

MINUTES

WAYS AND MEANS COMMITTEE
NEVADA STATE LEGISLATURE - 59TH SESSION

April 18, 1977

The meeting was called to order by Chairman Mello at 8:00 a.m.

PRESENT: Chairman Mello, Mr. Bremner, Mrs. Brookman, Mr. Glover, Mr. Hickey, Mr. Howard, Mr. Kosinski, Mr. Rhoads, Mr. Serpa, and Mr. Vergiels.

ALSO PRESENT: Vernon Bennett, Executive Director of the State Employees Retirement System; Senator Floyd Lamb; Ken Buck, representing the Retired Public Employees of Nevada; Harvey Pinkerton of the Juvenile Probation Department, Yerington; Dr. J. Sandorf; Tom Eck, legal counsel for the Nevada Peace Officers Association; Lou Spitz; John Griffin; John Dolan, Assembly Fiscal Analyst; and Bill Bible of the Budget Division.

The first portion of this meeting dealt with A.B. 524, A.B. 274, and ACR 26. The major part of the meeting had to do with Senate Bill 173 and the testimony of Vernon Bennett, the Executive Director of the State Employees Retirement System.

First, Mr. Bennett gave a summary of the history of the bill, and then proceeded to briefly describe each section. Attached are xerox materials he distributed to the Committee members. Also attached to these minutes is a verbatim draft of the discussion that took place between him and the Committee members, as well as the testimonies of those people either in favor or opposed to the bill.

No action was taken on this date with regard to S.B. 173.

The meeting was adjourned at 11:00 a.m.

ASSEMBLY WAYS AND MEANS COMMITTEE

April 18, 1977

A.B. 524

Requires division of state parks of state department of conservation and natural resources to purchase, under prescribed conditions, certain real property located in Lyon County, Nevada, (known as the Ghiglia Ranch) for state park system.

Mr. Mello said there was an amendment to this if it meets the approval of the Committee. Amend Section 1, page 1. "The Administrator of the Nevada State Parks System shall apply to the Interim Finance Committee to purchase for the State Parks System on the behalf of the state of Nevada."

Amend Section 2, page 1, line 16, and delete and insert "and the Interim Finance Committee. Subsection 4..."The division is directed by the Interim Finance Committee to acquire the property as provided in Section 3 of Chapter 660 Statutes of Nevada 1975. Amend the title to read "an act relating to the State Parks System providing for acquisition under prescribed conditions of certain real property located in Lyon County, Nevada, and providing other matters properly relating thereto."

DINI: I think that amendment is in in line with the idea of first getting the appraisal; secondly, we have to tie some bond money to it so if they did appraise it and wanted to buy it, the money would be available. And thirdly, it puts it into Interim Finance's hands to make the final decision. That's the thrust of the amendment.

MELLO: If we do this, we will have to amend A.B. 274, which I put on the Chief Clerk's desk...We have to change the \$5 million to \$6.5 millior And then we have to change ACR 26. We already had an amendment on that to change it from \$5 million to \$6.5; we have to change \$1.5 to \$3 million. We have to change \$5 million to \$6.5; and then we also have to change where the monies can be matched by federal government money. First, let's decide what we're going to do with Ghiglia Ranch. Because if we accept these amendments, we have to amend the other.

VERGIELS: I move that we amend as you outlined (Amendment 928a to A.B. 524); seconded by Glover. Approved. Mr. Rhoads voted NO.

DO PASS as amended by Vergiels; seconded by Glover. Approved. Rhoads, 1

A.B. 274

MELLO: We changed this by changing the \$5 million to \$6.5 million. The amendment number is 900a to A.B. 274. Adoption moved by Vergiels; seconded by Glover. Approved. Rhoads votes NO. DO PASS as amended by Vergiels; seconded by Glover. Approved. Rhoads NO

ACR 26

MELLO: We need the dollar changes on this one. Amendment 899a to ACR 26. Change the \$5 million to \$6.5 million. Turn to page 2; see the \$1.5 million; change to \$3 million. Change the title of the resolution from \$5 million to \$6.5 million.

Vergiels made a motion to adopt amendment 899a to ACR 26; seconded by Glover. Approved. Rhoads votes NO. DO PASS as amended by Vergiels. Seconded by Glover. Approved. Rhoads votes NO.

S.B. 173

Vernon Bennett - Executive Director State Employees Retirement System During the last two years, the Retirement System met with the Employee/Employer and Retired Employee groups to develop the omnibus bill. We held three problem-solving sessions. For example, we met with the school districts where we had teachers, administrators and classified people who came for a full day. We developed what were the problems with the Retirement System as they pertained to school districts and one month later came back with their recommended solutions. We did the same thing with the cities and counties, and with the state employees. With the retired employees, we worked with the Retired Teachers Association, the American Association of Retired Persons, which were the two groups that were in effect at that time. Since that time, there has been another retired employees group, the Retired Public Employees of Nevada, which was formed about three months prior to this Session. Senate Bill 173 represents a consensus of the recommendations and concerns and solutions of those people. During the last Session, the Retirement System requested in S.B. 336 a graduated scale increase in contributions of a half a per cent each employee and employer for four years, which would bring the total to 9% employee, 9% employer. This

was based on the June 30, 1974 actuarial study which determined that we had an unfunded liability of \$366 million. The June 30, 1976 study, however, revealed that we now have an unfunded liability of \$233 million, which is a drop during the last two years of \$133 million. This was due to the fact that the Retirement System's investment program has increased from 4.04% three years ago, to 6.02% two years, and to 8.77% this year. The only public system we know of that has a higher average annual return on investments is the Legislators Retirement System of Nevada with a 9.44%. The gist and the significance of the change, in addition our investment income in the past years increased from \$9 million per year three years ago to \$15 million two years ago to \$28 million last year. The result of this is that the June 30, 1976, actuarial study provided that the amount to pay our current benefits and fund the unfunded liability over a 40 year period is 13.7%. That is down from 18% two years ago which did not include an amount to fund the unfunded liability. The Retirement System took the position because most of the employee and employer groups did not want to increase contributions during this Session, that we would use the difference between current contributions, the 8% employee, 8% employer which is 16%, and the required payment of 13.7% which the actuary had indicated to provide a 2.3% difference that would absorb the benefits that are provided in this bill. Therefore, the improvements such as the post-retirement increase on a graduated scale for the next two years, the improvements in survivor benefits and the percentage for 2½% for every year of service are all reflected in the 16% normal contributions our members are presently making. So, the legislation provided in S.B. 173 reflects no increase in employee or employer contributions, and reflects the fact that we now have a standard plan that we will be able to fully fund the system within 40 years.

The bill was introduced on January 20, 1977. It has had nine hearings in the Senate and 102 amendments. Approximately 65 of these amendments, however, were technical amendments provided by the bill drafter. For example, the bill drafter could not find in the legal dictionary the word "retiree" so he has used a new term which means the same thing called "retired employee" but this meant that he had

to go through the law and every place where the word "retiree" was in the present law, amend to put in "retired employee". There were several tightening and corrective amendments to the bill, most of which we endorse, and some of which we opposed. The major controversy that affected S.B. 173 in the Senate dealt with the question of who should be enrolled under the early retirement program for police and firemen. This resulted in several amendments. It resulted in two or three discussions on the Senate floor for approximately one hour each, and it resulted in a final determination by Senate Finance Committee and the Senate that when they originally formed the early retirement program for police and firemen in 1969, it was intended that this would be limited to line policemen who are on the job and to firemen. In so doing, they took several actions, the first of which was to remove four groups that were already in the law. These groups were the University policemen, the parole and probation officers of the State Department of Parole and Probation, investigators of the District Attorney's offices, and investigators of the Attorney General's office. They refused to approve several groups that had requested to be added, and they refused to approve coverage for some groups that were never in the law, but were frozen as of May 19, 1975, during the last Session where they had requested membership, and the Legislature decided not to add anyone during that Session because they had created a new police and firemen's retirement fund and authorized the Retirement Board to appoint an advisory committee composed of actual police and firemen. The gist of the situation was that after these groups were removed, they further provided a method in the law to repay the additional one half per cent employee and employer contributions that had been made by the groups, and to pay legal interest on those funds. They also provided that a person who could retire under the early retirement program for police and firemen could only use the service that was specifically listed in the law. This has been the major controversy with the bill. The bill covers the improvements to the retiree graduated scale cost of living increase, a correction to several discriminatory provisions in our law, a standardization of our percentage of benefit. It is an omnibus bill that represents the consensus of most employee, employer, and retired employee groups. Were it not an omnibus bill, you would probably have heard 30 to 40 individual bills to accomplish the purposes that are reflected herein.

