

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Seventh Session
March 13, 2013**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:37 p.m. on Wednesday, March 13, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 Pat Spearman, Vice Chair
Senator Mark A. Manendo
Senator Pete Goicoechea
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Senator Tick Segerblom, Senatorial District No. 3

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

David Kallas
Susan Rosseter Hart, Chief Deputy Controller, Office of the State Controller.
Priscilla Maloney, American Federation of State, County and Municipal
Employees Local 4041, AFL-CIO
Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System

Chair Parks:

We will open the hearing on Senate Bill (S.B.) 201.

SENATE BILL 201: Revises provisions governing the employment of retired public employees. (BDR 23-559)

Senator Tick Segerblom (Senatorial District No. 3):

I have a slide presentation explaining the bill ([Exhibit C](#)). At its inception, this bill was a simple concept, but as people began to review it, it became more complicated.

David Kallas asked me why Governor Brian Sandoval could not appoint a knowledgeable person who is retired from State or local government to head a commission such as the Nevada Gaming Commission. That person would continue to collect his or her monthly payment from the Public Employees' Retirement System (PERS) and receive a salary while he or she serves on the Commission.

For example, if a retired Las Vegas Metropolitan Police Department officer runs for sheriff and is elected, he or she would continue to collect his or her retirement payment while receiving his or her sheriff's salary.

There would be only a handful of these kinds of jobs. A government entity should be able to hire a retiree who has experience as opposed to hiring someone off the street who has no experience. That was the genesis of the bill.

This would be cost-neutral because the retiree would fill the position for which someone else would have been hired. The other person, not the retiree, would have been paid a salary and contributed to PERS.

This bill was designed for the Governor only, but other Constitutional State officers would like to be included. State Controller, Kim R. Wallin, mayors and city governments would like to be able to do this for some of their people. To open up a broader avenue of potential people, we have proposed an amendment ([Exhibit D](#)) which states that elected officials can appoint a handful of PERS retirees to certain positions. What seems like a good idea, may not be so in practice.

You will hear from opponents to the bill that this will cost money. They have explained it to me, but I do not understand the logic. Perhaps you will understand when they explain it to you. It seems counterintuitive that there would be a fiscal note on this ([Exhibit E](#)).

David Kallas:

On its face, this proposal may seem selfish, but having done my research, I was advised by former Senator Terry Care that a similar proposal had been made in the 70th Session.

I know that in 2009, Andy Anderson, former president of the Las Vegas Police Protective Association and lobbyist, was informed by former Governor Jim Gibbons of his upcoming appointment as Chair of the Local Government Employee-Management Relations Board, Department of Business and Industry. If Mr. Anderson accepted that appointment, his pension would be frozen, based on the provisions of *Nevada Revised Statutes* (NRS) 286, and he would only receive the salary of the office to which he was appointed.

I want to clarify that I have not spoken to Governor Sandoval about, nor did he ask me to present, this bill. I will not discuss the bill with the Governor until it is passed by this body. I hope that you will pass it.

We initially included the Governor and appointments in the bill because he appoints a few dozen positions, which include the Director of the Department of Public Safety; the Director of the Department of Motor Vehicles; the Director of the Department of Employment, Training and Rehabilitation; the State Gaming Control Board; the Nevada Gaming Commission and many others.

The Governor should be able to choose people with the most experience, knowledge, skills and abilities to perform to the best of their capabilities. There are many retired public employees, including myself, who could meet those requirements. This was the genesis of the request to Senator Segerblom to present S.B. 201 to this Committee.

When the Legislative Counsel Bureau (LCB) drafted the bill, Senator Segerblom received an unsolicited fiscal package from PERS, [Exhibit E](#), even though LCB showed no fiscal impact on State or local governments. I served for 8 years as a member of PERS. The last thing I want to do is negatively impact the System with additional financial concerns.

The original language of the bill stated that any retired public employee receiving an appointment from the Governor would continue to contribute to PERS to keep the System whole. When the retiree leaves that position, he or she would receive his or her contributions to the System. The employer's contributions would remain as would normally occur.

When the unsolicited fiscal note, [Exhibit E](#), was submitted by PERS, we thought this is not about finances, this is about public employees who have knowledge, skills and abilities and want to continue to serve in the public sector. I am one of those people. It is not about the money. That is why we designed the bill with no additional service credit and no increase in the retirement allowance.

