

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

**Seventy-Eighth Session  
May 4, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:09 p.m. on Monday, May 4, 2015, 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 Pete Goicoechea, Chair  
Senator Joe P. Hardy, Vice Chair  
Senator Mark A. Lipparelli  
Senator David R. Parks  
Senator Kelvin Atkinson

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Olivia Diaz, Assembly District No. 11  
Assemblyman Glenn E. Trowbridge, Assembly District No. 37

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Darlene Velicki, Committee Secretary

**OTHERS PRESENT:**

Tray Abney, The Chamber  
Paul Moradkhan, Las Vegas Metro Chamber of Commerce  
Ron Dreher, Peace Officers Research Association of Nevada; Washoe County  
Public Attorney's Association; Washoe County School Principals'  
Association  
Warren Wish, Nevada State Education Association

Senate Committee on Government Affairs  
May 4, 2015  
Page 2

Priscilla Maloney, American Federation of State, County Municipal Employees,  
Retiree Chapter, AFL-CIO Local 4041  
Carla Fells, Executive Director, Washoe County Employees Association  
Marlene Lockard, Service Employees International Union; Retired Public  
Employees of Nevada  
Maurice White  
Peggy Lear Bowen  
Tina M. Leiss, Executive Officer, Public Employees' Retirement System  
Scott Anderson, Chief Deputy, Office of the Nevada Secretary of State  
Nancy Parent, Clerk, Washoe County; Nevada Association of County Clerks and  
Election Officials  
Rusty McAllister, Professional Firefighters of Nevada  
A.J. Delap, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and  
Chiefs' Association; Sheriff's Department, Washoe County  
Melissa Johanning, President, Las Vegas Police Protective Association Civilian  
Employees, Inc.  
Pat Sanderson, Nevada Alliance for Retired Americans

**Chair Goicoechea:**

We will hear Assembly Bill (A.B.) 312.

**ASSEMBLY BILL 312 (1st Reprint)**: Revises provisions governing the Public  
Employees' Retirement System. (BDR 23-975)

**Assemblyman Glenn E. Trowbridge (Assembly District No. 37):**

I have submitted my testimony ([Exhibit C](#)).

**Chair Goicoechea:**

For new hires after July 1, 2016, instead of 3 consecutive years of highest  
compensation required, it would become 5 years.

**Assemblyman Trowbridge:**

Yes, that is all.

**Tray Abney (The Chamber):**

I will always be at the table when we talk about the Public Employees  
Retirement System (PERS) because of its unfunded liability and because the  
cost curve keeps going up. We think this is a reasonable bill, a good first step,

and part of the puzzle of several bills. I point out that it does not affect current employees or retirees.

**Paul Moradkhan (Las Vegas Metro Chamber of Commerce):**

We support A.B. 312. We appreciate the fact that it does not affect current retirees or enrollees and addresses the unfunded liability.

**Ron Dreher (Peace Officers Research Association of Nevada; Washoe County Public Attorney's Association; Washoe County School Principals' Association):**

We oppose A.B. 312 because our PERS system is the best in its class and does not need to be changed. There has been testimony as to the quality and goodness of our system. We would like to leave it as it is because it is working fine.

**Warren Wish (Nevada State Education Association):**

I speak on behalf of the 24,000 school employees in Nevada. We are opposed to A.B. 312. Not too long ago we testified in support of S.B. 406.

**SENATE BILL 406**: Revises provisions relating to public retirement systems.  
(BDR 23-1049)

If A.B. 312 were enacted on top of S.B. 406, it would be overkill. The issue that has not been talked about is the danger of inflation to retirees' pensions. Retirees do not begin to get cost-of-living adjustments until the fourth year of their retirement. The PERS actuary has computed that average inflation will be 3.5 percent per year in the future. Before a retiree obtains an adjustment, already 3 years have passed at 3.5 percent inflation. That is 10.5 percent lower in spending power.

Most school district salary schedules show that toward the end of a career progression, there are no salary increases and salaries bottom out for longevity pay. Most employees do not earn salary increases in the last 3 years prior to retirement. This bill would extend the period to 5 years. The 3.5 percent inflation over 5 years, on top of the 3-year waiting period, will put the retiree at 27 percent less purchasing power, a real disadvantage. This is a real burden on retirees, far more than the effect of S.B. 406, which capped the postretirement increases at 3 percent and in effect lowered the multiple to 2.5 percent. We support S.B. 406 but oppose A.B. 312.

