
SENATE BILL NO. 201—SENATORS SEGERBLOM AND PARKS

FEBRUARY 28, 2013

JOINT SPONSORS: ASSEMBLYMEN ELLIOT ANDERSON,
BENITEZ-THOMPSON, HICKEY AND PIERCE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the employment of retired public employees. (BDR 23-559)

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 employees' retirement; providing for the reemployment of retired public employees who are appointed to certain positions by the Governor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law imposes certain restrictions on the reemployment of a retired
2 public employee by a public employer that participates in the Public Employees'
3 Retirement System. For example, the reemployment of such an employee is
4 ordinarily limited to positions for which there is a critical labor shortage, as
5 designated by the State Board of Examiners or other designating authority. (NRS
6 286.523) In most cases, the employee is also disqualified from receiving any
7 retirement benefits from the System for the duration of the employment.
8 (NRS 286.520)

9 This bill creates an exception to those provisions for a retired employee who is
10 appointed by the Governor to a position with a public employer. **Section 1** of this
11 bill provides for the reemployment of such an employee and provides that the
12 employee: (1) may be appointed to such a position regardless of whether it is one
13 for which there is a critical labor shortage; (2) shall, if the position is eligible to
14 participate in the System, reenroll in the System for the duration of the
15 appointment; (3) is not disqualified from receiving allowances under the System
16 during the period of the appointment; and (4) does not accrue creditable service
17 during that period or have any entitlement to additional allowances from the
18 System. While the employee remains in the appointive position, if the position is
19 eligible to participate in the System, **section 1** also requires the employee and
20 employer to make the contributions to the System otherwise required by law and



21 provides that the employee is entitled to a refund of the employee's contributions
22 made during that period. **Sections 2-6** of this bill make conforming changes to the
23 relevant provisions of chapter 286 of NRS.

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 a new section to read as follows:

3 1. *Notwithstanding any other provision of this chapter, a*
4 *retired employee who is appointed by the Governor to a position*
5 *with a public employer under the System:*

6 (a) *May be appointed to such a position regardless of whether*
7 *it is one for which there is a critical labor shortage.*

8 (b) *If the appointive position is eligible to participate in the*
9 *System, shall reenroll in the System for the duration of the*
10 *appointment.*

11 (c) *Is not, because of the appointment, disqualified from*
12 *receiving any allowances under the System.*

13 (d) *Does not accrue creditable service during the period of the*
14 *appointment and is not entitled to any additional allowances from*
15 *the System for service in the appointive position.*

16 2. *During the period of the appointment, if the appointive*
17 *position is eligible to participate in the System, the employee and*
18 *the employer shall make the contributions to the System otherwise*
19 *required by this chapter. After the end of that period and upon*
20 *written request, the employee is entitled to receive a refund of all*
21 *contributions made by the employee during that period.*

22 **Sec. 2.** NRS 286.297 is hereby amended to read as follows:

23 286.297 The following persons are not eligible to become
24 members of the System:

25 1. Inmates of state institutions even though they may be
26 receiving compensation for services performed for the institution.

27 2. Independent contractors or persons rendering professional
28 services on a fee, retainer or contract basis.

29 3. Except as otherwise provided in NRS 286.525 ~~§~~ *and*
30 *section 1 of this act*, persons retired under the provisions of this
31 chapter who are employed by a participating public employer.

32 4. Members of boards or commissions of the State of Nevada
33 or of its political subdivisions when such boards or commissions are
34 advisory or directive and when membership thereon is not
35 compensated except for expenses incurred. Receipt of a fee for
36 attendance at official sessions of a particular board or commission
37 does not constitute compensation for the purpose of this subsection.



1 5. Substitute teachers and students who are employed by the
2 institution which they attend.

3 6. District judges and justices of the Supreme Court first
4 elected or appointed on or after July 1, 1977, who are not enrolled in
5 the System at the time of election or appointment.

6 7. Members of the professional staff of the Nevada System of
7 Higher Education who are employed on or after July 1, 1977.

8 8. Persons employed on or after July 1, 1979, under the
9 Comprehensive Employment and Training Act.

10 9. Except as otherwise provided in NRS 286.293, persons
11 assigned to intermittent or temporary positions unless the
12 assignment exceeds 6 consecutive months.

13 10. Persons employed on or after July 1, 1981, as part-time
14 guards at school crossings.

15 11. Nurses who:

16 (a) Are not full-time employees;

17 (b) Are paid an hourly wage on a daily basis;

18 (c) Do not receive the employee benefits received by other
19 employees of the same employer; and

20 (d) Do not work a regular schedule or are requested to work for
21 a shift at a time.

22 **Sec. 3.** NRS 286.401 is hereby amended to read as follows:

23 286.401 ~~Membership~~ *Except as otherwise provided in*
24 *section 1 of this act, membership* of an employee in the System
25 terminates upon:

26 1. The death of a member.

27 2. The withdrawal of contributions from a member's account.

28 3. Receipt of retirement allowances by a member.

