

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-sixth Session
February 22, 2011**

The Senate Committee on Legislative Operations and Elections was called to order by Chair David R. Parks at 3:35 p.m. on Tuesday, February 22, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

Senator Steven A. Horsford (Excused)

STAFF MEMBERS PRESENT:

Carol Stonefield, Policy Analyst
Eileen O'Grady, Counsel
Michael Geissinger, Committee Secretary

OTHERS PRESENT:

Teresa J. Thienhaus, Director, Department of Personnel
Adam Drost, Central Payroll Manager, Department of Personnel
Vishnu Subramaniam, Chief of Staff, American Federation of State, County and Municipal Employees, Local 4041
Tina M. Leiss, Operations Officer, Public Employees' Retirement System
Marlene Lockard, Retired Public Employees of Nevada
Aldo Vennettilli, American Federation of State, County and Municipal Employees
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada

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Jim Wells, Executive Officer, Public Employees' Benefits Program
Christopher Perry, Acting Director, Department of Public Safety

CHAIR PARKS:

We will open the hearing on Senate Bill (S.B.) 8.

SENATE BILL 8: Revises provisions governing payment for unused sick leave upon the retirement, termination in certain circumstances or death of certain state employees. (BDR 23-425)

TERESA J. THIENHAUS (Director, Department of Personnel):

I will read from my written testimony ([Exhibit C](#)).

SENATOR CEGAVSKE:

In the bill, you deleted subsection 4 on page 2, lines 38 to 41, and on page 3, lines 1 to 12. You added on page 2, line 18, "a lump-sum." Explain why you want to make these changes. Is a fiscal note attached to this?

MS. THIENHAUS:

The insertion of the term a lump-sum into line 18 of section 1, subsection 2, of *Nevada Revised Statute* (NRS) 284.355 shows the manner of how a payment will be distributed. This is the only method of payout our payroll system currently allows.

SENATOR CEGAVSKE:

Why would you delete a lump-sum from line 41 and put it into line 18?

MS. THIENHAUS:

The insertion of a lump-sum into line 18 was done on recommendation from Legislative Counsel Bureau legal staff. A lump-sum was the only terminology we wanted to leave in from subsection 4. This effectively removes the other methods of payout.

SENATOR CEGAVSKE:

I did receive a note from my colleague showing zero fiscal impact.

CHAIR PARKS:

Is there a tax consequence with regard to the method of payout?

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ADAM DROST (Central Payroll Manager, Department of Personnel):
The lump-sum payments are reported to the Internal Revenue Service (IRS) in our present payout option.

CHAIR PARKS:
Is there a tax benefit from an IRS perspective?

MR. DROST:
Our research does not show any.

SENATOR CEGAVSKE:
Is it important to remove the other forms of payout? If the other forms of payout could be provided, we may want them available in the future.

MS. THIENHAUS:
The lump-sum option is the only method of payout being used by employees. There are very few inquiries about the other methods.

VISHNU SUBRAMANIAM (Chief of Staff, American Federation of State, County and Municipal Employees, Local 4041):
Currently, three options for payout of sick leave upon retirement are available. The employees should have all these options available upon retirement. Many options, in other areas, have been taken from State employees, but this should not be one of them. There may be tax advantages by using the other methods of payout.

SENATOR DENIS:
Did I understand there is a procedural process that limits us to the lump-sum payout?

MS. THIENHAUS:
Our payroll system currently prohibits setting up a holding account to administer sick leave payouts for an employee to the Public Employees' Retirement System (PERS) or the Public Employees' Benefits Program (PEBP). An employee can take the lump-sum payout and make arrangements with PERS or PEBP to pay for health care coverage or additional retirement credits.

SENATOR DENIS:
Is that a technical issue with your computer system?

MR. DROST:

It is a computer system issue and a budgeting issue. The State agencies would have to budget for those payouts in future years, versus the one-time lump-sum payout.

SENATOR DENIS:

If employees choose to take the lump-sum payout and purchase additional time or health insurance, is there a difference in the amount they receive?

MR. DROST:

For PERS, this would be a posttax deduction reported to the IRS in either case.

SENATOR DENIS:

If employees were able to employ one of the other options, as the statute is now written, would there be a difference?

MR. DROST:

It would still be reported to the IRS as income.

SENATOR DENIS:

If the payout technicalities for the other options are removed, would the employee benefit by using those options?

MR. DROST:

I am not certain of the PEBP billing system with regard to pretax and posttax in retirement. I cannot answer the question without research with PEBP.

SENATOR DENIS:

We may want to ask that question of PEBP.

SENATOR SETTELMAYER:

The current options within the law are not being taken advantage of, nor do we have the technical ability for them to be used. Are we trying to take something away from employees that cannot nor has not been utilized? If that is true, why would there be any objections to taking away options that have never been or never can be utilized?

MS. THIENHAUS:

The option for payment on health insurance premiums to PEBP is possible for some local government employees. The local payroll system allows for that option. For State employees, we are not able to utilize any kind of system for an advance payment to PEBP. Likewise, there is no mechanism for payment from central payroll to PERS.

SENATOR SETTELMAYER:

If the options cannot be taken advantage of, then there is no effect on the State. The local municipalities could keep their right to these options through their collective-bargaining process.

CHAIR PARKS:

The concern of the insurance coverage being spread out over time could be handled by PEBP in its accounting system. Secondly, the purchase of additional retirement time from PERS would be a transfer of funds and recalculation on the part of PERS.

TINA M. LEISS (Operations Officer, Public Employees' Retirement System):

The retirement board has taken a neutral position on this bill. When we receive any money, either from the employee or the employer, it has been taxed. The employee will need to enter into an agreement with PERS either way. We see no impact from this bill.

