

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session  
May 11, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:34 a.m. on Monday, May 11, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ellison, Chairman  
Assemblyman John Moore, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Victoria A. Dooling  
Assemblyman Edgar Flores  
Assemblywoman Amber Joiner  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblywoman Shelly M. Shelton  
Assemblyman Stephen H. Silberkraus  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Melissa Woodbury (excused)



**GUEST LEGISLATORS PRESENT:**

Assemblyman John Hambrick, Assembly District No. 2  
Senator Michael Roberson, Senate District No. 20

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Eileen O'Grady, Committee Counsel  
Jordan Neubauer, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Brett Kandt, Special Assistant Attorney General, Office of the Attorney General  
George H. Taylor, Senior Deputy Attorney, Office of the Attorney General  
Nancy Parent, County Clerk, Washoe County  
David Cherry, Intergovernmental Relations Specialist, City of Henderson  
Peggy Lear-Bowen, Private Citizen, Reno, Nevada  
Dagny Stapleton, Deputy Director, Nevada Association of Counties  
Stan Olsen, representing Nevada Association of Public Safety Officers  
Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association  
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada  
Warren Wish, representing Nevada State Education Association  
Jordan A. Davis, representing the Las Vegas Metro Chamber of Commerce  
Rusty McAllister, President, Professional Fire Fighters of Nevada  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada and representing Washoe County Public Attorneys' Association and Washoe School Principals' Association  
Michael Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., and Southern Nevada Conference of Police and Sheriffs  
Steven Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees  
Priscilla Maloney, Government Affairs, Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees  
Tina M. Leiss, Executive Officer, Public Employees' Retirement System  
Martin Bibb, Executive Director, Retired Public Employees of Nevada

Marlene Lockard, representing Local 1107, Service Employees International Union Nevada

Carla Fells, Executive Director, Washoe County Employees Association

Kevin Ranft, representing Local 4041, American Federation of State, County and Municipal Employees

Ben Graham, representing the Administrative Office of the Court and the Supreme Court of Nevada

**Chairman Ellison:**

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Senate Bill 70 (1st Reprint).

**Senate Bill 70 (1st Reprint): Revises provisions governing meetings of public bodies. (BDR 19-155)**

**Brett Kandt, Special Assistant Attorney General, Office of the Attorney General:** Senate Bill 70 (1st Reprint) revises some provisions regarding the Nevada Open Meeting Law (OML) in *Nevada Revised Statutes* (NRS) Chapter 241. It builds upon our goal of providing clear guidance to public bodies on the OML to better ensure compliance, strengthen our ability to enforce the law, and increase transparency in government. [Read from prepared text ([Exhibit C](#)).]

We are finding fewer violations. I am going to take you through the bill now. [Read from prepared text ([Exhibit C](#)).]

Section 2 of this bill deletes the extraneous word "constituent" from the statutory definition of "quorum" set forth in NRS 241.015 to clarify that a quorum consists of a simple majority unless a different number is prescribed by law.

The definition of "working day" became necessary because some governments have moved to a four-day workweek, and we needed to clarify for purposes of the OML that we are talking about a five-day workweek. [Read from prepared text ([Exhibit C](#)).]

Section 3 provides clarification in NRS 241.016 of which provisions of law allowing for closed meetings or exemptions from the OML prevail over the general provisions of the OML.

Section 4 amends NRS 241.020(d)(5) to require sufficient notice on agenda items of possible administrative action regarding a person.

Currently the statute requires notice when there is potential adverse action regarding a person. We think it should be any action regarding the person, such as appointing them to a position of employment. We also think if a public body is considering appointing a new executive director, they should identify the finalists on their agenda. [Read from prepared text ([Exhibit C](#)).]

Section 4 also requires public bodies to document their compliance with the notice requirements of the OML for each meeting.

When a public body's staff posts the agenda at the three locations that is required by law, we would like them to keep some documentation of that. If we receive a complaint alleging a violation and failure to comply with the posting requirements, we can contact the public body and easily get the necessary documentation and immediately determine whether there is a violation or not. [Read from prepared text ([Exhibit C](#)).]

Section 5 amends NRS 241.025 to prohibit a public body from designating a person to attend a meeting of the body in the place of a member of the body in order to obtain a quorum and take action, unless otherwise authorized by law.

The best example of what we are proposing is when you have a county commission and a city council together that have a joint body that takes certain actions in certain areas and they both send representatives to that body, this clarifies the process by which they designate who will represent them for meetings of the joint body. [Read from prepared text ([Exhibit C](#)).]

Section 6 amends NRS 241.035 to require public bodies to approve minutes of a meeting of the body within 45 days after the meeting or at the next meeting of the public body.

Section 7 amends NRS 241.039 to clarify that a complaint may be filed with the Office of the Attorney General alleging a violation of the OML.

We receive complaints regularly alleging violations of the OML, but there is nothing in statute that actually spells out that complaints can be filed with our office. This will simply codify the actual practice. [Read from prepared text ([Exhibit C](#)).]

**Chairman Ellison:**

Did you say we are changing the time that the minutes have to be approved? I cannot find it in the bill.

**Brett Kandt:**

It is section 6. We are proposing to amend NRS 241.035, and in the Senate we engaged in some extensive dialogue with many of the bodies that are subject to the OML on this issue. This dialogue was to ensure that the time frame set forth in statute was workable regardless of how often the body met. It would be a time frame that would work for bodies that meet twice a month, once a month, quarterly, or infrequently. We came up with a proposal that says either 45 days after the meeting or at the next meeting, whichever occurs later.

**Chairman Ellison:**

Did you get any feedback from the counties?

**Brett Kandt:**

Yes, we talked extensively with the counties.

**Assemblywoman Neal:**

Section 3 is the public bodies that are exempt. I do not know if you know the statutes by number, but NRS 289.387 is regarding the review board for peace officers when they are under investigation. You have included certain provisions in the bill, and I am trying to understand. I was reading that particular statute and certain parts are open and certain parts are closed, correct? I am trying to understand the public purpose in section 3, subsection 3. Some make sense to me like the local ballots, a portion of the homeland security, but help me understand NRS 289.387. There are a lot of statutes that were just dropped in under an exemption.

**Brett Kandt:**

The list of exemptions already exists in statute. We are not proposing to create any new exemptions. We just wanted to put them in one place so it was simple for somebody to refer to this chapter of the NRS and identify in one place for ease of reference which provisions allow for closed meetings or exemptions, and which would prevail over the general requirements of the OML. The list of citations you see in section 3, subsection 3, is not creating any new exemptions. The Legislative Counsel Bureau's Legal Division compiled a list of all the existing exemptions.

**Assemblywoman Neal:**

In section 1, you inserted NRS 241.039. Prior to this bill, did you have limited enforcement authority? That is what that specific statute references.

**Brett Kandt:**

Do we have enforcement authority over the public records law?

**Assemblywoman Neal:**

Did you have limited authority because this statute is the enforcement for subpoenas and penalty for failure to comply with subpoenas? Prior to this, did you not have that power?

