

SENATE BILL NO. 41—COMMITTEE ON FINANCE

(ON BEHALF OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM)

PREFILED DECEMBER 5, 2008

Referred to Committee on Finance

SUMMARY—Makes various changes to provisions relating to public retirement systems. (BDR 23-308)

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 retirement systems; requiring public employers that participate in the Public Employees' Retirement System to select a liaison officer to certify records and coordinate certain matters between the System and members or public employers; clarifying provisions relating to the penalty that is assessed against a participating public employer for failing to file payroll reports or remit public employer contributions in a timely manner; providing a deadline for certain justices of the peace and municipal judges who are members of the System to withdraw from the System and become members of the Judicial Retirement Plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that public employers or groups of public employers that participate in the Public Employees' Retirement System may select employees to act as liaison officers to certify records and coordinate matters pertaining to retirement between the System and members or participating public employers. (NRS 286.288) **Section 1** of this bill makes the selection of such liaison officers mandatory and not permissive.

Existing law provides for the immediate assessment of a penalty against a public employer for failing to file payroll reports or remit public employer contributions in a timely manner. (NRS 286.460) **Section 2** of this bill clarifies that the penalty must be calculated based on the most recent payroll report submitted to the System by the delinquent public employer.



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Existing law authorizes a justice of the peace or municipal judge to choose to participate in the Judicial Retirement Plan if the governing body of the applicable local government allows the justices or judges to participate in the Plan. If a justice of the peace or municipal judge is a member of the System on the date that he chooses to participate in the Plan, he must give written notice to the Public Employees' Retirement Board of his intention to withdraw from the System and to become a member of the Plan. (NRS 1A.285) **Section 3** of this bill requires that such written notice be received by the Board by March 31 of the year immediately following the year in which the justice of the peace or municipal judge was elected or within 90 days after his appointment, as the case may be. **Section 4** of this bill provides that a person who, on July 1, 2009, is a justice of the peace or a municipal judge, as applicable, of a local government that has chosen to allow such persons to participate in the Plan has until October 1, 2009, to submit written notice to the Board of his intention to withdraw from the System and become a member of the Plan.

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

Section 1. NRS 286.288 is hereby amended to read as follows:
286.288 ~~Any~~ *Each* participating public employer or group of such employers ~~may~~ *shall* select an employee as liaison officer to certify records and coordinate matters pertaining to retirement between the System and members or participating public employers. The System is responsible for any inaccurate or misleading information provided to any person or agency by an officer or employee of the System ~~if~~ but is not responsible for inaccurate or misleading information provided by *an officer or employee of a participating public employer or* any other person.

Sec. 2. NRS 286.460 is hereby amended to read as follows:
286.460 1. Each participating public employer which pays compensation to its officers or employees in whole or in part from money received from sources other than money appropriated from the State General Fund ~~if~~ shall pay public employer contributions, or the proper portion thereof, to the System from the money of the department, board, commission or agency.

2. Public employer contributions for compensation paid from the State General Fund must be paid directly by each department, board, commission or other agency concerned, and allowance therefor must be made in the appropriation made for each department, board, commission or other state agency.

3. All participating public employers that are required to make payments pursuant to this section shall file payroll reports not later than 15 days after the end of the reporting period, together with the remittance of the amount due ~~to~~ the System. The 15-day limit is extended 1 working day for each legal holiday that falls within the 15-day period and is officially recognized by the public employer.



4. Payroll reports must contain accurate payroll information and be filed in a form prescribed by the Board. If the payroll reports are not filed or the amounts due are not remitted within the time provided, a penalty on the unpaid balance due must be assessed at a rate of 4 percent more than the prime rate of interest as published in the Wall Street Journal (Western Edition) for the first date the payment or report becomes delinquent. *For purposes of calculating the penalty on the unpaid balance due, the unpaid balance due must be calculated based on the most recent payroll report submitted to the System by the public employer.*

5. A notice of the penalty assessed must be mailed by certified mail to the chief administrator of the delinquent public employer. The public employer shall pay the assessment within 90 days after receipt of the notice or an additional penalty of 1 percent of the assessment per month must be imposed until paid. Refusal or failure by the public employer to pay the assessment within 12 months after receipt is a misdemeanor on the part of the chief administrator of the delinquent public employer. The ~~Retirement~~ Board may accept, no later than 30 days after the notice is received, an appeal from a public employer for waiver or reduction of a penalty assessed on account of extenuating circumstances and make any adjustment it deems necessary.

6. Except as otherwise required as a result of NRS 286.537, upon notification that a current employee was not properly enrolled in the System by the public employer, the public employer shall pay within 90 days all the employee and employer contributions and the interest that is due as computed by the System from the first day the employee was eligible for membership. The public employer is entitled to recover from the employee the employee contributions and interest thereon.

7. As used in this section, "reporting period" means the calendar month for which members' compensation and service credits are reported and certified by participating public employers. Compensation paid during each month must be reported separately, and retroactive salary increases must be identified separately for each month to which they apply.

