

SENATE BILL NO. 457—COMMITTEE ON FINANCE

MARCH 26, 2007

Referred to Committee on Finance

SUMMARY—Provides for the creation, administration and investment of a trust fund for the management of certain retirement benefits provided by a local government. (BDR 23-736)

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 **fomitted-material** is material to be omitted.

AN ACT relating to local financial administration; authorizing the creation of a trust fund for the management of certain retirement benefits provided by a local government; providing for the administration and investment of such a trust fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 3** of this bill allows a local government to establish an irrevocable trust
2 fund for the purpose of providing health insurance or other retirement benefits,
3 other than a pension, to its retired employees, and to use the trust fund to
4 accumulate the funding necessary for the future provision of those benefits. **Section**
5 **3** requires the appointment of a board of trustees to administer the trust fund, and
6 provides for various limitations on the powers and duties of the board of trustees,
7 including its authority to invest the money in the trust fund.
8 **Section 5** of this bill provides for the investment of any money in such a trust
9 fund together with any assets of the Public Employees' Benefits Program in the
10 same manner as the money in the Public Employees' Retirement Fund is invested.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)



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1 **Sec. 3.** Chapter 287 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Notwithstanding any other provision of law, the governing*
4 *body of any local government which provides retirement benefits*
5 *to retired employees of that local government and the spouses and*
6 *dependents of those employees may, in addition to any other power*
7 *granted by law, establish a trust fund for that purpose in*
8 *accordance with the provisions of this section.*

9 2. *If the governing body of a local government establishes a*
10 *trust fund pursuant to this section:*

11 (a) *That local government may, within the limitations of its*
12 *budget, make contributions to the trust fund in such an amount as*
13 *it determines, in accordance with generally accepted accounting*
14 *principles, to be appropriate to provide, in whole or in part, the*
15 *funding necessary for any future retirement benefits to which the*
16 *retired employees of that local government and the spouses and*
17 *dependents of those employees may be entitled pursuant to the*
18 *benefits plan of that local government.*

19 (b) *All contributions to the trust fund, and any interest and*
20 *income earned on the money in the trust fund, must be held in*
21 *trust and used only to:*

22 (1) *Provide, for the benefit of retired employees of that local*
23 *government and the spouses and dependents of those employees,*
24 *retirement benefits in accordance with the benefits plan of that*
25 *local government; and*

26 (2) *Pay any reasonable administrative expenses incident to*
27 *the provision of those benefits and the administration of the trust.*

28 (c) *All contributions to the trust fund are irrevocable and*
29 *become the property of the beneficiaries of the trust.*

30 (d) *The assets of the trust fund are not subject to the claims of*
31 *any creditors of:*

32 (1) *That local government;*

33 (2) *The administrator of the benefits plan of that local*
34 *government; or*

35 (3) *The beneficiaries of the trust.*

36 (e) *The trust fund must be administered by a board of trustees*
37 *appointed by the governing body of that local government to act in*
38 *a fiduciary capacity for the beneficiaries of the trust. The board of*
39 *trustees shall be deemed to be a governmental entity for the*
40 *purposes of chapter 239 of NRS and a public body for the*
41 *purposes of chapter 241 of NRS, and the members of the board of*
42 *trustees shall be deemed to be public officers for the purposes of*
43 *NRS 281.411 to 281.581, inclusive. Neither the trust nor the board*
44 *of trustees shall be deemed to be a local government for the*
45 *purposes of chapter 350 or 354 of NRS, and except as otherwise*



provided in this section and section 5 of this act, no statutory limitation on the investment of public money shall be deemed to apply to the trust. The governing body:

(1) Must require the board of trustees to administer the trust in accordance with generally accepted accounting principles and actuarial studies applicable to the future provision of retirement benefits to retired employees and the spouses and dependents of those employees; and

(2) May authorize the board of trustees to employ such staff and contract for the provision of such management, investment and other services, including, without limitation, the services of accountants, actuaries, attorneys and investment managers, as are necessary for the administration of the trust fund.

(f) The constituent documents that establish the trust must:

(1) Set forth the powers and duties of the board of trustees, which may include any powers and duties that may be exercised by a nonprofit corporation under the laws of this State, but which must not include the power to borrow money or be inconsistent with the provisions of this section;

(2) Establish a procedure for resolving expeditiously any deadlock that arises among the members of the board of trustees; and

(3) Provide for an audit of the trust by an independent certified public accountant at least annually, the results of which must be reported to the governing body of that local government.

(g) Subject to the provisions of paragraph (h) and except as otherwise provided in paragraph (i), the assets of the trust fund or any portion of those assets may, as directed by the board of trustees appointed pursuant to paragraph (e):

(1) Be deposited in or withdrawn from the Retirement Benefits Investment Fund established pursuant to section 5 of this act;

(2) Be invested in any investment which is authorized for a local government pursuant to NRS 355.170; or

(3) Be invested in any stocks or other equity securities or bonds or other debt securities which:

(I) Are traded on a public securities market;

(II) Are approved by the Committee on Local Government Finance or included in any category of stocks or other equity securities or bonds or other debt securities which is approved by the Committee on Local Government Finance; and

(III) Persons of prudence, discretion and intelligence acquire or retain for their own account,

except that in no case may the assets of the trust fund include more than 5 percent of the equity or debt of any single business



1 *entity and in no case may more than 5 percent of the assets of the*
2 *trust fund be invested in the equity or debt of any single business*
3 *entity.*