**George H. Taylor, Senior Deputy Attorney, Office of the Attorney General:**

Subpoena power was given to the Attorney General last session. Prior to the last session, we did not have subpoena power. Your reference to section 1 shows that NRS 239.010 was amended by inserting NRS 241.039. *Nevada Revised Statutes* (NRS) 241.039 defines public records within the Attorney General's investigative file. That is why you find it in NRS Chapter 239. The public records that are proposed to be added to the statute include the OML complaint, every finding of fact or conclusion of law made by the Attorney General regarding an investigation, and any document or information compiled as a result of the investigation that is otherwise obtainable from another source. That means if we have a document in our file and it is obtainable from another source, we consider that a public record and it is obtainable after the investigation.

**Assemblywoman Neal:**

That was an educational point for me. I was just wondering why the insertion was there.

**Assemblywoman Spiegel:**

How is "good cause" defined? It is mentioned on page 12, line 35. This says that the body must approve the minutes, but what happens if the body does not approve the minutes but they discuss them?

**Brett Kandt:**

Good cause is a well-established legal term which denotes "adequate or substantial grounds or reason to take a certain action" or to fail to take an action prescribed by law. That definition is from West's Encyclopedia of American Law, 2nd Edition. We recognize there can be instances when a public body may have extenuating circumstances that prevent them from approving the minutes under the time frame we are proposing here, and we can take that into consideration. We are asking you to recognize that in law. We are proposing that the minutes be approved within this time frame so that there is official record of the action taken by the public body available to the public.

**Assemblywoman Spiegel:**

If the body only meets every 45 days and when they meet on day 45, they have a discussion about the minutes. If they decide to not approve them, are they then in violation of the law? Are they forced to approve the minutes that

they feel are factually incorrect if they cannot come up with a resolution that they all agree to at that meeting? I understand the concept of approving minutes with changes, but if they cannot agree on the changes and they are at the 45-day point, they are then in violation of the law, and their choice is either to approve something that they feel is factually incorrect or be in violation of the law.

**George Taylor:**

I do not think that because of this 45-day timeline any public body is going to be forced to approve something they are not comfortable with when they feel there was an error or if there is a disagreement among them. I think there is plenty of room in the way the statute is worded, whether we use the term good cause or not, to allow the public body to determine and vote on the minutes of a meeting that satisfies all of them in one way or another. In my view, no they would not be in violation of the law at that point.

**Chairman Ellison:**

I think you handled that perfectly because they still have time to correct something, but at least it is on the record that it is understood there could be a problem with the minutes.

**Assemblywoman Joiner:**

Section 5 basically designates a proxy. On page 12, line 1, what is the definition of a legal authority? I am wondering what the origin is with this change. Are there any real world examples of where this language would be clearer? It says that the designation has to be expressly authorized by the legal authority. Does that mean if it is an executive order, it has to be in the letter of the executive order what the designation process would be, or is the legal authority an executive order situation with the Governor, who could just determine at any point to replace a person for a particular meeting?

**Brett Kandt:**

Last session in the OML bill we brought, and you approved, a provision regarding this issue of the ability for somebody who is on a board to designate somebody else to attend in their place. There was a great deal of inconsistency in the law and we wanted consistency. We felt that unless it was expressly authorized, if the board is a statutory board created in the NRS, the NRS would have to allow them to designate somebody to attend in their stead for purposes of obtaining a quorum and taking action. If that board were created by a charter, the charter would have to make a provision for it or an executive order. If the Governor established a board by executive order, the executive order should make some reference to the ability of someone who is a member to designate somebody else in their place; otherwise, if it were silent,

that proxy would not have the authority. This was approved last session and it created consistency. This provision is just a follow-up on that limited instance where there are two boards and they exercise joint powers on a third board and make it clear how they designate who is attending that board meeting and acting on their behalf.

**George Taylor:**

In the statute, especially relating to elected bodies, it is important that the public understand that the member on an elected body cannot just designate someone to serve in his place because he was elected. It is a little bit different with advisory bodies. Last session this was an effort to clarify the rules in regard to elected bodies and advisory bodies.

**Chairman Ellison:**

If there is an elected body, such as the Clark County Board of Commissioners, they usually designate someone to go on behalf of the board, but if that person cannot make it, they can designate someone else as an alternate to perform that duty, correct?

**George Taylor:**

Assuming that this bill is enacted in the law, it would be based on their creating legal authorities as to whether that particular situation would be legal or not.

**Chairman Ellison:**

That is the way it is now. Usually they represent the body as a whole.

**George Taylor:**

If you are asking whether they can designate someone to go to a conference or to represent them in the community somewhere, I think that is fine. That is not what this bill is designed to change. This is designed to ensure that a public body may only designate a person who is not a member of the public body to come in and sit with the public body, vote, make discussions, et cetera. That is all this bill is designed to correct or clarify.

**Chairman Ellison:**

There has been a lot of confusion, so I wanted to clarify that. Did you see the proposed amendment ([Exhibit D](#)) by Mr. John Carpenter? It was submitted as a friendly amendment.

**Brett Kandt:**

We just learned of the proposed amendment this morning. Mr. Carpenter spent many years here, and he probably knows more about the OML than I will ever know. We have clarified this issue of supporting materials because there was



some frustration on the part of the public that they did not feel they were getting the supporting materials when the members of the public body were. In NRS 241.020, we clarified that if the members of the public body are getting supporting material, then it should be available to the public at that point in time.

My concern with this conceptual amendment is that it states a mandate that you have to provide supporting materials three days prior to the meeting, but the materials may not be available three days prior. It is not unusual for members of a public body to get supporting materials at the last minute as well. I have some concerns about how that would work in practice. I thought we took the best course of action on this when we said when the members of the public body get the material, the public would get it too. That is the way the law reads now.

**Chairman Ellison:**

I think he is trying to address getting the materials at the last minute, just as you received the amendment today, and not being able to have enough time to study the material. If you get a 100-page document at the last minute, there is no way you can really get an understanding of that material. If it is an agenda item, do not present something at the meeting expecting it to go through. I think that is the problem he has. Can you take a look at it and discuss it, please? I think it can be fixed, and we can address the issue.

**Brett Kandt:**

I would be happy to discuss the amendment with Mr. Carpenter. Once again, conceptually, as I am reading it, it almost seems to indicate that if the public body cannot provide the supporting materials three days prior, they cannot take action or consider that item and it would have to be deferred. That can have a domino effect, and I do not know if that was intended or not.

**Chairman Ellison:**

There is always something that is going to add up.

**Assemblyman Stewart:**

The Interim Finance Committee and the Legislative Commission normally have a backup person if a person cannot attend. This would not preclude the backup person from assuming responsibility on the Legislative Commission, correct?

**Brett Kandt:**

Those bodies are not subject to the OML, so this would not impact them.

**Chairman Ellison:**

Those that are in favor of Senate Bill 70 (1st Reprint), please come forward.

**Nancy Parent, County Clerk, Washoe County:**

I am here in support of the bill as it stands right now as far as how it affects my office with the documentation of the posting requirements, and also with regard to the approval of minutes at the next meeting or within 45 days. We worked hard with Mr. Kandt to make sure this was something the county clerks could live with.

As far as the conceptual amendment ([Exhibit D](#)), I can give you an example of when the materials are not available for the boards. We have a lot of public hearings, and the public is oftentimes given until the time of the hearing to submit their documentation. Sometimes they do not come to the hearings, but they will write emails or fax letters, and we often do not have them to compile and give to the board until the hearing. It would be impractical and a disservice to the public if we were to require them to have three days less time to get the material to us to post. We often have other agencies present to the Board of County Commissioners, and those agencies frequently come in with a flash drive and plug it into our computer. That is their presentation, documentation, and notice that we get at the time of the hearing, no matter how many times we ask them to bring the documentation ahead of time. It is problematic to try to have all of it three days ahead of time. Otherwise, I support the bill.

