

ASSEMBLY BILL NO. 555—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM)

MARCH 26, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing public employees' retirement.
(BDR 23-547)

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

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

AN ACT relating to public employees' retirement; revising the allowances that may be paid to a retired employee who accepts employment or an independent contract with a public employer under the public employees' retirement system in a position for which there is a critical labor shortage; restricting the purchase of service credit by certain members of the system; limiting the circumstances under which contributions paid toward the purchase of service credit may be refunded; providing for the immediate assessment of a penalty if a payroll report is not filed or public employer contributions are not remitted in a timely manner; 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.** Chapter 286 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 ***1. The provisions of subsections 1 and 2 of NRS 286.520 do not***
4 ***apply to a retired employee who accepts employment or an independent***
5 ***contract with a public employer under the system if:***
6 ***(a) He fills a position for which there is a critical labor shortage; and***
7 ***(b) At the time of his reemployment, he is receiving an unreduced***
8 ***benefit.***
9 ***2. A retired employee who is reemployed under the circumstances set***
10 ***forth in subsection 1 may reenroll in the system as provided in NRS***
11 ***286.525.***
12 ***3. Positions for which there are critical labor shortages must be***
13 ***determined as follows:***



1 (a) Except as otherwise provided in this subsection, the state board of
2 examiners shall designate positions in state government for which there
3 are critical labor shortages.

4 (b) The supreme court shall designate positions in the judicial branch
5 of state government for which there are critical labor shortages.

6 (c) The board of regents shall designate positions in the University
7 and Community College System of Nevada for which there are critical
8 labor shortages.

9 (d) The department of education shall designate positions with the
10 various school districts for which there are critical labor shortages.

11 (e) The governing body of a local government shall designate
12 positions with the local government for which there are critical labor
13 shortages.

14 (f) The board shall designate positions with the system for which there
15 are critical labor shortages.

16 4. In determining whether a position is a position for which there is a
17 critical labor shortage, the designating authority shall give consideration
18 to:

19 (a) The history of the rate of turnover for the position;

20 (b) The number of openings for the position and the number of
21 qualified candidates for those openings;

22 (c) The length of time the position has been vacant; and

23 (d) The success of recruiting persons in other states to fill the position.

24 **Sec. 2.** NRS 286.160 is hereby amended to read as follows:

25 286.160 1. The board shall employ an executive officer who serves
26 at the pleasure of the board. The executive officer shall select an operations
27 officer, investment officer, *assistant investment officer*, manager of
28 information systems, administrative assistant and administrative analyst
29 whose appointments are effective upon confirmation by the board. The
30 operations officer, investment officer, *assistant investment officer*,
31 manager of information systems, administrative assistant and
32 administrative analyst serve at the pleasure of the executive officer.

33 2. The executive officer, operations officer, investment officer,
34 *assistant investment officer*, manager of information systems,
35 administrative assistant and administrative analyst are entitled to annual
36 salaries fixed by the board with the approval of the interim retirement and
37 benefits committee of the legislature created pursuant to NRS 218.5373.
38 The salaries of these employees are exempt from the limitations of NRS
39 281.123.

40 3. The executive officer must:

41 (a) Be a graduate of a 4-year college or university with a degree in
42 business administration or public administration or equivalent degree.

43 (b) Possess at least 5 years' experience in a high level administrative or
44 executive capacity, including responsibility for a variety of administrative
45 functions such as retirement, insurance, investment or fiscal operations.



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1 4. The operations officer and the investment officer must each be a
2 graduate of a 4-year college or university with a degree in business
3 administration or public administration or an equivalent degree.

4 5. Except as otherwise provided in NRS 284.143, the executive officer
5 shall not pursue any other business or occupation or perform the duties of
6 any other office of profit during normal office hours unless on leave
7 approved in advance. The executive officer shall not participate in any
8 business enterprise or investment in real or personal property if the system
9 owns or has a direct financial interest in that enterprise or property.

10 **Sec. 3.** NRS 286.200 is hereby amended to read as follows:

11 286.200 1. Subject to the limitations of this chapter, the board shall,
12 from time to time, establish rules and regulations for transacting its
13 business and for administering the system ~~as a public agency.~~ *The rules*
14 *must include, without limitation, rules relating to the administration of*
15 *the retirement plans in accordance with federal law.*

16 2. No rule ~~shall be~~ *is* effective until 10 days after all of the following
17 conditions have been substantially met:

18 (a) A copy of the rule, in the form in which the board proposes it, ~~shall~~
19 *must* be delivered, within 30 days after the board proposes it, to all public
20 employers participating in the system.

21 (b) As soon as a public employer receives a copy of the proposed rule,
22 the public employer immediately shall cause the copy to be posted on a
23 bulletin board or in some conspicuous place in or near its headquarters.

