All or any portion of the balance of the member's interest in a**
16 **qualified trust pursuant to section 401(a) of the Internal Revenue Code,**
17 **26 U.S.C. § 401(a); or**

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

21 **(1) Attributable to a qualified distribution from a qualified trust**
22 **pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. §**
23 **401(a); and**

24 **(2) Qualified as an eligible rollover distribution pursuant to section**
25 **402 of the Internal Revenue Code, 26 U.S.C. § 402,**
26 **to purchase creditable service pursuant to subsection 1 or 2.**

27 **Sec. 4.** NRS 286.470 is hereby amended to read as follows:

28 286.470 1. Except as otherwise required as a result of NRS 286.535
29 or 286.537, **or as otherwise provided in subsection 3,** average
30 compensation for service performed as a county commissioner,
31 councilman or mayor must be calculated as follows for those members
32 whose effective date of retirement is after May 19, 1975:

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

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

41 (c) The service retirement allowances for elective service and for
42 regular service are added together to provide the total unmodified service
43 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. 5. 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.

1 **Sec. 6.** NRS 286.520 is hereby amended to read as follows:

2 286.520 1. Except as otherwise provided in subsections 4, 5 and 6
3 and NRS 286.525, the consequences of the employment of a retired
4 employee are:

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

9 (1) He accepted the employment or contract within 90 calendar days
10 after the effective date of his retirement; or

11 (2) He is employed in a position which is eligible to participate in
12 this system.

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

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

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

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

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

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

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

37 4. If a retired employee is chosen by election or appointment to fill an
38 elective public office, he is entitled to the same allowances as a retired
39 employee who has no employment, unless he is serving in the same office
40 in which he served and for which he received service credit as a member.

41 *A public employer may pay contributions on behalf of such a retired*
42 *employee to a retirement fund which is not a part of the system in an*
43 *amount not to exceed the amount of the contributions that the public*

1 *employer would pay to the system on behalf of a participating public*
2 *employee who serves in the same office.*

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

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

11 **Sec. 7.** NRS 286.525 is hereby amended to read as follows:

12 286.525 1. A retired employee who accepts employment in a
13 position eligible for membership may enroll in the system as of the
14 effective date of that employment. ~~If he so enrolls:~~ *As of the date of*
15 *enrollment:*

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

18 (b) ~~Upon termination of the employment, he~~ *He* is entitled to receive,
19 *after the termination of the employment and* upon written request, a
20 refund of all contributions made by him during the employment. Except as
21 otherwise required as a result of NRS 286.535 or 286.537, if he does not
22 request the refund and the duration of the employment was at least 6
23 months, he gains additional service credit for that employment and is
24 entitled to have a separate service retirement allowance calculated based on
25 his compensation and service, effective upon the termination of that
26 employment. If the duration of the employment was:

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

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

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

37 (a) NRS 286.551; and

38 (b) Section 415 of the Internal Revenue Code, ~~§ 26 U.S.C. § 415, D~~
39 if the member's effective date of membership is on or after January 1,
40 1990.

41 3. Except as otherwise required as a result of NRS ~~286.470~~, 286.535
42 or 286.537, a retired employee who has been receiving a retirement
43 allowance and who is reemployed and ~~enrolls~~ *is enrolled* in the system

1 for at least 5 years may ~~elect to return all retirement allowances plus~~
2 ~~interest from the date of return to employment to the date of repayment~~
3 ~~and~~ have his additional credit for service added to his previous credit for
4 service. ~~If he chooses to do so, he shall be deemed a continuing employee~~
5 ~~with a break in service. This election~~ **This additional credit for service**
6 must not apply to more than one period of employment after the original
7 retirement.

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

14 **Sec. 8.** NRS 286.667 is hereby amended to read as follows:

15 286.667 1. A retired employee whose service or disability retirement
16 allowance is payable from the police and firemen's retirement fund is
17 entitled to receive his allowance without modification.

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

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

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

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

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

32 (a) Select a retirement option other than one permitted by this section;

33 (b) Receive the benefit conferred by this section ~~if~~ with a spouse's
34 benefit reduced by a proportion equal to that which the service which is
35 not creditable bears to his total service; or

36 (c) Purchase the additional spouse's benefit at the time he retires by
37 paying the full actuarial cost as computed for his situation by the actuary of
38 the system.

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

Sec. 9. 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. 10. 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.

1 **Sec. 11.** NRS 286.676 is hereby amended to read as follows:

2 286.676 1. Except as limited by subsections 3 and 4, the spouse of a
3 deceased member who had 10 or more years of accredited contributing
4 service is entitled to receive a monthly allowance equivalent to that
5 provided by:

6 (a) Option 3 in NRS 286.590, if the deceased member had less than ~~20~~
7 15 years of service on the date of his death; or

8 (b) Option 2 in NRS 286.590, if the deceased member had more than
9 ~~20~~ 15 years of service on the date of his death.

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

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

18 (a) This section;

19 (b) NRS 286.674; or

20 (c) NRS 286.678.

21 3. The benefit payable to the spouse of a member who died before
22 May 19, 1975, is limited to a spouse who received at least 50 percent of his
23 support from the member during the 6 months immediately preceding the
24 member's death and to the amounts provided in this subsection. ~~If, at the~~
25 ~~time of his death, the member had 15 or more years of service, his spouse,~~
26 ~~upon attaining the age of 60 years, may receive a cumulative benefit of at~~
27 ~~least \$400 per month or 50 percent of the average salary received by the~~
28 ~~deceased member for the 3 consecutive highest salaried years of his last 10~~
29 ~~years of service, whichever is less.~~ If, at the time of his death, the member
30 had ~~20~~ 15 or more years of service and did not elect an optional
31 retirement plan as offered in this chapter, his spouse, upon attaining the
32 age of 60 years, may receive a cumulative benefit of at least ~~\$400~~ \$450
33 per month or 50 percent of the average salary received by the member for
34 the 3 consecutive highest salaried years of his last 10 years of service,
35 whichever is less. Payments, or the right to receive payments, must cease
36 upon the death ~~or remarriage~~ of the spouse. Benefits under this section
37 are not renewable following termination.

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

40 **Sec. 12.** NRS 286.677 is hereby amended to read as follows:

41 286.677 If payments or refunds are not made under the provisions of
42 NRS 286.673, 286.674 or 286.676, the dependent parent of a deceased
43 member is entitled to receive a cumulative benefit of at least ~~\$350~~ \$400

1 per month, and if there are two dependent parents each is entitled to
2 receive a cumulative benefit of at least ~~1350~~ \$400 per month. Payments
3 to any parent under this section must cease upon the death or remarriage of
4 that parent.

5 **Sec. 13.** Notwithstanding the provisions of NRS 286.293, as amended
6 by section 2 of this act, any member of the Nevada gaming commission
7 who is appointed to the commission before July 1, 1999, may elect to
8 participate in the public employees' retirement system on or before July
9 30, 1999. Such a member may not elect to become a member of the public
10 employees' retirement system after July 30, 1999.

11 **Sec. 14.** The provisions of NRS 286.667, as amended by section 8 of
12 this act, apply to any person who is receiving benefits pursuant to that
13 section on July 1, 1999.

14 **Sec. 15.** 1. This section and sections 1, 2 and 4 to 14, inclusive, of
15 this act become effective on July 1, 1999.

16 2. Section 3 of this act becomes effective on July 1, 2000.

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