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

The Retiree Chapter of American Federation of State, County Municipal Employees AFL-CIO Local 4041 (AFSCME) does not support S.B. 406 or A.B. 312. However, of all the PERS change options this Session, we like A.B. 312 the best. You can look up the Legislative history of previous efforts. We submitted the Legislative history on S.B. No. 427 of the 75th Session. There was a severe financial crisis in 2009. The Legislature made substantial changes to PERS at that time. Every time we make changes to PERS, we create a new tier. In A.B. 312, there are references to employees hired at different times. We add tiers every time. That is a less than ideal situation. To come back here every 2 years to add yet another tier of new hires with reduced benefits is poor public policy.

On May 21, 2009, in the Senate Committee on Finance, PERS Executive Officer, Dana Bilyeu testified, beginning on page 19 of the minutes, regarding the unfunded liability calculation. She said:

The unfunded liability of the PERS is a piece of the contribution rate. There are three components to our contribution rate: the normal cost of the benefit; payment on the unfunded accrued liability; and a small administrative piece designed to fund the agency over time. Senate Bill 427 affects the normal cost of the benefit. ... The most significant portion of the unfunded liability is due to market return.

It has been the AFSCME position that PERS have a plan to reduce the unfunded liability. Assembly Bill 312 will not contribute significantly over time. It will not make a big impact. Perhaps it will satisfy a public perception that we need to "do something more" than what is already being done to PERS, but this only ends up creating another tier. This is our concern.

**Senator Lipparelli:**

Is it the intent of this bill that the longer period, from 3 years to 5 years, is a reflection of the relative contribution of the employee to his or her benefit over the span of a career? If you take the top 5 years, are you more likely capturing an accurate reflection of what the employee contributed to the system?

**Ms. Maloney:**

I do not know the answer to that question. I know the issue was discussed in relation to S.B. No. 427 of the 75th Session, although it is not reflected in the minutes. I did not see anything that explains why the ultimate bill did not incorporate a 5-year average. Toward the end of the Session, it was discussed because Legislators were concerned about financial emergencies. The PERS staff can give the policy or the math answer more adequately. Carla Fells from the Washoe County Employees Association can explain through real-world example how this change affects layoffs. It could cause unintended consequences since people may be penalized if there were a layoff in the future.

**Senator Lipparelli:**

We will hear battling testimonies of too much and not enough. As retirees live longer, and we have the top 3 years versus the top 5 years in place, the draw will be larger than the contribution and will become a larger problem over time. This could be one means of smoothing this out. If the technical people could address that issue, I would appreciate it.

**Mr. Wish:**

Each public employee contributes to PERS. That money is invested. The employee continuously earns returns from that investment over his or her life span. That money is not taken away. Eighty percent of what retirees draw comes from their investments.

Medical and drug inflation is another significant factor. A U.S. Department of Labor study concluded that retirees have a higher inflationary cost due to medical and drug costs than the average working employee. If PERS is to provide a reasonable base income, A.B. 312 whittles down what is reasonable. We do not want public employees to live out their lives in poverty. That would be a tremendous disservice to the people who served Nevada in their careers.

**Senator Atkinson:**

I see that members of the Chamber of Commerce are always here if they see PERS as a topic on a bill, and they are usually in favor of it, even if they do not know what the bill is about. This bill came out of the Assembly on a 25-17 split vote, which leads me to think there are serious issues with it. I received many emails from constituents on this issue before I had a chance to know what the bill was about. They are all of a common thread, and I will read you a short

sentence from one of the emails. I would like you to give us your opinion as this language relates to this bill. My constituent states,

I am writing to let you know of my opposition to A.B. 312. The PERS system is stable; it is well funded and it is ahead of schedule in paying off its unfunded liability. Not many other pension systems can claim that. I oppose A.B. 312 because it is unnecessary and will only harm the recipients of PERS far more than it will help by enacting this provision.

As far as I know, PERS is solvent, but we continue to see bills attempting to weaken this system.

**Ms. Maloney:**

I have testified on multiple PERS bills. What I submitted in opposition to this bill is not necessarily pertinent to opposition of other bills. After the 77th Session, the Governor requested an independent PERS study. Aon Hewitt compared Nevada to other comparable systems in states whose employees do not contribute to social security. This is not an employer cost nor an employee cost. The PERS is the sum of retirement for someone who has had a lifetime of career service. The Aon Hewitt study concluded that the Nevada PERS actuarial funding policy constitutes a best-in-class policy.

Many parties, law enforcement, firefighters and State employees, testified on A.B. 190.

