

ASSEMBLY BILL NO. 190—ASSEMBLYMEN KIRNER, WHEELER,
HICKEY, JONES; DICKMAN, ELLISON, HANSEN AND
OSCARSON

FEBRUARY 23, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public employees’
retirement. (BDR 23-184)

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 employees’ retirement; providing for the establishment of a hybrid retirement program for certain public employees; requiring the program to include a defined benefit plan and a defined contribution plan; setting forth the required provisions of each plan; requiring certain public employers under certain circumstances to make additional contributions to the Public Employees’ Retirement System to reduce the unfunded liability of the System; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 2** of this bill provides for the establishment of a hybrid retirement
2 program for new employees who become members of the Public Employees’
3 Retirement System on or after July 1, 2016. The program must include a defined
4 benefit plan and a defined contribution plan, and must be part of the System.
5 **Section 3** of this bill sets forth the required provisions of the defined benefit
6 plan, which include providing for: (1) a cap on annual benefits; (2) a prohibition on
7 the purchase of additional service credit; (3) a maximum public employer
8 contribution rate equal to 6 percent of an employee’s compensation; (4) an
9 employee contribution rate equal to the contribution rate that is actuarially
10 determined for the plan less the public employer contribution rate; (5) a monthly
11 service retirement allowance that is determined by multiplying a member’s average
12 compensation by 1 percent for each year of service earned by regular members, and
13 by 1.5 percent for each year of service earned by police officers and firefighters;
14 and (6) a minimum retirement age to receive an unreduced benefit that is tied to the
15 full retirement age of the member under the Social Security Act.



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16 **Section 4** of this bill sets forth the required provisions of the defined
17 contribution plan, which include providing for: (1) the accumulation by a member
18 of retirement savings in an individual trust account; (2) compliance with federal
19 law to be recognized as a qualified governmental retirement plan; (3) compliance
20 with federal law concerning limitations on benefits, distributions and maximum
21 compensation; (4) the selection of a third-party administrator; (5) a lifetime annuity
22 option for the payment of benefits during retirement; (6) the prohibition of loans to
23 members; (7) equal contributions by employees and public employers; (8)
24 supplemental contributions by employees; and (9) the vesting of amounts in
25 members' accounts.

26 **Section 5** of this bill requires the Public Employees' Retirement Board
27 annually to report, distribute and post on the Internet certain information
28 concerning the defined contribution plan.

29 **Section 6** of this bill requires public employers that are local governments to
30 make additional contributions to the System to reduce the unfunded liability of the
31 System under certain circumstances.

32 **Section 7** of this bill provides that any new employee who becomes a member
33 of the System on or after July 1, 2016, as a condition of his or her employment,
34 shall be deemed to have consented to the revision or termination of the provisions
35 of the hybrid retirement program at any time.

36 **Section 8** of this bill requires the Board annually to determine the amount of
37 the estimated unfunded liability of the System that is attributable to members who
38 are or were employed by the State and by each public employer that is a local
39 government, respectively, and report the results of its determination to the
40 Governor and the governing body of each such local government.

41 **Section 9** of this bill provides that certain provisions in collective bargaining
42 agreements entered into or renewed on or after July 1, 2016, which are inconsistent
43 with the provisions of the hybrid retirement program are void.

44 **Section 10** of this bill provides for the appointment of an advisory committee
45 to study and make recommendations concerning the possible effects that the hybrid
46 retirement program may have on the actuarial assumptions currently used by the
47 actuary of the System.

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

1 **Section 1.** Chapter 286 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

4 **Sec. 2. 1. *Notwithstanding any provision of this chapter to
5 the contrary, the Board shall, on or before July 1, 2016, to the
6 extent not inconsistent with federal law or the Nevada
7 Constitution, with the advice of the Interim Retirement and
8 Benefits Committee of the Legislature created pursuant to NRS
9 218E.420, establish as part of the System a hybrid retirement
10 program consisting of a defined benefit plan and a defined
11 contribution plan.***

12 **2. *The hybrid retirement program must:***



1 (a) Except as otherwise provided in paragraph (c), apply only
2 to members who have an effective date of membership on or after
3 July 1, 2016.

4 (b) Be structured in a manner which ensures that members are
5 not subject to the payment of contributions under the Social
6 Security Act.

7 (c) Provide a procedure pursuant to which a member who has
8 an effective date of membership before July 1, 2016, may elect to
9 transfer into the program. The procedure must include a
10 requirement that a member acknowledge in writing that the
11 member understands the risks of transferring into the program
12 and that the member understands that the election to transfer into
13 the program may not be revoked.

14 3. Any provision of this chapter that is inconsistent with the
15 provisions of the hybrid retirement program does not apply to the
16 program to the extent of the inconsistency. All other provisions of
17 this chapter that are not inconsistent with the provisions of the
18 program apply to the program, unless specifically excluded by the
19 terms of the program.

20 **Sec. 3. 1. The defined benefit plan of the hybrid retirement**
21 **program established pursuant to section 2 of this act must:**

22 (a) Include a cap on annual benefits that must not exceed 133
23 percent of the average Social Security wage base during the
24 member's 36 consecutive months of highest compensation.

25 (b) Prohibit the purchase of additional service credit.

26 (c) Provide that the public employer contribution rate must not
27 exceed 6 percent of an employee's compensation.

28 (d) Provide that the employee contribution rate is an amount
29 equal to the contribution rate that is actuarially determined for the
30 defined benefit plan less the public employer contribution rate.

31 (e) Provide that a monthly service retirement allowance must
32 be determined by multiplying a member's average compensation
33 by:

34 (1) For regular members, 1 percent for each year of service
35 earned.

36 (2) For police officers and firefighters, 1.5 percent for each
37 year of service earned.

38 (f) Establish a minimum retirement age to receive an
39 unreduced benefit which is equal to:

40 (1) For regular members, the full retirement age of the
41 member under the Social Security Act.

42 (2) For police officers and firefighters, 10 years less than
43 the full retirement age of the member under the Social Security
44 Act.



1 (g) *Include such other provisions as determined necessary by*
2 *the Board, with the advice of the Interim Retirement and Benefits*
3 *Committee of the Legislature created pursuant to NRS 218E.420.*

4 2. *As used in this section:*

5 (a) *“Average compensation” has the meaning ascribed to it in*
6 *subsection 3 of NRS 286.551.*

7 (b) *“Full retirement age” means the age at which a person*
8 *may first become entitled to full or unreduced retirement benefits*
9 *under the Social Security Act.*

10 **Sec. 4.** *The defined contribution plan of the hybrid*
11 *retirement program established pursuant to section 2 of this act*
12 *must:*

13 1. *Provide for the accumulation by a member of retirement*
14 *savings in an individual trust account held for the exclusive*
15 *benefit of the member and his or her beneficiaries.*

16 2. *Comply with all requirements of federal law to be*
17 *recognized as a qualified governmental retirement plan.*

18 3. *Comply with all applicable requirements of federal law*
19 *concerning limitations on benefits, distributions and maximum*
20 *compensation.*

21 4. *Provide for the selection by the Board of a third-party*
22 *administrator for the defined contribution plan. The selection*
23 *must be based on, without limitation:*

24 (a) *The financial stability of the third-party administrator.*

25 (b) *The cost of investment, administrative and other services*
26 *provided by the third-party administrator.*

27 (c) *The experience of the third-party administrator in*
28 *providing defined contribution plans.*

29 (d) *The experience of the third-party administrator in*
30 *providing education, counseling and advice to participants of*
31 *defined contribution plans.*

32 (e) *Any criminal convictions of, securities or antitrust*
33 *violations committed by, material civil or regulatory fines imposed*
34 *on or judgments entered against, the third-party administrator.*

35 5. *Provide an option to a member to elect to have his or her*
36 *benefits under the defined contribution plan paid as a lifetime*
37 *annuity during retirement.*

38 6. *Prohibit loans to members.*

39 7. *Require an employee to contribute to his or her defined*
40 *contribution account through pretax payroll deductions:*

41 (a) *For regular members, 6 percent of the employee’s*
42 *compensation each payroll period.*

43 (b) *For police officers and firefighters, 9 percent of the*
44 *employee’s compensation each payroll period.*



1 8. *Require a public employer to contribute to the defined*
2 *contribution account of an employee:*

3 (a) *For regular members, 6 percent of the employee's*
4 *compensation each payroll period.*

5 (b) *For police officers and firefighters, 9 percent of the*
6 *employee's compensation each payroll period.*

7 9. *Authorize a member to make supplemental contributions to*
8 *his or her defined contribution account subject to any limitations*
9 *provided by federal law.*

10 10. *Provide for rollover contributions into, and rollover*
11 *distributions out of, the defined contribution plan, subject to any*
12 *requirements and limitations provided by federal law.*

13 11. *Provide that all contributions made by an employee, and*
14 *the earnings thereon, become vested immediately.*

15 12. *Provide that 20 percent of the contributions made by a*
16 *public employer, and the earnings thereon, become vested upon*
17 *completion of each year of service by the employee, and that, after*
18 *completion of 5 years of service, all additional contributions by the*
19 *public employer, and the earnings thereon, become vested*
20 *immediately.*

21 13. *Provide that any amounts credited to a member's account*
22 *that are not vested on the date of the termination of the*
23 *employment of the member are forfeited and must be used only to*
24 *reduce the public employer's required contributions.*

25 14. *Provide that upon termination of the defined contribution*
26 *plan, all amounts credited to a member's account become fully*
27 *and immediately vested.*

28 15. *Include such other provisions as determined necessary by*
29 *the Board, with the advice of the Interim Retirement and Benefits*
30 *Committee of the Legislature created pursuant to NRS 218E.420.*

31 **Sec. 5.** 1. *The Board shall, on or before December 1 of*
32 *each year, submit to the Governor, the State Treasurer, the Senate*
33 *Majority Leader and the Speaker of the Assembly an annual*
34 *report and financial statement for the immediately preceding fiscal*
35 *year concerning the defined contribution plan.*

36 2. *The Board shall:*

37 (a) *Cause a copy of the financial statement to be distributed to*
38 *each participant in the hybrid retirement program established*
39 *pursuant to section 2 of this act; and*

40 (b) *Post a copy of the annual report and financial statement on*
41 *an Internet website maintained by the Board.*

42 **Sec. 6.** 1. *Except as otherwise provided in subsection 2,*
43 *each public employer that is a local government shall, in addition*
44 *to the contributions required under the defined benefit plan and*
45 *the defined contribution plan established pursuant to section 2 of*



1 *this act, contribute to the System an additional 6 percent of the*
2 *compensation of each of its employees who is a participant in the*
3 *hybrid retirement program established pursuant to section 2 of*
4 *this act, including each employee who is a member of the System*
5 *on June 30, 2016, and who elects to transfer into the hybrid*
6 *retirement program, to reduce the unfunded liability of the System*
7 *arising from the obligations of the System to persons who are*
8 *members of the System on June 30, 2016.*

9 *2. The additional contributions required by subsection 1 are*
10 *not required at any time during which the respective unfunded*
11 *liability of the System is determined by the actuary of the System to*
12 *be 15 percent or less.*

13 **Sec. 7.** *Any new employee who becomes a member of the*
14 *System on or after July 1, 2016, as a condition of his or her*
15 *employment shall be deemed to have consented to the revision or*
16 *termination of the provisions of the hybrid retirement program*
17 *established pursuant to section 2 of this act at any time, except*
18 *that no such revision may reduce any accrued retirement benefits*
19 *earned by the employee before the effective date of the revision.*

20 **Sec. 8.** *The Board shall annually determine the amount of*
21 *the estimated unfunded liability of the System that is attributable*
22 *to members who are or were employed by the State and by each*
23 *public employer that is a local government, respectively, and*
24 *report the results of its determination to the Governor and the*
25 *governing body of each such local government.*

26 **Sec. 9.** *1. Any provision in a collective bargaining*
27 *agreement entered into or renewed on or after July 1, 2016, that*
28 *provides for a greater public employer contribution rate to either*
29 *the defined benefit plan or the defined contribution plan*
30 *established pursuant to section 2 of this act than the public*
31 *employer contribution rates specified in sections 3 and 4 of this*
32 *act, respectively, is void.*

33 *2. Any provision in a collective bargaining agreement entered*
34 *into or renewed on or after July 1, 2016, that provides for a lesser*
35 *employee contribution rate to either the defined benefit plan or the*
36 *defined contribution plan established pursuant to section 2 of this*
37 *act than the employee contribution rates specified in sections 3*
38 *and 4 of this act, respectively, is void.*

39 **Sec. 10.** *1. The Public Employees' Retirement Board shall*
40 *appoint an advisory committee consisting of not fewer than five*
41 *persons who are:*

- 42 (a) Independent actuaries;
43 (b) Certified public accountants or attorneys with actuarial
44 expertise; or
45 (c) Recognized experts in the field of actuarial science.



1 2. No member of the advisory committee may be a member of
2 the Public Employees' Retirement System or a contractor with the
3 System.

4 3. The members of the advisory committee shall elect one of
5 the members to serve as the chair of the advisory committee, and the
6 advisory committee shall meet at the call of the chair.

7 4. The advisory committee shall conduct a study concerning
8 the possible effects that the hybrid retirement program established
9 pursuant to section 2 of this act may have on the actuarial
10 assumptions currently used by the actuary of the System and
11 recommend any changes to those assumptions that the advisory
12 committee believes are necessary.

13 5. The Board shall provide administrative support to the
14 advisory committee.

15 6. While engaged in the business of the advisory committee,
16 the members of the advisory committee are entitled to receive the
17 per diem allowance and travel expenses provided for state officers
18 and employees generally.

19 7. The advisory committee shall, on or before January 1, 2016,
20 submit a report concerning the study and the recommendations of
21 the advisory committee to the Interim Retirement and Benefits
22 Committee of the Legislature created pursuant to NRS 218E.420.

23 **Sec. 11.** 1. This section and section 10 of this act become
24 effective upon passage and approval.

25 2. Sections 1 to 9, inclusive of this act become effective:

26 (a) Upon passage and approval for the purpose of establishing
27 the hybrid retirement program and performing any other preparatory
28 administrative tasks that are necessary to carry out the provisions of
29 this act; and

30 (b) On July 1, 2016, for all other purposes.



