

Amendment No. 397

Senate Amendment to Senate Bill No. 457

(BDR 23-736)

Proposed by: Senate Committee on Finance

Amends: Summary: No   Title: No   Preamble: No   Joint Sponsorship: No   Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SJC/BJE



Date: 4/15/2007

S.B. No. 457—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)



## 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 ~~omitted 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:**

**Section 3** of this bill allows a local government to establish an irrevocable trust fund for the purpose of providing health insurance or other retirement benefits, other than a pension, to its retired employees, and to use the trust fund to accumulate the funding necessary for the future provision of those benefits. **Section 3** requires the appointment of a board of trustees to administer the trust fund, and provides for various limitations on the powers and duties of the board of trustees, including its authority to invest the money in the trust fund.

**Section 4** of this bill provides for the investment of any money in such a trust fund together with **any assets of the Public Employees' Benefits Program in the same manner as the money in the Public Employees' Retirement Fund** ~~[Section 5 of this bill provides for the investment of a pool of money from similar trust funds by the State Treasurer. (NRS 255.165)]~~ **is invested.**

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 Board shall establish one or more separate accounts in the Public Employees' Retirement Fund for money deposited with the Board pursuant to section 3 of this act. Any money in such an account must be invested in the same manner as other money in the Public Employees' Retirement Fund is invested. The interest and income earned on the money in such an account, after deducting any applicable charges, must be credited to the account.~~

~~2. The Board may assess reasonable charges against such an account for the reimbursement of its expenses in administering the account. No other money may be withdrawn from such an account except as directed by the board of trustees responsible for that money pursuant to section 3 of this act.~~ (Deleted by amendment.)

Sec. 2. [NRS 286.220 is hereby amended to read as follows:]

~~286.220 1. The Board shall establish a fund known as the Public Employees' Retirement Fund.~~

~~2. It is hereby declared to be the policy of the Legislature that the Public Employees' Retirement Fund is a trust fund established to afford a degree of security to long-time public employees of the State and its political subdivisions. The money in the Fund must not be used or appropriated for any purpose incompatible with the policy of the Public Employees' Retirement System, as expressed in NRS 286.015. The Fund must be invested and administered to assure the highest return consistent with safety in accordance with accepted investment practices.~~

~~3. The interest and income earned on the money in the Public Employees' Retirement Fund, after deducting any applicable charges, must be credited to the Fund.~~

~~4. [Money] Except for any money deposited in a separate account established pursuant to section 1 of this act, the money in the Public Employees' Retirement Fund must be expended by the Board for the purpose of paying:~~

~~(a) Service retirement allowances;~~

~~(b) Disability retirement allowances;~~

~~(c) Postretirement allowances;~~

~~(d) Benefits for survivors;~~

~~(e) Authorized refunds to members and their beneficiaries;~~

~~(f) Amounts equivalent to disability retirement allowances to be used by employers for rehabilitation; and~~

~~(g) Allowances to beneficiaries;~~

~~and for the payment of expenses authorized by law to be paid from the Fund.~~

~~5. Contributions from members and from participating public employers to the Public Employees' Retirement Fund must be deposited in a bank or credit union of reputable standing in the State of Nevada. Such deposits must be secured in a manner satisfactory to the Board.~~

~~6. All checks drawn upon the Public Employees' Retirement Fund must be signed by two persons designated by the Board.~~ (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

(1) That local government;

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

(3) The beneficiaries of the trust.

(e) The trust fund must be administered by a board of trustees appointed by the governing body of that local government to act in a fiduciary capacity for the beneficiaries of the trust. The board of trustees shall be deemed to be a governmental entity for the purposes of chapter 239 of NRS and a public body for the purposes of chapter 241 of NRS, and the members of the board of trustees shall be deemed to be public officers for the purposes of NRS 281.411 to 281.581, inclusive. Neither the trust nor the board of trustees shall be deemed to be a local government for the purposes of chapter 350 or 354 of NRS, and except as otherwise provided in this section ~~1, NRS 355.165~~ and section ~~44~~ 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) ~~44~~ 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 ~~1 a special account established by the Public Employees' Retirement Board pursuant to section 1~~ the Retirement Benefits Investment Fund established pursuant to section 5 of this act;

(2) ~~Be deposited in or withdrawn from the Local Government Pooled Long-Term Investment Account created by NRS 355.165;~~

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

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

~~(1) Is accounted for separately;~~

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

~~(3) Is not subject to any liabilities of any other local governments.~~

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

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

~~4. As used in this section:~~

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

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

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

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

~~287.040 The provisions of NRS 287.010 to 287.040, inclusive, and section 3 of this act do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, or to make any contributions to a trust fund established pursuant to section 3 of this act, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local~~

governmental agency of this State to accept any such coverage or to assign his wages or salary in payment of premiums or contributions therefor.