**ASSEMBLY BILL 190**: Revises provisions governing public employees' retirement. (BDR 23-184)

Teresa Ghilarducci is a noted PERS expert. She worked with then-California Governor Arnold Schwarzenegger, on Presidential advisory committees and was a trustee of the Indiana PERS. She is a recognized labor economist and spent 16 years on staff at the University of Notre Dame. She is now at the New School of Social Research in New York. She testified that Nevada PERS hygiene is excellent. In 1991, we did something very different than social security and other defined benefit programs have done. Senator Dean Heller led the movement to place Question 1 on the ballot to amend the Nevada State Constitution and add certain protections to PERS. Unlike Rhode Island and New Jersey, neither our State Legislature nor our Executive Branch can sweep

the PERS funds or borrow from them. Furthermore, we do not allow nonpublic employees, current or past, to serve on the PERS Board. So we do not have, like New Jersey, persons serving on the PERS Board who have connected financial interests. Dr. Ghilarducci noted that our PERS hygiene is good.

Why are we doing this? Some of the impetus of this bill is driven by political ideology and not real-world financial realities. The PERS staff can talk specifically about the current plan to retire the unfunded liability debt, but we are on track. The AFSCME position is that it was stressful and exhausting for Nevada's seniors and completely unnecessary. I do not mean to disrespect Assemblyman Trowbridge and others who said that political reality compels a compromise bill because we have to satisfy the drumbeat not based on reality but rather on ideology. The AFSCME Board likes A.B. 312 the best.

**Senator Atkinson:**

I have been here 14 years and I keep hearing that PERS has an issue, but I have not yet seen that bear out. I am always reluctant to create one plan for one set of PERS employees and create another for others. You will hear that this is not for existing employees, but rather for new hires. What about the PERS employee that started this year, and this bill goes into effect next year? We have just created two different systems for the same set of employees. I think this is wrong. I hope that this Committee studies this and does not just pass it through because this body feels that this is the Session to "get it done."

We need to take a look at this to determine if this is right for the citizens of the State and those who have worked for the State. I disclose that I am a PERS employee with 24 years of service. I am talking about the employees hired well after me who deserve the right to security. Most of these employees do not have social security benefits, especially if PERS is the only system they have ever been in. They deserve the right to retire comfortably and know that the PERS system will be in place to serve them.

**Senator Hardy:**

Much of our intent is to make PERS last. I await that magic answer. I have not heard it yet.

**Ms. Maloney:**

We took a great economic hit as did everybody in 2009. The PERS investments are conservative; we do not invest in risky hedge funds. From the PERS Board

meetings, I understand we are on track to retire the debt. The projection has been accelerated from 30 years to 20 years. This is part of what Dr. Ghilarducci assessed as our good pension hygiene. This bill will not result in a huge cost savings. Senate Bill (S.B.) 406 projects more cost savings, about \$2 billion over 20 years of the \$10 billion to \$12 billion unfunded liability. This is one of the best managed funds in the nation. There is a plan in place, and it is working.

**Senator Atkinson:**

We should answer my first question, which is, "Why is this here?" My colleague has asked if PERS will be there in the future—but no one has suggested otherwise. In the 14 years I have been here, no one has ever been able to convince me that PERS will not be there. It has just been talk. We need to answer that question first.

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

As we experienced the downturn of the economy, some of our highest earning employees were in the last 5 years of their career. Some of them were reduced to positions with lower pay. Those who expected to retire within 1 year are working 2 years longer to recoup the loss and retire with the highest 3 years. I am concerned that in hard economic times there will be an unintended consequence for employees who are approaching 30 years of service and are close to retirement age. They are penalized, through no fault of their own, when local government reduces the highest paying positions. It will then take them longer to retire. You cannot hire cheaper labor to replace those people.

**Marlene Lockard (Service Employees International Union; Retired Public Employees of Nevada):**

Service Employees International Union (SEIU) represents 17,000 employees in Nevada. We oppose A.B. 312. The majority of SEIU members are not highly paid. They also work for the Regional Transportation Commission and for the counties; they are nurses and home health care givers. There would be a direct impact on these workers if their average compensation were computed on 5 years instead of 3 years.

We should look at the totality of the effects on workers. There are 12 PERS bills being considered in this Session and 9 collective bargaining bills, not to mention workers' compensation bills. The sum of these reductions to the average worker is a war on the middle class. Last week, S.B. 482 passed, which guarantees elected officials a 3 percent increase for 4 years.



