

ASSEMBLY BILL NO. 113—ASSEMBLYMEN MANENDO, PARKS, MCCLEARY, OHRENSCHALL, ALLEN, ANDERSON, ATKINSON, BUCKLEY, CARPENTER, CLABORN, CONKLIN, DENIS, GERHARDT, GIUNCHIGLIANI, GOICOECHEA, HOGAN, HOLCOMB, HORNE, KIRKPATRICK, KOIVISTO, LESLIE, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, PARNELL, PERKINS, PIERCE AND SMITH

FEBRUARY 22, 2005

Referred to Committee on Government Affairs

SUMMARY—Authorizes certain public employees with active military service to purchase up to 2 additional years of service in Public Employees' Retirement System under certain circumstances. (BDR 23-696)

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; authorizing certain public employees who served on active military duty to purchase up to 2 additional years of service in the Public Employees' Retirement System under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes the Public Employees' Retirement System. The
- 2 System provides benefits for the retirement, disability or death of employees of
- 3 public employers and is funded on an actuarial reserve basis. (NRS 286.110)
- 4 Under existing law, a member of the System may purchase all previous
- 5 creditable service performed with his present employing agency if that service was
- 6 performed before the enrollment of his agency in the System. A member of the
- 7 System, including a volunteer firefighter, with 5 years of creditable service may
- 8 also purchase up to 5 years of service. (NRS 286.300, 286.367)
- 9 This bill authorizes a member of the Public Employees' Retirement System,
- 10 including a volunteer firefighter, who has 5 years of creditable service and who
- 11 served on active military duty to purchase a number of months of service equal to
- 12 the number of full months he served on active military duty, up to 2 years of



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13 service. The purchase is in addition to any other purchase of service credit
14 authorized by law and is in addition to any free credit received for military service.
15 To qualify for the purchase, the member must have been honorably discharged or
16 released from active duty. The member must pay the full actuarial cost of the
17 service.

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

1 **Section 1.** NRS 286.300 is hereby amended to read as follows:
2 286.300 Except as otherwise required as a result of
3 NRS 286.537:

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

13 2. In addition to the ~~[purchase]~~ *purchases* authorized pursuant
14 to the provisions of ~~[subsection 1.]~~ *subsections 1 and 3*, any
15 member who has 5 years of creditable service may, except as
16 otherwise provided in subsection ~~[4.]~~ 5, purchase up to 5 years of
17 service. The member must pay the full actuarial cost of the service
18 as determined by an actuary of the System.

19 3. *In addition to the purchases authorized pursuant to the*
20 *provisions of subsections 1 and 2 and in addition to any free credit*
21 *received pursuant to NRS 286.303 and 286.479, any member who*
22 *has 5 years of creditable service, served on active military duty and*
23 *was honorably discharged or released from active duty may,*
24 *except as otherwise provided in subsection 5, purchase a number*
25 *of months of service equal to the number of full months he served*
26 *on active military duty, up to 2 years of service. The member must*
27 *pay the full actuarial cost of the service as determined by an*
28 *actuary of the System.*

29 4. In addition to the ~~[purchase]~~ *purchases* authorized pursuant
30 to the provisions of ~~[subsection 1.]~~ *subsections 1 and 3*, any
31 member who:

- 32 (a) Is a licensed teacher;
33 (b) Has 5 years of creditable service;
34 (c) Is, pursuant to statute, regulation or contract, entitled to
35 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.]~~ 5, 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.]~~ 5. 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.]~~, 2 or 3, or cause to be purchased on his behalf service credit pursuant to subsection ~~[3.]~~ 4, only if, at the time of the purchase, he is employed by a participating public employer in a position eligible for membership in the System.

~~[5.]~~ 6. 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.]~~, 2 or 3.

7. A member of the System who purchases creditable service pursuant to subsection 1 ~~[or 2.]~~, 2 or 3 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.]~~ 8. 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. 2. NRS 286.367 is hereby amended to read as follows:

286.367 1. The volunteers of a regularly organized and recognized fire department may, by the joint application of a majority of those volunteers addressed to the Board, become



1 members of the System. A volunteer firefighter who joins a fire
2 department of which all the volunteers have become members of the
3 System becomes a member of the System. The volunteers of a
4 participating fire department may withdraw from the System by the
5 joint application of a majority of those volunteers addressed to the
6 Board.

7 2. The city, town, county or district which recognizes the
8 volunteers is the public employer and shall collect and pay over the
9 employee's share and pay the employer's share of the contribution
10 to the Public Employees' Retirement Fund and the Public
11 Employees' Retirement Administrative Fund, in the manner
12 prescribed in this chapter. The local government may, if so
13 requested by the volunteers, further contribute any amount by which
14 the sum receivable by each volunteer for any month is less than the
15 amount of his required share of the contribution, but no further
16 contributions may be placed in a volunteer's account with the
17 System or refunded to a volunteer or his employer upon the
18 volunteer's termination.

19 3. In determining the amount of contributions to be paid for the
20 volunteers, they are assumed to be receiving a wage established by
21 the local government which is not less than \$150 nor more than
22 \$750 per month.

23 4. Except as otherwise required as a result of NRS 286.535 or
24 286.537, the average compensation for a volunteer firefighter is the
25 weighted average of:

26 (a) The assumed wage as a volunteer firefighter; and

27 (b) The average salary in other covered employment which, if
28 the service in that employment exceeds 3 years, is calculated upon
29 the 3 highest consecutive years.

30 ➤ The weight given to the assumed wage and average salary,
31 respectively, is proportionate to the length of service in each
32 capacity. Except as otherwise required as a result of NRS 286.535 or
33 286.537, average compensation is computed from the sum of the
34 assumed wage and actual salary if a member is employed
35 simultaneously as a volunteer firefighter and as a regular member.

36 5. Any dispute over the status of a person as a volunteer
37 firefighter under this section must be conclusively determined by the
38 Board.

39 6. A volunteer firefighter may purchase all previous service as
40 a volunteer firefighter with any volunteer fire department which is a
41 member of the System. To validate such service, the volunteer
42 firefighter must pay the full cost as determined by the actuary. The
43 employing agency may pay the employer's share of the cost but is
44 not required to do so.



7. In addition to the ~~purchase~~ *purchases* authorized pursuant to the provisions of ~~subsection 6,~~ *subsections 6 and 8*, a volunteer firefighter who has 5 years creditable service as a volunteer firefighter may purchase up to 5 years of service to add to his volunteer service. The member must pay the full actuarial cost of the service as determined by an actuary of the System.

8. In addition to the purchases authorized pursuant to the provisions of subsections 6 and 7 and in addition to any free credit received pursuant to NRS 286.303 and 286.479, a volunteer firefighter who has 5 years of creditable service as a volunteer firefighter, served on active military duty and was honorably discharged or released from active duty may purchase a number of months of service equal to the number of full months he served on active military duty, up to 2 years of service to add to his volunteer service. The member must pay the full actuarial cost of the service as determined by an actuary of the System.

Sec. 3. NRS 391.180 is hereby amended to read as follows:

391.180 1. As used in this section, "employee" means any employee of a school district or charter school in this State.

2. A school month in any public school in this State consists of 4 weeks of 5 days each.

3. Nothing contained in this section prohibits the payment of employees' compensation in 12 equal monthly payments for 9 or more months' work.

4. The per diem deduction from the salary of an employee because of absence from service for reasons other than those specified in this section is that proportion of the yearly salary which is determined by the ratio between the duration of the absence and the total number of contracted workdays in the year.

5. Boards of trustees shall either prescribe by regulation or negotiate pursuant to chapter 288 of NRS, with respect to sick leave, accumulation of sick leave, payment for unused sick leave, sabbatical leave, personal leave, professional leave, military leave and such other leave as they determine to be necessary or desirable for employees. In addition, boards of trustees may either prescribe by regulation or negotiate pursuant to chapter 288 of NRS with respect to the payment of unused sick leave to licensed teachers in the form of purchase of service pursuant to subsection ~~3~~ 4 of NRS 286.300. The amount of service so purchased must not exceed the number of hours of unused sick leave or 1 year, whichever is less.

6. The salary of any employee unavoidably absent because of personal illness or accident, or because of serious illness, accident or death in the family, may be paid up to the number of days of sick leave accumulated by the employee. An employee may not be



1 credited with more than 15 days of sick leave in any 1 school year.
2 Except as otherwise provided in this subsection, if an employee
3 takes a position with another school district or charter school, all
4 sick leave that he has accumulated must be transferred from his
5 former school district or charter school to his new school district or
6 charter school. The amount of sick leave so transferred may not
7 exceed the maximum amount of sick leave which may be carried
8 forward from one year to the next according to the applicable
9 negotiated agreement or the policy of the district or charter school
10 into which the employee transferred. Unless the applicable
11 negotiated agreement or policy of the employing district or charter
12 school provides otherwise, such an employee:

13 (a) Shall first use the sick leave credited to the employee from
14 the district or charter school into which he transferred before using
15 any of the transferred leave; and

16 (b) Is not entitled to compensation for any sick leave transferred
17 pursuant to this subsection.

18 7. Subject to the provisions of subsection 8:

19 (a) If an intermission of less than 6 days is ordered by the board
20 of trustees of a school district or the governing body of a charter
21 school for any good reason, no deduction of salary may be made
22 therefor.

23 (b) If, on account of sickness, epidemic or other emergency in
24 the community, a longer intermission is ordered by the board of
25 trustees of a school district, the governing body of a charter school
26 or a board of health and the intermission or closing does not exceed
27 30 days at any one time, there may be no deduction or
28 discontinuance of salaries.

29 8. If the board of trustees of a school district or the governing
30 body of a charter school orders an extension of the number of days
31 of school to compensate for the days lost as the result of an
32 intermission because of those reasons contained in paragraph (b) of
33 subsection 7, an employee may be required to render his services to
34 the school district or charter school during that extended period. If
35 the salary of the employee was continued during the period of
36 intermission as provided in subsection 7, the employee is not
37 entitled to additional compensation for services rendered during the
38 extended period.

39 9. If any subject referred to in this section is included in an
40 agreement or contract negotiated by:

41 (a) The board of trustees of a school district pursuant to chapter
42 288 of NRS; or

43 (b) The governing body of a charter school pursuant to
44 NRS 386.595,



- 1 ↳ the provisions of the agreement or contract regarding that subject
- 2 supersede any conflicting provisions of this section or of a
- 3 regulation of the board of trustees.
- 4 **Sec. 4.** This act becomes effective on July 1, 2005.