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

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

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

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

**4. Except as otherwise provided in this section, the Board has the same powers and duties in carrying out the provisions of this section as those pertaining to the administration of the Public Employees' Retirement Fund by the Public Employees' Retirement Board. The Retirement Benefits Investment Board may 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 Fund and to carry out the provisions of this section.**

**5. Notwithstanding any other provision of law, the Board of the Public Employees' Benefits Program may deposit any of the assets of the Public Employees' Benefits Program in the Fund for purposes of investment if it obtains an opinion from its legal counsel that the investment of those assets in accordance with this section will not violate any of the provisions of Sections 9 and 10 of Article 8 of the Constitution of the State of Nevada.**

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

**(a) "Board" means the Retirement Benefits Investment Board created pursuant to this section.**

**(b) "Fund" means the Retirement Benefits Investment Fund created pursuant to this section.**

~~**[Sec. 5.] Sec. 6. [NRS 355.165 is hereby amended to read as follows:]**~~

~~**355.165 1. The Local Government Pooled Long-Term Investment Account is hereby created. The Account must be administered by the State Treasurer.**~~

~~**2. All of the provisions of NRS 355.167 apply to the Local Government Pooled Long-Term Investment Account.**~~

~~**3. In addition to the investments which are permissible pursuant to subsection 3 of NRS 355.167, the Treasurer may invest the money in the Local Government Pooled Long-Term Investment Account in:**~~

~~**(a) Mutual funds which:**~~

~~**(1) Are registered with the Securities and Exchange Commission;**~~

~~**(2) Are rated in the highest rating category by at least one nationally recognized rating service; and**~~

~~(3) Invest only in securities issued by the Federal Government or agencies of the Federal Government or in repurchase agreements fully collateralized by such securities.~~

~~(b) An investment contract that is collateralized with securities issued by the Federal Government or agencies of the Federal Government if:~~

~~(1) The collateral has a market value of at least 102 percent of the amount invested and any accrued unpaid interest thereon;~~

~~(2) The Treasurer receives a security interest in the collateral that is fully perfected and the collateral is held in custody for the State by a third-party agent of the State which is a commercial bank authorized to exercise trust powers;~~

~~(3) The market value of the collateral is determined not less frequently than weekly and, if the ratio required by subparagraph (1) is not met, sufficient additional collateral is deposited with the agent of this State to meet that ratio within 2 business days after the determination; and~~

~~(4) The party with whom the investment contract is executed is a commercial bank or credit union, or that party or a guarantor of the performance of that party is;~~

~~(I) An insurance company which has a rating on its ability to pay claims of not less than "Aa2" by Moody's Investors Service, Inc., or "AA" by Standard and Poor's Ratings Services, or their equivalent; or~~

~~(II) An entity which has a credit rating on its outstanding long-term debt of not less than "A2" by Moody's Investors Service, Inc., or "A" by Standard and Poor's Ratings Services, or their equivalent.~~

~~(c) Solely for the purpose of investing any pool of assets authorized pursuant to section 3 of this act, stocks or other equity securities or bonds or other debt securities which:~~

~~(1) Are traded on a public securities market; and~~

~~(2) Persons of prudence, discretion and intelligence acquire or retain for their own account;~~

~~except that in no case may the investments described in this paragraph include more than 5 percent of the equity or debt of any single business entity and in no case may more than 5 percent of the amount invested pursuant to this paragraph be invested in the equity or debt of any single business entity.~~

~~4. In addition to the reasonable charges against the Account which the State Treasurer may assess pursuant to subsection 8 of NRS 355.167, the State Treasurer may, in the case of a local government pooled long-term investment account, assess the costs:~~

~~(a) Associated with a calculation of any rebate of arbitrage profits which is required to be paid to the Federal Government by 26 U.S.C. § 148; and~~

~~(b) Of contracting with qualified persons to assist in the:~~

~~(1) Calculation of any rebate of arbitrage profits which is required to be paid to the Federal Government by 26 U.S.C. § 148; and~~

~~(2) Administration of the Account.~~

~~5. In addition to the quarterly computations of interest to be reinvested for or paid to each participating local government pursuant to subsection 9 of NRS 355.167, the State Treasurer may, in the case of a local government pooled long-term investment account, compute and reinvest or pay the interest more frequently. He may also base his computations on the amount of interest accrued rather than the amount received.~~

~~6. The Treasurer may establish one or more separate subaccounts in the Local Government Pooled Long-Term Investment Account for identified investments that are made for and allocated to specific participating local governments.] (Deleted by amendment.)~~

1       ~~[Sec. 6.]~~ **Sec. 7.**   This act becomes effective on July 1, 2007.