

ASSEMBLY BILL NO. 92—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 15, 2008

Referred to Committee on Ways and Means

SUMMARY—Revises the provisions governing the benefits of a retired justice or judge. (BDR 1-400)

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 the judiciary; revising the provisions governing the benefits of a retired justice or judge; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill allows a retired justice or judge who accepts employment
2 as a senior justice, senior judge, senior justice of the peace or senior municipal
3 judge of the Nevada Court System to qualify to receive allowances under the
4 Judicial Retirement Plan for the duration of his active service if he is at least 60
5 years of age at the time of his reemployment and he accepts the employment at
6 least 6 months after the effective date of his retirement. **Section 3** of this bill
7 prohibits a retired justice or judge who accepts employment as a senior justice,
8 senior judge, senior justice of the peace or senior municipal judge of the Nevada
9 Court System from enrolling in the Judicial Retirement Plan. **Sections 5-8** of this
10 bill provide that a retired justice or judge who is reemployed and commissioned as
11 a senior justice, senior judge, senior justice of the peace or senior municipal court
12 judge is entitled to receive a retirement allowance in addition to compensation for
13 his service and is entitled to receive additional service credit for actual time served
14 if he reenrolled in a retirement plan.

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.** NRS 1A.360 is hereby amended to read as follows:

3 1A.360 1. Except as otherwise provided in subsection 4 and
4 NRS 1A.370, if a retired justice or judge accepts employment as a



1 justice of the Supreme Court, district judge, justice of the peace or
2 municipal judge in any judicial capacity, including, without
3 limitation, employment as a senior justice, senior judge, senior
4 justice of the peace or senior municipal judge of the Nevada Court
5 System, he is disqualified from receiving any allowances under the
6 Judicial Retirement Plan for the duration of his active service.

7 2. If a retired justice or judge accepts any employment other
8 than that described in subsection 1, the justice or judge is entitled to
9 the same allowances as a retired justice or judge who has no
10 employment.

11 3. If a retired justice or judge who accepts employment as a
12 justice of the Supreme Court, district judge, justice of the peace or
13 municipal judge in a judicial capacity pursuant to this section elects
14 not to reenroll in the Judicial Retirement Plan pursuant to subsection
15 1 of NRS 1A.370, the Court Administrator if the retired justice or
16 judge is a justice of the Supreme Court or a district judge, the
17 county if the retired justice or judge is a justice of the peace or the
18 city if the retired justice or judge is a municipal judge, may pay
19 contributions on behalf of the retired justice or judge to a retirement
20 fund which is not a part of the Judicial Retirement Plan in an
21 amount not to exceed the amount of the contributions that the Court
22 Administrator, county or city would pay to the System on behalf of
23 a participating justice or judge who is employed in a similar
24 position.

25 4. ~~[The System may waive, for one period of 30 days or less, a~~
26 ~~retired justice of the Supreme Court's or district judge's~~
27 ~~disqualification under this section if the Chief Justice of the~~
28 ~~Supreme Court certifies in writing, in advance, that the retired~~
29 ~~justice of the Supreme Court or district judge is recalled to meet an~~
30 ~~emergency and that no other qualified person is immediately~~
31 ~~available. The System may waive, for one period of 30 days or less,~~
32 ~~a retired justice of the peace's disqualification under this section if~~
33 ~~the board of county commissioners of the jurisdiction in which the~~
34 ~~justice of the peace is to be assigned certifies in writing, in advance,~~
35 ~~that the retired justice of the peace is recalled to meet an emergency~~
36 ~~and that no other qualified person is immediately available. The~~
37 ~~System may waive, for one period of 30 days or less, a retired~~
38 ~~municipal judge's disqualification under this section if the city~~
39 ~~council of the jurisdiction in which the municipal judge is to be~~
40 ~~assigned certifies in writing, in advance, that the retired municipal~~
41 ~~judge is recalled to meet an emergency and that no other qualified~~
42 ~~person is immediately available.]~~ *The provisions of subsection 1 do*
43 *not apply to a retired justice or judge who accepts employment as a*
44 *senior justice, senior judge, senior justice of the peace or senior*
45 *municipal judge of the Nevada Court System if he is at least 60*



1 *years of age at the time of his reemployment and he accepts the*
2 *employment at least 6 months after the effective date of his*
3 *retirement pursuant to subsection 2 of NRS 1A.130.*

