

ASSEMBLY BILL NO. 351—ASSEMBLYMEN YUREK AND HIBBETTS

MARCH 20, 2023

Referred to Committee on Ways and Means

SUMMARY—Establishes the Deferred Retirement Option Program for certain public employees. (BDR 23-688)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 employment; establishing the Deferred Retirement Option Program to allow public employees who are police officers or firefighters to obtain monthly retirement benefits while continuing public employment; providing certain requirements for participating in the Program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides a retired public employee a retirement allowance through membership in and contributions to the Public Employees’ Retirement System. (Chapter 286 of NRS) Existing law establishes within the System a Police and Firefighters’ Retirement Fund. (NRS 286.225) **Section 5** of this bill establishes the Deferred Retirement Option Program within the System to provide an active member who elects to participate access to a lump-sum benefit in addition to his or her service retirement allowance. **Section 3** of this bill defines “active member” to mean an employee who is employed by a public employer as a police officer or firefighter and contributes to the Police and Firefighters’ Retirement Fund. The plan allows participating members, upon enrollment, to have their retirement benefits placed in a separate account to which he or she may have full control upon termination of participation in the Program in addition to his or her service retirement allowance. **Section 4** of this bill defines the term “Program” to mean the Deferred Retirement Option Program.

Section 6 of this bill provides that an active member is eligible to participate in the Program if the active member: (1) has at least 25 years of service credit in the System as a police officer or firefighter, not including purchase of service credit; and (2) is eligible to retire. **Section 6** requires that an active member who elects to participate in the Program, irrevocably and in writing: (1) designate a period of participation in the Program that is not more than 84 consecutive months; and (2) agree to terminate employment upon the completion of the designated participation time. **Section 6** also requires that the active member: (1) continue to perform the



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same job function for his or her public employer; and (2) work at least 110 hours per month. Finally, **section 6** provides that an active member participating in the Program ceases to accrue service credit time in the System and is subject to all other terms and conditions of active employment.

Section 7 of this bill sets forth the circumstances pursuant to which an active member's participation in the Program terminates.

Section 8 of this bill requires the System to: (1) establish an account on behalf of each active member who participates in the Program in which all benefits accrued pursuant to participation in the Program must be accounted for; (2) contract with a financial service provider; (3) authorize an active member to make selections governing the interest or investment of the member's account balance; (4) make a monthly deposit into the active member's account in an amount equal to the active member's monthly service retirement allowance; and (5) provide the member with options for the transfer of the control of the account upon termination of the active member's participation in the Program.

Section 9 of this bill prohibits an active member who elects to participate in the Program from being eligible to receive a disability retirement allowance.

Section 10 of this bill requires a participant in the Program to designate in writing a survivor beneficiary.

Section 11 of this bill provides that upon termination of employment and participation in the Program, the active member is entitled to receive: (1) his or her service retirement allowance; and (2) control of the account established on behalf of the active member pursuant to **section 8**.

Section 12 of this bill prohibits a public employer from retaliating against an employee for participating in the Program.

Section 13 of this bill prohibits the Program from jeopardizing in any way the tax qualified status of the System under the rules of the Internal Revenue Service of the United States Department of Treasury.

Section 14 of this bill authorizes the Public Employees' Retirement Board to adopt regulations to carry out the provisions of this bill.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Active member" means an employee who:*

1. Is employed by a participating public employer as a police officer or firefighter; and

2. Contributes to the Police and Firefighters' Retirement Fund in the System.

Sec. 4. *"Program" means the Deferred Retirement Option Program as established pursuant to section 5 of this act.*

Sec. 5. *A program to provide an active member who elects to participate in such program access to a lump-sum benefit in*



addition to his or her service retirement allowance is hereby established within the System and must be known as the Deferred Retirement Option Program.

Sec. 6. 1. An active member may elect to participate in the Program if the active member:

(a) Has at least 25 years of service credit in the System as a police officer or firefighter, not including any purchase of credit for service; and

(b) Is eligible to retire pursuant to NRS 286.510.

2. An active member who elects to participate in the Program shall irrevocably and in writing:

(a) Designate a period of participation in the Program that is not more than 84 consecutive months; and

(b) Agree to terminate employment with his or her public employer upon the completion of the period of participation designated pursuant to paragraph (a).

3. An active member who elects to participate in the Program must meet all of the following requirements while enrolled in the Program:

(a) Continue to perform the same job function for his or her public employer as the active member performed for the public employer before enrolling in the Program; and

(b) Work at least 110 hours per month for the public employer, not including:

(1) Sick leave;

(2) Leave without pay;

(3) Relief of duty for any reason;

(4) Suspension; or

(5) Medical leave due to a workplace incident, accident or occupational illness.

4. Except as otherwise provided in subsection 5, an active member who participates in the Program has all the rights, privileges and benefits and is subject to all other terms and conditions of active employment.