**SENATE BILL 482**: Makes various changes relating to elected county officers.  
(BDR 20-1117)

Saying that A.B. 312 is not punitive to the working class is one thing, but comparing that to other bills passing this Session is an entirely different matter. Retirement professionals usually say there are three legs to retirement: social security, a plan like PERS and your own independent savings. Nevada State retirees do not participate in social security. My mother just turned 90 years old. She gets about \$900 in social security benefits. Were it not for the family, my mother would be on public assistance. She is very independent and insists on paying insurance premiums out of her benefit, so she has no living wage left. I want to conclude that this bill has a great effect on working families.

**Chair Goicoechea:**

I point out that the elected officials will pay the same PERS and Public Employees' Benefits Program (PEBP) premiums that you and every other working person will. Those benefits are not freebies.

**Maurice White:**

I am a retired government worker. I am opposed to A.B. 312. The PERS is a replacement for social security and a modest pension over and above that. The average PERS monthly payment is \$2,568. The average social security monthly check is \$1,285. The real actual income for the PERS retiree is \$1,283; therefore, PERS is already paying less than the average social security payment. Further diluting the ability of PERS to supply a modest pension is not what we should be doing.

**Chair Goicoechea:**

Did you reach that number by subtracting the average social security payment from the average PERS pension?

**Mr. White:**

That is correct. The average PERS number comes from the National Institute on Retirement Security's Nevada report, *Pensionomics 2014*, which is posted on the PERS Website. I pulled the average social security benefits number from the social security Website in February 2015.

**Chair Goicoechea:**

I believe that pre-1983 retirees qualify for both with no deduction.

**Peggy Lear Bowen:**

I am a PERS retiree also in PEBP. We received notice that there will be a meeting on May 7 that some will not be able to attend because there will not be a constituent video communication to Clark County or for the rurals. My insurance rates will approach \$700 monthly. For other newer program enrollees, it will be almost a \$1,000 a month. We incurred these expenses because there is no Medicare to supplement medical care costs.

I was in attendance at a PEBP meeting in which a plan was presented to put many schoolchildren in charter schools. The pool of PERS workers will shrink as there is no requirement that charter school employees must enroll in PERS. Requiring public charter schools employees to participate in PERS is necessary. It was the intent of the Legislators who created these schools. Presently, charter school teachers do not even have to be licensed in Nevada. This is now added to the A.B. 312 feature that elongates the average years to compute the retirement amount.

I was part of the 2007 crisis and retired that year. I am totally dependent on PERS because I do not have the required 40 quarters. Others who do not have the 40 quarters hit the "donut hole" and die because drug costs will not be fully paid until 2020 when the donut hole closes.

According to the NBC Today Show, Nevada's PERS is one of the five top-rated retirement plans in the Nation and it will not run out of money. The unfunded liability idea is calculated based on the full retirement of all PERS enrollees tomorrow. If the Legislature continues to undermine PERS—which has been solid and reliable—and create different tiers, it becomes unfair to people. I oppose A.B. 312. Keep PERS whole and functioning as well as it has in the past.

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

The PERS Retirement Board takes a neutral position on A.B. 312. This bill makes one change. It changes the average compensation period from the highest 36 consecutive months to the highest 60 consecutive months. This is a cost containment feature since it will somewhat lower the compensation figure on which the benefit is calculated for those who have raises in their final 3 or 5 years. This will not make a change at all for some PERS enrollees who are at a stagnated salary. It could have an impact on some who have received raises in that last 3 or 5 years in their careers. It is a little hard to tell what the

impact would be. One of biggest effects is to prevent “spiking,” which is when the employee receives a large salary increase in the last 3 years of his or her career, a spike. This would be beyond what one would assume by looking at the employee’s career pattern. This will not completely eliminate this potential, but by moving the average compensation period from 3 to 5 years, it spreads out the effect of a spike and helps to prevent the occurrence.

The unfunded liability is calculated for current employees and retirees on the benefits they have accrued and will accrue during their careers. Since this bill applies to new hires, it does not affect the unfunded liability. As new members roll in through the system, the bill would reduce the costs a little bit in the future.

**Senator Lipparelli:**

Is there a relationship of the relative contributions of an individual and the longevity that person draws out of the system? Would what the bill proposes, extending the average compensation period from 3 to 5 years, make that relationship be more accurate? Taken in the extreme, say 20 years, that would obviously be substantially more accurate as relates to the relative contribution gauged against what the employee would receive in retirement.