GLOVER: The concensus of all the groups mentioned had to do with the original bill; how about now, with all the amendments?

BENNETT: Most of the amendments were technical. Some of the amendments in the Senate amounted to rewording things so they would sound better or hold up in court better. One thing was the police and firemen thing. Another that is a conflict with an amendment or bill passed by the Assembly is the question of continuing membership for the Ag Extension employees who are enrolled both in the federal system and in PERS. We understand that Mr. Dini is meeting with Senate Finance this morning, and that Frank Daykin has drafted an amendment that any action they take on Mr. Dini's bill will add an amendment to it that if his bill passes, Section 52 of our bill will be automatically deleted, which will eliminate a conflict between our two bills. And will eliminate any necessity of acting on our bill regarding the Ag Extension problem.

SENATOR LAMB

We just heard Dini's bill, A.B. 335, and he does have the amendment. Haven't taken any action on it at this point, but I think the bill will come out of the Committee with that amendment.

This bill hit the floor about twice. There was so much opposition to it, the way it was drafted. We had to keep calling it back in order to get it past the floor. I think now we've got a pretty good bill.

come back with recommendations next Session if there are some things wrong. On the police and firemen thing, it was the intent of that law to take care of the people who walked the beat and risked their lives. I don't know how everybody got into it; we found 200 and some odd people in that. The concensus on the floor of the Senate was--you clean it up or we won't pass it.

MELLO: How did all these people find their way into early retirement?

BENNETT: In 1971, there was an Attorney General's opinion that defined what a peace officer was. Unfortunately, the interpretation by the Attorney General was misleading because the law did not provide coverage for a peace officer, it provided coverage for a "police" officer. But the definition in the Attorney General's opinion, which was about 23 pages long, was that if you meet these definitions of a peace officer, you're eligible for coverage. The administration of the retirement system sent this AG's opinion to every agency with a cover letter which said if you have anybody you think meets this qualification, you put

them in. The law provides that the only people who can be added must be added by the retirement board. To give you an example of some of the people put in, some painters, some typists, some secretaries, etc. We were in the process in 1975 of getting a ruling, a legislative interpretation as to whether these people should be removed. There were about fourteen new groups that wanted to be added in 1975, and when the Legislature decided to create a separate retirement fund for police and firemen, and to authorize the retirement board to appoint a police and firemen retirement fund advisory committee which we did, it was decided that all of these groups would be frozen during the last two years and wait until action in this Session. These groups were all denied membership in this Session. We feel that their legal situation is very different from the other persons because they were never provided in the law. And in effect, they were held in abeyance for two years, allowed to contribute for two years, until the police and firemen advisory committee could meet with them during the interim period, come back and make recommendations until the Legislature could decide in this Session what to do with police and firemen.

GLOVER: What position does this bill leave those people in who are already covered under the early retirement that aren't vested?

BENNETT: The people who are vested, those who have ten years service, by law, there is a special section in the back we'll cover later, by law will be covered and retain full rights to retire under the early retirement program, but they retain only the rights that they have earned as of June 30, 1977. They will not continue contributing after July 1, 1977, nor will they earn additional eligibility. But every right that they had earned and vested as of June 30, 1977, will be retained in the law.

GLOVER: And those that don't aren't vested?

BENNETT: Will have their money returned to them and would lose any benefits that may have accrued. But the same thing happens to a member who terminates with less than ten years.

HOWARD: Senator Lamb, A.B. 335, you are not amending it to exclude those who were originally under extension service?

LAMB: No, A.B. 335 puts them back under a different kind of setup. We could put A.B. 335 in this act perhaps, but we didn't want to mess this up. We rather have another clean bill over there, and that's

the purpose of 335.

MELLO: Did you change the percentage?

LAMB: We haven't done anything yet. We just heard it. I think the only thing we'd do to it is make it compatible to 173. Strike section 52...

BENNETT: If the amendment which Mr. Daykin drafted is adopted, all it will do is, if A.B. 335 passes, section 52 of S.B. 173 is hereby null and void. That will mean that the Ag Extension people will be allowed to stay in both systems as long as they are employed. It would be identical to A.B. 335 passed out of the Assembly.

LAMB: They will phase out, then; there will be no new ones added?

BENNETT: No. Nobody new has come in since July 1, 1967.

Mr. Bennett provided a 79 page document which was distributed to the Committee members. He said the key thing in the document is the first ten pages which give a section by section analysis of the bill, but it refers back to the other support documents. So if there is an area where you have a question, it will refer back to that if there is a document that will support it. He said this document contains most of the information that was used as the basis for S.B. 173.

On page 2 of the document, under XI, Mr. Mello asked if law enforcement narcotics agents were cut out before, and Mr. Bennett said no, that they were added this Session; that they had not been in before. Parole and probation officers were in before, and cut out in this Session.

Mr. Hickey asked how many people they were talking about cutting out in parole and probation, and Mr. Bennett said about 35. He said the total within the four groups that were taken out of the law was about 65 people.

KEN BUCK representing the Retired Public Employees of Nevada I wish to speak only to the amendments affecting the re-employment of retired persons. This, incidentally, was not a consensus amendment that had been proposed here. They were not amended original bills. As Mr. Bennett has said, the retired person who returns to service

may earn \$3600 per year. He must notify the retirement office within ten days, and he must during one fiscal year be completely off all payrolls for one calendar month. This has worked very successfully for some 25 years, and we believe that the proposed amendments would deprive the retired person of this advantage which some people have been able to use to combat the effects of of inflation which are so hard on the retired person. The amendments would barr service in all public jobs, with sole exception to certain emergency service which I will discuss later.

On page 19, line 36, you will note that he may return to employment only in a position not normally eligible for membership in the system. Any position requiring four or more hours is eligible for membership in the system. So in my opinion, this would eliminate about 99.9% of jobs that would be available for occasional re-employment. Also, you will note on page 10, line 36, that substitute teachers are barred from membership in the retirement system. It appeared to us that this is an effort to eliminate substitute teachers from the restrictions of the new amendments. In other words, a retired substitute teacher could have unlimited employment. We feel that teachers should have some say-so about this. (paraphrasing) You will also note that the substitute teachers are barred--on page 18, line 14-- the young person would be barred from accumulating service credit on an intermittant basis as is possible to all other employees. I would recommend that the phrase substitute teachers be stricken.

Then, dealing with emergency service, page 20, lines 11 through 20...On line 17 "service is limited to one period of 30 days or less." This means in effect that if a person did return to service for one day in emergency situation, he would have his full quota; it doesn't say for how long, but we assume it would be for one year. maximum of 30 days--and it doesn't say whether they are calendar or working days--the increase permitted in line 38, page 19, from \$3600 to \$4800 becomes downright meaningless. There isn't one single job in the state that would pay \$4800 for 30 days of service.

In my personal experience which is some years back, I found very few persons who would approach even the limit in permissible earnings, and the usual re-employment service was for a period of just

a few days, maybe three or four or five. However, in the last ten days, I have been approached by two persons, each previously employed by the employment security department. One was an appeals referee /, the other was a senior claims examiner, and they were reemployed for a period right after the first of the year for a period somewhere between 2 and 3 months. You cannot go out on a street and pick up a person who can serve in either of these positions. It takes years of service and experience. I think to limit the retired employee to a maximum of 30 days, minimum of one day would be disadvantageous to both the retired person and the employer. In many cases, it would prevent hiring a full time employee.

Also, there must be two notices given of the 30 day employment-- one by the employer, one by the employee--and there must also be a certification prior to that employment that the employment is of an emergency nature. Requisite to satisfying an immediate need would hardly permit ^{the opportunity} prior notification.

Emergency situation connotes immediate need for an employee, which would hardly permit the opportunity for prior notification.