**David Cherry, Intergovernmental Relations Specialist, City of Henderson:**

I am appearing before you to express support for S.B. 70 (R1) on behalf of the Henderson City Attorney, Josh Reid. I would like to thank the bill sponsors for bringing this bill forward, which includes two helpful changes for our community. First, it clarifies that Friday counts as a notice day for local governments that are partially open on Fridays and second, it clarifies the statutory provisions which are exempt from the OML by adding the specific citations to NRS Chapter 241. In particular, this bill clarifies the exemption for local ethics committees. In our view, this will incentivize more employees to seek the guidance of our local ethics committees.

**Chairman Ellison:**

Is anyone else in favor? [There was no one.] Is anyone opposed to the bill? [There was no one.] Is anyone neutral?

**Peggy Lear-Bowen, Private Citizen, Reno, Nevada:**

There is a concern that has come up with the OML and this is a perfect place to work on it. The concern is that there are people who believe they found a glitch in the OML. They say they do not have to follow anything if the meeting is called by someone other than the board, such as an executive director or a subcommittee member, as far as having it be considered and keeping with the OML and meeting the requirements of public notification and public access. I am very concerned.

There was a meeting just last week that no one could attend unless they were physically present in the building. It was not streamed, and it did not have Clark County or the rural areas represented. All of you could not attend because it was held at the Richard H. Bryan Building, and it was kept closed because it was considered merely a legislative update. I would like to thank the members calling and telling them not to vote.

In February 2014, directions were given to the Board of the Public Employees' Benefits Program not to take votes when they were holding any meetings that pertained to rates, what to do with the third party administrators, or what to do with the executive director's evaluation. Those meetings are always closed. I was told in front of witnesses that three sessions ago, if they could have figured out a way to close it down even more, they would have. They found out there was a glitch in the OML that did not address meetings that were held where representatives were present or on a telephonic conference, and yet no actual means and mechanisms were put in place for that to govern. This is the third session that I have been told that all of you would work on fixing the glitch so everything about Nevada's government and the different boards and commissions are transparent. I hope that you will take the opportunity in working on this bill to correct that error in the OML to cover the subcommittee meetings and meetings called by an executive director or others that include the appointed or elected body. Thank you for having this item on the agenda today.

**Dagny Stapleton, Deputy Director, Nevada Association of Counties:**

We are neutral on the bill, and we would like to thank the sponsors for working with the counties on the amendments that were inserted in the Senate. We are very comfortable with the S.B. 70 (R1). I want to echo the comments of Ms. Parent. In regard to the proposed amendment, we would be concerned that it would potentially prohibit local governments from being able to provide supporting materials on the day of the meeting. It would be a hardship.

**Chairman Ellison:**

Some of the smaller counties had no problem with this and the 45 days, correct?

**Dagny Stapleton:**

We believe that change, which was made after the bill was heard in the Senate, does address the concerns of the rural county clerks.

**Chairman Ellison:**

I will close the hearing on Senate Bill 70 (1st Reprint). I appreciate everybody's testimony. We will talk to Mr. Carpenter about his proposed amendment. I will open the hearing on Senate Bill 406 (1st Reprint).

**Senate Bill 406 (1st Reprint): Revises provisions relating to public retirement systems. (BDR 23-1049)**

**Assemblyman John Hambrick, Assembly District No. 2:**

I hope the sponsor of the bill is on his way. Pending his arrival, I will go forward with my testimony. The bill you have before you is approximately 23 pages dealing with public employees and public employee integrity. It is a good discussion to have right now, especially if we look at the national landscape of what is happening. This Committee has a task ahead to set the tenor of this body for years to come. I would like to focus on section 4 of this bill.

Section 4 deals specifically with public employees that may lose their lives in the line of duty. Tragically, we have a police memorial ceremony on the first Thursday of the month. If you were outside last Thursday, you saw the pomp and ceremony as we remember our fallen officers throughout the year.

Section 4 addresses survivor benefits. Officer Alyn Beck had a wife and children and Officer Igor Soldo had family members. They were looking at what would be right and proper for their surviving mothers, fathers, wives, and children. I hope that you will look at this bill. How do we tell a surviving spouse or mother what the lives of their loved ones are worth? What price tag do we put on it when we tell a youngster that his or her father or mother will not be able to see him or her grow up, attend the prom, or walk her down the aisle? Please look at this bill very carefully. What price do we put on someone's life and his or her surviving family? Please give this bill all your attention as you always do. This bill deals with the lives of those that will follow. I will answer any questions.

**Chairman Ellison:**

Thank you for your testimony. That puts a lot of merit to this bill.

**Assemblywoman Neal:**

Can I ask a question on the entire bill or just section 4?

**Chairman Ellison:**

Do you want to just address section 4?

**Assemblyman Hambrick:**

I would prefer section 4; I will do my best on the rest of the bill, but I am not an expert on the 23 pages of the bill. I concentrated strictly on section 4 because of the benefit for the survivors. If it is a generic question, I will do my best.

**Assemblywoman Neal:**

I will wait.

**Chairman Ellison:**

Will the sponsor of the bill please come forward?

**Senator Michael Roberson, Senate District No. 20:**

I am here to present Senate Bill 406 (1st Reprint) for your consideration. We have heard a lot about Public Employees' Retirement System (PERS) reform this session, and I have thought a lot about it myself. I believe it is important to reform PERS in a way that achieves several important but somewhat competing policy goals. We need to make sure our public employment retirement system is healthy and solvent for the long term, so that current and future public employees can take comfort in knowing their retirement is secure. To do this, we need to bend the cost curve down over the long term.

We need to make sure we keep our promises to the current public employees by not pulling the rug out from underneath them by changing previously promised benefits. We need to protect the interest of taxpayers by eliminating financial excesses in the System on a going-forward basis, while at the same time making sure we can provide an attractive retirement plan in order to continue to recruit and retain our best and brightest of public servants. We need to provide fairness to all public employees so that no single group of public employees is treated significantly different from other public employees. We need to take care of the families of public servants who are killed in the line of duty, and we need to ensure that we do not reward bad actors who are convicted of certain felonies. I believe this bill achieves all of those goals.

Senate Bill 406 (1st Reprint) would reduce the annual multiplier for all the police officers and firefighters by 0.25 percent. It would require all police officers and firefighters to have three and a third more years of service to retire with full benefits. The bill would reduce the postretirement index for all public employees. The bill also prevents a public employee from retiring early with fully earned benefits by purchasing service credits. It would require members of the Judicial Retirement Plan to contribute to their retirement just

like all other public employees. The bill will provide that an individual convicted of certain felonies would be returned the amounts he contributed into the retirement system, but he would no longer be eligible to receive public employment retirement benefits. It increases the compensation for the families of public employees who are killed in the line of duty. It maintains the current defined benefit system and it does not negatively impact current public employees. It protects both the taxpayer and public employees by reducing both employer and employee contribution rates. Once fully implemented with regard to all public employees, we will conservatively save approximately \$1 billion every decade. This bill passed out of the Senate unanimously. I am happy to walk you through the bill or take questions, whichever pleases you.