**Ms. Leiss:**

It depends on what the goal for the benefit is. If you were to go to 20 years, that would be a more accurate calculation over an entire career, but it would depend on what goal for replacement ratio income you desire. Generally, PERS is a replacement for social security, and for the retiree’s pension plan, we calculate about a 75 percent income replacement ratio of the member’s last 36 months, which would be substantially different than the income replacement ratio over 20 years. The question then becomes, what type of replacement ratio do you want? If you took it out to a career twice the last years’ average, you would not have a very good relationship for income replacement in retirement because generally employees make a lot more toward the end of their careers.

**Senator Lipparelli:**

I am looking at the long arc of the fidelity of the system. It is not a question of a new group of employees that will have actuarially a longer draw period than we could imagine. Getting it accurate is important for the long-term fidelity of PERS. I think this is what A.B. 312 is trying to address.

**Ms. Leiss:**

We have made assumptions as to what we believe employee salary increases will be each year of their careers. We do this on an actuarial basis. We track their trajectories. If we have a spike in salary at career end, we are thrown off in our calculation. This bill helps reduce the spikes a little bit.

**Chair Goicoechea:**

I would like you to touch on where PERS is headed.

**Ms. Leiss:**

This Committee passed S.B. 406, which makes a number of changes with an effective date of membership of July 1. This bill has an effective date of July 1, 2016. If we are going to have multiple changes from different bills, establishing the same effective date, if possible, would be good. We can certainly manage the changes if the effective dates are not the same; but it will make fewer tiers if the bills have the same effective date of all the changes.

The system does have an unfunded liability. It is defined as the actuarial accrued liability compared to the assets on hand. The accrued liability is for current members, current retirees for what they have already earned plus what we project they will earn in the future. These are not dollars that are owed today. They are dollars owed out into the future. We are funding this debt as we go along. We make assumptions based on longevity, investment rate return, when employees will retire, and what their salary will be at retirement in order to fund the system.

Many economic and demographic assumptions are used to calculate the contribution rate. You are never going to hit your assumptions exactly, so you will have gains or losses. Losses that exceed the gains create an unfunded liability. Another way an unfunded liability is created is if you add a benefit for current employees or retirees that we have not had time to fund. This happened by legislative action in the 1980s and 1990s. A good portion of the contribution goes to pay down the unfunded liability. We use a very conservative funding method to pay it off over 22 years. It decreases every year. It was on a 30-year schedule. If we pay it off faster, we pay less interest. Sometimes the contribution rate has to go up to mirror what the payments need to be. This Legislature has always been very good at funding contribution increases to make sure that we stay true to our promises. We are on a very good track; we are getting the debt paid. We are getting the contributions and we have had

some very good investment returns recently. On a market value basis we look very good, so we have gains that we are going to roll in over the next few years.

**Chair Goicoechea:**

Senator Atkinson was, as we all were, concerned about creating another tier. Anyone who was hired before the 1983 or 1985 cutoff is able to draw full social security and full PERS benefits without the offset.

**Ms. Leiss:**

I am unsure of the cutoff date, but at the time that you were eligible to draw \$1, you could draw both without the offset. A lot of our career employees will never vest in social security if they have spent their entire careers in PERS.

**Chair Goicoechea:**

There are people who worked outside of State employment early in their careers and have 40 quarters credit in social security.

**Senator Atkinson:**

Are you saying that an employee may have enough time in the social security system to be eligible to draw and also may collect benefits through PERS?

**Chair Goicoechea:**

If you are hired after the specified date, your social security is discounted from your PERS benefits.

**Senator Parks:**

For the record, I receive both social security and PERS benefits, although I have to pay my Medicare amount, which is equal to my reduced social security benefit. I had all of the social security required quarters but receive 16 percent of what I would otherwise draw had I not been a PERS employee. This only affects seven or nine states. For all intents and purposes, I receive nothing from social security.

**Chair Goicoechea:**

I bring this forward because I have many constituents who qualify for both PERS and social security. When they receive their first checks, they find out that their social security is discounted against their PERS checks, and they are

not happy. They ask, since they put in their contributions and time into both systems, why is this so?

The exact date escapes me, but I know there are people that qualify for both without the discount. It depends on where you happened to be working, either contributing to social security or to PERS, in the 1970s or 1980s. For a time, if you contributed to both you can receive both without a discount.

**Senator Parks:**

I did start early, but I believe this went into effect in 1985. In order to receive full benefits from both systems, you would have had to have been age 62 in 1985.

**Chair Goicoechea:**

I know people who are eligible to draw both. I thought it was that if you were vested before the date, perhaps 1983, with 10 years or more. I am sure you get the same question I do, "How come?"

I will close the hearing on A.B. 312 and open the hearing on A.B. 65.