5. An active member who participates in the Program may not accrue any additional service credit in the System as of the date on which the active member's participation in the Program becomes effective.

Sec. 7. 1. An active member may terminate participation in the Program by voluntarily terminating employment with his or her public employer at any time before completion of the period of participation designated pursuant to section 6 of this act.

2. An active member's participation in the Program terminates upon:



(a) The completion of the period of participation designated pursuant to section 6 of this act;

(b) Termination of employment with his or her public employer, with the exception that, if a termination for cause is reversed, the active member's participation in the Program, less any benefits previously distributed, must be reinstated for the duration of the period of participation designated pursuant to section 6 of this act;

(c) The death of the active member; or

(d) The voluntary termination of participation in the Program by the active member,

↪ whichever occurs first.

Sec. 8. 1. The System shall establish an account on behalf of each active member who participates in the Program. All benefits accrued by an active member pursuant to his or her participation in the Program must be accounted for in such account.

2. The System shall contract with a financial service provider or other entity capable of holding an account for each active member who participates in the Program and is consistent with any fiduciary requirements. The account must be an interest-bearing account or investment account and any interest or return on investment must accrue to the account. The System shall authorize an active member participating in the Program to make selections governing the interest or investment of the member's account balance and shall establish the process for making such selections. Any direct cost associated with managing the account of the member or the costs of investments must be paid from the account.

3. The System shall make a monthly deposit into the account established on behalf of the active member pursuant to subsection 1, in an amount equal to the active member's monthly service retirement allowance as calculated in the manner provided in NRS 286.551, based on the years of service of the active member as of the day the member began participation in the Program.

4. Any automatic annual increases that would have otherwise been applied to the active member's benefit had he or she elected to retire instead of participate in the Program must accrue to the active member's monthly deposit placed into the account established on behalf of the member pursuant to subsection 1.

5. All amounts credited to an account established on behalf of an active member pursuant to subsection 1 are fully vested.

6. Upon the termination of participation in the Program pursuant to section 7 of this act, the System shall provide options for the transfer of the control of the account to the active member



1 consistent with its fiduciary duty and any applicable federal or
2 state law.

3 **Sec. 9.** *An active member who elects to participate in the*
4 *Program and who becomes totally unable to perform his or her*
5 *current job during participation in the Program:*

6 1. *Is not eligible to receive a disability retirement allowance*
7 *pursuant to NRS 286.620; and*

8 2. *Shall be deemed to have retired.*

9 **Sec. 10.** 1. *An active member who elects to participate in*
10 *the Program must designate in writing a survivor beneficiary for*
11 *the account established pursuant to the Program.*

12 2. *An active member may change his or her designated*
13 *survivor beneficiary at any time before the active member is*
14 *granted control of the account established on his or her behalf*
15 *pursuant to section 8 of this act by informing the System in*
16 *writing.*

17 3. *If a designated survivor beneficiary predeceases an active*
18 *member who is participating in the Program and the active*
19 *member dies before designating a new beneficiary, the System*
20 *shall transfer control of the account established on behalf of the*
21 *active member pursuant to section 8 of this act to the estate of the*
22 *active member.*

23 **Sec. 11.** *Upon termination of employment and participation*
24 *in the Program, an active member is entitled to receive:*

25 1. *The service retirement allowance that the active member is*
26 *entitled to receive based on the active member's years of service as*
27 *of the day that the active member began participation in the*
28 *Program and as calculated in the manner provided by NRS*
29 *286.551; and*

30 2. *Control of the account established on behalf of the active*
31 *member pursuant to section 8 of this act.*

32 **Sec. 12.** *A public employer shall not retaliate against an*
33 *active member for participating in the Program.*

34 **Sec. 13.** 1. *The Program must not jeopardize in any way*
35 *the tax qualified status of the System or in any way change the*
36 *defined benefit classification of the System under the rules of the*
37 *Internal Revenue Service of the United States Department of*
38 *the Treasury.*

39 2. *To the extent that any provision of sections 2 to 14,*
40 *inclusive, of this act, violates any provision of federal law or rule*
41 *of the Internal Revenue Service relating to defined benefit plans,*
42 *such provision is void and has no effect.*

43 **Sec. 14.** *The Board may adopt regulations to carry out the*
44 *provisions of sections 2 to 14, inclusive, of this act, including,*



1 *without limitation, regulations to ensure compliance with section*
2 *13 of this act.*

3 **Sec. 15.** 1. This section becomes effective upon passage and
4 approval.

5 2. Sections 1 to 14, inclusive, of this act become effective:

6 (a) Upon passage and approval for the purpose of adopting
7 regulations and performing any other preparatory administrative
8 tasks that are necessary to carry out the provisions of this act; and

9 (b) On January 1, 2024, for all other purposes.