**Chairman Ellison:**

I think there will be a lot of questions about the bill. If you want to hit some of the highlights, please do. The Speaker did address section 4. One of the discussions that was brought up was those who had a felony would lose their PERS benefits. Is that just someone who has been incarcerated or even those on probation?

**Senator Roberson:**

Sections 2, 17, and 26 amend *Nevada Revised Statutes* (NRS) Chapter 286, which is PERS; NRS Chapter 1A, which is the Judicial Retirement Plan; and NRS Chapter 218C, which is the Legislators' Retirement System. This would apply to any person who becomes a member of those retirement plans on or after July 1, 2015, and is convicted of or pleads guilty or nolo contendere to certain felonies outlined in section 2, subsection 1, paragraphs (a) through (e):

[A] member who is convicted of or pleads guilty or nolo contendere to any felony involving:

- (a) Accepting or giving, or offering to give, any bribe;
  - (b) Embezzlement of public money;
  - (c) Extortion or theft of public money;
  - (d) Perjury; or
  - (e) Conspiracy to commit any crime set forth in paragraphs (a) to (d), inclusive,
- and arising directly out of his or her duties as an employee, forfeits all rights and benefits under the System.

It is limited to those felonies, and it has to relate to their public service. For example, Judge Steven Jones was convicted of felony fraud during his tenure as a judge. Even though he will probably be serving time in prison, he is still eligible to receive his six-figure pension for the rest of his life. With new employees, that would no longer be the case if that situation occurred.

**Chairman Ellison:**

I noticed that it does not specify murder.

**Senator Roberson:**

No. Originally, the bill just broadly listed felonies and in talking with members of the Senate Committee on Government Affairs and other interested parties, we tried to limit and tailor it to felonies related to the person's public service, such as misuse of office types of felonies.

**Assemblyman Flores:**

I know my colleagues have a lot of questions on different sections. I am going to try to focus on section 2. One of the things I often wrestle with is when we talk about taking away certain privileges from somebody after a conviction. The fact is that when somebody is convicted of a crime, we have a system in place, and we expect the court system to perform its duties. If there is a punishment owed, the court system will do that with fines, incarceration, et cetera. When we talk about taking away privileges from an individual who has been convicted, it opens up a huge policy question. Are we saying that when people are convicted of crimes they pay their dues by going to prison and paying their fines, but then we tack on this additional thing saying that the court system is not sufficient? The reason I am asking this broad question is I fight with it every day trying to decide what I want to do. We make it very difficult for individuals to get jobs after they have been convicted. We make it difficult for them to have certain privileges because we take them away. We are doing that and adding more layers in this bill, affecting an individual who could have invested into PERS for 15 years.

One of the felonies here is perjury, so say someone lied on a document. I am not saying that is not a big crime, but we are saying it is going to take away that employee's 15 year investment and commitment to something. I am having a hard time wrestling with that. Can you go through your rationale and how you came to this point?

**Senator Roberson:**

Reasonable minds can differ but this is an easy call for me. We are talking about accepting, giving, or offering to give a bribe, embezzlement of public money, extortion or theft of public money, perjury or conspiracy to do any of the above. If a public employee of this state does that, then no, I do not believe they should get the benefit of taxpayer contributions to their retirement. They will still get back every dollar they put into the System. From my perspective, that is all they should get.

**Assemblywoman Neal:**

I was reading about provisions like this in other states and legal cases against them. I want you to educate me on two things within section 2. Other courts in different states have ruled, when they were challenged, that provisions like section 2, which substantially reduces the benefits, is an expansion of the federal forfeiture act. It said that if a contract right has vested, you must look to whether or not the legislature has bound itself within the contract and if there is a specific provision in law that says that the contract law or the contract cannot be forfeited, which is NRS 286.539. Then you must look to the contract right being vested. How do we deal with that in this particular provision because in section 2, subsection 1, paragraph (e), it says "conspiracy to commit"?

The second question is in regard to a discussion in some of the cases that dealt with how this can be looked at as an abridgement of a property right when the retirees interest in the postretirement benefits were protected. Then you must look to see if there was a substantive due process violation under the Fourteenth Amendment of the *United States Constitution*. The courts are split on this, but contract rights and the vesting of contract rights are pretty clear as to what the line of case law is. Help me understand how section 2 will not come under any kind of scrutiny under those two issues if someone chooses to sue if this bill passes.

**Senator Roberson:**

This only applies to new employees going forward. Everyone will be on notice. You will get your PERS benefits as long as you comply with all the other requirements of PERS and you are not convicted of a felony with these crimes.

**Assemblywoman Neal:**

Does the introduction of this for new employees abrogate NRS 286.539, the forfeiture clause, which does not distinguish between new or existing employees?

**Senator Roberson:**

I believe that it would. I do not think that legal counsel would have approved this bill and the amendment if they thought there were constitutional or other legal issues. In essence, this is a contract that the public employees enter into with a public retirement system with the taxpayers when they enter into PERS going forward. We are not trying to pull the rug out from underneath existing employees and go back on promises we have made to them. We are telling everyone up front, if you enter into PERS on or after July 1, 2015, this is the deal.



**Chairman Ellison:**

Thank you for that clarification.

**Assemblyman Wheeler:**

My colleague was talking about taking away from someone. Section 2, subsection 2, says anything the public employee has paid into PERS will actually be returned to them. We are not really taking away anything other than the benefits they would have received for doing their job properly. If they do not mess up during the performance of the very duty they swear to uphold when they take the job, they will receive full benefits. If they commit a felony based on section 1, then they will only get back what they put into the System; however, what they would have earned doing their job correctly is what is being taken away, correct?

**Senator Roberson:**

Yes, I concur. That is the correct interpretation.

**Assemblyman Wheeler:**

The Speaker presented section 4 and the one thing I have been talking to people about is the remarriage of a spouse and what would happen to the benefits if the spouse remarried later. I did not see anything about that in the bill, so can you please address that?

**Chairman Ellison:**

We had that in another bill, Assembly Bill 363 (1st Reprint).

**Assemblyman Wheeler:**

Thank you.

**Assemblywoman Spiegel:**

I have a question about section 27, which relates to legislators. Given that legislators only receive a salary for the first 60 days of session, what if there were, God forbid, an attack on this building on the 59th day of session and two legislators were gravely injured. One passed away immediately and the other one held on for two days until day 61. The spouse of the legislator who was killed on day 59 would receive a benefit and the one whose spouse died on day 61 would not. Am I reading that correctly?

**Senator Roberson:**

No, I do not think that is the intent. We all know we have a salary. Irrespective of when we are paid that salary, we have a salary set in statute that we make for the term of our service. I think that is what this section is referring to—the salary, not when we are paid that salary.

**Assemblywoman Joiner:**

I have a question about section 3. It is about the formula that is being created for the new employees going forward. It seems to me that this creates another tier. In 2009, we created a new calculation for people starting in 2010. How were these percentages arrived at and what is the end goal? Is there a certain amount of money that is expected to be saved in the System? Why are we doing this and complicating things? My personal concern is always recruitment and retainment of people. The more that we reduce benefits like this, the harder it is to recruit and retain good people in state service.