4 **Sec. 3.** NRS 1A.370 is hereby amended to read as follows:

5 1A.370 1. A retired justice or judge who accepts employment
6 as a justice of the Supreme Court, district judge, justice of the peace
7 or municipal judge in any judicial capacity, including, without
8 limitation, employment as a senior justice, senior judge, senior
9 justice of the peace or senior municipal judge of the Nevada Court
10 System, may enroll in the Judicial Retirement Plan as of the
11 effective date of that employment ~~[-]~~ *unless he is reemployed*
12 *pursuant to subsection 4 of NRS 1A.360.* As of the date of
13 enrollment:

14 (a) He forfeits all retirement allowances for the duration of that
15 employment; and

16 (b) Except as otherwise required as a result of NRS 1A.400 or
17 1A.410, if the duration of the employment is at least 6 months, he
18 gains additional service credit for that employment and is entitled to
19 have a separate service retirement allowance calculated based on his
20 compensation and service, effective upon the termination of that
21 employment. If the duration of the employment is:

22 (1) Less than 5 years, the additional allowance must be added
23 to his original allowance and must be under the same option and
24 designate the same beneficiary as the original allowance; or

25 (2) Five years or more, the additional allowance may be
26 under any option and designate any beneficiary in accordance with
27 NRS 1A.430.

28 2. The original service retirement allowance of such a retired
29 justice or judge must not be recalculated based upon the additional
30 service credit, nor is he entitled to any of the rights of membership
31 that were not in effect at the time of his original retirement. The
32 accrual of service credit pursuant to this section is subject to the
33 limits imposed by:

34 (a) NRS 1A.440; and

35 (b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415.

36 3. Except as otherwise required as a result of NRS 1A.400 or
37 1A.410, a retired justice or judge who has been receiving a
38 retirement allowance pursuant to the Judicial Retirement Plan and
39 who is reemployed and is enrolled in the Plan for at least 5 years
40 may have his additional credit for service added to his previous
41 credit for service. This additional credit for service must not apply
42 to more than one period of employment after the original retirement.

43 4. The survivor of a deceased member of the Judicial
44 Retirement Plan who had previously retired and was reemployed
45 and enrolled in the Plan, who qualifies for benefits pursuant to NRS



1 1A.340 and 1A.530 to 1A.670, inclusive, is eligible for the benefits
2 based on the service accrued through the second period of
3 employment.

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** NRS 2.060 is hereby amended to read as follows:

6 2.060 1. Any justice of the Supreme Court who has served as
7 a justice or judge of a district court in any one or more of those
8 courts for a period or periods aggregating 22 years and has ended
9 such service is, after reaching the age of 60 years, entitled to receive
10 annually from the State of Nevada, as a pension during the
11 remainder of his life, a sum of money equal in amount to three-
12 fourths the sum received as a salary for his judicial services during
13 the last year thereof, payable monthly from the Judicial Retirement
14 Fund established pursuant to NRS 1A.160.

15 2. Any justice of the Supreme Court who has served as a
16 justice or judge of a district court in any one or more of those courts
17 for a period or periods aggregating 5 years and has ended such
18 service is, after reaching the age of 60 years, entitled to receive
19 annually from the State of Nevada, as a pension during the
20 remainder of his life, a sum of money equal in amount to 4.1666
21 percent of the sum received as a salary for his judicial services
22 during the last year thereof, payable monthly from the Judicial
23 Retirement Fund established pursuant to NRS 1A.160.

24 3. Any justice of the Supreme Court who qualifies for a
25 pension under the provisions of subsection 2 is entitled to receive,
26 for each year served beyond 5 years up to a maximum of 22 years,
27 an additional 4.1666 percent of the sum received as a salary for his
28 judicial services during the last year thereof, payable as provided in
29 subsection 2.

30 4. Any justice who has retired pursuant to subsection 3 and is
31 thereafter recalled to additional active service in the court system is
32 entitled to receive credit toward accumulating 22 years' service for
33 the maximum pension based upon the time he actually spends in the
34 additional active service.

35 5. Any justice who has the years of service necessary to retire
36 but has not attained the required age may retire at any age with a
37 benefit actuarially reduced to the required retirement age. A benefit
38 under this subsection must be reduced in the same manner as
39 benefits are reduced for persons retired under the Public Employees'
40 Retirement System.

41 6. Any person receiving a pension pursuant to the provisions of
42 this section is entitled to receive postretirement increases equal to
43 those provided for persons retired under the Public Employees'
44 Retirement System.



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7. Any justice who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. Any justice who has retired and is thereafter recalled to additional active service in the court system as a senior justice is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any justice who may have ended his service pursuant to it.

~~9-1~~ 10. As used in this section, "salary" includes a salary received for service on a Supreme Court commission created by statute.

Sec. 6. NRS 2.060 is hereby amended to read as follows:

2.060 1. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any justice of the Supreme Court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any justice who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.



5. Any justice who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired under the Public Employees' Retirement System.

7. Any justice who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. *Any justice who has retired and is thereafter recalled to additional active service in the court system as a senior justice is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.*

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any justice who may have ended his service pursuant to it.

Sec. 7. NRS 3.090 is hereby amended to read as follows:

3.090 1. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any judge of the district court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his



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1 judicial services during the last year thereof, payable as provided in
2 subsection 2.

3 4. Any judge who has retired pursuant to subsection 3 and is
4 thereafter recalled to additional active service in the court system is
5 entitled to receive credit toward accumulating 22 years' service for
6 the maximum pension based upon the time he actually spends in the
7 additional active service.

8 5. Any district judge who has the years of service necessary to
9 retire but has not attained the required age may retire at any age with
10 a benefit actuarially reduced to the required retirement age. A
11 retirement benefit under this subsection must be reduced in the same
12 manner as benefits are reduced for persons retired under the Public
13 Employees' Retirement System.

14 6. Any person receiving a pension pursuant to the provisions of
15 this section is entitled to receive postretirement increases equal to
16 those provided for persons retired in the Public Employees'
17 Retirement System.

18 7. Any judge of the district court who desires to receive the
19 benefits of this section must file with the Executive Officer of the
20 Public Employees' Retirement Board an affidavit setting forth
21 the fact that he is ending his service, the date and place of his birth,
22 and the years he has served in any district court or the Supreme
23 Court.

24 8. *Any judge who has retired and is thereafter recalled to*
25 *additional active service in the court system as a senior judge,*
26 *senior justice of the peace or senior municipal court judge is*
27 *entitled to receive a retirement allowance during the period of*
28 *reemployment in addition to compensation for services.*

29 9. The faith of the State of Nevada is hereby pledged that this
30 section shall not be repealed or amended so as to affect any judge of
31 the district court who may have ended his service pursuant to it.

32 ~~9-1~~ 10. As used in this section, "salary" includes a salary
33 received for service on a District Court Commission created by
34 statute.

35 **Sec. 8.** NRS 3.090 is hereby amended to read as follows:

36 3.090 1. Any judge of the district court who has served as a
37 justice of the Supreme Court or judge of a district court in any one
38 or more of those courts for a period or periods aggregating 22 years
39 and has ended such service is, after reaching the age of 60 years,
40 entitled to receive annually from the State of Nevada, as a pension
41 during the remainder of his life, a sum of money equal in amount to
42 three-fourths the sum received as a salary for his judicial services
43 during the last year thereof, payable monthly from the Judicial
44 Retirement Fund established pursuant to NRS 1A.160.



2. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any judge of the district court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any judge who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.

5. Any district judge who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A retirement benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired in the Public Employees' Retirement System.

7. Any judge of the district court who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. Any judge who has retired and is thereafter recalled to additional active service in the court system as a senior judge, senior justice of the peace or senior municipal court judge is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any judge of the district court who may have ended his service pursuant to it.

Sec. 9. (Deleted by amendment.)



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1 **Sec. 10.** (Deleted by amendment.)

2 **Sec. 10.5.** The Public Employees' Retirement Board shall
3 conduct an experience study of the Judicial Retirement System of
4 the reemployment of retired justices or judges by the Nevada Court
5 System pursuant to section 2 of this act for the period between
6 July 1, 2009, and June 30, 2014. The Public Employees' Retirement
7 Board shall submit a report of the study to the Interim Retirement
8 and Benefits Committee of the Legislature on or before
9 December 31, 2014.

10 **Sec. 11.** This act becomes effective on July 1, 2009, and
11 expires by limitation on June 30, 2015.