Shortly after this bill passed the Senate Finance Committee, I was notified by one of the Senators that they were afraid of the retired employee earning a second retirement by returning to employment. The persons retired under the public employees retirement system cannot earn the second retirement by returning to public employment. Their allowance ceases after the maximum is earned, and remains suspended for as long as employment continues. Contributions to the system must begin. If a person stayed another two years upon his reentry into retirement, he could definitely count that extra two years because he would have paid for and earned it. I think what the Legislature is concerned with is placing a ban on the employment of retired military personnel or policemen and firemen, many of whom have earned retirements in LA, San Francisco, and they do earn a second retirement, because it has no effect on their retirement allowance. But this has no connection. We believe the Legislature would be well advised to eliminate these amendments and leave the law where it is. We are sorry that we did not come into existence earlier last year and that we have been unable to participate in any decisions. We will be represented in the future.

BENNETT: First of all we have tried in several instances to clarify
Public
to the Retired/Employees of Nevada Association the misinterpretations
on the employment of retired employees. Membership is being limited
beginning July 1, 1977, to persons who are employed in positions
which are normally half-time or more. Tied in with this is the
definition of an employee which requires that you must have all normal
employee benefits provided to the other members of that agency, such
as sick leave, annual leave, insurance, group insurance, etc. There
are many positions that are available which are not covered under
all employee benefits and which are not regular half time positions.
I think a lot is being read into this detrimentally that is not there.
For example, I have 32 positions in my agency. We have two retired
employees over and above this who have done an excellent job for us
within the last two years preparing 35,000 records for microfilm.
They are not regular employees; they do not get regular benefits.
And so they would not be penalized in any way for this employment.
Secondly, the question regarding substitute teachers deals with
eligibility for membership. In 1971, the Legislature specifically
stated in a law that all substitute teachers who came back to employ-
ment from retired groups would be enrolled under social security.
And Social Security said, here again, we don't care what the State
says, our law won't allow it, so it was brought back. In the last
Session, we put in the 40 hour rule, and this covered some substitute
teachers who would occasionally teach forty hours within a month.
The school district ran into great difficulty with it. One of the
recommendations from the school districts when we had our problem
solving seminars was that we go back and prohibit membership to
substitute teachers. The emergency service--the comment was made
that you don't have time to cover an emergency. The way this was
explained to me by Mr. Baldwin after testimony with SEenate Finance
was that if you have an agency that just has to have a certain person
with a certain skill, and nobody in Personnel is available, they should
be able to use this person. All this would take is a phone call;

there doesn't have to be advance planning. The reason Senate Finance used 30 days, the purpose of the emergency employment was to give the agency time to find somebody time to fill the job. And they felt that 30 days was long enough for any agency to find somebody if they had an emergency. The two notices are required because we need to have control. There are definite laws that say if under certain circumstances you go to employment, you forfeit the benefit. One correction I'd like to make to Mr. Buck, is that he states that a person can earn \$4800 and he again becomes a contributing member of the system and he earns additional credit. This provision was repealed by S.B. 336 of 1975. At the same time, in 336 we provided that once you retire, you do not return to the field of membership. We feel that possibly there is a better way some of this section could be worded, but there is no intent here to take away from the retired employee the opportunity to come back for intermittent work. But we also feel that a person should not be fully retired and draw a retirement benefit. We feel that there have been abuses because we have records of abuses. We had a lady who retired as of August 31 a year ago. She stayed out her 30 days, came back to work October 1, but she went to work in the same job in the same office during those 30 days for free, and she continued in the same job under the same supervisors from then on, and they just scaled her benefit down to keep her one dollar under the \$3600 per year benefit. However, the addition of her \$3600 benefit and her retirement benefit was more than her previous salary, and she also gained an 8% benefit, because she didn't have to contribute to the retirement system any longer. This is what we are trying to prohibit. On page 49 of the handout/^{is}a list of some of the abuses. You have on page 50 and 51 a survey we did with the major state, county, and municipal agencies, and a majority of them indicated that they had seldom if ever encountered an emergency situation where they just had to have a retiree employee, but if they did come under that circumstance, they could put the person on an independent contract which will not in any way jeopardize the retirement benefit, because it is not employment.

MELLO: Vern, did I understand you to say that you do have better language; that you would like to clean up the language?

BENNETT: No. I said that possibly the language could be improved.

MELLO: What makes you think that?

BENNETT: I think possibly if you wanted to improve it to specifically state that this does not cover temporary, part time employment--we feel this is already said in other parts of the law because you are prohibited from making contributions on secondary employment, temporary, less than half-time, intermittent, independent contract, etc.

KEN BUCK: I am happy to learn that there will be a much more liberal interpretation than is shown by the statute itself. What it says right now is that you are barred from such employment in positions normally eligible for membership in the system. It does not say except for intermittent employment. The liberal interpretation is not in the statute.

HICKEY: With regard to other retirement systems and people employed in the state, in particular military retirement. Has this been looked at?

BENNETT: This has been discussed a lot in the newspapers lately. We don't prohibit membership to people who are drawing a retirement benefit from another system. If they meet our membership requirements, they are enrolled, and our benefits are not affected by benefits they receive from social security or from the military retirement system, or a system from another state.

MELLO: As we're going along, Vernon, if you see some necessary changes to clean this language up, we want your input on this.

HARVEY PINKERTON with the Juvenile Probation Dept., Yerington, NV He said he had been in the retirement system for some ten years, and that he and others would like to see juvenile probation officers remain in the early retirement system. They feel that their jobs are just as hazardous as other jobs, such as police and firemen.

The amendment to delete juvenile probation officers from the system

will have a very negative impact on the career of many officers.

DR. J. SANDORF

Dr. Sandorf pointed out a desired change in S.B. 173 at the end of Section 56 in the table. At the head of the column, it says "Increase of Base Benefit." He said this means they are picking out the group of retirees and treating them differently than any other group in the state. The 5% increase means an increase in current salary.

Dr. Sandorf asked Mr. Bennett what other state uses a base that is twenty or thirty years old. He suggested a change in the wording to say "increase of the current benefit." In Section 56, Subsection 3 (a) he suggested that "the base benefit for the retired employee" and in part (b) "fifty percent of the base benefit" in all of these cases it would be better to use the wording "current" benefit.

BENNETT: This principle was considered by the Retirement Board, and was also considered at the request of Senate Finance in looking at an additional two year benefit which they provided in S.B. 418. The additional cost in 1977 based on current benefit to in effect accumulate the benefit is \$75,972 in 1977, and \$102,276 in 1978. These are actual figures using our computer printout of the people who retired as of December 31, 1976. The expensive part of an accumulated benefit is the effect of a snowball effect of an accumulation. We had this studied by our actuary prior to the Session, and it was studied in 1974, a 3% cumulative allowance would cost 2.2% of salary if it were put into effect and accumulated year after year indefinitely. Even though we talk about an increase being provided during the next two years, there has never been an example where the Legislature has removed post retirement increases that have been provided. So we're still paying to the people who retired in 1963 a post retirement increase provided at that time and each year as they come forward. The major reasoning of the Retirement System for keeping base benefits is because we have figured cost, we know what it will pay. The total benefits during the next two years will cost us approximately \$1,100,000 on standard benefit, but if we go to a cumulative benefit, there is going to have to be some time in the future a designated increase either in the employer or employee contributions to reflect this. I agree with Mr. Buck and Dr. Sandorf

that it is unfortunate that their association was formed only three months before the Session. We had deadlines to meet. We have been meeting for the last two years, and all actuarial studies had to be made by last August so they would be available in October. We have indicated to them, and I understand from some members of the Legislative Interim Retirement Committee that they hope to thoroughly study the post retirement program between now and the next Session and hopefully come up with a definite method of funding, such as an increase of .25% in employee/employer contribution dedicated to that purpose, but establish once and for all how much money within the system shall be used for post retirement increases.

GLOVER: How many other retirement systems use base benefit?

BENNETT: I don't know exactly, but I can get that information for you. I would estimate about 75% of the state retirement systems and teacher retirement systems use a base benefit formula. You are playing with numbers, though. If you want to make it cumulative, then you lower the percentage increase. We went to a higher percentage increase in a graduated scale, because we felt the older retired employee needed a 5% 4.75%...also because this was the program we started in 1975 which was specifically recommended by the Retired Teachers Association and AARP.

GLOVER: Did the Board consider at all a dollar amount increase as compared to a percentage?

BENNETT: No. The reason we hate to do that is that the Retirement System has a formula. We don't have a dollar amount benefit like legislators. The legislator system, you get \$25 a month for each year of service. We get a percentage time average compensation which ties into the amount of money you actually buy in to get a retirement benefit. We feel it's awkward when a person...a guy may have only \$100 a month in benefits, but he may have only worked only ten years, where another guy may have \$700 or \$800 a month in benefits, but he worked 25 or 30 years at a high salary, and put many times more money into the system. So we feel percentage is a better approach.