**ASSEMBLY BILL 65 (1st Reprint)**: Revises provisions relating to notaries public and document preparation services. (BDR 19-445)

**Scott Anderson (Chief Deputy, Office of the Secretary of State):**

I have provided my testimony for the record ([Exhibit D](#)). The amendment ([Exhibit E](#)) relates to apostille and certification services provided by the Office of the Secretary of State. It adds a prohibition for the use of documents that have been authenticated pursuant to *Nevada Revised Statute* (NRS) 240.1657. This issue came to our attention after the initial hearings on A.B. 65 in the Assembly. The additional language also strengthens the prohibitions against the filing of fraudulent documents in the Office of the Secretary of State.

**Chair Goicoechea:**

Where do you want to plug that in?

**Mr. Anderson:**

In the bill itself?

**Chair Goicoechea:**

I assume you did, or are you going to insert another section?

**Mr. Anderson:**

We would need to insert new sections in NRS 225.083 and NRS 240.1657. There may have to be an additional section or sections for the penalty provisions in the last part of the amendment.

**Chair Goicoechea:**

Is Counsel comfortable with how this amendment will fit into the bill?

**Heidi Chlarson (Counsel):**

I may have questions about the intent as I am not sure the sections of NRS that the Secretary of State has proposed to be amended will be the only sections affected or if the language possibly should be placed somewhere else. We will work with the Secretary of State to make sure that the amendment is placed in the correct places in the bill.

**Nancy Parent (Clerk, Washoe County; Nevada Association of County Clerks and Elections Officials):**

I support A.B. 65. I speak on behalf of myself and the rural County Clerks of the State. We all support the training that will be required for notary publics. Many of us have notary publics in our offices. The rurals were very concerned about the renewal requirements and the time required for the training. However, this bill is enabling because the Secretary of State will offer training online. The rurals now support this bill.

**Mr. Anderson:**

This is a very important bill to make sure the notarial process is a trusted process.

**Chair Goicoechea:**

I will close the hearing on A.B. 65 and open the hearing on A.B. 363.

**ASSEMBLY BILL 363 (1st Reprint)**: Provides an optional benefit to the surviving spouse or survivor beneficiary of certain deceased members of the Public Employees' Retirement System. (BDR 23-1056)

**Assemblywoman Olivia Diaz (Assembly District No. 11):**

I have provided my testimony for the record ([Exhibit F](#)).

**Rusty McAllister (Professional Firefighters of Nevada):**

Since the recent assassination of two police officers in Las Vegas, there has been a call for better benefits for survivors. Statute provides that if a PERS member has less than 10 years of service, a surviving spouse is only entitled to \$450 and a surviving child \$400 a month. This may not even be equal to what the benefit would have been if the person had retired that day. This is an attempted fix. Some called for a 100 percent of salary PERS-funded benefit. However, this proposal is for either 50 percent of the salary, if someone is killed in the performance of his or her job as a public employee, or whatever the earned benefit was at the time of the employee's death, whichever is greater.

An employee in the latter part of his or her career would pass along a benefit of the PERS-earned benefit rather than 50 percent of the employee's salary, as the PERS benefit would be greater. The costs, which are noted as minimal, have been reviewed by an actuary and will be discussed by a representative of PERS. Proposed Amendment 6957 ([Exhibit G](#)) that Assemblywoman Diaz proposes seeks to eliminate the remarriage penalty. A remarriage penalty is not in place for any other category of PERS benefit recipients. Therefore, we do not feel a remarriage penalty is appropriate for this situation either.

**Senator Lipparelli:**

What is the natural benefit? Is it the 10-year cliff that you mentioned? A police officer on his or her second day of duty may have tragedy strike. Would this kick in from Day 1 to perhaps 10 years when the likely service years would be more than the half salary?

**Mr. McAllister:**

The benefit at 10 years of service may not be as much. In statute, a recent change in NRS 286.674 says that the spouse is entitled to \$450 a month and the children, pursuant to NRS 286.673, \$400 a month. Between 10 and 15 years of service, they are authorized to access Option 3 in NRS 286.676, and after 15 years, the spouse would receive Option 2. This bill would change these provisions. Even up to 15 years of service, the benefit would not exceed 50 percent of the deceased's salary. To get a 50-percent benefit, the deceased would have had to have 20 years of service.



**Senator Parks:**

Would this apply to any employee enrolled in the PERS, such as a flagger on a road construction crew?

