

ASSEMBLY BILL NO. 405—ASSEMBLYMAN OCEGUERA

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the Public Employees' Retirement System. (BDR 23-964)

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' retirement; eliminating the inclusion of call-back pay in the compensation reported for each member of the Public Employees' Retirement System whose effective date of membership in the System is on or after January 1, 2012; limiting the increases in reportable compensation each fiscal year for such a member; pledging that the Legislature will not modify retirement benefits for a certain period and will not increase subsequent benefits except in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

A member's monthly retirement allowance from the Public Employees' Retirement System is based on the member's compensation while employed, subject to certain limitations. (NRS 286.025, 286.410, 286.535, 286.537, 286.551)

Section 2 of this bill eliminates the inclusion of call-back pay in the compensation reported for each member whose effective date of membership in the System is on or after January 1, 2012. **Section 3** of this bill limits the increases in reportable compensation for such a member to not more than 10 percent from one fiscal year to the next fiscal year, excluding compensation attributable to a promotion and assignment-related compensation.

Section 1 of this bill sets forth the pledge of the Legislature that for a 10-year period after the implementation of the modifications to the System set forth in **sections 2 and 3** of this bill, the Legislature will not enact any law that has the effect of modifying any benefit payable under the System unless such a modification is necessary to maintain the fiscal integrity of the System. After that 10-year period, the Legislature pledges to not enact any law that has the effect of increasing any benefit payable under the System unless the actuarial value of the assets of the retirement fund from which the benefit will be paid is equal to or



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18 greater than 85 percent of the actuarial accrued liabilities of that retirement fund
19 and the increase in the benefit is included in the contribution rate.

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

1 **Section 1.** Chapter 286 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. The Legislature hereby finds and declares that:***

4 ***(a) The System was created to provide a stable, reasonable***
5 ***base income to public employees upon retirement from public***
6 ***service.***

7 ***(b) To maintain the stability of the System, modifications to the***
8 ***benefit structure of the System should be examined over a period***
9 ***of time to assess the effect of the modifications on the System.***

10 ***(c) After careful examination of the effect of such***
11 ***modifications on the System, additional modifications should only***
12 ***be implemented if the System is sufficiently funded.***

13 ***2. The Legislature hereby pledges that it will not enact any***
14 ***law which has the effect of:***

15 ***(a) Modifying any benefit payable under the System pursuant***
16 ***to this chapter between January 1, 2012, and December 31, 2021,***
17 ***unless such modification is necessary to maintain the fiscal***
18 ***integrity of the System.***

19 ***(b) Increasing any benefit payable under the System pursuant***
20 ***to this chapter after January 1, 2022, unless:***

21 ***(1) The actuarial value of the assets of the retirement fund***
22 ***from which the benefit will be paid is equal to or greater than 85***
23 ***percent of the actuarial accrued liabilities of that retirement fund,***
24 ***as determined in accordance with generally accepted accounting***
25 ***principles for government as prescribed by the Governmental***
26 ***Accounting Standards Board and with current actuarial standards***
27 ***of practice as prescribed by the Actuarial Standards Board; and***

28 ***(2) The increase in the benefit is included in the***
29 ***contribution rate.***

30 **Sec. 2.** NRS 286.025 is hereby amended to read as follows:

31 286.025 1. Except as otherwise provided by specific statute,
32 “compensation” is the salary paid to a member by the member’s
33 principal public employer.

34 2. The term includes:

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

37 (b) Additional payment:

38 (1) As applicable to a member who has an effective date of
39 membership before January 1, 2010, for longevity, shift differential,



* A B 4 0 5 *

1 hazardous duty, work performed on a holiday if it does not exceed
2 the working hours of the normal workweek or pay period for that
3 employee, holding oneself ready for duty while off duty and
4 returning to duty after one's regular working hours.

5 (2) As applicable to a member who has an effective date of
6 membership on or after January 1, 2010, *and before January 1,*
7 *2012*, for longevity, shift differential, hazardous duty, work
8 performed on a holiday if it does not exceed the working hours of
9 the normal workweek or pay period for that employee, and, holding
10 oneself ready for duty while off duty and returning to duty within 12
11 hours after one's regular working hours to respond to an emergency.
12 As used in this subparagraph, "emergency" means a sudden,
13 unexpected occurrence that is declared by the governing body or
14 chief administrative officer of the public employer to involve clear
15 and imminent danger and require immediate action to prevent and
16 mitigate the endangerment of lives, health or property.

17 (3) *As applicable to a member who has an effective date of*
18 *membership on or after January 1, 2012, for longevity, shift*
19 *differential, hazardous duty, work performed on a holiday if it*
20 *does not exceed the working hours of the normal workweek or pay*
21 *period for that employee and holding oneself ready for duty while*
22 *off duty.*

23 (c) Payment for extra duty assignments if it is the standard
24 practice of the public employer to include such pay in the
25 employment contract or official job description for the calendar or
26 academic year in which it is paid and such pay is specifically
27 included in the member's employment contract or official job
28 description.

29 (d) The aggregate compensation paid by two separate public
30 employers if one member is employed half-time or more by one,
31 and half-time or less by the other, if the total does not exceed full-
32 time employment, if the duties of both positions are similar and if
33 the employment is pursuant to a continuing relationship between the
34 employers.

35 3. The term does not include any type of payment not
36 specifically described in subsection 2.

37 **Sec. 3.** NRS 286.460 is hereby amended to read as follows:

38 286.460 1. Each participating public employer which pays
39 compensation to its officers or employees in whole or in part from
40 money received from sources other than money appropriated from
41 the State General Fund shall pay public employer contributions, or
42 the proper portion thereof, to the System from the money of the
43 department, board, commission or agency.

44 2. Public employer contributions for compensation paid from
45 the State General Fund must be paid directly by each department,



1 board, commission or other agency concerned, and allowance
2 therefor must be made in the appropriation made for each
3 department, board, commission or other state agency.

4 3. All participating public employers that are required to make
5 payments pursuant to this section shall file payroll reports not later
6 than 15 days after the end of the reporting period, together with the
7 remittance of the amount due the System. The 15-day limit is
8 extended 1 working day for each legal holiday that falls within the
9 15-day period and is officially recognized by the public employer.

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

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

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

40 7. If an employer reports wages pursuant to this section that are
41 ineligible pursuant to the definition of compensation under NRS
42 286.025, the public employer is responsible to the employee for the
43 impact to the member's benefit, if any, that results from the
44 erroneously reported wages.



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1 8. *The amount of compensation certified by a public*
2 *employer each fiscal year for each of its employees who becomes a*
3 *member of the System on or after January 1, 2012, must not*
4 *exceed by more than 10 percent the amount of compensation*
5 *certified for that employee for the immediately preceding fiscal*
6 *year, excluding the fiscal year in which the employee was initially*
7 *employed. Compensation attributable to a promotion and*
8 *assignment-related compensation must be excluded when*
9 *calculating the limit pursuant to this subsection.*

10 9. As used in this section, “reporting period” means the
11 calendar month for which members’ compensation and service
12 credits are reported and certified by participating public employers.
13 Compensation paid during each month must be reported separately,
14 and retroactive salary increases must be identified separately for
15 each month to which they apply.

16 **Sec. 4.** This act becomes effective on January 1, 2012.