TOM ECK -legal counsel for the Nevada Peace Officers Association

As a preparatory remark, I would say that the Nevada Peace Officers Association generally has no quarrel with the retirement bill. Certainly my dealings with Mr. Bennett on behalf of the NPOA and on behalf of others including the Carson City School District have been--I think Mr. Bennett has been very fair. He has worked hard to accommodate all the interests and still maintain some kind of actuarial soundness. In my opinion, he is an asset to the Retirement System and to the State of Nevada.

But we are here today to talk about the exclusion of Juvenile Probation Officers from early retirement. I won't get into the history of S.B. 173, but suffice it to say, initially the inclusion of Juvenile Probation Officers was supported, it was added in S.B. 173, it was deleted in a floor fight, and it was essentially as it is now in the third reprint. Deletion of the Juvenile Probation Officers, not only the new ones, but those who have been under the system since 1971. Senator Lamb earlier today used the words that we wanted to clean this up to allow those people who would risk their lives to remain in early retirement--and no others--well, I submit to you that that is exactly what Juvenile Probation Officers do. I won't get into the details of it. Mr. Pinkerton spoke to you today. Mr. Robert Sword is here from Washoe County, and Mr. Charles Crump who is the President of Nevada Peace Officers is also here to give you more details to amplify exactly what these officers do and exactly what type of hazards they encounter every day during the course of their employment.

I would suggest an amendment to Section 11, page 4, beginning at line 29 where it says "Police officer"... "who is:..." delete the colon and put "determined by the Board to engage in hazardous duty as a substantial part of his employment."

Of course, this is a policy decision of the Legislature as to whether you would want to delegate the authority to the Board. I would think that year after year, there will be more and more people coming before this committee and Senate Finance saying that they are engaged in hazardous duties. If you set up a police and firemen's advisory board to the Retirement Board, perhaps they ought to be making some decisions as to whether they are in fact included under early

retirement. And I would point out that the members of that board and also the Retirement Board seem to very cognizant of the actuarial soundness or the actuarial questions. As a point of fact, I think the JPO's would contribute to some actuarial soundness in the police and firemen. I would suggest that that amendment as a policy decision would eliminate some of the redundancy that goes on year after year of appearing to say that we should be part of early retirement because we are engaged in hazardous activities. I would also say that the amendment may eliminate some legal questions as to the exclusion of those people who are under the early retirement system and have paid in, particularly those like Mr. Pinkerton who have not only paid in himself, but have hired additional people to come within the retirement system under early retirement. It would also eliminate the legal question as to the exclusion of a large segment of police officers without any real data as to whether those police officers or peace officers are risking their lives or are engaging in a substantial part of their employment in hazardous duties.

Mr. Eck was then asked to repeat the amendment, whereupon he added that in Section 11 of S.B. 173, there would also be a deletion of (a) through (g) because this would eliminate the need for making specific references.

BENNETT: First, I'd like to touch on the legal question, because it has been profoundly discussed already in the Senate. The Attorney General's office is available here and will be here tomorrow morning to express what they feel the legal situation is regarding the person who has a vested right. Mr. Daykin from the bill drafter's office was requested also to evaluate it, and the real legal question is does the Nevada Legislature have the authority to remove from law that which they have provided by law, and especially can they remove it to those persons who have a vested right. Mr. Daykin's opinion is yes, they do have this authority, and yes, they can remove it. They cannot take away the benefits that a person had who has vested rights, but they can remove his earning additional benefits in the future under those circumstances. And that will be one of the key issues if this matter is taken to court.

MELLO: For those of you who have proposed amendments, please have them typed out and submitted to me.

LOU SPITZ: Mr. Spitz spoke regarding the issue of going into files to get information. He said they had no intention of browsing through the files, but they want to be able to spot check files.

BENNETT: There is nothing in S.B. 173 that would prevent Mr. Spitz from getting the information he wants. The difference might be that his staff will prepare the information for him rather than having him go through the files. (paraphrasing)

MIGHELS (retired)

With regard to the "base deal" Mr. Bennett talked about, in the eleven years I have been retired, I have received \$62.50 from my base retirement. I retired at \$9,900 a year; that same job today is getting \$18,900. I still have to eat, pay doctor bills, etc. I just want to know why we have to stay with this base deal; I think it's wrong.

BENNETT: I think another consideration that has to be made is that the Retirement System has to consider total cost, and we have already indicated to all the retired associations that we will be very happy to evaluate any approach between now and the next Session. We do not possibly have an opportunity at this Session to get a complete actuarial study of the effect on compounded, but we were able to talk to our actuary who indicated he was opposed to compounding retirement benefits unless you greatly reduce the percentage. But we have only so much money available. There has been a considerable amount of statements from this association to the press that the Retirement System has \$400 million, and that we ought to be able to give a lot more to the retired employee. The fact they ignore is that the system still has an unfunded liability of \$233 million. When you owe \$233 million, even though you have assets of \$400 million, you're still pretty well in the whole. We are trying to fund the retirement system, but I think the record will show that in 1975 and 1977, there have been more liberal post retirement increases provided to the retired employee since the system was formed in 1947. The previous increases were 1.5%, and here again, 1.5% of base. There has never been to our knowledge before this Session a request that it be compounded.

JOHN GRIFFIN: When I retired in October of 1970 (and these are actual figures) my basic retirement was \$617.53. At the rate of increase since that date, 1.5% for four years, and 3.25% for two years, my current retirement amounts to \$694.71, a money amount of \$77.18, a percentage amount of 12.5%. That is based on a provision of the law as it was. If this other provision had been in effect, basing it on current, my current retirement would be \$698.70 rather than \$694.71. It would be a very small amount moneywise. As far as the computations are concerned, the percentage would be 13.1% rather than 12.5%. The money amount would be \$3.99 that I would have been getting. If the provision were to go in effect this year, it would mean that I would get during this year an increase of \$21.99 rather than \$20.70, \$1.92. With \$400 million in fund, I don't see why this would amount to that much cost.

BENNETT: There very definitely is a cost. This example of \$4 a month times 3700 a month, your cost runs in the neighborhood of \$177,000 a year. We feel that a move like this should be fully studied by the actuary, that a definite cost should be attached to it, and that in all probability will involve some increase in either the employee/employer contributions or both. We think the program we have is very good. S.B. 418 has already been forwarded to this committee which also provide a two year bonus, but the purpose of S.B. 418 is to give immediate solution in addition to what we are providing in S.B. 173, so there can be a two year study of the total question of post retirement increases.

The meeting was adjourned at 11:00 a.m.

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VERNON BENNETT
EXECUTIVE OFFICER

STATE OF NEVADA

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



PUBLIC EMPLOYEES RETIREMENT SYSTEM

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MEMBERS
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DONALD L. REAM
GLENDON F. WALTHER
ROBERT C. WEEMS

ANALYSIS OF SENATE BILL 173, THIRD REPRINT, PREPARED FOR ASSEMBLY WAYS
AND MEANS COMMITTEE APRIL 18, 1977.

This analysis will briefly describe the reason for legislation provided in each section, with appropriate references to support documents which are located in numerical page order at the back of this analysis. We will also provide references to other sections of the bill that affect or refer to the particular section being analyzed. Each section will be itemized by the page and line upon which the section first appears.

- I. Section 2, page 1, line 3, creates an Interim Retirement Committee of the Legislature, composed of three Assemblymen and three Senators, to regularly review the operation of the System and make recommendations to the Board, Legislative Commission and the Legislature. The creation of this Committee continues a practice initiated by the Legislature in 1971 when the Harris Kerr Forster study was authorized.
- II. Section 2.5, page 2, line 7, continues the existence of the Police and Firemen's Retirement Fund Advisory Committee created by Senate Bill 336 of 1975 and identifies the duties of the Committee to make recommendations regarding the Police and Firemen's Retirement Fund. This clarification was recommended by the present Police and Firemen's Retirement Fund Advisory Committee. Refer to page 11.
- III. Section 3, page 2, line 16, authorizes the Board to make direct payments to a public employer for rehabilitation of a person on disability retirement at the request of the disability retiree. This is similar to the program used by NIC.
- IV. Section 4, page 2, line 21, limits access to a member or retired employee's records to the System, the member or retired employee or his spouse, a court order, or to a representative designated by the member or retired employee. However, this provides full access to member and retired employee records to persons who have a need to know. This would prohibit access to persons who do not have a specific question or need but would like to come into the office and merely browse through our records. The System is concerned about this type access because we have numerous benefits provided by law where the presence in the file of a dated document at a given time may either qualify or disqualify a person for service credit. We feel that complete open access to our records would require the staff to employ additional persons to

accompany people who come into the office to browse. Refer to Section 13, page 5, line 32, which clearly states that the System's official correspondence and records are public records available for public inspection. Refer to pages 12 and 13.