**Assemblywoman Diaz:**

That is correct. It says, "in performance of his or her duty," so it would apply to a State employee working for the Department of Transportation who was killed in an accident. Many in the Assembly asked if these provisions applied to an employee who had a heart attack or other medical emergency on the job, but this only applies to an accident that happened on the job.

**Mr. McAllister:**

As a point of clarification under section 1, subsection 4, it says "For the purposes in this section the Board will define by regulation 'killed in the performance of his or her duty.'" The Board will set a stringent standard by which to allow the benefit. The bill is prospective not retrospective. It does not go back to incorporate consideration for someone who has already passed.

**Ms. Maloney:**

I am also speaking on behalf of Mr. Dreher, who supports this bill as written. Initially, AFSCME opposed this bill on March 31, but that was the day that we saw as many as five new PERS bills dropped. One of the things that Ms. Leiss can speak to is that there must be an actuarial process, which had not been done when we opposed this bill, even as we supported the general concept. Initially, it only pertained to police and fire personnel; then it was expanded to any employee PERS member. We support the bill now.

**A.J. Delap (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association; Sheriff's Department, Washoe County):**

We support A.B. 363.

**Melissa Johanning (President, Las Vegas Police Protective Association Civilian Employees, Inc.):**

We support A.B. 363. It would apply to our civilian employees, should any be killed in the performance of duty.

**Pat Sanderson (Nevada Alliance for Retired Americans):**

We like that the bill covers all employees. In northern Nevada, a teacher was killed not long ago. It is only fair to the families.

**Senator Lipparelli:**

I understand that this pertains to people killed in the performance of their jobs. Just so it is clear, the legislative intent is that health conditions while employees are performing their jobs would not be covered by this change. This relates to everyone from an electrician to a contractor that performs a function in the context of work life. Is this correct?

**Assemblywoman Diaz:**

That is correct. There will be regulations adopted by the PERS Board. The Board will make sure that language is tight. We want to ensure that we are only capturing tragic incidents where an employee was doing the job but whose life was taken while performing work.

**Senator Lipparelli:**

Your testimony will help guide the PERS Board as far as what those regulations should say.

**Chair Goicoechea:**

We have one more bill, S.B. 406, that came over from the Assembly.

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

**Ms. Chlarson:**

There are a few substantive differences between A.B. 363 and S.B. 406 that this Committee passed earlier. One of the differences is dealt with by Proposed Amendment 6957, Exhibit G, which Assemblywoman Diaz prepared. This took out the remarriage penalty. There is no remarriage penalty in S.B. 406 so if the Committee adopted the amendment to A.B. 363, that difference would be taken care of. The other difference between the two bills is that S.B. 406 contains language relating to a circumstance where a member killed in the line of duty or in the course of employment had named an additional payee in addition to the surviving beneficiary. There is language in S.B. 406 that allows for the death benefit to be split among the surviving beneficiary and any additional payee that would be named by the member.

An example would be if someone was not married but he or she named both parents, one as the surviving beneficiary and one as an additional payee. Senate Bill 406 would allow for the benefit to be split. I do not see language in

A.B. 363 that would allow for this. I would ask Assemblywoman Diaz for clarification on this item. The only other difference, which is not a conflict, is that S.B. 406 allows for the additional benefit to apply to members of the Judicial Retirement System and the Legislative Retirement System.

Assembly Bill 363 applies to all members of PERS, which includes police, fire, and other members, but not to Judicial Retirement System members or Legislative Retirement System members. The Committee could process the bill as it would not conflict, but it is different.

**Chair Goicoechea:**

It sounds like S.B. 406 is a little broader. Both it and A.B. 363 could be married.

**Ms. Leiss:**

The PERS Board adopted a neutral position on A.B. 363; however, it allowed me the discretion to oppose the portion that institutes a remarriage penalty. At the time the Board took its decision, there was still confusion as to whether that provision was to remain in the bill when passed by the Assembly. I still testify in the neutral, as Proposed Amendment 6957 removes the remarriage penalty. The Board would oppose the remarriage penalty because first, as Counsel said, it conflicts with S.B. 406, which does not have a remarriage penalty.

We have no other remarriage provision in the Retirement Act. The last remarriage penalty was removed in 1999. The PERS Board would be opposed to a remarriage penalty. The actuary priced this benefit, as it applied to only police and fire members, at .02 percent of payroll, which would not trigger a contribution rate increase. Out into the future there would be a minimal cost because of the way our contribution mechanism is triggered. This fiscal impact is predicated upon the average number of deaths, about one per year, involving police and fire.

