

Amendment No. 150

Senate Amendment to Senate Bill No. 384	(BDR 19-506)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

HAC/JWP



Date: 4/18/2017

S.B. No. 384—Provides for the confidentiality of certain information in the records and files of public employers and public employee retirement systems. (BDR 19-506)



SENATE BILL NO. 384—SENATOR RATTI

MARCH 20, 2017

Referred to Committee on Government Affairs

SUMMARY—Provides for the confidentiality of certain information in the records and files of ~~public employers and~~ public employee retirement systems. (BDR 19-506)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public records; providing for the confidentiality of certain information in the records and files of ~~public employers and~~ public employee retirement systems; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a record of a governmental entity is public and open to inspection unless the confidentiality of the record or the information in the record is specifically provided for by law. (NRS 239.010) ~~This bill provides that the name, employer, position and amount of annual salary and benefit of a public employee is a public record and that all other information about a public employee which is contained in a record or file in the possession of a public employer is confidential, regardless of the form, location and manner of creation or storage of the record or file containing the information. This bill also~~ Existing law also provides that the official correspondence and records of certain public retirement systems, other than the files of individual members, are public records. (NRS 1A.100, 286.110)

Section 1 of this bill generally provides that ~~the name,~~ information about a member of a public retirement system, retired public employee, retired justice or judge, retired Legislator or beneficiary of a public retirement system is confidential. Section 1 further provides, however, that the following information relating to a member, retired employee, retired justice or judge or retired Legislator which is contained in a record or file in the possession, control or custody of a public retirement system is a public record: (1) the identification number of such a person; (2) the last public employer ~~and~~ of the person; (3) the number of years of service credit such a person has with a public retirement system; (4) the retirement date of the person; (5) the amount of annual pension benefit ~~for a member, retired employee, retired justice or judge, retired Legislator or beneficiary of a public employee retirement system, including the Public Employees' Retirement System, Judicial Retirement System, Legislators' Retirement System and a retirement program provided by the Board of Regents of the University of Nevada, is a public record and that all other information regarding or affecting a member, retired employee, retired justice or judge, retired Legislator or beneficiary which is contained in a record or file in the possession of a public employee retirement system is confidential, regardless of the form, location and manner of creation or storage of the record or file containing the information. A who~~ paid to the person; and (6) whether the person is receiving a disability or service retirement allowance.

Section 1 also prohibits, with limited exceptions, a person or governmental entity that possesses ~~control~~ or has legal custody or control of a record or file with any information that is confidential pursuant to this bill ~~may not disclose~~ from disclosing the information or producing the record or file for inspection. Section 1 further provides that such a person or governmental entity must not be required to disclose the information, ~~and may not produce or be required to~~ or produce the record or file for inspection ~~unless the confidential information in the record can be redacted, deleted, concealed or separated~~, by a person or for use in a judicial proceeding.

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

Section 1. Chapter 239 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. The name, public employer, position and amount of annual salary and benefits of an employee of a public employer is a public record. All other information about an employee of a public employer which is contained in a record or file in the possession, control or custody of a public employer is confidential, regardless of the form, location and manner of creation or storage of the record or file containing the information.~~

~~2. The name, last public employer and amount of annual benefit of a member, retired employee, retired justice or judge, retired Legislator or beneficiary of a public retirement system is a public record. All other~~ Except as otherwise provided in this section, all information about a member, retired employee, retired justice or judge, retired Legislator or beneficiary of a public retirement system which is contained in a record or file in the possession, control or custody of a public retirement system is confidential, regardless of the form, location and manner of creation or storage of a record or file containing the information.

2. The following information about a member, retired employee, retired justice or judge or retired Legislator which is contained in a record or file in the possession, control or custody of a public retirement system is a public record:

(a) The identification number of the member, retired employee, retired justice or judge or retired Legislator;

(b) The last public employer of the member, retired employee, retired justice or judge or retired Legislator;

(c) The number of years of service credit a member, retired employee, retired justice or judge or retired Legislator has with a public retirement system;

(d) The retirement date of the member, retired employee, retired justice or judge or retired Legislator;

(e) The amount of annual pension benefit paid to the member, retired employee, retired justice or judge or retired Legislator from a public retirement system; and

(f) Whether the member, retired employee, retired justice or judge or retired Legislator receives a disability retirement allowance or a service retirement allowance from a public retirement system.

~~3. ~~14~~ Except as specifically authorized or required by chapters 1A, 218C and 286 of NRS, a person or governmental entity that possesses or has legal custody or control of a record or file with any information that is confidential pursuant to this section shall not disclose the information or produce the record or file for inspection, and must not be required to disclose the information or~~

produce the record or file for inspection, to or by any other person or governmental entity or for use in any judicial action or proceeding.

4. As used in this section:

(a) "Disability retirement allowance" has the meaning ascribed to it in NRS 286.031.

(b) "Employee" has the meaning ascribed to it in NRS 286.040.

~~[(b)]~~ (c) "Identification number" means the unique number assigned by a public retirement system to the record or file of each member, retired employee, retired justice or judge or retired Legislator.

(d) "Member" has the meaning ascribed to it in NRS 286.050.

(e) "Public employer" has the meaning ascribed to it in NRS 286.070.