- V. Section 5, page 2, line 28, is a clean-up provision from Senate Bill 336 of 1975 which prohibited free military service after its passage. The previous law allowed credit only after a member earned five years of service. Several persons had met all qualifications except the five years of credit when Senate Bill 336 became law. This section will allow those persons to have the free military credit as soon as they acquire the necessary five years of service.
- VI. Section 6, page 2, line 33, makes the same provision and clean-up correction as Section 5 for persons who had qualified for free prior service but had not acquired the necessary ten years of credit. There are approximately five persons in this category.
- VII. Section 7, page 2, line 37, limits survivor benefit coverage from our System and other public funds to 100% of the deceased member's average compensation. This provision is necessary because NIC also provides a survivor benefit for job-related death. We placed the same recommendation in the law in 1975 for disability retirement because NIC provides disability benefits for job-incurred injuries.
- VIII. Section 8, page 2, line 45, creates an escheats fund for the Retirement System where a member or retired employee dies where no legal heir comes forward to claim any possible refund of contributions. This section also establishes procedures for heirs to make subsequent claims. Refer to Section 44.7, page 27, line 14, which is a disclaimer to other escheat funds established in NRS 154.010. Refer to page 14.
- IX. Section 9, page 3, line 24, redefines compensation to eliminate retirement contributions on overtime, terminal leave, secondary employment and employment which is less than half-time. Page 3, line 47, also eliminates retirement contributions on salary or bonuses which are specifically tied to a member's commitment to retire. Contributions shall be made on longevity, shift differential, hazardous duty and extra duty assignments such as holiday pay. Refer to pages 15 through 18.
- X. Section 10, page 4, line 4, lists the firemen which are covered under the retirement fund for police and firemen, provides coverage for related positions when the person is promoted from a fireman position listed in the law, and determines that service not specifically listed in this section shall not be entitled to membership in the early retirement program as a fireman.
- XI. Section 11, page 4, line 25, lists the police officers which are covered under the retirement fund for police and firemen, provides coverage for related positions when the person is promoted from a police officer position listed in the law, and determines that service not specifically

listed in this section shall not be entitled to membership in the early retirement program as a police officer. This section removes from present law coverage for a member of the University of Nevada System Police Department, a parole and probation officer of the Department of Probation, an investigator of a District Attorney's office and an investigator employed by the Attorney General. This section spells out coverage for a guard, jailer or matron of a county or city jail which have previously been covered without being spelled out in the law, and adds an agent of the Investigation and Narcotics Division of the Department of Law Enforcement Assistance. This has been a very controversial section of Senate Bill 173 because Senate Finance has attempted to eliminate coverage for positions which were not specifically police or firemen. They also eliminated several positions which were frozen during the 1975 session but were not specifically listed in the law. Refer to listing on pages 19-26.

- XII. Section 12, page 5, line 5, adds the Nevada Interscholastic Activities Association to membership in the System. They have been covered since their creation and were reporting through the Carson City School District. This association is similar to a council of governments. They establish rules and tournament competition for high school athletics for all the school districts.
- XIII. Section 13, page 5, line 18, establishes the System as an actuarially funded system, which has been the recommendation of the Harris Kerr Forster study prepared in 1971 and the intent of legislation in 1973 and 1975. It establishes that the System is a public agency supported by administrative fees transferred from retirement funds but that it shall be regularly reviewed by the executive and legislative departments. It spells out that the System may use any services provided to a State agency and requires use of State Purchasing. Other laws not affected by this Act require that the System use State Personnel and State Printing. The section further determines on line 32 that the System's official correspondence and records and minutes of meetings are public records available for public inspection. Line 35 determines that the public employers are not liable for any obligation of the System. This wording is necessary to relieve public agencies from having the unfunded liability of the Retirement System proportionately counted in their debt structure for bond ratings when they issue municipal bonds.
- XIV. Section 14, page 5, line 37, authorizes the Board to have closed meetings with investment counsel which are limited to planning future investments and with legal counsel which are limited to advice upon claims or suits by or against the System. All other meetings are open to the public and notification is made to all public employers at least ten days in advance.

- XV. Section 15, page 5, line 47, establishes that the Retirement Board shall fix the salaries of the Executive Officer and Assistant Executive Officer subject to approval of the Interim Retirement Committee of the Legislature. Mr. Daykin has advised that this procedure is constitutional. These salaries will still be under the limitation equivalent to 95 percent of the Governor's salary. The Executive Officer and Assistant Executive Officer are professional positions which must be recruited nationwide. Line 20 requires that the Executive Officer shall not pursue any other business or occupation or perform the duties of any other office of profit. Refer to page 27.
- XVI. Section 16, page 6, line 22, removes the Investment Committee from retirement law. No other committee of the Board is listed in the law. Due to an Attorney General's Opinion that all members of the Retirement Board are fully responsible for investment decisions, the Board has enacted a policy of meeting in a committee as a whole on investment matters. Refer to pages 55 through 63.
- XVII. Section 17, page 6, line 32, determines that the System shall have a biennial actuarial valuation rather than an annual valuation. Most systems have a valuation every four years. We feel that it is a waste of money to have a valuation every year because the figures seldom change that much within a year. It is most significant to have a report as of the fiscal year which ends immediately prior to a legislative session. On page 7, line 2, this section spells out the System's right to demand repayment of funds erroneously paid within six years prior to the date of determination. Page 7, line 5, removes the optional annuity program which was enacted in 1975 due to a change in an IRS ruling which makes a qualified program impossible. Refer to pages 28 through 30.
- XVIII. Section 18, page 7, line 20, provides the vehicle to pay disability retirement allowances to employers for rehabilitative purposes. Refer to Section 3, on page 2, line 16.
- XIX: Section 18.5, page 8, line 1, represents technical corrections prepared by the bill drafter to remove out-of-date provisions.
- XX: Section 19, page 8, line 35, places a ceiling on the administrative fee of \$2 per month for regular members and \$2.20 per month for police and firemen members, authorizes separate and additional administrative fees for police and firemen to pay additional expenses for their fund and travel for the Advisory Committee. Page 9, lines 1 through 4, authorize future administrative fees to be included in the present contribution rate rather than paid individually by members and their public employers. Refer to pages 31 and 32.
- XXI. Section 20, page 9, line 11, is a technical clean-up provision to terminate the Investment Committee from the law. Refer to pages 55 through 64.

- XXII. Section 21, page 9, line 22, limits membership in the System to a justice of the Supreme Court and District Court judge who became a member prior to July 1, 1977 because there are separate District Court judge and Supreme Court justice retirement systems available to these officials.
- XXIII. Section 23, page 9, line 39, removes out-of-date sections regarding membership and determines that membership after July 1, 1977 shall be limited to positions considered to be half-time or more according to the full-time work schedule established for the public employer. This section also removes optional membership provided in the law to certain groups in certain circumstances as of July 1, 1977. Refer to pages 33 and 34.
- XXIV. Section 24, page 10, line 20, prohibits membership to District Court judges and Supreme Court justices appointed or elected after July 1, 1977 unless they are already a member of PERS, members of the professional staff of the University who are employed after July 1, 1977, and employees who are over age 55 at time of employment unless they can earn ten years' service before reaching age 65. The members of the professional staff of the University employed after July 1, 1977 will be prohibited from membership in accordance with an agreement between the Retirement Board and University Board of Regents to eliminate optional membership and allow these persons to enroll in the other system, TIAA/CREF, provided by the University. The prohibition for persons who are over age 55 if they cannot earn ten years' service by age 65 is provided to allow them coverage under Social Security. The present law gives these persons optional membership but Social Security will not cover them if they have an option to join our System even if they elect not to do so.
- XXV. Section 25, page 10, line 48, provides clean-up language for computation of retirement allowances for employment as a volunteer fireman in accordance with the recommendation of the Attorney General's office. There is presently only one volunteer firemen group enrolled in this program which is located in Fallon.
- XXVI. Section 26, page 12, line 5, reflects additional wording added by the bill drafter that a retired employee is not a member and may not return to membership. This was established in S.B. 336 of 1975.
- XXVII. Section 27, page 12, line 15, removes the plus two percent and plus four percent additional contributions for persons who were employed after July 1, 1973 who were over age 36 at time of employment. The System's actuary feels that this provision is discriminatory because the older employees are paying higher contributions for the same benefits as younger employees. This is the only provision in our law where employees make contributions that are not matched by the employer. This will discontinue the additional contributions July 1, 1977 but will provide no refund of contributions made prior to that date. On page 13, line 1, this section continues retirement contributions on temporary-total disability from NIC provided the public

employer pays the difference between the NIC benefit and regular compensation. Refer to pages 35 through 37 and page 40.