If a retiree wants to continue to serve, then he or she must understand that there will be no increase in retirement allowance or service credit. The retiree serves because he or she has something to offer. Hundreds of retired public employees, me included, have something to offer to this State, and unfortunately we are frustrated by the inability to participate.

For example, prior to retiring in 2009, I was approached by Chris Collins, Executive Director of the Las Vegas Police Protective Association, who advised me that a specialty high school in Las Vegas was looking for an individual to teach law enforcement for 6 months. After I obtained my teaching credentials, I met with the principal of the high school. I would have gotten the job but after reading the provisions of NRS 286.520, I realized that I could not take it because I would lose my pension. I continued to wonder why I could not serve without having my pension frozen. That is the purpose of this bill.

Public employees are penalized enough. In my current position, I have asked my employer not to deduct social security from my salary. The reason is that as a retired public employee receiving a pension, the federal government will deduct a minimum of two-thirds of my social security benefit.

Public employees desire to continue to serve in some capacity after retirement and not receive additional PERS benefits or service credit. This is detrimental to the State because retirees have the knowledge, skills and abilities that are beneficial to the Governor, State agencies and the Nevada System of Higher Education (NSHE).

When we read the unsolicited fiscal note, we added a provision to the amendment stating that even though the employer and the reemployed retiree contribute to PERS, neither would receive any portion of those contributions. It is our intent to keep the System whole. The duties and obligations of the appointment should be enough. If they are not, then the person should not take the job. That is why those provisions are in the bill.

You will hear that this bill will have a financial impact on the System. As Senator Segerblom indicated, I have reviewed the unsolicited fiscal note. At the request of the Majority Leader, Senator Moises Denis, I discussed a compromise with Dana K. Bilyeu, Executive Officer of PERS. Unfortunately, because of Ms. Bilyeu's evaluation of the potential fiscal impact on the System, a compromise was not reached. In the framework of this bill, I consider this a benefit. A person performs a job and receives compensation in return as determined by the individual or individuals who appointed him or her to the position.

Senator Segerblom:

The bill prohibits the appointee from ever receiving his or her contribution to a retirement benefit. For example, if Mr. Kallas as retiree continues to receive his retirement pay and upon reemployment receives a salary, there will be no additional cost to the System. His contribution goes into the System. Someone else who might have gotten the job would have eventually taken his or her contribution as a retirement benefit. The System is saving money.

Chair Parks:

Mr. Kallas, I would like to share some bad news with you. The social security benefit that you eventually draw will barely cover the costs of your Medicare coverage. Therefore, it is a wash. You will be relying upon your PERS retirement.

Mr. Kallas:

Mr. Chairman, thank you for those remarks. The reason I mentioned losing at least two-thirds of my social security benefit was because I wanted to err on the conservative side. I did not want to exaggerate by saying I am not going to get any of the social security benefit that I have earned.

Senator Spearman:

I am confused. What do other states do? The only frame of reference I have is to several of my former military colleagues who retired on a Friday and came back the following Monday as independent contractors with no loss of retirement benefits. I am trying to understand why this is an issue.

Mr. Kallas:

Ms. Bilyeu will oppose the bill. The most important issue is the fiscal solvency of the PERS fund and the participants who are expecting retirement benefits. I cannot speak to what other states do regarding reemployment of retirees. I have been in contact with people in Texas and California who—based on my knowledge, skills and ability—asked if I would like to fill positions in their states. Those positions would be similar to ones we have in this State if the Governor, elected officials and the NSHE reap the benefits of this proposed legislation.

Ms. Bilyeu will better speak to that. I too questioned the numbers. However, I am not a financial expert, and I would not want to give you information contrary to what she will propose as the fiscal impact.

From a commonsense perspective, it would be more cost-effective to reemploy a retiree who makes contributions to PERS that he or she will never receive as a benefit than to hire a person who makes contributions and who receives a PERS benefit for the remainder of his or her life at retirement. I do not understand that. Perhaps Ms. Bilyeu will better answer that question for you.

Senator Goicoechea:

The broadness of the amendments to this bill and the potential for abuse concern me.

Technically, you are saying that any elected official has the right to make appointments. That means a deputy, road supervisor or public works director could retire on a Friday and be rehired on Monday by a sheriff or a county commissioner into a position outside of the person's expertise.