29 4. Receipt of disability allowances by a member.

30 ↪ A retired employee is not entitled to any right conferred by this
31 chapter upon a member unless the provision conferring that right
32 expressly states that it is conferred upon a retired employee.

33 **Sec. 4.** NRS 286.520 is hereby amended to read as follows:

34 286.520 1. Except as otherwise provided in this section and
35 NRS 286.525, the consequences of the employment of a retired
36 employee are:

37 (a) A retired employee who accepts employment or an
38 independent contract with a public employer under this System is
39 disqualified from receiving any allowances under this System for
40 the duration of that employment or contract if:

41 (1) The retired employee accepted the employment or
42 contract within 90 calendar days after the effective date of the
43 employee's retirement; or

44 (2) The retired employee is employed in a position which is
45 eligible to participate in this System.



1 (b) If a retired employee accepts employment or an independent
2 contract with a public employer under this System more than 90
3 calendar days after the effective date of the employee's retirement in
4 a position which is not eligible to participate in this System, the
5 employee's allowance under this System terminates upon the
6 employee's earning an amount equal to one-half of the average
7 salary for participating public employees who are not police officers
8 or firefighters in any fiscal year, for the duration of that employment
9 or contract.

10 (c) If a retired employee accepts employment with an employer
11 who is not a public employer under this System, the employee is
12 entitled to the same allowances as a retired employee who has no
13 employment.

14 2. The retired employee and the public employer shall notify
15 the System:

16 (a) Within 10 days after the first day of an employment or
17 contract governed by paragraph (a) of subsection 1.

18 (b) Within 30 days after the first day of an employment or
19 contract governed by paragraph (b) of subsection 1.

20 (c) Within 10 days after a retired employee earns more than one-
21 half of the average salary for participating public employees who
22 are not police officers or firefighters in any fiscal year from an
23 employment or contract governed by paragraph (b) of subsection 1.

24 3. For the purposes of this section, the average salary for
25 participating public employees who are not police officers or
26 firefighters must be computed on the basis of the most recent
27 actuarial valuation of the System.

28 4. If a retired employee who accepts employment or an
29 independent contract with a public employer under this System
30 pursuant to this section elects not to reenroll in the System pursuant
31 to subsection 1 of NRS 286.525, the public employer with which the
32 retired employee accepted employment or an independent contract
33 may pay contributions on behalf of the retired employee to a
34 retirement fund which is not a part of the System in an amount not
35 to exceed the amount of the contributions that the public employer
36 would pay to the System on behalf of a participating public
37 employee who is employed in a similar position.

38 5. If a retired employee is chosen by election or appointment to
39 fill an elective public office, the retired employee is entitled to the
40 same allowances as a retired employee who has no employment,
41 unless the retired employee is serving in the same office in which
42 the retired employee served and for which the retired employee
43 received service credit as a member. A public employer may pay
44 contributions on behalf of such a retired employee to a retirement
45 fund which is not a part of the System in an amount not to exceed



1 the amount of the contributions that the public employer would pay
2 to the System on behalf of a participating public employee who
3 serves in the same office.

4 6. The System may waive for one period of 30 days or less a
5 retired employee's disqualification under this section if the public
6 employer certifies in writing, in advance, that the retired employee
7 is recalled to meet an emergency and that no other qualified person
8 is immediately available.

9 7. A person who accepts employment or an independent
10 contract with either house of the Legislature or by the Legislative
11 Counsel Bureau is exempt from the provisions of subsections 1 and
12 2 for the duration of that employment or contract.

13 8. A person who accepts employment with a volunteer fire
14 department of which all the volunteers have become members of the
15 System pursuant to NRS 286.367 is exempt from the provisions of
16 subsections 1 and 2 for the duration of that employment.

17 ***9. A retired employee described in section 1 of this act who is***
18 ***appointed by the Governor to a position described in that section is***
19 ***exempt from the provisions of subsections 1 and 2 for the duration***
20 ***of the appointment.***

21 **Sec. 5.** NRS 286.523 is hereby amended to read as follows:

22 286.523 1. It is the policy of this State to ensure that the
23 reemployment of a retired public employee pursuant to this section
24 is limited to positions of extreme need. An employer who desires to
25 employ such a retired public employee to fill a position for which
26 there is a critical labor shortage must make the determination of
27 reemployment based upon the appropriate and necessary delivery of
28 services to the public.

29 2. The provisions of subsections 1 and 2 of NRS 286.520 do
30 not apply to a retired employee who accepts employment or an
31 independent contract with a public employer under the System if:

32 (a) The retired employee fills a position for which there is a
33 critical labor shortage; and

34 (b) At the time of the retired employee's reemployment, the
35 retired employee is receiving:

36 (1) A benefit that is not actuarially reduced pursuant to
37 subsection 6 of NRS 286.510; or

38 (2) A benefit actuarially reduced pursuant to subsection 6 of
39 NRS 286.510 and has reached the required age at which the retired
40 employee could have retired with a benefit that was not actuarially
41 reduced pursuant to subsection 6 of NRS 286.510.