24 (c) ~~Whenever~~ *If* the board deems a proposed rule to be of such length
25 or of such other nature that it cannot feasibly be publicized by delivery and
26 posting, ~~then~~ a summary of the proposed rule ~~shall~~ *must* be delivered
27 and posted in the manner and within the time required by paragraphs (a)
28 and (b) of this subsection for copies of proposed rules.

29 (d) There ~~shall~~ *must* likewise be posted a notice stating that, at a
30 specifically designated time and place at least 15 days after the delivery of
31 the copy of the proposed rule or summary, a hearing on the proposed rule
32 ~~shall~~ *will* be held, at which hearing all interested persons ~~shall~~ have an
33 opportunity to be heard and after which the board may adopt the proposed
34 rule in the form in which it is originally proposed or with such amendments
35 as are deemed necessary by the board as a result of the hearing.

36 (e) A copy of the rule, in the form in which the board finally
37 ~~promulgates it, shall~~ *adopts it, must* be filed with the secretary of state.

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

39 286.300 Except as otherwise required as a result of NRS 286.537:

40 1. Any member of the system may *, except as otherwise provided in*
41 *subsection 4,* purchase all previous creditable service performed with his
42 present employing agency if that service was performed before the
43 enrollment of his agency in the system, even if the service is still creditable
44 in some other system where it cannot be canceled. The public employer
45 must certify the inclusive dates of employment and number of hours
46 regularly worked by the member to validate the service. The member must
47 pay the full actuarial cost as determined by the actuary.

48 2. In addition to the purchase authorized pursuant to the provisions of
49 subsection 1, any member who has 5 years of creditable service may ,



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1 *except as otherwise provided in subsection 4*, purchase up to 5 years of
2 service. The member must pay the full actuarial cost of the service as
3 determined by an actuary of the system.

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

6 (a) Is a licensed teacher;
7 (b) Has 5 years of creditable service;
8 (c) Is, pursuant to statute, regulation or contract, entitled to payment for
9 unused sick leave; and

10 (d) Is employed by the board of trustees of a school district that has,
11 pursuant to subsection 5 of NRS 391.180, provided for the payment of
12 unused sick leave in the form of purchase of service,
13 may, *except as otherwise provided in subsection 4*, cause to be purchased
14 on his behalf service credit, not to exceed the number of hours of unused
15 sick leave or 1 year, whichever is less. The full actuarial cost of the service
16 as determined by an actuary of the system must be paid for such a
17 purchase. Any service credit purchased pursuant to this subsection must be
18 included as a part of, and is not in addition to, service purchased pursuant
19 to subsection 2.

20 4. *A person who becomes a member of the system for the first time*
21 *on or after January 1, 2000, may, on or after July 1, 2001, purchase*
22 *creditable service pursuant to subsection 1 or 2, or cause to be purchased*
23 *on his behalf service credit pursuant to subsection 3, only if, at the time*
24 *of the purchase, he is employed by a participating public employer in a*
25 *position whose occupant is thereby eligible for membership in the system.*

26 5. Any member of the system may use:

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

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

32 (1) Attributable to a qualified distribution from a qualified trust
33 pursuant to section 401(a) of the Internal Revenue Code, 26 U.S.C. §
34 401(a); and

35 (2) Qualified as an eligible rollover distribution pursuant to section
36 402 of the Internal Revenue Code, 26 U.S.C. § 402,
37 to purchase creditable service pursuant to subsection 1 or 2.

38 6. *A member of the system who purchases creditable service*
39 *pursuant to subsection 1 or 2 is entitled to receive a refund of any*
40 *contributions paid toward the purchase of the service only if he is no*
41 *longer in the employ of a participating public employer.*

42 7. *If a member of the system enters into an agreement whereby he*
43 *agrees to pay for the purchase of service credit in installments and he*
44 *defaults on that agreement, the member is entitled to receive service*
45 *credit in the proportion that the principal paid bears to the principal due*
46 *under the agreement.*



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1 **Sec. 5.** NRS 286.430 is hereby amended to read as follows:

2 286.430 1. Except as otherwise provided in subsection 8 ~~H~~ and NRS
3 286.300, a member may withdraw the employee contributions credited to
4 his individual account if:

5 (a) He has terminated service for which contribution is required; or

6 (b) He is employed in a position for which contribution is prohibited.

7 2. The system shall not refund these contributions until it has received:

8 (a) A properly completed application for refund;

9 (b) A notice of termination from the member's public employer or a
10 certification by the public employer that the member is employed in a
11 position for which contribution is prohibited; and

12 (c) Except as otherwise provided in subsection 3, all contributions
13 withheld from such member's compensation.