~~[(e)]~~ (f) "Public retirement system" ~~includes~~ means the Public Employees' Retirement System established by NRS 286.110, the Judicial Retirement System established by NRS 1A.100 ~~and the Legislators' Retirement System established by NRS 218C.100.~~ ~~and a retirement program provided by the Board of Regents of the University of Nevada pursuant to NRS 286.802.~~

(g) "Service retirement allowance" has the meaning ascribed to it in NRS 286.080.

Sec. 2. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,

467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *section 1 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. NRS 1A.100 is hereby amended to read as follows:

1A.100 1. A system of retirement providing benefits for the retirement, disability or death of all justices of the Supreme Court, judges of the Court of

1 Appeals and district judges, and certain justices of the peace and municipal judges,
2 and funded on an actuarial reserve basis is hereby established and must be known as
3 the Judicial Retirement System.

4 2. The System consists of the Judicial Retirement Plan and the provisions set
5 forth in NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, and 3.090 to
6 3.099, inclusive, for providing benefits to justices of the Supreme Court, judges of
7 the Court of Appeals or district judges who served either as a justice of the
8 Supreme Court or district judge before November 5, 2002. Each justice of the
9 Supreme Court, judge of the Court of Appeals or district judge who is not a
10 member of the Public Employees' Retirement System is a member of the Judicial
11 Retirement System.

12 3. ~~Except as otherwise provided in section 1 of this act, the~~ official
13 correspondence and records ~~[- other than the files of individual members of the~~
14 ~~System or retired justices or judges.]~~ and, except as otherwise provided in NRS
15 241.035, the minutes, audio recordings, transcripts and books of the System are
16 public records and are available for public inspection. A copy of the minutes or
17 audio recordings must be made available to a member of the public upon request at
18 no charge pursuant to NRS 241.035.

19 4. The System must be administered exclusively by the Board, which shall
20 make all necessary rules and regulations for the administration of the System. The
21 rules must include, without limitation, rules relating to the administration of the
22 retirement plans in accordance with federal law. The Legislature shall regularly
23 review the System.

24 **Sec. 3.5. NRS 1A.110 is hereby amended to read as follows:**

25 1A.110 ~~Except as otherwise provided in section 1 of this act, all~~
26 records ~~and files~~ maintained for a member of the System, retired justice or judge,
27 justice of the Supreme Court, judge of the Court of Appeals or district judge who
28 retired pursuant to NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, or
29 3.090 to 3.099, inclusive, or the beneficiary of any of them may be reviewed and
30 copied only by the System, the member, the Court Administrator, the board of
31 county commissioners if the records concern a justice of the peace or retired justice
32 of the peace whom the board of county commissioners allowed to participate in the
33 Judicial Retirement Plan pursuant to NRS 1A.285, the city council if the records
34 concern a municipal judge or retired municipal judge whom the city council
35 allowed to participate in the Judicial Retirement Plan pursuant to NRS 1A.285, the
36 spouse of the member, or the retired justice or judge or his or her spouse, or
37 pursuant to a court order, or by a beneficiary after the death of the justice or judge
38 on whose account benefits are received pursuant to the System. Any member,
39 retired justice or judge, justice of the Supreme Court, judge of the Court of Appeals
40 or district judge who retired pursuant to NRS 2.060 to 2.083, inclusive, 2A.100 to
41 2A.150, inclusive, or 3.090 to 3.099, inclusive, or beneficiary may submit a written
42 waiver to the System authorizing his or her representative to review or copy all
43 such records.

44 **Sec. 4. NRS 286.110 is hereby amended to read as follows:**

45 286.110 1. A system of retirement providing benefits for the retirement,
46 disability or death of employees of public employers and funded on an actuarial
47 reserve basis is hereby established and must be known as the Public Employees'
48 Retirement System. The System is a public agency supported by administrative fees
49 transferred from the retirement funds. The Executive and Legislative Departments
50 of the State Government shall regularly review the System.

51 2. The System is entitled to use any services provided to state agencies and
52 shall use the services of the Purchasing Division of the Department of
53 Administration, but is not required to use any other service. The purpose of this

subsection is to provide to the Board the necessary autonomy for an efficient and economic administration of the System and its program.

3. ~~[[The]]~~ *Except as otherwise provided in section 1 of this act, the* official correspondence and records ~~[- other than the files of individual members or retired employees-]~~ and, except as otherwise provided in NRS 241.035, the minutes, audio recordings, transcripts and books of the System are public records and are available for public inspection. A copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

4. The respective participating public employers are not liable for any obligation of the System.

Sec. 5. NRS 286.117 is hereby amended to read as follows:

286.117 ~~[[A]]~~ *Except as otherwise provided in section 1 of this act, all* records *and files* maintained for a member, retired employee or beneficiary may be reviewed and copied only by the System, the member, the member's public employer or spouse, or the retired employee or the retired employee's spouse, or pursuant to a court order, or by a beneficiary after the death of the employee on whose account benefits are received. Any member, retired employee or beneficiary may submit a written waiver to the System authorizing the representative of the member, retired employee or beneficiary to review or copy all such records.

Sec. 6. This act becomes effective on July 1, 2017.