42 3. A retired employee who is reemployed under the
43 circumstances set forth in subsection 2 may reenroll in the System
44 as provided in NRS 286.525.



1 4. Positions for which there are critical labor shortages must be
2 determined in an open public meeting held by the designating
3 authority as follows:

4 (a) Except as otherwise provided in this subsection, the State
5 Board of Examiners shall designate positions in State Government
6 for which there are critical labor shortages.

7 (b) The Supreme Court shall designate positions in the Judicial
8 Branch of State Government for which there are critical labor
9 shortages.

10 (c) The Board of Regents shall designate positions in the
11 Nevada System of Higher Education for which there are critical
12 labor shortages.

13 (d) The board of trustees of each school district shall designate
14 positions within the school district for which there are critical labor
15 shortages.

16 (e) The governing body of a charter school shall designate
17 positions within the charter school for which there are critical labor
18 shortages.

19 (f) The governing body of a local government shall designate
20 positions with the local government for which there are critical labor
21 shortages.

22 (g) The Board shall designate positions within the System for
23 which there are critical labor shortages.

24 5. In determining whether a position is a position for which
25 there is a critical labor shortage, the designating authority shall
26 make findings based upon the criteria set forth in this subsection that
27 support the designation. Before making a designation, the
28 designating authority shall consider all efforts made by the
29 applicable employer to fill the position through other means. The
30 written findings made by the designating authority must include:

31 (a) The history of the rate of turnover for the position;

32 (b) The number of openings for the position and the number of
33 qualified candidates for those openings after all other efforts of
34 recruitment have been exhausted;

35 (c) The length of time the position has been vacant;

36 (d) The difficulty in filling the position due to special
37 circumstances, including, without limitation, special educational or
38 experience requirements for the position; and

39 (e) The history and success of the efforts to recruit for the
40 position, including, without limitation, advertising, recruitment
41 outside of this State and all other efforts made.

42 6. A designating authority that designates a position as a
43 critical need position shall submit to the System its written findings
44 which support that designation made pursuant to subsection 5 on a
45 form prescribed by the System. The System shall compile the forms



1 received from each designating authority and provide a biennial
2 report on the compilation to the Interim Retirement and Benefits
3 Committee of the Legislature.

4 7. A designating authority shall not designate a position
5 pursuant to subsection 4 as a position for which there is a critical
6 labor shortage for a period longer than 2 years. To be redesignated
7 as such a position, the designating authority must consider and make
8 new findings in an open public meeting as to whether the position
9 continues to meet the criteria set forth in subsection 5.

10 ***8. The provisions of this section do not apply to a retired***
11 ***employee described in section 1 of this act who is appointed by the***
12 ***Governor to a position described in that section.***

13 **Sec. 6.** NRS 286.525 is hereby amended to read as follows:

14 286.525 ***Except as otherwise provided in section 1 of this act:***

15 1. A retired employee who accepts employment in a position
16 eligible for membership may enroll in the System as of the effective
17 date of that employment. As of the date of enrollment:

18 (a) The retired employee forfeits all retirement allowances for
19 the duration of that employment.

20 (b) The retired employee is entitled to receive, after the
21 termination of the employment and upon written request, a refund of
22 all contributions made by the retired employee during the
23 employment. Except as otherwise required as a result of NRS
24 286.535 or 286.537, if the retired employee does not request the
25 refund and the duration of the employment was at least 6 months,
26 the retired employee gains additional service credit for that
27 employment and is entitled to have a separate service retirement
28 allowance calculated based on the retired employee's compensation
29 and service, effective upon the termination of that employment. If
30 the duration of the employment was:

31 (1) Less than 5 years, the additional allowance must be added
32 to the retired employee's original allowance and must be under the
33 same option and designate the same beneficiary as the original
34 allowance.

35 (2) Five years or more, the additional allowance may be
36 under any option and designate any beneficiary in accordance with
37 NRS 286.545.

38 2. The original service retirement allowance of such a retired
39 employee must not be recalculated based upon the additional service
40 credit, nor is the retired employee entitled to any of the rights of
41 membership that were not in effect at the time of the retired
42 employee's original retirement. The accrual of service credit
43 pursuant to this section is subject to the limits imposed by:

44 (a) NRS 286.551; and



1 (b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415,
2 if the member's effective date of membership is on or after
3 January 1, 1990.

4 3. Except as otherwise required as a result of NRS 286.470,
5 286.535 or 286.537, a retired employee who has been receiving a
6 retirement allowance and who is reemployed and is enrolled in the
7 System for at least 5 years may have the retired employee's
8 additional credit for service added to the retired employee's
9 previous credit for service. This additional credit for service must
10 not apply to more than one period of employment after the original
11 retirement.

12 4. The survivor of a deceased member who had previously
13 retired and was rehired and enrolled in the System, who qualifies for
14 benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible
15 for the benefits based on the service accrued through the second
16 period of employment.

17 **Sec. 7.** This act becomes effective upon passage and approval.