- XXVIII. Section 28, page 13, line 7, reflects the testimony received by and recommendations of the Interim Committee to Study Mandatory Employer Pay. This section clarifies two or three problems encountered with the wording established in 1975. The employer pays the employee contributions in lieu of a 7.50 percent raise. However, upon retirement, the previous law increased the person's average salary only 7 percent per month for the first 36 months. This will increase the person's average salary 50% of the employer-pay contributions for each month under the employer-pay program to insure that a person under the employer-pay program will receive an average salary equivalent to those persons which are not. This section eliminates the annual increase in employer rate for police and firemen and establishes their rate at a standard 17 percent of compensation. The section allows an employer to begin or discontinue the program at the beginning of a fiscal year or established payroll adjustment period. For example, all raises for State employees are initiated January 1. The section also adds that the Retirement System may elect the employer-pay program for all unclassified employees and the Board of Regents may elect for professional staff of the University. The classified employees of the Retirement staff and University may go under the employer-pay program upon determination by the State Board of Examiners. Refer to page 41.
- XXIX. Section 29, page 14, line 21, provides technical corrections to our refund of employee contribution procedures which are required because of the new optional employer-pay program and the proposed membership rule which would eliminate membership July 1, 1977 and thereafter to persons in positions which are half-time or more.
- XXX. Section 30, page 14, line 50, provides technical corrections to the repayment procedures. It eliminates the 6 percent simple interest and establishes that the interest rate will be equivalent to the assumed investment income rate used in the most recent actuarial valuation. This is designed to eliminate future amendments to the law as our investment income continues to increase.
- XXXI. Section 31, page 15, line 23, provides technical corrections to the employer contribution rate. There are no increases in the employer contribution rate this year.
- XXXII. Section 32, page 15, line 39, provides technical corrections to the contribution procedures and determines that future retirement reports shall be submitted monthly. Reports are presently submitted at the discretion of the agencies.

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- XXXIII. Section 33, page 16, line 31, provides technical corrections in computation of average compensation and benefits for persons with service as county commissioner, city councilman or mayor in accordance with an opinion of the Attorney General. Refer to pages 42 through 45.
- XXXIV. Section 34, page 17, line 42, provides technical corrections for members who had legislative service prior to July 1, 1967 when the Legislators' Retirement System was formed.
- XXXV. Section 35, page 17, line 49, removes out-of-date sections regarding computation of service and makes other technical corrections without actually changing present method of computation of service.
- XXXVI. Section 36, page 18, line 30, removes out-of-date sections regarding computation of service for school district employees and provides computation of service under the four-thirds rule for University professional staff equivalent to that provided to school district employees.
- XXXVII. Section 36.5, page 19, line 8, incorporates the provisions of S. B. 24 with amendments regarding employment of retired employees. A complete analysis of the provisions of this section is found on pages 46-51.
- XXXVIII. Section 37, page 20, line 21, changes the retirement formula for computation of benefits. A member presently receives 2.50 percent for each year of service from the first through the 20th year and only 1.50 percent for the 21st through the 30th year, for a maximum benefit of 65 percent of compensation. This is a very discriminatory provision because the career employee who has over 20 years' service is paying the same contribution rate and receives a 1.50 percent benefit that newer members are paying for a 2.50 percent benefit. This section will provide 2.50 percent for each year of service up to 30 years, with a maximum benefit of 75 percent. ~~51~~ It also provides that those members who earn 30 years before age ~~60~~ for regular members and age 50 for police and firemen will earn an additional 2.50 percent for each year of service performed prior to earning full retirement eligibility, with a maximum of 90 percent of average compensation. Average compensation is defined as the average of a member's highest consecutive salaried 36 months, which deletes the present provision which limits this salary to the last ten years of service. This section also eliminates a double penalty in the retirement formula for regular part-time employees. Refer to pages 38 39 and 53.
- XXXIX. Section 37.5, page 20, line 47, represents technical corrections prepared by the bill drafter.
- XL. Section 38, page 22, line 3, represents technical corrections by the bill drafter to change reference from member to retired employee. This section also spells out that a retired employee may not change the selected option or designated beneficiary after the effective date of retirement. It further provides that a retired employee shall have

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the option to forfeit his retirement benefit under certain circumstances and obtain a refund of employee contributions.

- XL I. Section 39, page 23, line 17, removes the requirement for survivor benefits that a surviving spouse must have been married to the deceased member for at least two years prior to death. Refer to page 34.
- XL II. Section 40, page 23, line 29, deletes the requirement that survivor benefit coverage will be provided only to persons who have six months' credit in the seven months immediately preceding death. This section provides full survivor benefit coverage to spouse, minor child and dependent parents under all sections to vested members regardless of their employment status at time of death. This section also provides first-day survivor benefit coverage for a job-incurred death. Refer to page 34.
- XL III. Section 41, page 24, line 3, removes the restriction that monthly benefits shall be paid to only three surviving children and provides that the monthly benefit will be paid to all eligible children.
- XL IV. Section 42, page 24, line 31, provides that an eligible spouse may receive monthly benefits or a lump-sum refund of the employee contributions, to include 50 percent of contributions made by the public employer under the optional employer-pay program. This eliminates one of the major objections to the employer-pay concept. Refer to page 41.
- XL V. Section 43, page 24, line 41, provides technical corrections to the definition of a vested right which have been recommended by the Attorney General's office.
- XL VI. Section 44, page 25, line 1, updates the requirements for investment counsel to eliminate problems encountered by the System last year when we advertized nationwide and employed new investment counsel for the first time since 1959. This section, on line 31, also spells out the Retirement Board and investment counsel's liability for the investment program in accordance with recommendations from the Attorney General's office. Refer to pages 55 through 63.
- XL VII. Section 44.1, page 26, line 10; Section 44.2, page 26, line 21; Section 44.3, page 26, line 30; Section 44.4, page 26, line 45; Section 44.5, page 27, line 1; and Section 44.6, page 27, line 8, represent technical corrections prepared by the bill drafter in conjunction with the Retirement Board's agreement with the University Board of Regents regarding the nationwide TIAA/CREF program and PERS. The basic agreement provides that optional membership under either plan shall be eliminated, professional staff employed after July 1, 1977 shall be enrolled in TIAA/CREF unless they are already a member of PERS, in which case, they shall remain in PERS.

- XLVIII. Section 44.7, page 27, line 14, is a technical correction prepared by the bill drafter. Refer to Section 8, page 2, line 45.
- XLIX. Section 45, page 27, line 23; Section 46, page 27, line 30; Section 47, page 28, line 4; and Section 48, page 29, line 16, represent technical corrections prepared by the bill drafter.
- L. Section 50, page 29, line 30, represents sections in the retirement law which are repealed due to the fact that they were either out-of-date or in conflict with the provisions of this Act.
- LI. Section 51, page 29, line 32, is based upon the agreement between the Retirement Board and the University Board of Regents. It provides that members of PERS and TIAA/CREF will have one final determination to either remain in that System or transfer to the other System by December 31, 1977. This is the solution to a problem which has been in effect since 1969.
- LII. Section 52, page 29, line 48, provides that employees of the Agricultural Extension Department of the University who are presently enrolled simultaneously in the Federal Retirement System and PERS will be allowed to continue membership in PERS only until June 30, 1977. This section is in conflict with A.B. 335 by Assemblyman Dini which will be heard by the Senate Finance Committee at 8:00 a.m., April 22, 1977. Mr. Daykin has prepared an amendment to A.B. 335 which will provide that Section 52 of S.B. 173, Third Reprint, is hereby repealed upon passage of A.B. 335. This amendment will eliminate the conflict between the two bills. Senator Lamb has indicated that he favors the amendment to eliminate the conflict. There will be no amendment necessary to S.B. 173, Third Reprint, based on this approach.
- LIII. Section 52.5, page 30, line 6, provides a refund plus interest to persons whose coverage under the early retirement provisions for police and firemen is cancelled by this Act. Refer to Sections 10 and 11 on page 4.
- LIV. Section 52.6, page 30, line 13, establishes the vested right for service earned before July 1, 1977 to persons who have completed ten years of creditable service under the Police and Firemen's Retirement Fund and whose further eligibility is removed by this Act.
- LV. Section 52.7, page 30, line 18, shall restore survivor benefits to a spouse whose benefits were cancelled before July 1, 1977 because of previous earnings restrictions which are no longer in the law. These restrictions were removed by S.B. 336 of 1975. This will authorize a surviving spouse to receive benefits in accordance with the present law.