Sec. 3. NRS 1A.285 is hereby amended to read as follows:

1A.285 1. A justice of the peace or municipal judge may participate in the Judicial Retirement Plan if:

(a) The board of county commissioners elects to allow the justices of the peace of the county or the city council elects to allow the municipal judges of the city to participate in the Judicial Retirement Plan; and

(b) The justice of the peace or the municipal judge elects to participate in *the Judicial Retirement Plan and submits written*



1 *notice to the Board of his intention to withdraw from the Public*
2 *Employees' Retirement System and become a member of the*
3 *Judicial Retirement Plan. Such notice must be given to the Board*
4 *within the time set forth in subsection 2 and, except as otherwise*
5 *provided in subsection 3, must be given the first time that the*
6 *justice of the peace or municipal judge is elected or appointed*
7 *while he is a member of the Public Employees' Retirement System.*

8 2. *Except as otherwise provided in subsection 3, written*
9 *notice given pursuant to paragraph (b) of subsection 1 must be*
10 *received by the Board:*

11 (a) *If the justice of the peace or municipal judge is elected, by*
12 *March 31 of the year immediately following the year in which he*
13 *was elected; or*

14 (b) *If the justice of the peace or municipal judge is appointed,*
15 *within 90 days after his appointment.*

16 3. *A justice of the peace or municipal judge who is a member*
17 *of the Public Employees' Retirement System on the date that the*
18 *board of county commissioners or city council elects to allow*
19 *justices of the peace or municipal judges to participate in the*
20 *Judicial Retirement Plan has 90 days following such date to*
21 *submit written notice to the Board of his intention to withdraw*
22 *from the Public Employees' Retirement System and become a*
23 *member of the Judicial Retirement Plan.*

24 4. Each justice of the peace or municipal judge who is allowed
25 and who elects to participate in the Judicial Retirement Plan
26 pursuant to this section must receive benefits for retirement, benefits
27 for disability and survivor benefits under the Judicial Retirement
28 Plan, if eligible to receive such benefits under the Judicial
29 Retirement Plan.

30 ~~[3.]~~ 5. If the board of county commissioners rescinds its
31 election to allow the justices of the peace of the county or the city
32 council rescinds its election to allow the municipal judges of the city
33 to participate in the Judicial Retirement Plan, any justice of the
34 peace or municipal judge who elected to participate in the Judicial
35 Retirement Plan before the effective date of the rescission is entitled
36 to continue to participate in the Judicial Retirement Plan.

37 ~~[4.—A justice of the peace or municipal judge who is a member~~
38 ~~of the Public Employees' Retirement System established pursuant to~~
39 ~~chapter 286 of NRS on the date that he elects to participate in the~~
40 ~~Judicial Retirement Plan must give written notice to the Board of his~~
41 ~~intention to withdraw from the Public Employees' Retirement~~
42 ~~System and to become a member of the Judicial Retirement Plan.~~

43 ~~—5.]~~ 6. If the Board receives *proper* notice pursuant to this
44 section that a justice of the peace or municipal judge intends to
45 withdraw from the Public Employees' Retirement System ~~[.]~~ *and*



1 *become a member of the Judicial Retirement Plan*, it shall transfer
2 from the Public Employees' Retirement Fund to the Judicial
3 Retirement Plan the accrued actuarial liability and credit for service
4 earned by the justice or judge while a member of the Public
5 Employees' Retirement System as determined by an actuary of the
6 ~~Judicial Retirement~~ System. The service so transferred must be
7 accredited under the Judicial Retirement Plan as if performed in the
8 Public Employees' Retirement System.

9 ~~[6.]~~ 7. A justice of the peace or municipal judge who exercises
10 the option granted by this section may not reestablish the service for
11 which the liabilities were transferred.

12 ~~[7.]~~ 8. No justice of the peace or municipal judge or survivor
13 of a justice of the peace or municipal judge may receive benefits
14 under both this chapter and chapter 286 of NRS.

15 ~~[8.]~~ 9. A justice of the peace or municipal judge or survivor of
16 a justice of the peace or municipal judge who is receiving a
17 retirement allowance from the Public Employees' Retirement
18 System on July 1, 2005, is not eligible for transfer to the Judicial
19 Retirement Plan.

20 **Sec. 4.** A person who, on July 1, 2009, is a member of the
21 Public Employees' Retirement System, is not receiving a retirement
22 allowance from the System and:

23 1. Is a justice of the peace in a county that has elected to allow
24 the justices of the peace of the county to participate in the Judicial
25 Retirement Plan; or

26 2. Is a municipal judge in a city that has elected to allow
27 municipal judges of the city to participate in the Judicial Retirement
28 Plan,

29 ➔ may elect to participate in the Judicial Retirement Plan if he gives
30 written notice to the Public Employees' Retirement Board of his
31 intention to withdraw from the System and become a member of the
32 Judicial Retirement Plan. Such notice must be given to the Board by
33 October 1, 2009.

34 **Sec. 5.** This act becomes effective on July 1, 2009.