You say there is no gain, but there is double-dipping once an individual draws retirement and a salary. I have received questions and challenges about people double-dipping. The individual might be the best person for the job, but there could be abuse. I had no concerns about the bill with the Governor making appointments. However, the broadness of it concerns me. For example, when

a schoolteacher retires, the school board could rehire him or her as a superintendent.

My understanding of the amendment is that the reemployed retiree would contribute to PERS. The contributions would remain in the System. That would be a wash. Technically, that individual is double-dipping. He or she is receiving a retirement benefit and compensation for the appointed position.

Because S.B. 201 is not focused enough, every board of county commissioners or school board could be rehiring retirees. I do not want any part of that ride.

Mr. Kallas:

I would be more than happy to remove elected officials and the Nevada System of Higher Education and leave the bill as it was initially intended. There were two purposes behind that. First, I did not want to imply that this was done at the request or on behalf of Governor Brian Sandoval. I have not spoken with him about this, nor is he aware of the language in this bill. Second, we added elected officials in the amendment when Senator Segerblom received inquiries from the Office of the State Controller and other State entities. We did not want to exclude them.

I am more than comfortable returning to the original language in S.B. 201 but adding one caveat: that by accepting the position, the retiree must realize that he or she receives no additional retirement benefit from contributions to PERS while reemployed. The employee's contributions and the employer's contributions will stay with the System to maintain fiscal integrity.

Senator Goicoechea:

I agree with that. You understand my concern about the broadness of the amendment because there are many elected officials. The Governor recognizes the need to fill department head positions. This bill would allow him to reemploy a State retiree. Technically, this could be a double-dip. This is a lot cleaner than when we were qualifying the critical labor shortage. I like the bill and trust we can move away from the opportunity for too much abuse.

Mr. Kallas:

I am willing to ask the Committee to pass S.B. 201 as originally constructed with the one amendment requiring the employee's contributions stay with the System. The employee will not be able to request the return of those contributions when the appointive position expires.

Senator Segerblom:

The critical labor shortage law in NRS 286.523, which expires in 2015, allows something similar to this with full benefits.

Susan Rosseter Hart (Chief Deputy Controller, Office of the State Controller):

Kim Wallin, State Controller, asked me to read this testimony on her behalf. The Controller supports adding all Constitutional State Officers to this bill. With the tremendous brain drain the State is experiencing, it is very important that Constitutional Officers are able to hire people in appointed positions who have had experience with the State.

If the State purchases a new accounting system, it will be critical that the State Controller's and the Treasurer's Offices are able to hire experienced people familiar with the inner workings of the State accounting system. Those individuals would be retirees.

Priscilla Maloney (American Federation of State, County and Municipal Employees Local 4041, AFL-CIO):

The American Federation of State, County and Municipal Employees (AFSCME), does not have many people affected by this bill regarding their potential for further public service to this State. Just as a good public policy matter, Ms. Bilyeu will answer questions about the technicalities of what, if any, fiscal impact this would have.

Ms. Bilyeu has said the majority of retirees in the System stay in Nevada. In the interest of a vibrant workforce, this bill is the vehicle to tap into that institutional knowledge and talent. We support S.B. 201.

Senator Goicoechea:

Do you agree that an employee may earn 175 percent of his or her salary?

Ms. Maloney:

Ms. Bilyeu will answer those things more specifically, but I heard your remarks earlier. I come from Oregon where the term double-dipping and the negative connotations of that was a topic. However, my original point is that we have a talented retiree pool. As this bill is written, double-dipping will not be happening often. These are gubernatorial appointments. We are talking about a narrow experience. Possibility always exists for the public to say that the person is double-dipping. However, the counter to that argument underlines this person as an invaluable public servant and resident of Nevada who cares about Nevada and wants to give further public service. There are two sides to that argument.

Senator Goicoechea:

I apologize. I was looking at the amendment. I am concerned about the amendment. It could be a problem if elected officials, other than the Governor, are allowed to make appointments.

A person had to be an employee by 1983 in order to get 90 percent of his or her salary at retirement. Most people retiring with 30 years of service at any age will receive 75 percent of their salaries. I would have a hard time explaining to my constituents that someone retiring on Friday would automatically come back on Monday to the same position and salary.