**Senator Roberson:**

It was arrived at through negotiations and by working with interested parties and labor groups. Some of those groups can come up and speak to that. I know there are labor groups who are here that will be supportive of the bill. The point is to try to balance the competing concerns I mentioned early on regarding PERS reform and to bend the cost curve down over time to increase the solvency of the System. This, along with some of the other provisions of this bill, over time will save approximately \$1 billion every decade once you have most of the public employee workforce subject to this bill.

Segal Consulting prepared an actuarial evaluation of PERS. They noted that the funded ratios, as of June 30, 2014, are 70.8 percent for regular employees and 74.3 percent for police officers and firefighters. These are the funded ratios provided by the consultant hired by the PERS Board to prepare an actuarial evaluation of the System. We need to consider reforms to preserve benefits for future generations. That is what this bill is about and that is why we are slightly reducing the postretirement index for new employees.

**Chairman Ellison:**

Section 5, subsection 1, paragraph (c), is the effective date for members. It is not retroactive, correct? It is for everything going forward, correct?

**Senator Roberson:**

That is correct. It is for new employees hired as of July 1, 2015, or entering into the System July 1, 2015.

**Chairman Ellison:**

Some of the questions I received were from people who are getting ready to retire. I told them they would not be affected.

**Senator Roberson:**

No, they would not be. I believe the only portion of this bill that affects current employees is the provision that relates to increasing the benefits for the families of employees who die in the line of duty.

**Chairman Ellison:**

Thank you. Are there any other questions? [There were none.] Senator, is there anything you want to address before I open the hearing for testimony?

**Senator Roberson:**

No, sir. I just want to thank you for hearing this legislation and giving me the opportunity to talk about it.

**Chairman Ellison:**

Anyone who is in favor of the bill and would like to testify, please come to the table. We are going to set the timer for three minutes. Please keep your comments brief.

**Stan Olsen, representing Nevada Association of Public Safety Officers:**

We stand in support of both Senator Roberson's proposals in the bill and the comments by Speaker Hambrick. I am in a unique position. When I represented the Las Vegas Metropolitan Police Department, we looked at doing something similar to this bill as far as people who commit a felony in the performance of their duties. It is not a bad idea. I think it is something for which the time has come and this bill is well thought out. There were a lot of negotiations and discussions on this, and I urge you to also take into consideration the Speaker's comments in regard to the two officers killed on June 8, 2014, and their spouses. They are not whole because of the way the law is now.

**Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association:**

We support the bill and I would like to echo the comments of Mr. Olsen and the Nevada Association of Public Safety Officers.

**Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:**

I want to thank the Speaker and Majority Leader for bringing this reasonable proposal forward. Frankly, the Majority Leader had me at the savings of \$1 billion over a decade. We think that is a key piece of this bill. Contribution rates and the unfunded liability have both gone up over time. We think this is a good, reasonable way to address it, and we urge your support.

**Warren Wish, representing Nevada State Education Association:**

I am speaking on behalf of the 24,000 members of the Nevada State Education Association in support of this bill. It is not often that we have the opportunity to speak in support with the Chamber of Commerce. From our standpoint, we evaluate each of the bills with the standards of whether or not it is going to help attract and retain employees as well as whether or not it will strengthen PERS. We believe that S.B. 406 (R1) does both.

Some of the provisions have not been talked about yet like the provision to limit PERS to the first \$200,000 of an employee's salary. Obviously, that does not affect the vast majority of those in public education, but it is a black eye to the System when there are those who are members of the System who are able to retire at hundreds of thousands of dollars. Secondly, it is an issue when you have the purchase of service credit and people buy five years of service and then often leave public service to get higher paying jobs in the public sector. This is also a black eye to our System. We get bad publicity when that happens. This limits the fact that the purchase of retirement can only take place to take care of leave having to do with medical emergencies.

There are two issues that I want to bring to your attention that may have consequences down the road if this bill is enacted. The first has to do with the fact that when you lower the multiplier to 2.25 percent, you are already diminishing the ability to fully attract new employees to our state. I am thinking of Clark County that is seeking veteran teachers from around our country. If they were to come in with the thought of having a 10- or 15-year career, that multiplier is going to really affect them. It might give them pause as to whether or not to take a contract here in Nevada. The second issue escapes me. We are in support.

**Jordan A. Davis, representing the Las Vegas Metro Chamber of Commerce:**

We would like to express our support for S.B. 406 (R1). We would also like to thank Senator Roberson for sponsoring this legislation. We support the principles of the bill and believe it is a well-balanced approach to PERS reform.

**Chairman Ellison:**

Are there any questions from the Committee? [There were none.] I saw the salary report on education, teachers, and new hires and I think Nevada has one of the best systems for new hires as far as salary goes compared to what other states offer. I think with what we offer to bring these teachers in, and with this bill, it will still be something to entice them to come to Nevada. Besides that, we have a great state. If anyone else is in favor, please come forward.

**Rusty McAllister, President, Professional Fire Fighters of Nevada:**

For a point of clarification, I do sit on the PERS Board, but I am speaking only on behalf of the Professional Fire Fighters of Nevada. We are in support of the bill for a multitude of reasons. We believe it is a reasonable approach to reform. There are a number of things in the bill that we support, such as sections 4 and 4.5, which deal with providing a benefit for public employees killed in the line of duty. We support that from the standpoint of the bill that passed out of the Assembly earlier that dealt with the marriage penalty. This would not provide that because under current statute, if I retire and I get my normal benefit, it does not go away if I get remarried. If you get killed in the line of duty, then the benefit to a spouse would go away upon remarriage. It is two different standards. If you are the spouse of someone killed in the line of duty, the benefit will go away if you get remarried, but if you just retire normally then it does not, which we feel is a better solution.

There are already 35 states that have provisions with regard to people who commit felonies in the performance of their job or duties. This is not something that is new. Lastly, what we would ask is if the Legislature chooses to move this bill forward and pass it, let it have a chance to work. Those changes made in 2009 are already starting to save money with 25 percent of the active members already in PERS. Let this work going forward to get the full benefit of all the changes that are going to be made in this bill. That way we limit the number of tiers we are adding to PERS. Assembly Bill 312 (1st Reprint) has already been passed out of committee and has an implementation date of July 1, 2016, which will add another one-year tier if it were to pass also.

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:**

We are in support of the bill for the same reasons that Mr. McAllister talked about. I have sat in this Committee with others in opposition to any changes to PERS because we received information that PERS is best in class, has best pension hygiene, and the like, but there have to be changes to PERS. As Mr. McAllister talked about, in 2009 there were a lot of changes made that went into effect in 2010. The police officers and firefighters gave up that after working 25 years we could retire. We increased the retirement age for police officers and firefighters from 55 to 60 with 10 years of service. We have heard from others and the chambers of commerce that this is the first step. This bill is another step to help PERS continue to be the best in class with the best pension hygiene.

As much as I do not like changes to PERS, this bill takes into effect the goals that Senator Roberson stated. It is a prospective bill that is going to attract other people and other employees, and we are going to basically leave the

current employees alone and that is a good thing. If we have to do something with PERS, then the Peace Officers Research Association of Nevada does support this bill, but I do have to echo what Mr. McAllister stated as well. Give it a chance to work. We reduced the multiplier from 2.67 to 2.5 in 2010 and it is working. If we reduce it again to 2.25 for regular employees, that will work as well. I would hope that we would not have to come back in 2017 and reduce it even further. As you heard, this is \$1 billion savings in a decade and that is awesome.