There may be fewer involving members of the regular PERS fund when compared to the size of the fund. Therefore, there would be a cost that we could not even measure for this benefit provision. Survivor benefits for in the line of duty or accidents relating to the job kick in on the first day of employment. We also premised the cost analysis on its applicability only to a death that happened after the effective date. It would not cause the increase in benefits we currently are paying. This bill also contains a fairly restrictive definition of "line of duty" so it would not apply to someone who had a heart

attack sitting at a desk. It would apply to tragic events, for instance, shootings or a Nevada Department of Transportation worker who may be hit by a car. This is our understanding of the intent of this bill.

**Assemblywoman Diaz:**

I will look at the language in S.B. 406. I do not know when the applicability of to the Judicial Retirement System and the Legislative Retirement System was added. I will compare the two bills.

**Chair Goicoechea:**

Let us meld the two bills together and decide which one we want to bring forward. It sounds like S.B. 406 is a little broader than A.B. 363 since it reaches the Judiciary and Legislators. They are very similar.

**Senator Atkinson:**

Have you had a conversation with the sponsor of S.B. 406 about marrying the two bills?

**Assemblywoman Diaz:**

We have not yet had a conversation but will to work out amending one or the other.

**Chair Goicoechea:**

There is no use processing two that are so similar. I close the hearing on A.B. 363. I see I have agreement to concur on S.B. 297 and S.B. 63.

**SENATE BILL 297 (1st Reprint)**: Revises certain provisions relating to redevelopment plans. (BDR 22-1028)

**SENATE BILL 63 (1st Reprint)**: Creates the Nevada Indian Commission's Gift Fund and designates the Commission as coordinating agency. (BDR 18-289)

**Ms. Bowen:**

I have had a concern since 2002 when I was an elected member of the State Board of Education. We had a hearing pertaining to whether all employees of charter schools would be a part of PERS. It had been decided that no charter school employee was required to be a member of PERS or to be a Nevada licensed teacher. A company could be brought in to fulfill the charter. A

compromise was reached, a 70/30 plan. The PERS Executive Director told me that, for the most part, charter school employees were a part of PERS. Perhaps the 30 percent was not being optioned. I was glad to hear that the 70/30 plan was in effect and the 30 percent part was not being overused.

In the Senate Committee on Education, I heard from the head of the charter school consortium under the umbrella of the Department of Education speak about firing employees at will. These employees were replaced by new hires in schools set up for students that had not risen to the appropriate academic standards in decades. I became concerned about Nevada's children in Nevada's schools receiving Nevada's care under your oversight, overwatch and subject of your responsibility. The people who work in the charter schools rule. They are not a part of the State Board of Education and do what they need to do for charter schools.

I do not see one elected official in this Legislature who has taken responsibility for Nevada's children in these schools. We now have a State Superintendent who serves at the pleasure of the Governor. Where is the people's voice regarding public charter schools? Where are our safeguards? Where is your ability to provide overwatch and to make changes if they need to be made? It sounds like it is the selling of Nevada's children to the highest bidder. It was stated for the record that the student population of public charter schools will exceed by 2019 the student population of the Washoe County School District. Do we have a public school system?

**Chair Goicoechea:**

I know what your issues are, and I was in that hearing.

**Ms. Bowen:**

This issue pertains to PERS and protection of Nevada PERS members. This is why I bring it up. I see us losing control of PERS and the education of Nevada's children.

**Chair Goicoechea:**

That would be a requirement that would come through the Superintendent of Education. It is out of the purview of this Committee since we deal with PERS.

**Ms. Bowen:**

Is PERS viability and the losing of members an issue for you?

Senate Committee on Government Affairs  
May 4, 2015  
Page 22

**Chair Goicoechea:**

It is clearly an issue. Whether charter schools employees have to participate in PERS is out of our purview.

**Ms. Bowen:**

I brought the monetary issue to you because it is a great concern to me.

**Chair Goicoechea:**

The Committee is adjourned at 2:51 p.m.

RESPECTFULLY SUBMITTED:

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Darlene Velicki,  
Committee Secretary

APPROVED BY:

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Senator Pete Goicoechea, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	6		Attendance Roster
A.B. 312	C	4	Assemblyman Glenn E.Trowbridge	Testimony
A.B. 65	D	6	Scott Anderson / Office of the Secretary of State	Testimony
A.B. 65	E	1	Scott Anderson / Office of the Secretary of State	Proposed amendment
A.B. 363	F	1	Assemblywoman Olivia Diaz	Testimony
A.B. 363	G	3	Assemblywoman Olivia Diaz	Proposed Amendment 6957