Ms. Maloney:

There are always unintended consequences. I suggest the Committee consider this a one-off situation; it would not happen every day. I should make it clear that when AFSCME reviewed this bill, we reviewed it before it was expanded by the amendment. We were just focusing on gubernatorial appointments and State employees.

Dana K. Bilyeu (Executive Officer, Public Employees' Retirement System):

I have submitted my written statements in opposition to this bill ([Exhibit F](#)).

The Retirement Board has not had an opportunity to review S.B. 201 because of the agency's meeting schedule. However, we will recommend that the Board oppose the bill as written and if the amendment is adopted.

The Retirement Board has a funding policy which requires the Board to oppose all legislation that expands benefits until the Public Employees' Retirement

System is at least 85 percent funded. This bill is an expansion of the retiree benefit because it exempts retirees from reemployment restrictions.

Retiree reemployment restrictions have been in place since the inception of the System in 1947. There have been some modifications to the System over time. The mission of the System, as found in NRS 286.015, is to promote the orderly transition out to retirement. You are supposed to have a full career of active service and then move into retirement so you do not frustrate the promotional opportunities of those who come behind you. Reemployment restrictions were created for that reason.

When the System was created through the Public Employees' Retirement Act in 1947, it was modeled after the social security system, although social security does allow people to retire, get their benefit and remain actively employed. In 1935 when the U. S. Social Security Administration was created, that was not the case. You were retired because you knew the workforce was coming behind you. You did not want to frustrate those promotional opportunities. We were modeled on this principle. That is why the reemployment restrictions went into place.

The System is valued based on the benefit structure. The reemployment restriction acknowledges that the individual is coming back into the active workforce, leaving the retiree ranks and receiving 100 percent of an active employee's salary. The idea behind retirement is to replace a person's salary when the person is no longer capable of making the salary.

Because of that, the System is valued with those restrictions in place. We know that if a person comes back into the active workforce, we stop the benefit. If we stop the benefit, we create a cost saving to the System because we do not pay the benefit during the active working period. When that restriction is removed, we pay a benefit that, by statute, we would not have been paying. That is where the costs come into it.

In the original provisions of S.B. 201, there is an attempt to make the contributions to the System offset the benefits we otherwise would not pay. The problem with that is it is not exactly offsetting. The contribution rates are set at about 25 percent of pay for regular fund members and almost 40 percent of pay for those in the Police and Firefighters' Retirement Fund. We will receive

25 percent of the active salary, but we do not know the person's retirement benefit.

In the unsolicited fiscal note that we put on the bill, [Exhibit E](#), I gave you two examples. One was the Nevada Gaming Commission Chair because by statute the Chair makes \$55,000 a year. I showed you the average benefit of a retiree out of the System would be about \$31,000 a year. Contributions on a \$55,000 active salary are about \$7,000 for the employer and \$7,000 for the employee. Both of those contributions would be deducted from the \$55,000 benefit we would pay, and that would be the offsetting amount. We would still pay about \$31,000 more in benefits than we would receive in contributions. There is a cost to the System for every one of these positions unless you are appointing to a highly compensated position and the benefit itself is low. That is the only time contributions would offset the benefit paid.

The proponents of the bill discussed the idea of allowing the Governor to appoint those with the highest skills and training to these positions. The idea of PERS retirement reemployment restrictions is to allow those positions at the senior levels of State and local government to have the promotional opportunity behind them. The Act was created because that is the mission. We want to move people out to retirement because if they come back into the active workforce, they are no longer retirees. Statute limits what they are allowed to do, but they are actively employed again in whatever level of government.

A method called critical labor shortage allows the Governor or any governing body of a governmental unit in the State to reemploy a retiree. It is a compendium of amended statutes within the Retirement Act. Critical labor shortage originated in 1999 with A.B. No. 189 of the 70th Session when the Nevada System of Higher Education asked for an exemption to allow retirees to be reemployed by the NSHE without regard to the reemployment restrictions in the Retirement Act.

Because the System is consolidated and the contributions are paid by all employees and employers in the System, no single employer or single group of retirees should have the benefit of an opportunity not available to the largest majority of employees.

Any changes in benefits should be applied broadly. If a specific benefit is only available to certain individuals, others who share the cost pay for those individuals to receive that benefit but do not receive it themselves.

In an interim study done between 1999 and 2001, we determined how we could accomplish the goals set by the Legislature. At that time, Nevada was a boom State. There had been a huge surge in population and a huge surge in required services, particularly in education. Clark County School District (CCSD) wanted to rehire retirees into critical positions

We designed an exemption for the critical labor shortage to allow governing bodies of all governmental units to determine the need to fill positions from the retiree population in A.B. No. 555 of the 71st Session, which amended NRS 286. Initially, there was controversy because the first retiree appointments were State department heads. The Governor was criticized because he was appointing retirees to positions for which others could have been hired who would not receive a retirement benefit and a salary at the same time.

Because of that, the primary users of this exemption were in education. Even though the CCSD is the largest employer to take advantage of the exemption, the rural county school districts were frequent users because of the difficulty to recruit in rural areas. The critical labor shortage exemption has been used across the State.

Nevada Revised Statute 286.523 will expire in 2015 unless PERS does an evaluation of the associated costs and the costs included in the contribution rates for the System. In the last experience study we did on critical labor shortage, about 300 positions were designated as critical and filled from the retiree pool. The impact would have been enough to cause a contribution rate increase. However, we are reluctant to make any changes to the benefit structure that affects contribution rates. As we come out of the recession, we want to ensure that nothing is done to increase costs for the Public Employees' Retirement Fund, because we are in the process of absorbing losses from investments as well as decreases in covered payroll.

Since the height of public employment in Nevada, the System has lost 9,000 covered positions and payroll has not grown as expected. Because of that, contribution rates go up this Session.

The System opposes S.B. 201 because of retirement policy, associated costs and technical issues. The bill does not define "Governor appointments." We speak as though we understand what that term means, assuming it will be a small group of people. However, anyone in State unclassified service could be an appointee. Many appointments were by other elected officials. The retiree pool is larger than we realize. I do not know how many, not knowing the number of Governor appointments.

If this Committee adopts the amendment, there will be large numbers of appointments by elected officials in all levels of government. For example, every deputy district attorney in the Clark County District Attorney's Office and every deputy attorney general are appointees.

I will go through the fiscal note, [Exhibit E](#), to clarify why there is a cost attached to this bill. As mentioned, I used two examples in a conservative approach because I did not want to overstate our case to the Committee. The cost to the System was calculated based on the average benefits for two positions from the regular fund, which is about \$31,000. The benefit from the Police and Fire Fund is about \$50,000. Retirees from higher levels of State government with 30 years of service would have an even larger benefit.

If the Governor appoints a retiree who will receive an active annual salary of \$48,808, contributions to the System are \$8,191.59. If we pay the retiree an annual benefit of \$31,812 and receive contributions for the new active employment of \$8,191 annually, the cost to us is the difference between those two numbers; otherwise we would not pay the benefit at all.

Contributions are based on a percentage of active salary. For example, if a department director's annual salary is about \$124,000, the annual contribution is 25 percent of that salary or \$32,000.

Senator Goicoechea:

I am struggling with this. If the new contributions are \$34,000 and the person's regular pension is drawn from contributions already paid, then there is no impact. The System receives \$34,000 in contributions that the person will never access. That is a free lunch. I am having a hard time calculating how this is a loss to the System.

Ms. Bilyeu:

That is correct; however, the issue is if that individual were rehired without the exception, the benefit would be stopped. Whatever the benefit, if it is above \$32,000, we are in a payment stream. The retiree returns to active employment and receives a salary of \$124,000.

Senator Goicoechea:

You are getting the benefit.

Ms. Bilyeu:

In the normal course of business, the benefit stops. The payment holiday for the System is part of the Act. A benefit is being paid that the System would not otherwise pay.

Senator Goicoechea:

However, the System is responsible for that benefit whether a retiree or someone else fills the position. If a nonretiree fills the position, he or she contributes at the \$34,000 rate, but at some point that person will retire and receive a benefit from the System. If a retiree fills the position, he or she will never be able to access the money contributed. That is my understanding of the bill. This is a freebie.

Ms. Bilyeu:

I disagree with you, Senator Goicoechea. The issue is that the benefit stops when the person is actively employed again. That is a cost savings to the System. It is as though you are paying an insurance premium for someone. The person starts to accumulate that annuity and then enters into a pay status from the annuity. However, the person then does something which makes him or her ineligible for payment for a period. The insurance company stops paying the annuity and realizes a cost savings. That is what the System does. From a policy perspective, a person is entitled to receive 100 percent of his or her active salary, but not from another public payment source for the same period at the same time. One is cut off under the reemployment restrictions that apply to every retiree, but in this instance, you exempt some retirees.

Senator Goicoechea:

We could argue this for a long time, but I am not buying it. Your Fund does not know whether a retired person or a new employee is contributing to the System. With a new employee, there would be a retirement payment obligation

or commitment. With a retired person, there is no commitment. That money goes into the System's bank account to fund the program.

Ms. Bilyeu:

We do know when a retiree is reemployed. The employee and the employer are obligated by statute to notify the System as soon as the employee has returned to either an ineligible or an eligible position or as an independent contractor to a public employer. The idea is to prevent abuse of the retirement benefit. For example, if the director of the Department of Health and Human Services retires on Friday and returns on Monday as the director of the Department of Health and Human Services, that person would receive the retirement benefit and the full active salary.

This bill does not contain a provision for a waiting period for this type of a benefit. Pursuant to the Internal Revenue Code, you must provide some type of waiting period to show that the person has retired from work. It is called an in-service distribution and is a disqualifying event for the pension plan under the Internal Revenue Code.

From that perspective, there are two technical issues—no definition of Governor appointment and no waiting period. If the retiree returns to work, there must be a 90-day waiting period before he or she can return to a full-time position.

If this bill is passed with the amendments, the fiscal note we used for critical labor shortage will apply and affect contribution rates. In a time when costs are going up, this is something the Committee will have to consider.

The System remains opposed to the bill. It would create a benefit improvement for our retirees because they are subject to reemployment restrictions and this would exempt some but not all from those restrictions.

Senator Spearman:

I am trying to follow Senator Goicoechea's logic, and I am confused. I have been reading the studies on institutional knowledge and the benefits of rehiring retirees. It is called the brain drain. Given an inflexible System and economic conditions in flux, this might be an opportunity to fix the inflexibility of the System which is in flux.

Ms. Bilyeu:

The System is able to meet the needs of the labor force because of the provision in the Act which allows governmental units to reemploy retirees where there is critical need. That is a flexibility of the System. On the other hand, the one-size-fits-all System exists for a number of policy reasons. The smallest mosquito district up to the CCSD has the same benefit structure. There is full portability among all of those employers. The concept is to maintain a uniform benefit structure to allow all employers and employees to take advantage of a single set of benefits. When certain employers are exempted from a set of rules, they are allowed benefits that other employers do not have. From the perspective of full portability, certain employers are allowed an inducement that is not there for others.

One size fits all is good in some instances; however, when the benefit structure changes, it becomes more costly. Changes should apply to the largest number of employers and employees possible because they all pay for that benefit.

Senator Goicoechea:

Looking at your fiscal note, I think I see where I am confused. You talk about the annual contribution being \$32,000 if it was the director of the Department of Administration; yet you show that as only \$16,000. The way the bill is written, both employee and employer contributions remain in the System.

Ms. Bilyeu:

That is in the amendment to the bill. The fiscal note was not calculated to reflect the amendment.

Senator Goicoechea:

If the amendment allows the System to remain whole, it should be a wash. That was my confusion.

Ms. Bilyeu:

In the example I used in the fiscal note, if the System receives contributions from the employee and employer, it would almost be a wash.

If a retiree is rehired into a high-level position, the retiree should have had a full career and have training and experience. That average benefit from the fiscal note does not reflect that retiree's benefit. It will be higher. If the retiree is from

the Police and Fire Fund, the benefit is even higher. There will be a loss to the System. I was demonstrating how a loss works in the System.

Senator Goicoechea:

I would agree with you if the retirement were at 30 years at the \$124,000 salary. The rehired retiree will not be able to draw on contributions because he or she must stay on the original retirement benefit.

Ms. Bilyeu:

That is true now, but the retiree will also receive a full active salary during his active employment.

Senator Goicoechea:

However, the retiree is contributing \$32,000 with no opportunity to access. That money goes into the System's account, not the retiree's account.

Ms. Bilyeu:

The System's account would be debited in the same period for a benefit that is approximately \$90,000 a year. We are receiving \$32,000 in contributions, but we are paying out \$90,000 that we otherwise would have stopped. It is not offsetting. We receive contributions, but we are paying out at the same time. If you want to wash those two, the cost to the System is about \$60,000.

Senator Goicoechea:

However, the retiree has already paid \$90,000 in contributions to the System during his or her 30-year career. You cannot mix them.

Ms. Bilyeu:

Our point is that in a single year, these are dollars in and dollars out—not the cumulative benefit paid by the individual. The dollars in do not match the dollars out because in normal reemployment, we would stop the benefits and receive contributions. In this instance, dollars keep going out and we receive contributions, but we do not get the cost savings of stopping that benefit during that period.

Senator Segerblom:

I agree with everything Senator Goicoechea said. Ms. Bilyeu does not realize that if a retiree were not appointed to a position, someone else would be. That person would draw a salary and earn retirement which PERS would have to pay at a later date. It seems like a sleight of hand.

Senator Hammond:

Let us assume that your math is correct. If the State saves money by hiring retirees in these critical positions, what would be the incentive to hire anyone but a retiree?

Senator Segerblom:

That is why we have to limit this practice to very high-level positions appointed only by the Governor. The Governor would not care about the cost savings because he or she wants the most qualified person.

Senator Spearman:

I understand why you brought the bill, Senator Segerblom, but we are setting parameters for individual employment whether it is reemployment or retiree employment. I am uncomfortable saying people can or cannot work in specific areas. For example, a good friend of mine was a chaplain for 35 years in the military. In his last duty station, he served a church in the area and when he retired, the church rehired him as the pastor.

I do not understand why it is a bad idea to allow a person to pay into PERS if he or she will never take anything out. The prevailing proposition for me is that we are trying to legislate employment opportunities.

Senator Segerblom:

That could be, but the purpose is not the employment opportunity. The Governor should choose the best person without that person refusing the appointment because he or she cannot afford to lose his or her retirement benefit.

Senator Spearman:

I understand, but that person should be free to be employed wherever he or she is qualified to be employed. Does that make sense? One way or another, we are deciding where people can or cannot work.

Mr. Kallas:

That is what the bill will do. It will not exempt a certain class of people from positions. Upon reviewing the statute in its entirety, I found that if I went to work for a public employer that did not participate in the System, I would be limited in the amount of salary I would receive before my pension is frozen. For example, in NSHE, if I were asked to be an adjunct professor or a basketball coach, even though the NSHE does not participate in PERS, PERS would limit the amount of money I could make. If I earn more than that amount, my pension would be frozen even though this group does not participate in the System. There would not be a contribution problem either because NSHE does not contribute.

You hit the nail on the head. The statute is antiquated because it was written in 1946 and Legislators could not foresee the future.

Even though I retired after 30 years of service, I did not retire with the idea that I would stay retired. I retired with the idea that I did a good job for 30 years, which I enjoyed. Now it is time for me to take my knowledge, skills and abilities and do something else. Because I choose to use those in another public sector job, I am now prohibited from doing that because of the language contained in the provisions of this chapter. That is the point.

Years ago, police officers passed away 5 or 6 years after they retired because of the stresses of the job. I hope to live another 20 or 25 years, and I hope to work another 15 or 20 years. But I would like to put my name into the hat and let someone like the Governor or someone else decide if I have the knowledge, skills, abilities and experience that best qualifies me for a job and not exempt me from it because of a provision in the statute.

Regarding my pension, you cannot say you could save money that you do not have. No one has discussed the contributions made by the individual who received that position and the payment PERS will have to make once he or she retires. Does that offset any costs to the System? I am not in a position to answer that question, but it needed to be asked.

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Chair Parks:

We will close the hearing on S.B. 201. However, further work needs to be done to bring this bill forward.

Having no further business to come before the Senate Committee on Government Affairs, the hearing is adjourned at 2:44 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 201	C	6	Senator Tick Segerblom	Presentation
S.B. 201	D	1	David Kallas	Proposed Amendment II Senate Bill No. 201
S.B. 201	E	3	Dana K. Bilyeu	Unsolicited Fiscal Note
S.B. 201	F	3	Dana K. Bilyeu	Written Testimony