**Michael Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc., and Southern Nevada Conference of Police and Sheriffs:**

Also, as Mr. Dreher and Mr. McAllister said, we support this bill and would like to thank Senator Roberson for bringing it forward.

**Steven Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees:**

We, too, are in strong support of this bill. We believe it makes modest changes that over time will certainly strengthen PERS. I think that is what all of us have been concerned about.

**Assemblywoman Neal:**

Section 2 applies to new employees. If they are doing something that is wrong, the provision does not speak to whether the right has vested or not, so let us say I am a new employee and in five years I am put on notice. For me, it changes the right. It makes it gratuitous versus a vested contract right. It never belonged to me because I was put on notice that if I ever committed one of those specific felonies, I would not have my full benefits. It changes the legal standard for the System and opens a door. I know what the 35 other states have done because I read a few articles. The American Bar Association goes through all of the nuances, flips, and changes. I am trying to get an understanding of why it would be fine to set a new legal standard in law on what your contract right is and if you do something wrong, then it does not vest because it is never a contract right. It is subject to these things in section 2. My viewpoint is that it changes it to a gratuitous promise versus a vested contract right.

**Ronald Dreher:**

I am not an attorney, but I have been a labor representative for 31 years, and we deal with collective bargaining agreements constantly. In the issues where someone brings something forward, the first thing we look at is due process and due process requires notice. The property right argument that I hear you talking about bringing forward would be valid if this was applied retroactively,

but it is notice that is prospective. Any new employees are being provided notice under this legislation that will say from this point forward this is the way the game is. We do the same thing in collective bargaining. When someone appeals something, we call it "just cause" and the first thing is notice. Was the employee aware of something? This is definitely providing notice to any new employees. I believe as to the issue of whether or not somebody has a property right, that property right would be taken away in these circumstances if someone violates the specific laws.

**Assemblywoman Neal:**

I understand all of that. In the other cases there were severe felony issues that I totally was on board with such as molestation. At the end of the day, the legal principles are the things that are most important to me. I do not care that 35 states have it when there have been states that have been sued regarding this, and it has not been to the highest court to determine what the legal principle is that we are really tangling with. Is it the forfeiture provision, which is the expansion, the contract law, or the property right? There are three areas that could be touched on depending on what the issue is. I will be talking to Legal Counsel after this meeting, but I do not have comfort with that because those states have been challenged. Their highest courts have not taken it up yet.

**Chairman Ellison:**

With this bill, you have to be convicted. You still have a right to a trial and the sentencing at the trial can be taken down to a gross misdemeanor. The process still has to happen and a person would have to be found guilty and convicted by a court of law. Is anyone else in favor of S.B. 406 (R1)? [There was no one.] Is anyone opposed?

**Priscilla Maloney, Government Affairs, Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees:**

We are in opposition to the bill, but with the utmost respect for what is obviously a great deal of work. It is important to note who I represent because I do not know what the active chapter's position is on this bill. As you know, we started this session with multiple PERS bills. I want to hone in on our three main areas of contention with this bill. There are multiple states listed on this Selected State Policies Governing Termination or Garnishment of Public Pensions chart ([Exhibit E](#)). This chart is from the National Association of State Retirement Administrators. It does not give what the legal status is of the statutes, but it goes through about 40 states. There are four or five states that do not have such a statute regarding section 2. That is a concern, but it is not our main concern.

Our main concern is there is another bill regarding the Judicial Retirement Plan, Senate Bill 69, and we had a hearing last week in the Senate Committee on Finance because the bill is exempt from the deadlines. Section 1 of that bill directly conflicts with section 20 of this bill. It may literally be a housekeeping thing. We do know there has been discussion of an amendment, but as it is written today, those two provisions are still in conflict so that would need to be resolved.

**Chairman Ellison:**

Has that bill been passed yet?

**Priscilla Maloney:**

No, it is in the Senate Committee on Finance right now. We had a good hearing on it last week so hopefully that will get resolved.

The larger philosophical position is we always start with the proposition of the changes that went through in Senate Bill No. 427 of the 75th Session. A letter ([Exhibit F](#)) is on the Nevada Electronic Legislative Information System (NELIS), that includes links to the extensive legislative history from 2009 and what the legislature did in May of that session. They were trying to fix PERS because we were facing a severe financial crisis in Nevada. Those changes have literally not had a chance to take the effect that was anticipated.

I would like to briefly read from the May 28, 2009, minutes of the Senate Committee on Finance on Senate Bill No. 427 of the 75th Session. Senator Raggio said, "The Nevada PERS is probably the best retirement system in the nation, and the health-care subsidy the State offers is one of the few available in the country. New employees will know what the changes are; these are therapeutic rather than punitive changes. I assure you of our dedication to ensuring these programs are financially sound as well as rewarding." Senator Roberson mentioned the actuary's good work on this bill, but the actuary can tell you that since that time the assets in PERS have grown to \$31 billion. Things are doing better. They are recovering because of all of the changes and sacrifices made in 2009. We see this as further moving the desire down the road to make a statement about what is loosely termed, and sometimes referred to as, reforming PERS without really getting into the weeds of what that means.

I would like to respond to one of Assemblywoman Neal's concerns on section 2. One of the American Bar Association's studies was mentioned, and I have provided a chart ([Exhibit E](#)) that will give you a breakdown of all of the statutes. As you pointed out correctly, we do not know what constitutional or statutory muster these state statutes have withstood over the last few years and whether



or not they are substantive legal challenges that we could face here in Nevada from the way section 2 is worded today. I would suggest to the Committee that there are two cases in the last two weeks from the 50,000-foot view on PERS reform, one from Illinois and one from Oregon. They go into the discussion of what the vested contract right is under impairment of contract. We have a clause in the *Nevada Constitution* that more or less parallels the *United States Constitution* impairment of contract clause in Article 1, Section 10.

Another main concern. Section 5 is also paralleled in sections 20 and 28 because as you have all read this bill, you know we are doing things to both the Legislators' Retirement System Plan and the Judicial Retirement Plan as well as PERS. We have a little known, and thankfully little used, statute on the books, NRS 286.3007, and our concern is subsection 3 of that NRS provision. This provision is about the purchase of service credits program. Subsections 1 and 2 of NRS 286.3007 are permissive by the agency and the employee to work out an arrangement for whatever reason—it could be a family emergency, early retirement, et cetera—but subsection 3 is mandatory. In the case of layoffs it says, "If a state agency is required to reduce the number of its employees, it shall purchase credit for service pursuant to NRS 286.300 for any member who:..." and there are some criteria listed.

Thankfully we do not have layoffs in state service very often, but when we closed the Nevada State Prison in 2011, there was a very real threat that this statute was going to have to be used. We had a lot of correctional officers who were older and not that easy to reemploy. The Department of Corrections had to be looking at this statute, and I think most of those people were placed in other facilities. This is a safety net. In the rare instance, our brothers and sisters can collectively bargain in other groups, but state employees cannot. Sections 5, 20, and 28 of the bill would greatly impact the ability to use NRS 286.3007, subsection 3, if not nullify it all together.