14 3. If a member submits an application for a refund of his contributions
15 before all of his contributions which were withheld have been remitted, the
16 system may refund the portion of his contributions which it has received.

17 4. If it is determined, after the system has refunded the contributions of
18 a member, that an additional amount of less than \$10 is due to him, a
19 refund of that amount need not be paid.

20 5. Refunds, pursuant to this section, must be made by check mailed to
21 the address specified by a member in his application for refund.

22 6. The system shall transfer all money retained pursuant to subsection
23 4 and the amount of any unclaimed refund checks to the public employees'
24 retirement fund or the police and firemen's retirement fund.

25 7. All membership rights and active service credit in the system,
26 including service for which the public employer paid the employee
27 contributions, are canceled upon the withdrawal of contributions from a
28 member's account.

29 8. A member who transfers to a position for which contribution is
30 prohibited must remain in that position for at least 90 days before he is
31 eligible to receive a refund pursuant to this section.

32 **Sec. 6.** NRS 286.460 is hereby amended to read as follows:

33 286.460 1. Each participating public employer which pays
34 compensation to its officers or employees in whole or in part from money
35 received from sources other than money appropriated from the state
36 general fund, shall pay public employer contributions, or the proper portion
37 thereof, to the system from the money of the department, board,
38 commission or agency.

39 2. Public employer contributions for compensation paid from the state
40 general fund must be paid directly by each department, board, commission
41 or other agency concerned, and allowance therefor must be made in the
42 appropriation made for each department, board, commission or other state
43 agency.

44 3. All participating public employers that are required to make
45 payments pursuant to this section shall file payroll reports not later than 15
46 days after the end of the reporting period, together with the remittance of
47 the amount due to the system. The 15-day limit is extended 1 working day
48 for each legal holiday that falls within the 15-day period and is officially
49 recognized by the public employer.



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- 1 4. Payroll reports must contain *accurate payroll* information ~~deemed~~
2 ~~necessary~~ *and be filed in a form prescribed* by the board. If the payroll
3 reports are not filed or the amounts due are not remitted within the time
4 provided, a penalty *on the unpaid balance due must be assessed at a rate*
5 of 4 percent more than the prime rate of interest as published in the Wall
6 Street Journal (Western Edition) for the first date the payment or report
7 becomes delinquent . ~~prorated for the period delinquent, on the unpaid~~
8 ~~balance due must be assessed at the time of receipt of the payment or~~
9 ~~report.~~
- 10 5. A notice of the penalty assessed must be mailed by certified mail to
11 the chief administrator of the delinquent public employer. The public
12 employer shall pay the assessment within 90 days after receipt of the notice
13 or an additional penalty of 1 percent of the assessment per month must be
14 imposed until paid. Refusal or failure by the public employer to pay the
15 assessment within 12 months after receipt is a misdemeanor on the part of
16 the chief administrator of the delinquent public employer. The retirement
17 board may accept, no later than 30 days after the notice is received, an
18 appeal from a public employer for waiver or reduction of a penalty
19 assessed on account of extenuating circumstances and make any
20 adjustment it deems necessary.
- 21 6. Except as otherwise required as a result of NRS 286.537, upon
22 notification that a current employee was not properly enrolled in the
23 system by the public employer, the public employer shall pay within 90
24 days all the employee and employer contributions and the interest that is
25 due as computed by the system from the first day the employee was
26 eligible for membership. The public employer is entitled to recover from
27 the employee the employee contributions and interest thereon.
- 28 7. As used in this section, "reporting period" means the calendar
29 month for which members' compensation and service credits are reported
30 and certified by participating public employers. Compensation paid during
31 each month must be reported separately, and retroactive salary increases
32 must be identified separately for each month to which they apply.
- 33 **Sec. 7.** NRS 286.520 is hereby amended to read as follows:
34 286.520 1. Except as otherwise provided in subsections 4, 5 and 6
35 and NRS 286.525, *and section 1 of this act*, the consequences of the
36 employment of a retired employee are:
37 (a) A retired employee who accepts employment or an independent
38 contract with a public employer under this system is disqualified from
39 receiving any allowances under this system for the duration of that
40 employment or contract if:
41 (1) He accepted the employment or contract within 90 calendar days
42 after the effective date of his retirement; or
43 (2) He is employed in a position which is eligible to participate in this
44 system.
45 (b) If a retired employee accepts employment or an independent
46 contract with a public employer under this system more than 90 calendar
47 days after the effective date of his retirement in a position which is not
48 eligible to participate in this system, his allowance under this system
49 terminates upon his earning an amount equal to one-half of the average



1 salary for participating public employees who are not police officers or
2 firemen in any fiscal year, for the duration of that employment or contract.

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

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

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

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

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

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

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

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

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

37 **Sec. 8.** This act becomes effective on July 1, 2001.