MARLENE LOCKARD (Retired Public Employees of Nevada):

We want to be sure all the options are being given to retirees. We are concerned about employee options being taken away. As former director of the Department of Information Technology, I am concerned that we have a statute that is not enforced and maybe not presented to retirees. The technology can be fixed.

SENATOR CEGAVSKE:

Was any of the language in the bill part of negotiations?

CHAIR PARKS:

We are looking at NRS 284, which is not part of any collective bargaining.

MS. LOCKARD:

State employees do not have collective bargaining. It is only available to local government employees. These options could have been inserted into NRS 284 as a concession to State employees.

SENATOR CEGAVSKE:

The questions we need answered are: When was this done? What was the reason for it? And why are we removing it?

ALDO VENNETTILLI (American Federation of State, County and Municipal Employees):

I am in opposition to S.B. 8. This bill will take options away from State employees. In today's economy, employees need these options. We checked, and not many employees know about these options. If employees know of the options, they could use them in the future.

CHAIR PARKS:

There are employees who, had they known the options, may have taken them. There may not be such a large number of individuals who might utilize other options, the payouts could be made manually, outside of the automated payroll system. It would need to be in compliance with the current statute.

MR. VENNETTILLI:

I have trouble believing the State payroll system cannot produce these options for payout.

SENATOR DENIS:

You can do anything on a computer, but you need money to do that. It would take another bill. The issue is not only the computer system, but a budgeting issue as well. You still have the ability to take the lump sum and go to PEBP and PERS. I hear from Personnel it would be difficult to do without making changes to the computer and budget processes.

MR. VENNETTILLI:

Has anyone checked with the State's Department of Information Technology to know if the payout system could issue the options? Everything costs money, and the employees take another cut.

SENATOR DENIS:

I want to be sure we are not giving less to the employees in this instance. I want to feel comfortable that the employees are being told of their options. I do not know that they know. I am a State employee. I did not know I had this until I read this bill.

MR. SUBRAMANIAM:

We do need more information in regard to the tax consequences. The payments being made over a period of time may reduce an employee's tax burden. More education of the benefit options need to be given to State employees by the Department of Personnel upon retirement. Perhaps these payouts could be made outside of the State automated payroll system. If the options are left in the bill, employees may use the different payout options in the future. This is about employee choice.

SENATOR SETTELMAYER:

Are you aware of any employees not being advised of their options by PERS?

MR. SUBRAMANIAM:

I am assuming if the employees are not using the options, perhaps they are not being educated about sick leave options by the Department of Personnel. It is not about PERS.

RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association of Nevada):

Chapter 284 of NRS has a number of rights for employees. Many of these rights mirror what amounts to collective bargaining. We stand neutral on this bill. Nevada PERS does a good job educating retirees. The Department of Personnel does too, but it needs to educate employees when they reach retirement status so they know the various options available. The concern of not being able to offer the different options may be rectified in the future. The tax issues do need further study. We hope that someday State employees will enjoy the same benefits that the local government employees enjoy now.

JIM WELLS (Executive Officer, Public Employees' Benefits Program):

If a lump-sum cash alternative is available, the IRS says this is a taxable event to the employees. We have the ability now to utilize the lump-sum payout for credit toward retirement health care if the employee deposits to our account.

SENATOR DENIS:

If the employee could take the payments out over a period of time, would there be any tax-saving consequence?

MR. WELLS:

They would pay tax on the distribution because the lump-sum cash option was available at the time of distribution.

SENATOR DENIS:

If the payout could be made over time, would the taxes be spread out over a period of time?

MR. WELLS:

They might be.

SENATOR DENIS:

This may be an issue for further inquiries.

MR. WELLS:

We can accept funds for PEBP either pretax or posttax; it is irrelevant to us. Our research shows the cash alternative makes the payout a taxable event, regardless of how it is paid out.

SENATOR SETTELMAYER:

Has the Board PEBP informed employees of this option in the past?

MR. WELLS:

It is not an option we promote. Other local government agencies do give funds directly to us for participants' share of their retirement health care. Our system has the ability to take lump-sum payments.

CHAIR PARKS:

The Committee will investigate the IRS statute for any tax consequences.

SENATOR CEGAVSKE:

I have been informed by legal staff that the terminology was inserted in 1991. The staff will research testimony as to the rationale of why this terminology was inserted.

CHAIR PARKS:

We will open the hearing on S.B. 45.

SENATE BILL 45: Revises provisions conferring the powers of a peace officer upon certain personnel of the Department of Public Safety. (BDR 23-463)

CHRISTOPHER PERRY (Acting Director, Department of Public Safety):

Senate Bill 45 is a housekeeping bill that relates to peace officers' powers. Existing law specifically confers the powers of a peace officer on certain personnel within the Department of Public Safety. The current law has specific divisions for sworn officers which we would remove so all sworn positions have the power of a Category I peace officer. When the different divisions were in their beginning stages, they had different category levels. We are now all Category I police officers.

MR. DREHER:

I ask the Committee to support this bill. This will bring the Capitol Police Division up to the same level as other professional peace officers.

CHAIR PARKS:

Are they in the Department of Personnel's class specification 9.000 series of jobs?

MR. PERRY:

I believe they are in the 7.000 series.

CHAIR PARKS:

We passed a bill last Session that moved all P.O.S.T.-certified positions to a 13.000 series.

MR. PERRY:

Originally they were at the 7.000 level. I will check to see they were moved. There is no fiscal impact to this bill.

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CHAIR PARKS:

We will close the hearing on S.B. 45. The meeting is adjourned at 4:27 p.m.

RESPECTFULLY SUBMITTED:

Michael Geissinger,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 8	C	Teresa J. Thienhaus	Written testimony