**Chairman Ellison:**

Have you met with the sponsor of the bill on your concerns?

**Priscilla Maloney:**

I have not had an opportunity to talk to the sponsor of the bill on that narrow issue. I think all of the other associations have been talking to the sponsor of the bill on various issues.

**Chairman Ellison:**

Out of respect to Senator Roberson, I think you need to do that prior to this bill going out.

**Priscilla Maloney:**

Absolutely.

**Chairman Ellison:**

Everything in this bill is for after July 1, 2015. This is not going to affect any existing employees.

**Priscilla Maloney:**

From the beginning of this session, retirees in this state and retirees around the country are looking at what is loosely called PERS reform. Many of the reasons the proposals are prospective is not just because of that concern, even though it is a valid policy concern, it also circles back to Assemblywoman Neal's point that there is a lot of litigation out there. You have an impairment of contract issue with your existing workforce. Prospectively we understand that and appreciate it, but we are concerned about the overall health of the system. The overall health of the System means that Nevada has to present itself as a positive place to have a long-term public service career, whether it is in teaching, law enforcement, or roadwork—all the thousands of jobs that public employees do every day to keep Nevada going. We believe that if anything weakens the System overall and that very hugely includes attracting new people to come in and have a long-term public service career in Nevada, we are concerned about it. We are standing opposed for all the reasons I have said today and have been saying for the last three months. We understand there are other bills out there that we believe would be a lot more damaging to PERS.

**Chairman Ellison:**

I agree. Is anyone else opposed to the bill? [There was no one.]

**Senator Roberson:**

With that said, you can never make everyone happy. This bill does not weaken PERS; it strengthens it. I want to point out one clarification. Senate Bill 69, which deals with the Judicial Retirement Plan, is in the Senate Committee on Finance. It will not proceed in the Senate until changes are made to conform to this bill.

**Chairman Ellison:**

I was going to ask you about that. If anyone is neutral, please come forward.

**Tina M. Leiss, Executive Officer, Public Employees' Retirement System:**

The Public Employees' Retirement Board has adopted a neutral position on S.B. 406 (R1). That was as to the originally drafted bill, although I do believe the neutral position would carry over with the this version of the bill. The bill

contains comprehensive benefit reform for PERS, the Judicial Retirement Plan, and the Legislators' Retirement System that are estimated to generate significant savings over the long term. [Continued to read from prepared text ([Exhibit G](#)).]

We have determined that this is consistent with our current mission with the System, and we also believe it strengthens the funding of the System. We have not identified any state or legal issues that we think are an impediment to the implementation of this bill. The Board did have some concerns about section 2 with the felony language that we addressed with the sponsor of the bill, and we believe the concerns have been taken care of with this version of the bill. We appreciate the sponsor working with us on that.

I would like to note that the changes to the benefits in sections 4 and 4.5 would be for those who are killed in the line of duty after the effective date of this legislation. It would not go retroactively to improve benefits of those who have already been killed in the line of duty because that would be a different fiscal impact than we have anticipated. Our discussions have been for those killed after the effective date of the bill.

I would like to make a couple of comments to address a few questions that have been asked today. The postretirement increase is a change in the formula that puts us back to where we were in about 1989. The 65th Session introduced the 3 percent postretirement index. It was increased after that, so I believe this is a good change. It puts us back where we were in 1989, which I believe was a good benefit structure then as well.

Another change is the 55 years old with 30 years of service versus 30 years and out. This change was also made in 1989. In 1989, it was a good benefit structure and I think it continues to be a structure that would attract and retain employees. I agree with the sponsor of the bill that he has struck a very nice balance and the Board agrees with that balance. I will say that the Board is neutral because we believe we have a good funding system in place right now and the System is in good shape for the future. We do not necessarily believe these reforms are necessary, but we do believe they will strengthen the funding of the System.

**Chairman Ellison:**

Thank you. I appreciate your statements.

**Martin Bibb, Executive Director, Retired Public Employees of Nevada:**

We are neutral on this bill. There are several sections that we agree with, particularly the provisions about being killed in the line of duty. We think the portion that deals with requiring contributions from the Judicial Retirement Plan makes sense. We also think that capping maximum benefits makes sense as well. We realize it would be a savings for the System, which in essence would help preserve it. That is why we are neutral and not in opposition. At the same time, there are several other issues, bills, concepts, and notions that are still very much in play on the PERS issue.

Frankly, retirees are concerned not only with every single bill, but with the cumulative effect of what these bills will do. We consider this draconian and a massive foundational change to PERS. These are things that would weaken the System by permitting the funds to be used in a fashion that would not make sense. For some of the Committee members who may not have had the full historical perspective by virtue of service time, there was a time in the 1980s when the PERS fund was used for inappropriate matters such as making loans to a failing casino and the creation of loans to create a dog racing track, and we considered those breaches of faith. Anything that might lead to that, which I am not suggesting that this bill does, are the kinds of foundational changes we are going to oppose.

We know there have been issues that have been addressed including the spiking, call back, age requirement, and the multiplier issues that others have alluded to. I am not going to go into massive detail on any of those, but we do not want to see them chipping away at this. At the same time, we understand that savings will help preserve the System and we appreciate that concept. Bills are give and take as everyone here knows, and I think the goal is to try to strike a balance. We are neutral at this point on this bill.

**Marlene Lockard, representing Local 1107, Service Employees International Union Nevada:**

We are neutral on the bill. We want to thank the sponsor for targeting his bill at what we consider real reform. If you think people make too much money in retirement, such as football coaches and others, this caps it. If you do not think a convicted felon should receive long-term benefits, it addresses that too. If you think people can retire too early making too much money, the bill addresses that issue. For the first time, it requires judges to put some skin in the game and to pay for part of their retirement benefits. We appreciate Senator Roberson's efforts at real reform and strengthening the System without blowing it up, which we feel some other measures in this building will do.

**Carla Fells, Executive Director, Washoe County Employees Association:**

We are neutral on this bill. I would like to thank the sponsor for including all members of PERS, not just police officers and firefighters, in the survivor benefits. As you know, in 2009 a Sacramento animal control officer was shot and killed when he was investigating a hoarding complaint. That individual's spouse did not get survivor benefits. For the people that I represent who do the dangerous jobs, such as going house to house like social workers, code enforcement, animal control, health inspectors, et cetera, we are very pleased to see that amendment in this version of the bill.

The only concern we have is the same concern that Ms. Maloney testified to and that is during layoffs. In 2009, we negotiated a wage concession in Washoe County in order to allow our tenured employees to purchase time in PERS to avoid layoffs. It was a very successful program. Most of the employees who took advantage of it were 60 years old and older. They used the time to purchase to the next level. If they were at 28 years, they bought 2 years, and there was a maximum of 2 years of purchase service credit at the time. It saved the county a lot in benefits, and it also saved us in layoffs. I would like to at least meet with either the sponsor or Ms. Maloney again on this provision. It was a tremendous help in retaining employees in Washoe County by them being able to purchase service time. This allowed the higher cost employees to retire versus laying off 20 or more employees who were slated for layoffs that provide services to the libraries, roads, parks, et cetera. We were able to retain a lot of those employees because the tenured employees were able to purchase time to take them to the next level in order to get out of PERS.