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- LVI. Section 53, page 30, line 25, provides that the four-thirds credit to University professors shall be retroactive for those who did not retire prior to July 1, 1977. Refer to Section 36, page 18, line 30.
- LVII. Section 55, page 30, line 49, is a technical correction prepared by the bill drafter.
- LVIII. Section 56, page 31, line 38, provides the continued graduated-scale post-retirement increases beginning July 1, 1977 and July 1, 1978. A person who has been retired twelve years or more receives 5 percent, one who has been retired eleven years receives 4.75 percent, etc. down to 2.25 percent for a person who has been retired one year. This procedure is recommended by the Retired Teachers' Association and American Association of Retired Persons, who have worked with the Retirement System over the last two years. This section also provides that the post-retirement increases must not exceed the All Items Consumer Price Index.
- LVIX. Section 57, page 32, line 32, lists specific sections which will go into effect upon passage and provides that all other sections shall become effective on July 1, 1977.

We will be very pleased to answer any further questions you may have regarding the provisions of this Act.

Respectfully submitted,



Vernon Bennett
Executive Officer

VB/sm
Attachments

January 11, 1977

PROPOSED SEPARATE SECTION TO RETIREMENT OMNIBUS BILL

It is the intent of the Legislature that the Police and Firemen's Retirement Fund shall be and remain separate and apart from the fund for regular members of the Public Employees' Retirement System and that the Retirement Board shall consider recommendations from the Police and Firemen's Retirement Fund Advisory Committee based on their merit in relation to the funding, membership and benefit situation of the Police and Firemen's Retirement Fund.

It shall be the duty of the Police and Firemen's Retirement Fund Advisory Committee to provide recommendations with respect to administrative and benefit matters pertaining to the Police and Firemen's Retirement Fund; and the Retirement Board shall consult with the Police and Firemen's Retirement Fund Advisory Committee in all matters concerning the Police and Firemen's Retirement Fund.

This was approved at the Police and Firemen Retirement Fund Advisory Committee meeting held January 17, 1977.

Refer to Section 2.5, page 2, line 7.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

June 20, 1974

Mr. Vernon Bennett
Executive Director
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Public Inspection of Individual Retirement Files

Dear Mr. Bennett:

In reply to your recent inquiry, this office has done preliminary research on the question of whether or not any person may inspect and copy documents contained in the files of the Retirement Board maintained on each member of the Public Employees Retirement System.

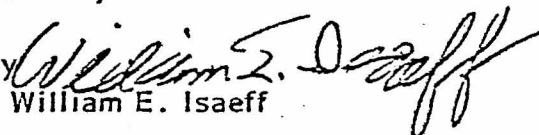
The Nevada Public Records Law, NRS Ch. 239, contains an extremely broad provision with respect to the inspection of public records. Unfortunately, the statute does not contain a definition of the term "public records". After researching pertinent cases tried before the courts of this state and other states, it is the opinion of this office that the individual retirement file of a particular member of the system, which often contains information of an extremely sensitive and confidential nature, is not a "public record" within the meaning of the Nevada Public Records law.

Therefore, it is our advice that the Board from this day forward respectfully decline to make these files available for inspection by any person other than the public employee himself who wishes to review his own file or any person designated in writing by such an employee as having authority to review the file on his behalf.

We trust that the above satisfactorily answers your inquiry, however, if you have any further questions in this regard, please advise.

Sincerely,

ROBERT LIST
Attorney General

By 
William E. Isaeff

Deputy Attorney General

Refer to Section 4, page 2,
line 21.

1731

WEI:rab



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

CAPITOL COMPLEX
SUPREME COURT BUILDING
CARSON CITY 89710

ROBERT LIST
ATTORNEY GENERAL

July 28, 1976



Mr. Vernon Bennett
Executive Officer
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Public Inspection of Individual Retirement Files

Dear Mr. Bennett:

On June 20, 1974, this office, in a letter opinion, advised you to respectfully decline to make available for public inspection the retirement file on any individual member of the Public Employees Retirement System other than the member himself or any person designated in writing by such member as having authority to review the file.

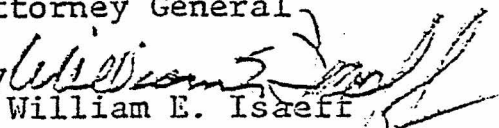
Following additional research into this question, we are now of the opinion that our original advice to you in 1974 was overly broad and we hereby limit that opinion accordingly.

In the future, when a request is received for inspection of a member's file by a person other than the member himself or a person designated by the member in writing as having authority to review said file, the Board may make such file available, except that any information in said file of a personal nature (i.e. medical or investigation reports) should first be removed from the file. This means that information concerning the member's employment record, contribution record, etc. may be inspected by members of the public.

We trust that the above removes any confusion which may have existed over our previous opinion on this subject; however, if you or other staff members have any further questions in this regard, please advise.

Sincerely,

ROBERT LIST
Attorney General

By 
William E. Isaefi
Deputy Attorney General

Refer to Section 4, page 2,
line 21.

1782

FUNDS HELD BY SYSTEM FOR ESCHEATS

M. Hilliard	\$ 6.88	Set up
D. Swancott	51.92	Set up
C. William	1,807.38	Pending legislation
J. Rentscheler..	381.08	Pending legislation

Refer to Section 8, page 2, line 45.

CONCENSUS FROM SCHOOL DISTRICT MEETING HELD APRIL 26, 1976

1. Problem: The present method of providing service credit on a four-thirds basis for portions of a year to twelve-month employees who wish to apply for a refund or retirement benefit at any date other than August 31.

Solution: Twelve-month school district employees should be treated the same as all other members of the System who are employed on a twelve-month basis. Classified employees, other than 12-month employees, would remain under the four-thirds rule.

2. Problem: Conflict between the interpretations of "school year" as adopted by the Retirement Board (September 1 through August 31) and those recognized by school districts (July 1 through August 31, July 1 through August 1, and July 1 through June 30).

Solution: There is no problem if the solution to number 1 is adopted.

3. Problem: The new membership requirements effective July 1, 1975 and thereafter which require membership for any amount of employment for present members of the System and membership for new employees who work at least 40 hours within a given month.

Solution: (1) Beginning July 1, 1977, membership shall be required for any person who is employed in a position which would normally require half-time or more.

Solution: (2) Leave as is--members shall be required to pay retirement contributions on all employment regardless of duration.

4. Problem: Required membership for substitute teachers.

Solution: Membership shall be denied to substitute teachers and student employees unless they are already members at time of employment.

5. Problem: The question of whether a member should pay retirement contributions on employment earned in more than one position with his agency, overtime, simultaneous employment with another public employer, and terminal leave.

Solution: (1) Members shall be required to make contributions on all earnings from their regular position or related employment with same public employer.

Solution: (2) Members shall not be allowed to make contributions on secondary employment with any other public employer.

Solution: (3) Members shall not be allowed to make contributions on terminal leave.

Refer to Section 9, page 3, line 24.

