

SENATE BILL NO. 156—SENATOR MATHEWS

FEBRUARY 26, 2007

Referred to Committee on Finance

SUMMARY—Revises provisions regarding eligibility of police officers and firefighters to receive disability retirement allowances. (BDR 23-808)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 the Public Employees' Retirement System; providing that any police officer or firefighter who has at least 5 years of service and suffers a catastrophic injury in the course of employment may receive a disability retirement allowance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a member of the Public Employees' Retirement System with at least 5 years of service may apply for disability retirement if he becomes totally unable to perform his job or a comparable job for which he is qualified because of injury or mental or physical illness of a permanent nature. (NRS 286.620) For full-time members of the System, the amount of disability retirement allowance is determined by a formula based on average compensation and years of service. (NRS 286.551, 286.620) The manner in which an allowance is determined applies to all members of the System, including police officers and firefighters. (NRS 286.510)

This bill gives police officers and firefighters another option under which to receive disability retirement. Under **sections 1-3** of this bill, if a police officer or firefighter with at least 5 years of service suffers a catastrophic injury during the course of employment that renders him unable to perform the duties of his present position or any other position he has held within the past year, he is eligible to receive a disability retirement allowance. He may elect to receive 50 percent of the compensation he earned at the time of the injury or subsequent retirement date, or he may elect to receive the standard disability retirement allowance as set forth in NRS 286.620. A police officer or firefighter who elects to receive the allowance



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under this new option may change to the standard disability allowance by applying to the System.

Sections 4-11 of this bill mainly amend existing law to include reference citations for the new substantive provisions of this bill. **Section 12** of this bill clarifies that the provisions only apply to police officers or firefighters who suffer a catastrophic injury on or after July 1, 2007.

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 the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Disability retirement" means disability retirement pursuant to NRS 286.620 or section 3 of this act.*

Sec. 3. 1. *A police officer or firefighter who has 5 years or more of service credit and who suffers a catastrophic injury is eligible to apply for disability retirement pursuant to this section if:*

(a) Except as otherwise provided in subsection 6, his employment will be terminated because of the disability;

(b) He is in the employ of a participating public employer at the time of application for disability retirement;

(c) He proves that his disability renders him unable to perform the duties of his present position and of any other position he has held within the past year;

(d) He files a notarized application for disability retirement with the System which indicates a selection of option and to which is attached a personal statement by the member, describing the disability, the duties which he can and cannot perform, and any benefits he is entitled to receive for disability from any other public source;

(e) The public employer files an official statement certifying the member's employment record, job description, work evaluations, record of disability and absences that have occurred because of the disability; and

(f) The immediate supervisor of the member files an official statement regarding the effect upon the work of the member after the disability, job functions that can and cannot be performed because of the disability, and whether there are alternative jobs that can be performed by the member.

2. *If a police officer or firefighter is eligible to receive a disability retirement allowance pursuant to this section and NRS 286.620, the police officer or firefighter may elect to receive the allowance pursuant to only one of the sections. A police officer or firefighter who makes such an election may change his election*



1 upon application with and approval by the System pursuant to the
2 requirements set forth in this section or NRS 286.620.

3 3. Except as otherwise required as a result of NRS 286.537, a
4 police officer or firefighter who elects to receive a disability
5 retirement allowance pursuant to this section is entitled to receive
6 50 percent of the compensation he earned at the time of injury or
7 subsequent retirement date.

8 4. A police officer or firefighter may apply for disability
9 retirement even if he is eligible for service retirement.

10 5. Each child of a deceased recipient of a disability retirement
11 allowance is entitled to receive the benefits provided by NRS
12 286.673 only if the decedent had not reached the age and
13 completed the service required to be eligible for a service
14 retirement allowance, except that these benefits must not be paid
15 to anyone who is named as a beneficiary under one of the options
16 to an unmodified allowance.

17 6. If a member whose application for disability retirement
18 pursuant to this section has been:

19 (a) Approved dies before his employment is terminated, but
20 within 60 days after his application was approved; or

21 (b) Mailed before his death, as indicated by the date of the
22 postmark dated by the post office on the envelope in which it was
23 mailed, dies before the Board has acted upon his application and
24 the Board approves thereafter his application,

25 his beneficiary is entitled to receive an allowance under the
26 option selected rather than the benefit otherwise provided for a
27 survivor.

28 7. The termination or adjustment of a disability retirement
29 allowance resulting from the death of a recipient of an allowance
30 must not become effective until the first day of the month
31 immediately following the death of the recipient.

32 8. As used in this section, "catastrophic injury" means an
33 injury which:

34 (a) Arises out of and in the course of employment from any
35 cause, including, without limitation, any physical or chemical
36 injury; and

37 (b) Renders a police officer or firefighter totally unable to
38 perform his current job or any comparable job for which he is
39 qualified by his training and experience.

40 **Sec. 4.** NRS 286.016 is hereby amended to read as follows:

41 286.016 As used in this chapter, unless the context otherwise
42 requires, the words and terms defined in NRS 286.017 to 286.100,
43 inclusive, and section 2 of this act have the meanings ascribed to
44 them in ~~{such}~~ those sections.



1 **Sec. 5.** NRS 286.031 is hereby amended to read as follows:

2 286.031 "Disability retirement allowance" means monthly
3 payments from the Public Employees' Retirement Fund or the
4 Police and Firefighters' Retirement Fund paid to disabled retired
5 employees **[H] who have qualified for disability retirement pursuant**
6 **to NRS 286.620 or section 3 of this act.**

7 **Sec. 6.** NRS 286.510 is hereby amended to read as follows:

8 286.510 1. Except as otherwise provided in subsections 2 and
9 3, a member of the System is eligible to retire at age 65 if he has at
10 least 5 years of service, at age 60 if he has at least 10 years of
11 service and at any age if he has at least 30 years of service.

12 2. A police officer or firefighter is eligible to retire at age 65 if
13 he has at least 5 years of service, at age 55 if he has at least 10 years
14 of service, at age 50 if he has at least 20 years of service and at any
15 age if he has at least 25 years of service. Only service performed in
16 a position as a police officer or firefighter, established as such by
17 statute or regulation, service performed pursuant to subsection 3 and
18 credit for military service **[H]** may be counted toward eligibility for
19 retirement pursuant to this subsection.

20 3. Except as otherwise provided in subsection 4, a police
21 officer or firefighter who has at least 5 years of service as a police
22 officer or firefighter and is otherwise eligible to apply for disability
23 retirement pursuant to NRS 286.620 **or section 3 of this act** because
24 of an injury arising out of and in the course of his employment
25 remains eligible for retirement pursuant to subsection 2 if:

26 (a) He applies to the Board for disability retirement and the
27 Board approves his application;

28 (b) In lieu of a disability retirement allowance, he accepts
29 another position with the public employer with which he was
30 employed when he became disabled as soon as practicable but not
31 later than 90 days after the Board approves his application for
32 disability retirement;

33 (c) He remains continuously employed by that public employer
34 until he becomes eligible for retirement pursuant to subsection 2;
35 and

36 (d) After he accepts a position pursuant to paragraph (b), his
37 contributions are paid at the rate that is actuarially determined for
38 police officers and firefighters until he becomes eligible for
39 retirement pursuant to subsection 2.

40 4. If a police officer or firefighter who accepted another
41 position with the public employer with which he was employed
42 when he became disabled pursuant to subsection 3 ceases to work
43 for that public employer before becoming eligible to retire pursuant
44 to subsection 2, he may begin to receive a disability retirement



1 allowance without further approval by the Board by notifying the
2 Board on a form prescribed by the Board.

3 5. Eligibility for retirement, as provided in this section, does
4 not require the member to have been a participant in the System at
5 the beginning of his credited service.

6 6. Any member who has the years of creditable service
7 necessary to retire but has not attained the required age, if any, may
8 retire at any age with a benefit actuarially reduced to the required
9 retirement age. Except as otherwise required as a result of NRS
10 286.537, a retirement benefit pursuant to this subsection must be
11 reduced by 4 percent of the unmodified benefit for each full year
12 that the member is under the appropriate retirement age, and an
13 additional 0.33 percent for each additional month that the member is
14 under the appropriate retirement age. Any option selected pursuant
15 to this subsection must be reduced by an amount proportionate to
16 the reduction provided in this subsection for the unmodified benefit.
17 The Board may adjust the actuarial reduction based upon an
18 experience study of the System and recommendation by the actuary.

19 **Sec. 7.** NRS 286.615 is hereby amended to read as follows:

20 286.615 1. In addition to the options provided in NRS
21 287.023 and subject to the requirements of that section, any officer
22 or employee of a governmental entity enumerated in subsection 1 of
23 NRS 287.023 who retires under the conditions set forth in NRS
24 1A.350, 1A.480, 286.510 or 286.620 *or section 3 of this act* and, at
25 the time of his retirement, was covered or had his dependents
26 covered by any group insurance, plan of benefits or medical and
27 hospital service established pursuant to NRS 287.010, 287.015,
28 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025,
29 has the option of having the Executive Officer deduct and pay his
30 premium or contribution for that coverage, as well as the amount
31 due or to become due upon any obligation designated by the Board
32 pursuant to subsection 2, from his monthly retirement allowance
33 until:

34 (a) He notifies the Executive Officer to discontinue the
35 deduction; or

36 (b) Any of his dependents elect to assume the premium or
37 contribution applicable to the dependent's coverage before the death
38 of such a retired person and continue coverage pursuant to NRS
39 287.023 after his death.

40 2. The Board may adopt regulations to carry out the provisions
41 of subsection 1, including, but not limited to, regulations governing
42 the number and types of obligations, amounts for the payment of
43 which may be deducted and paid by the Board at the option of the
44 officer or employee pursuant to this section.



3. The Executive Officer, Board and System are not liable for any damages resulting from errors or omissions concerning the deductions and payment of premiums or contributions authorized pursuant to this section unless willful neglect or gross negligence is proven.

Sec. 8. NRS 286.620 is hereby amended to read as follows:

286.620 1. A member of the System who has 5 years or more of service credit and who becomes totally unable to perform his current job or any comparable job for which he is qualified by his training and experience, because of injury or mental or physical illness of a permanent nature is eligible to apply for disability retirement *pursuant to this section* if:

(a) Except as otherwise provided in subsection 5, his employment will be terminated because of the disability;

(b) He is in the employ of a participating public employer at the time of application for disability retirement;

(c) He proves that his disability renders him unable to perform the duties of his present position and of any other position he has held within the past year;

(d) He files a notarized application for disability retirement with the System which indicates a selection of option and to which is attached a personal statement by the member, describing the disability, the duties which he can and cannot perform, and any benefits he is entitled to receive for disability from any other public source;

(e) The public employer files an official statement certifying the member's employment record, job description, work evaluations, record of disability and absences that have occurred because of the disability; and

(f) The immediate supervisor of the member files an official statement regarding the effect upon the work of the member after the disability, job functions that can and cannot be performed because of the disability, and whether or not there are alternative jobs that can be performed by the member.

2. Except as otherwise required as a result of NRS 286.537, the amount of the disability retirement allowance must be calculated in the same manner as provided for service retirement calculations in NRS 286.551, except that no reduction for the member's age may be made and that the allowance must be reduced by the amount of any other benefit received from any source on account of the same disability:

(a) If the benefit is provided or was purchased by the expenditure of money by a Nevada public employer; and

(b) To the extent that the total of the unmodified benefit and the other benefit would otherwise exceed his average compensation.



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3. A member may apply for disability retirement even if he is eligible for service retirement.

4. Each child of a deceased recipient of a disability retirement allowance is entitled to receive the benefits provided by NRS 286.673 only if the decedent had not reached the age and completed the service required to be eligible for a service retirement allowance, except that these benefits must not be paid to anyone who is named as a beneficiary under one of the options to an unmodified allowance.

5. If a member whose application for disability retirement has been:

(a) Approved ~~H~~ dies before his employment is terminated, but within 60 days after his application was approved; or

(b) Mailed before his death , as indicated by the date of the postmark dated by the post office on the envelope in which it was mailed, dies before the Board has acted upon his application and the Board approves thereafter his application,

his beneficiary is entitled to receive an allowance under the option selected rather than the benefit otherwise provided for a survivor.

6. The termination or adjustment of a disability retirement allowance resulting from the death of a recipient of an allowance pursuant to this section must not become effective until the first day of the month immediately following the death of the recipient.

Sec. 9. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 *or section 3 of this act* and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage or join the Public Employees' Benefits Program to the extent that such coverage is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who joins the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a



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1 retired person has the option, which may be exercised to the same
2 extent and in the same manner as the retired person, to cancel or
3 continue coverage in effect on the date the retired person dies. The
4 dependent is not required to continue to receive retirement payments
5 from the Public Employees' Retirement System to continue
6 coverage.

7 3. Notice of the selection of the option must be given in writing
8 to the last public employer of the officer or employee within 60 days
9 after the date of retirement or death, as the case may be. If no notice
10 is given by that date, the retired officer or employee and his
11 dependents shall be deemed to have selected the option to cancel the
12 coverage for the group insurance, plan of benefits or medical and
13 hospital service established pursuant to NRS 287.010, 287.015,
14 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025
15 or not to join the Public Employees' Benefits Program, as the case
16 may be.

17 4. The governing body of any county, school district,
18 municipal corporation, political subdivision, public corporation or
19 other local governmental agency of this State:

20 (a) May pay the cost, or any part of the cost, of coverage
21 established pursuant to NRS 287.010, 287.015 or 287.020 or
22 paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons
23 who continue that coverage pursuant to subsection 1, but it must not
24 pay a greater portion than it does for its current officers and
25 employees.

26 (b) Shall pay the same portion of the cost of coverage under the
27 Public Employees' Benefits Program for persons who join the
28 Program upon retirement pursuant to subsection 1 as the State pays
29 pursuant to subsection 2 of NRS 287.046 for persons retired from
30 state service who have continued to participate in the Program.

31 5. The governing body of any county, school district,
32 municipal corporation, political subdivision, public corporation or
33 other local governmental agency of this State shall, for the purpose
34 of establishing actuarial data to determine rates and coverage for
35 persons who continue coverage for group insurance, a plan of
36 benefits or medical and hospital service with the governing body
37 pursuant to subsection 1, commingle the claims experience of those
38 persons with the claims experience of active officers and employees
39 and their dependents who participate in the group insurance, a plan
40 of benefits or medical and hospital service.

41 **Sec. 10.** NRS 287.045 is hereby amended to read as follows:

42 287.045 1. Except as otherwise provided in this section,
43 every state officer or employee is eligible to participate in the
44 Program on the first day of the month following the completion of
45 90 days of full-time employment.



2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences his employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

4. Every Senator and Assemblyman is eligible to participate in the Program on the first day of the month following the 90th day after his initial term of office begins.

5. An officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 *or section 3 of this act* and was not participating in the Program at the time of his retirement is eligible to participate in the Program 60 days after notice of the selection to participate is given pursuant to NRS 287.023.

6. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to 689B.590, inclusive, and if the coverage under the Program is provided by a health maintenance organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

Sec. 11. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A public officer or employee who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, *or section 3 of this act*, or a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c)



1 or (d) of subsection 1 of NRS 287.025 or the Program as a public
2 officer or employee by:

3 (a) Giving written notice of his intent to reinstate the insurance
4 to the last public employer of the public officer or employee not
5 later than January 31 of an even-numbered year;

6 (b) Accepting the public employer's current program or plan of
7 insurance and any subsequent changes thereto; and

8 (c) Paying any portion of the premiums or contributions of the
9 public employer's program or plan of insurance, in the manner set
10 forth in NRS 1A.470 or 286.615, which are due from the date of
11 reinstatement and not paid by the public employer.

12 ➤ The last public employer shall give the insurer notice of the
13 reinstatement ~~not~~ **not** later than March 31 of the year in which the
14 public officer or employee or surviving spouse gives notice of his
15 intent to reinstate the insurance.

16 2. Reinstatement of insurance excludes claims for expenses for
17 any condition for which medical advice, treatment or consultation
18 was rendered within 12 months before reinstatement unless the
19 reinstated insurance has been in effect more than 12 consecutive
20 months.

21 3. The last public employer of a retired officer or employee
22 who reinstates insurance, except life insurance, which was provided
23 to him and his dependents at the time of his retirement pursuant to
24 NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of
25 subsection 1 of NRS 287.025, shall, for the purpose of establishing
26 actuarial data to determine rates and coverage for such persons,
27 commingle the claims experience of such persons with the claims
28 experience of active and retired officers and employees and their
29 dependents who participate in that group insurance, plan of benefits
30 or medical and hospital service.

31 **Sec. 12.** The provisions of this act apply only to a police
32 officer or firefighter who suffers a catastrophic injury on or after
33 July 1, 2007.

34 **Sec. 13.** This act becomes effective on July 1, 2007.