**Chairman Ellison:**

Are there any questions from the Committee members? [There were none.] Section 5, subsection 1, paragraph (c), will not affect any existing employees, correct?

**Tina Leiss:**

Section 5 would not affect any existing members. It will only affect those members who have an effective membership date after July 1, 2015. When I say effective membership date, it means if someone had PERS time in 2000 and they are off work for a while and they come back after July 1, 2015, they are still going to be under the old System. This is if they come on July 1, 2015 and they have no prior PERS service.

**Chairman Ellison:**

I think the Senator did a good job addressing that too. All of the calls I have received on this bill have pertained to that issue.

**Assemblywoman Neal:**

In section 5, subsection 1, paragraph (c), lines 31 through 33, is family medical emergency not defined in regulation somewhere else? What regulations are you looking to create now that fit within this new subsection?

**Tina Leiss:**

We have no regulation that applies to PERS that defines family medical emergency, and it is my understanding that this bill would require the Board to define it. We have a policymaking provision in our statute. I believe it is NRS 286.200 where the Board goes through a hearing process and that is where we further define anything the Legislature has left for the Board to define. We would do it through that process. At this point, I do not know exactly what that definition would be. This provision came in through the amendment, and the Board has not met since that time. It would be a public hearing process for the Board to define family medical emergency.

[Assemblyman Moore assumed the Chair.]

**Vice Chairman Moore:**

Are there any other questions from the Committee? [There were none.]  
Anyone else in the neutral position please come forward.

**Ronald P. Dreher, representing Washoe County Public Attorneys' Association and Washoe School Principals' Association:**

We have a neutral position on this bill. We have had a pretty good public coalition as I think many of you know in this particular setting and so today, you are seeing the differences between some of the issues that we have brought forward in an attempt to move in one direction. For the reasons stated by Ms. Leiss and the other speakers that came up in neutral before us, on behalf of Washoe County Public Attorneys' Association and Washoe School Principals' Association, we are neutral.

**Kevin Ranft, representing Local 4041, American Federation of State, County and Municipal Employees:**

We are currently neutral on this bill. We would like to thank the sponsor for adding the beneficiary retirement benefits into PERS for all PERS members. We do believe this bill will actually help the current active employees when it comes to increases in the contribution rate. It has gone up over the years and we look forward to seeing if this bill will actually stop the continuation of the increases in the contribution rate.

We are concerned with the PERS changes that may impact the future hiring of state employees in regard to retainment and attraction. Currently, some positions within the state are hard to fill, and this bill will not help that. We are asking with this legislative session and future legislative sessions to strongly look at state employees and the way they retained those positions and attracted those positions. The state government has a hard time filling certain positions with excellent employees, and that is what we want to strive for. I think you would agree. I appreciate your time.

[Assemblyman Ellison reassumed the Chair.]

**Ben Graham, representing the Administrative Office of the Court and the Supreme Court of Nevada:**

We are testifying in the neutral position. As an independent branch of government, we look at this as strictly a policy decision, which under the circumstances and the way we are structured, that is a decision for this body. Part of the advantage of testifying toward the end is an awful lot of our concerns were answered. I would like to say that it has been fleshed out very well about the effective date being July 1, 2015. The crucial thing is for those who are enrolled in PERS prior to that date, even though there may be a break in service and they go back into a different position, their enrollment period relates back to their past employment and they do not start over again.

By honoring the intent of this legislation, we are looking to the future. There will be some fairly immediate accomplishments leading to significant changes in the future to come. [Continued to read from prepared text ([Exhibit H](#)).] There are other items that I put in my prepared text, but they have been covered and the essential thing we are concerned about is the effective date of a person enrolled in a public employee retirement system. By being neutral, the court is not being placed in a position of giving an advisory opinion and, hopefully, we will never have to.

**Peggy Lear-Bowen, Private Citizen, Reno, Nevada:**

I am speaking in neutral regarding section 2. I appreciate the amendment that was brought forth, but in regard to having your retirement in place, if I commit perjury or lie on my income tax, I do not lose my social security. I am concerned about the term perjury listed in the bill. If there is going to be a list of when you can take retirement away for crimes committed, I am concerned about unintended consequences. There are families that benefit from having a member of their family work within PERS and in the public service of the state of Nevada, and if a member of their family who happens to be the worker goes away and the benefits of that retirement go away, then the family's income goes away. I am concerned about that.

When I retired in 2007, I made an inquiry asking if there was any way I could lose my PERS retirement. What was in statute at the time, and what was told to me by the head of PERS, was the only way I could lose my PERS benefit is if I killed another member of PERS. If you commit murder and the person you kill is a member of PERS, then you lose your PERS benefits as well. That was in place, and I assume it is still in place.

As far as the other methods, you need to keep something in place and you might not want to limit it and have it go down to other actions that are dealt with by other acts of law. That was in place in 2007, and I do not know how long it has been in place. I do not know if you already knew that PERS had in law what would happen and how you could lose your retirement benefit, and they only have one way. I wanted to share that with you today. Thank you for all your hard work.

**Chairman Ellison:**

Are there any questions from the Committee? [There were none.] Is anybody else neutral? [There was no one.] Does the sponsor have any closing comments? [There were none.] I will close the hearing on S.B. 406 (R1). Is anybody here for public comment?

**Peggy Lear-Bowen:**

Often you have heard me talk to you about making sure that meetings are kept open. I hope you will make your calls. The next meeting of the Public Employees' Benefits Program is going to be teleconferenced, and it is going to be accessed here where the meeting is going to be taking place. It is also going to be open in Clark County, but they have neglected to make it open to the rural counties. I hope you will call the Board of the Public Employees' Benefits Program and say that you hope that meeting will also be open to the rural counties.

A young lady is witnessing all of your actions today, and she said that this is very interesting. She is a young lady I watch over. She is 97 years old and her name is Joyce Bain. She lives on her own in Verdi, and she watches the things you do very carefully.

**Chairman Ellison:**

Welcome.

**Assemblyman Flores:**

One of our lobbyists, Trevor Hartzell, who is here every morning working really hard, had a birthday yesterday and I just wanted to say happy birthday to him.



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**Chairman Ellison:**

Yes, happy birthday. We are adjourned [at 10:26 a.m.].

[([Exhibit I](#)) was presented but not discussed and is included as an exhibit for the meeting.]

RESPECTFULLY SUBMITTED:

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Jordan Neubauer  
Committee Secretary

APPROVED BY:

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Assemblyman John Ellison, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Assembly Committee on Government Affairs

**Date:** May 11, 2015

**Time of Meeting:** 8:34 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 70 (R1)	C	Brett Kandt / Office of the Attorney General	Prepared Text
S.B. 70 (R1)	D	John Carpenter / Private Citizen, Elko, Nevada	Proposed Amendment
S.B. 406 (R1)	E	Priscilla Maloney / Government Affairs, Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees	Selected State Policies Governing Termination of Garnishment of Public Pensions Chart
S.B. 406 (R1)	F	Priscilla Maloney / Government Affairs, Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees	Prepared Text
S.B. 406 (R1)	G	Tina M. Leiss / Public Employees' Retirement System	Prepared Text
S.B. 406 (R1)	H	Ben Graham / representing the Administrative Office of the Court and the Supreme Court of Nevada	Prepared Text
S.B. 70 (R1)	I	Brett Kandt / Office of the Attorney General	Letter