

CHAPTER.....

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; requiring the public employees' retirement board to conduct an experience study on the system of the employment of certain retired employees; 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:

*1. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the system if:*

- (a) He fills a position for which there is a critical labor shortage; and*
- (b) At the time of his reemployment, he is receiving:*

*(1) An unmodified benefit; or*

*(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with an unmodified benefit.*

*2. A retired employee who is reemployed under the circumstances set forth in subsection 1 may reenroll in the system as provided in NRS 286.525.*

*3. Positions for which there are critical labor shortages must be determined as follows:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The executive officer must:

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

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

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

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

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

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

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

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

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

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

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

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

**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 *, except as otherwise provided in subsection 4,* 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 *, except as otherwise provided in subsection 4,* 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 *, except as otherwise provided in subsection 4,* 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. *A person who becomes a member of the system for the first time on or after January 1, 2000, may, on or after July 1, 2001, purchase creditable service pursuant to subsection 1 or 2, or cause to be purchased on his behalf service credit pursuant to subsection 3, only if, at the time*

*of the purchase, he is employed by a participating public employer in a position whose occupant is thereby eligible for membership in the system.*

5. 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.

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

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

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

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

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

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

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

(a) A properly completed application for refund;

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

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

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

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

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

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

7. All membership rights and active service credit in the system, including service for which the public employer paid the employee

contributions, are canceled upon the withdrawal of contributions from a member's account.

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

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

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

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

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

4. Payroll reports must contain *accurate payroll* information ~~deemed necessary~~ *and be filed in a form prescribed* by the board. If the payroll reports are not filed or the amounts due are not remitted within the time provided, a penalty *on the unpaid balance due must be assessed at a rate* of 4 percent more than the prime rate of interest as published in the Wall Street Journal (Western Edition) for the first date the payment or report becomes delinquent. ~~Prorated for the period delinquent, on the unpaid balance due must be assessed at the time of receipt of the payment or report.~~

5. A notice of the penalty assessed must be mailed by certified mail to the chief administrator of the delinquent public employer. The public employer shall pay the assessment within 90 days after receipt of the notice or an additional penalty of 1 percent of the assessment per month must be imposed until paid. Refusal or failure by the public employer to pay the assessment within 12 months after receipt is a misdemeanor on the part of the chief administrator of the delinquent public employer. The retirement board may accept, no later than 30 days after the notice is received, an appeal from a public employer for waiver or reduction of a penalty assessed on account of extenuating circumstances and make any adjustment it deems necessary.

6. Except as otherwise required as a result of NRS 286.537, upon notification that a current employee was not properly enrolled in the system by the public employer, the public employer shall pay within 90 days all the employee and employer contributions and the interest that is due as computed by the system from the first day the employee was eligible for membership. The public employer is entitled to recover from the employee the employee contributions and interest thereon.

7. As used in this section, "reporting period" means the calendar month for which members' compensation and service credits are reported and certified by participating public employers. Compensation paid during each month must be reported separately, and retroactive salary increases must be identified separately for each month to which they apply.

**Sec. 7.** NRS 286.520 is hereby amended to read as follows:

286.520 1. Except as otherwise provided in ~~subsections 4, 5 and 6 of this section~~ and NRS 286.525, *and section 1 of this act*, 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 who accepts employment or an independent contract with a public employer under this system pursuant to this section elects not to reenroll in the system pursuant to subsection 1 of NRS 286.525, the public employer with which the retired employee accepted employment or an independent contract may pay contributions on behalf of the 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 is employed in a similar position.*

5. 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.

~~5.1~~ 6. 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.

~~6.1~~ 7. 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. 8.** The public employees' retirement board shall conduct an experience study on the public employees' retirement system of the employment of retired public employees by public employers that participate in the public employees' retirement system pursuant to section 1 of this act for the period between July 1, 2001, and July 1, 2004. The public employees' retirement board shall submit a report of the study to the interim retirement and benefits committee of the legislature on or before December 31, 2004.

**Sec. 9.** 1. This act becomes effective on July 1, 2001.

2. Section 1 of this act expires by limitation on June 30, 2005.