ALLEN RUSHTON
Associate Assistant Superintendent

JOHN QRR
Superintendent

W. A. LONGOS, Member

W. H. STUBBS
East Ely Elementary

CLYDE SMOLEY
McGill Elementary

ALLEN RUSHTON
Rural Elementary

JOSEPH THIBLE
White Pine High School

WHITE PINE COUNTY SCHOOLS

P.O. BOX 400

EAST ELY, NEVADA 89315

PHONE 289-4851

January 25, 1977

Vernon Bennett, Executive Officer
Public Employees Retirement System
Post Office Box 1569
Carson City, Nevada 89701

Dear Mr. Bennett:

The White Pine longevity plan came from a collective bargaining demand made by our local teachers union. This was in the spring of 1971 and has been part of the labor contract since that time. Our right to bargain salary is clearly defined in NRS 288.150. The Board's authority is further defined in NRS 386.350, 391.100, and 391.120.

It is unfortunate for the Retirement System to become involved in the collective bargaining process. Your letter to Mr. Carter where you state you have discussed this with the NSEA and your letter copy to the NSEA have brought you into the bargaining arena.

The initial union demand was not countered and was accepted by the Board when first proposed. Since that time the local has not asked for this benefit to cease, but have suggested extending the salary schedule to include the three longevity steps. This latter has been refused. Now the State and national union is involved in a play to achieve this. Perhaps this may be the answer. However, it is only fair for you to understand it would cost this district the following amounts on the existing salary schedule:

1977-78 (58½)	\$23,250
1978-79 (64½)	25,635
1979-80 (72½)	28,814

I do not believe the Union demand was a bad one. In the past, various districts have granted longevity increases to individual employees. The danger of this is like any other "grand fathering" it is not always consistent and consequently is not fair. The demand was to reward able, productive employees through a longevity plan that was fair and equitable to all. The need for this is keenly felt by school district employees when they see the fine longevity plan that is available for state employees.

Refer to page 3, line 47

AN AFFIRMATIVE ACTION EQUAL OPPORTUNITY EMPLOYER

1/85

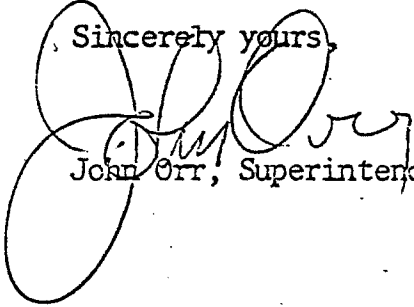
Vernon Bennett
January 25, 1977
Page 2

As I understand, it works after ten years and in six years amounts to \$600 per year. This plan appears highly commendable to me, but in the eyes of a school district employee, without a longevity plan, it could be viewed as unfair. I am confident our district longevity plan costs the taxpayers much less money.

Perhaps our longevity plan needs to be modified. If there are actuarially established costs to our plan that are in excess of the costs of the State plan, it would be reasonable for the system to establish increased retirement fees to offset. It would also appear reasonable to assess this same increased fee to individuals who receive inordinate salary increases in their last three years. This would insure fairness to all concerned.

Thank you for the invitation to appear before the Board. I will call you if I can get away.

Sincerely yours,



John Orr, Superintendent

JO/br

Refer to page 3, line 47.

DATE: January 25, 1977
RE: White Pine Longevity Plan

- 1.0 In the spring of 1971 in collective bargaining, the Teachers Association demanded a longevity plan.
 - 1.1 This was to assist those teachers at the top of their vertical salary column.
 - 1.2 The collective bargaining process went to factfinding that year and the final contract for 1971-72 included a provision for longevity.
 - 1.3 The longevity plan is patterned after the philosophy behind the State of Nevada Longevity Plan, that is to reward experience when the top of the regular schedule has been reached.
 - 1.4 The longevity plan has been a part of the Association Contract since that time.
- 2.0 On June 14, 1971, the Administrators through meet-and-confer bargaining with the Board of School Trustees were granted, by motion, a longevity plan. This three-year plan affected two administrators in 1971-72.
 - 2.1 Year one this was a .4% salary increase above the amount granted the other administrators.
 - 2.2 In policy the school administrators do not have a salary schedule. However, policy now provides administrators will receive the same longevity pay as teachers in their three-step longevity plan.
- 3.0 The Board of School Trustees provided a longevity plan for salaried personnel in their policy manual starting with the year 1974-75.
 - 3.1 This plan is not keyed to the Association salary schedule.
 - 3.2 This plan is established upon 4% of the base first salary scheduled for that position and is paid during the three years prior to retirement.
- 4.0 The White Pine plans appear fair and equitable to all employees. The plan arose from a Union demand made in collective bargaining. The purpose was to grant a longevity increase, patterned after the Nevada State Employees Longevity Plan, to all White Pine salaried employees in their last three years of employment.

Refer to page 3, line 47.

CONFIDENTIAL

CONTRIBUTING 5/19/75 IN A DISAPPROVED POSITION

Agency/Name	Position	Age	Police/Fire Service			In this Position		
			Valid, other Capacity					
STATE DIVISION OF FORESTRY								
Knighton, R. G.	Equipment Mech II	48				11 yr 1 mo 0 dy		
Lambert, J.	Supervisor, Equip- ment Mech I	41				13	8	0
Ogden, J. C.	Equipment Mech II	44	1 yr 3 mo 0 dy			1	8	0
INVESTIGATION & NARCOTICS								
Perry, J. O.	Narcotics Agent III	42	7	7	0	11	5	0
PUBLIC SERVICE COMMISSION								
Gardner, H. J.	Inspector	50	7	2	0	5	3	1
Gifford, R. L.	"	54	7	4	0			
Peterson, H. K.	"	54	12	5	0	9	1	0
Stromer, W. J.	"	45	9	7	0	8	3	0
Wattles, S. L.	"	50	10	9	0	6	4	0
NEVADA YOUTH TRAINING CENTER								
Bash, D. F. III	Youth Parole Counselor (YPC)	33				2	8	
Burge, T. W.	YPC	34				9	2	
Hardison, L.	YPC	34				5	10	
Isernhager, R. K.	Supervisor, YPC	39				8	4	
Keeney, W. D.	YPC	38	1	2		8	6	
Smith, R. J.	YPC	39				17	8	
Vogel, J.	YPC	49				5	2	
Weigand, H. E.	YPC	49				7	11	
CHURCHILL COUNTY PROBATION DEPARTMENT								
Garrison, D. L.	Juvenile Proba- tion Officer (JPO)	39	2	6	0	10	1	0
Mitchell, A.	JPO	47				14	11	0
Travis, M. L.	Dispatcher	34				4	7	0
CLARK COUNTY								
Beggs, J.	Airport Enforce- ment Officer	59				8	4	
Campbell, K. J.	Licensing Agent	53	2	5	0	6	1	0
Conlan, J. M.	Parking Enforce- ment Officer	56				10	2	
Cottino, C. G.	License Investi- gator I	29				4	8	
Craighead, H. H.	Processing Officer	59				6	5	
Denman, H. C.	License Investi- gator I	65				6	3	
Dotson, E. M.	Sheriff Processing Officer	56				4	4	0
Dunn, D. E.	Airport Enforce- ment Officer	36				8	11	0
Garrett, W.	Technical Services Officer	55				9	9	

CONFIDENTIAL

CONTRIBUTING 5/19/75 IN A DISAPPROVED POSITION

<u>Agency/Name</u>	<u>Position</u>	<u>Age</u>	<u>Police/Fire Service</u>			<u>In this Position</u>		
			<u>Valid, other Capacity</u>					
CLARK COUNTY (Cont.)								
Good, K.	Clerk Typist	30				11 yr	10 mo	0 dy
Greene, Jr., E. A.	Inspector	26				3	5	0
Griffin, T. D.	Airport Enforcement Officer	29				7	9	0
Guthery, L. J.	Dispatcher	36				7	11	
Howe, A. B.	Fire Inspector	39	4	8	0	4	10	0
Jiminez, G. F.	Maintenance Man II	25				2	8	0
Jolley, G. K.	Detective	30				8	2	0
Jones, B. J.	Cook	51				7	11	0
Jones, D. R.	Probation Officer	33				7	6	0
Kearns, C. W.	Parking Lot Attendant	44				16	5	0
Ladkey, F. J.	Airport Enforcement Officer	60				7	8	0
Logsdon, J. L.	Guard	49				4	5	0
Marshall, C. A.	Sheriff's Dispatcher I	39				6	2	0
Mumpower, F. P.	I. D. Technician	52				9	1	0
Maccarato, T. J.	Prison Guard	59				11	8	0
Olthoff, R. E.	Detective	47				16	7	0
Orr, R. R.	Sheriff's Process Officer	59				8	2	0
Palmigiano, A.	Tech. