

SENATE BILL NO. 367—COMMITTEE ON FINANCE

(ON BEHALF OF THE GOVERNOR)

MARCH 23, 2009

Referred to Committee on Finance

SUMMARY—Makes various changes to the provisions governing the Public Employees’ Retirement System. (BDR 23-1168)

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; requiring the Public Employees’ Retirement Board and the Interim Retirement and Benefits Committee of the Legislature to conduct certain studies; amending the definition of “compensation” as it applies to certain members of the System whose effective date of membership is on or after January 1, 2010; amending the eligibility requirements for retirement of such members; revising the calculation for determining the monthly service retirement allowance for certain retirees; making various other changes to the System; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Retired public employees receive retirement allowances through membership in and contributions to the Public Employees’ Retirement System. (Chapter 286 of NRS) This bill makes a number of changes to the System.

The rates at which a member and an employer contribute to the System and the amount of a member’s monthly retirement allowance are based on the member’s compensation while employed, subject to certain limitations. (NRS 286.025, 286.410, 286.535, 286.537, 286.551) **Section 5** of this bill amends the definition of “compensation” as it applies to employees who join the System on or after January 1, 2010. (NRS 286.025) As amended by **section 5**, “compensation” is essentially limited to base pay.

The monthly retirement allowance is calculated by multiplying a member’s average compensation, over the member’s 36 consecutive months of highest



compensation, by 2.5 percent for every year of service earned before July 1, 2001, and 2.67 percent for every year of service earned thereafter. **Section 7** of this bill provides that the monthly retirement allowance for each member, other than a police officer or firefighter, who enters the System on or after January 1, 2010, will be determined by multiplying the member's average compensation by 2.15 percent for every year of service. **Section 7** also provides that the average compensation will be determined over such a member's 60 consecutive months of highest compensation. Finally, **section 7** limits, for an employee who enters the System on or after January 1, 2010, to 10 percent per year the amount of an increase in compensation that can be considered when determining a retirement allowance. (NRS 286.551) **Section 4** of this bill then entitles an employee whose retirement allowances are so limited to a refund for a portion of their contributions to the System.

Existing law provides that a member of the Public Employees' Retirement System, other than a police officer or firefighter, is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at any age if he has at least 30 years of service. **Section 6** of this bill provides that a member of the System, other than a police officer or firefighter, whose effective date of membership is on or after January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service and at age 60 if he has at least 10 years of service, thus eliminating the ability of such later-hired employees to retire after 30 years of service regardless of age. (NRS 286.510)

Sections 2 and 8 of this bill require the Public Employees' Retirement Board and the Interim Retirement and Benefits Committee of the Legislature each to conduct studies of the System and report their findings to the Legislature.

The Legislature pledges in **section 3** of this bill that it will not enact any enhancements to the System unless it makes certain findings.

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, 3 and 4 of this act.

Sec. 2. 1. *The Board shall review at least biennially the costs to purchase credit for service to determine whether such costs are equal to or greater than the full actuarial cost of the service, as determined by an actuary of the System.*

2. *The Board shall submit a report of its findings to the Interim Retirement and Benefits Committee of the Legislature on or before December 31 of each odd-numbered year.*

Sec. 3. *The Legislature hereby pledges that:*

1. *It will not enact any enhancements to the System without first finding that the System:*

(a) *Has been actuarially fully funded for 3 consecutive years; and*

(b) *Would continue to be actuarially fully funded after the enactment of any enhancement.*



1 2. *Any enhancement to the System enacted by the Legislature*
2 *will expire by limitation not later than 10 years after the effective*
3 *date of such enhancement.*

4 **Sec. 4.** *1. A person who becomes a member of the System*
5 *on or after January 1, 2010, and whose monthly service retirement*
6 *allowance is determined using an average compensation amount*
7 *limited by the provisions of subsection 4 of NRS 286.551 is entitled*
8 *to a refund from his individual account of the difference between:*

9 (a) *The amount of his employee contribution pursuant to NRS*
10 *286.410; and*

11 (b) *The amount the employee contribution would have been*
12 *had it been actuarially determined to account for the limits*
13 *imposed by the provisions of subsection 4 of NRS 286.551.*

14 2. *The System shall pay any amount to which a person is*
15 *entitled pursuant to subsection 1 with the first monthly service*
16 *retirement allowance paid to the person.*

17 **Sec. 5.** NRS 286.025 is hereby amended to read as follows:

18 286.025 1. Except as otherwise provided by specific statute,
19 "compensation" is the salary paid to a member by his principal
20 public employer.

21 2. ~~[The]~~ *As it applies to a person who becomes a member of*
22 *the System before January 1, 2010, the* term includes:

23 (a) Base pay, which is the monthly rate of pay excluding all
24 fringe benefits.

25 (b) Additional payment for longevity, shift differential,
26 hazardous duty, work performed on a holiday if it does not exceed
27 the working hours of the normal workweek or pay period for that
28 employee, holding oneself ready for duty while off duty and
29 returning to duty after one's regular working hours.

30 (c) Payment for extra duty assignments if it is the standard
31 practice of the public employer to include such pay in the
32 employment contract or official job description for the calendar or
33 academic year in which it is paid and such pay is specifically
34 included in the member's employment contract or official job
35 description.

36 (d) The aggregate compensation paid by two separate public
37 employers if one member is employed half-time or more by one,
38 and half-time or less by the other, if the total does not exceed full-
39 time employment, if the duties of both positions are similar and if
40 the employment is pursuant to a continuing relationship between the
41 employers.

42 3. *As it applies to a person who becomes a member of the*
43 *System on or after January 1, 2010, the term includes:*

44 (a) *Base pay, which is the monthly rate of pay excluding all*
45 *fringe benefits; and*



1 ***(b) The aggregate compensation paid by two separate public***
2 ***employers if one member is employed half-time or more by one,***
3 ***and half-time or less by the other, if the total does not exceed full-***
4 ***time employment, if the duties of both positions are similar and if***
5 ***the employment is pursuant to a continuing relationship between***
6 ***the employers.***

7 **4.** The term does not include any type of payment not
8 specifically described in subsection 2 ~~or 3~~ ***or 3, as applicable.***

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

10 286.510 1. Except as otherwise provided in subsections 2 and
11 3, a member of the System :

12 ***(a) Who becomes a member of the System before January 1,***
13 ***2010, is eligible to retire at age 65 if he has at least 5 years of***
14 ***service, at age 60 if he has at least 10 years of service and at any age***
15 ***if he has at least 30 years of service.***

16 ***(b) Who becomes a member of the System on or after***
17 ***January 1, 2010, is eligible to retire at age 65 if he has at least 5***
18 ***years of service and at age 60 if he has at least 10 years of service.***

19 2. A police officer or firefighter is eligible to retire at age 65 if
20 he has at least 5 years of service, at age 55 if he has at least 10 years
21 of service, at age 50 if he has at least 20 years of service and at any
22 age if he has at least 25 years of service. Only service performed in
23 a position as a police officer or firefighter, established as such by
24 statute or regulation, service performed pursuant to subsection 3 and
25 credit for military service, may be counted toward eligibility for
26 retirement pursuant to this subsection.

27 3. Except as otherwise provided in subsection 4, a police
28 officer or firefighter who has at least 5 years of service as a police
29 officer or firefighter and is otherwise eligible to apply for disability
30 retirement pursuant to NRS 286.620 because of an injury arising out
31 of and in the course of his employment remains eligible for
32 retirement pursuant to subsection 2 if:

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

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

40 (c) He remains continuously employed by that public employer
41 until he becomes eligible for retirement pursuant to subsection 2;
42 and

43 (d) After he accepts a position pursuant to paragraph (b), his
44 contributions are paid at the rate that is actuarially determined for



1 police officers and firefighters until he becomes eligible for
2 retirement pursuant to subsection 2.

3 4. If a police officer or firefighter who accepted another
4 position with the public employer with which he was employed
5 when he became disabled pursuant to subsection 3 ceases to work
6 for that public employer before becoming eligible to retire pursuant
7 to subsection 2, he may begin to receive a disability retirement
8 allowance without further approval by the Board by notifying the
9 Board on a form prescribed by the Board.

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

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

26 **Sec. 7.** NRS 286.551 is hereby amended to read as follows:

27 286.551 Except as otherwise required as a result of NRS
28 286.535 or 286.537:

29 1. Except as otherwise provided in this subsection, *for a*
30 *member who has an effective date of membership before*
31 *January 1, 2010, and for a member who is a police officer or a*
32 *firefighter regardless of the effective date of membership*, a
33 monthly service retirement allowance must be determined by
34 multiplying a member's average compensation by 2.5 percent for
35 each year of service earned before July 1, 2001, and 2.67 percent for
36 each year of service earned on or after July 1, 2001, except that a
37 member:

38 (a) Who has an effective date of membership on or after July 1,
39 1985, is entitled to a benefit of not more than 75 percent of his
40 average compensation with his eligibility for service credit ceasing
41 at 30 years of service.

42 (b) Who has an effective date of membership before July 1,
43 1985, and retires on or after July 1, 1977, is entitled to a benefit of
44 not more than 90 percent of his average compensation with his
45 eligibility for service credit ceasing at 36 years of service.



1 ➤ In no case may the service retirement allowance determined
2 pursuant to this ~~[section]~~ *subsection* be less than the allowance to
3 which the retired employee would have been entitled pursuant to the
4 provisions of this section which were in effect on the day before
5 July 3, 1991.

6 2. *For a member who is not a police officer or a firefighter*
7 *and who has an effective date of membership on or after*
8 *January 1, 2010, a monthly service retirement allowance must be*
9 *determined by multiplying a member's average compensation by*
10 *2.15 percent for each year of service earned, with his eligibility for*
11 *service credit ceasing at 30 years of service.*

12 3. For the purposes of this section, except as otherwise
13 provided in subsection ~~[3.]~~ 5:

14 (a) *As the term applies to an employee who becomes a member*
15 *of the System before January 1, 2010, "average compensation"*
16 *means the average of a member's 36 consecutive months of highest*
17 *compensation as certified by the public employer* ~~[-~~

18 ~~-3.]~~ ; and

19 (b) *Except as otherwise provided in subsection 4, as the term*
20 *applies to an employee who becomes a member of the System on*
21 *or after January 1, 2010, "average compensation" means the*
22 *average of a member's 60 consecutive months of highest*
23 *compensation as certified by the public employer.*

24 4. *Regardless of any increases in compensation paid to a*
25 *member during the member's 60 consecutive months of highest*
26 *compensation, the following limits must be observed when*
27 *calculating the member's average compensation:*

28 (a) *The compensation for the 13th through the 24th months*
29 *may not exceed the actual compensation amount for the 1st*
30 *through the 12th months by more than 10 percent;*

31 (b) *The compensation for the 25th through the 36th months*
32 *may not exceed by more than 10 percent the lesser of:*

33 (1) *The maximum compensation amount allowed pursuant*
34 *to paragraph (a); or*

35 (2) *The actual compensation amount for the 13th through*
36 *the 24th months;*

37 (c) *The compensation for the 37th through the 48th months*
38 *may not exceed by more than 10 percent the lesser of:*

39 (1) *The maximum compensation amount allowed pursuant*
40 *to paragraph (b); or*

41 (2) *The actual compensation amount for the 25th through*
42 *the 36th months; and*

43 (d) *The compensation for the 49th through the 60th months*
44 *may not exceed by more than 10 percent the lesser of:*



1 *(1) The maximum average compensation amount allowed*
2 *pursuant to paragraph (c); or*

3 *(2) The actual compensation amount for the 37th through*
4 *the 48th months.*

5 **5.** The average compensation of a member who has a break in
6 service or partial months of compensation, or both, as a result of
7 service as a Legislator during a regular or special session of the
8 Nevada Legislature must be calculated on the basis of :

9 *(a) For an employee who becomes a member of the System*
10 *before January 1, 2010, the average of his 36 consecutive months*
11 *of highest compensation as certified by his public employer*
12 *excluding each month during any part of which the Legislature was*
13 *in session* ~~[4]~~; *and*

14 *(b) For an employee who becomes a member of the System on*
15 *or after January 1, 2010, the average of his 60 consecutive months*
16 *of highest compensation as certified by his public employer*
17 *excluding each month during any part of which the Legislature*
18 *was in session.*

19 ➡ This subsection does not affect the computation of years of
20 service.

21 ~~[4]~~ **6.** The retirement allowance for a regular part-time
22 employee must be computed from the salary which he would have
23 received as a full-time employee if it results in greater benefits for
24 the employee. A regular part-time employee is a person who works
25 half-time or more, but less than full-time:

26 (a) According to the regular schedule established by the
27 employer for his position; and

28 (b) Pursuant to an established agreement between the employer
29 and the employee.

30 **Sec. 8.** The Interim Retirement and Benefits Committee of the
31 Legislature, created by NRS 218.5373, shall conduct a study of the
32 actuarial soundness of the Public Employees' Retirement System.
33 Not later than December 31, 2010, the Committee shall prepare and
34 submit a report of its findings, including, without limitation, any
35 recommended legislation, to the Director of the Legislative Counsel
36 Bureau for submission to the 76th Session of the Nevada
37 Legislature.

38 **Sec. 9.** This act becomes effective on July 1, 2009.