4 *(h) The assets of the trust fund may be pooled for the purposes*
5 *of investment with the assets of any trust funds established by any*
6 *other local governments pursuant to this section only if each*
7 *participating local government's proportionate share of the pool of*
8 *assets:*

9 *(1) Is accounted for separately;*

10 *(2) Is used to provide retirement benefits solely to the*
11 *retired employees of that local government and the spouses and*
12 *dependents of those employees; and*

13 *(3) Is not subject to any liabilities of any other local*
14 *governments.*

15 *(i) The board of trustees appointed pursuant to paragraph (e)*
16 *shall not deposit any of the assets of the trust fund in the*
17 *Retirement Benefits Investment Fund established pursuant to*
18 *section 5 of this act unless the board obtains an opinion from the*
19 *legal counsel for that local government that the investment of*
20 *those assets in accordance with section 5 of this act will not violate*
21 *the provisions of Section 10 of Article 8 of the Constitution of the*
22 *State of Nevada.*

23 *3. The Committee on Local Government Finance may, in the*
24 *manner prescribed for state agencies in chapter 233B of NRS,*
25 *adopt such regulations as it determines to be appropriate for the*
26 *administration and interpretation of the provisions of this section.*

27 *4. As used in this section:*

28 *(a) "Benefits plan" means a plan established by a local*
29 *government or required by law for the provision of retirement*
30 *benefits to retired employees of a local government and the*
31 *spouses and dependents of those employees.*

32 *(b) "Local government" has the meaning ascribed to it in*
33 *NRS 354.474.*

34 *(c) "Retirement benefits" means any retirement benefits other*
35 *than a pension and includes, without limitation, life, accident or*
36 *health insurance, or any combination of such benefits.*

37 **Sec. 4.** NRS 287.040 is hereby amended to read as follows:

38 287.040 The provisions of NRS 287.010 to 287.040, inclusive,
39 **and section 3 of this act** do not make it compulsory upon any
40 governing body of any county, school district, municipal
41 corporation, political subdivision, public corporation or other local
42 governmental agency of the State of Nevada, except as otherwise
43 provided in NRS 287.021 or in an agreement entered into pursuant
44 to subsection 3 of NRS 287.015, to pay any premiums, contributions
45 or other costs for group insurance, a plan of benefits or medical or



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1 hospital services established pursuant to NRS 287.010, 287.015,
2 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025,
3 *or to make any contributions to a trust fund established pursuant*
4 *to section 3 of this act*, or upon any officer or employee of any
5 county, school district, municipal corporation, political subdivision,
6 public corporation or other local governmental agency of this State
7 to accept any such coverage or to assign his wages or salary in
8 payment of premiums or contributions therefor.

9 **Sec. 5.** Chapter 355 of NRS is hereby amended by adding
10 thereto a new section to read as follows:

11 *1. The Retirement Benefits Investment Board is hereby*
12 *created. The membership of the Board consists of the members of*
13 *the Public Employees' Retirement Board, who shall serve in that*
14 *capacity ex officio and without any additional compensation.*

15 *2. The Board shall establish and administer a fund to be*
16 *known as the Retirement Benefits Investment Fund for the*
17 *investment of money deposited with the Board pursuant to*
18 *subsection 5 or section 3 of this act. Any money received by the*
19 *Board pursuant to subsection 5 or section 3 of this act shall be*
20 *deemed to be held for investment purposes only and not in any*
21 *fiduciary capacity. Any money in the Fund must be invested in the*
22 *same manner as money in the Public Employees' Retirement*
23 *Fund is invested. The interest and income earned on the money in*
24 *the Fund, after deducting any applicable charges, must be credited*
25 *to the Fund.*

26 *3. The Board may assess reasonable charges against the*
27 *Fund for the payment of its expenses in administering the Fund.*
28 *No other money may be withdrawn from the Fund except as*
29 *directed by the board responsible for that money pursuant to*
30 *subsection 5 or section 3 of this act, as applicable.*

31 *4. Except as otherwise provided in this section, the Board has*
32 *the same powers and duties in carrying out the provisions of this*
33 *section as those pertaining to the administration of the Public*
34 *Employees' Retirement Fund by the Public Employees'*
35 *Retirement Board. The Retirement Benefits Investment Board may*
36 *employ such staff and contract for the provision of such*
37 *management, investment and other services, including, without*
38 *limitation, the services of accountants, actuaries, attorneys and*
39 *investment managers, as are necessary for the administration of*
40 *the Fund and to carry out the provisions of this section.*

41 *5. Notwithstanding any other provision of law, the Board of*
42 *the Public Employees' Benefits Program may deposit any of the*
43 *assets of the Public Employees' Benefits Program in the Fund for*
44 *purposes of investment if it obtains an opinion from its legal*
45 *counsel that the investment of those assets in accordance with this*



1 *section will not violate any of the provisions of Sections 9 and 10*
2 *of Article 8 of the Constitution of the State of Nevada.*

3 *6. As used in this section, unless the context otherwise*
4 *requires:*

5 *(a) “Board” means the Retirement Benefits Investment Board*
6 *created pursuant to this section.*

7 *(b) “Fund” means the Retirement Benefits Investment Fund*
8 *created pursuant to this section.*

9 **Sec. 6.** (Deleted by amendment.)

10 **Sec. 7.** This act becomes effective on July 1, 2007.

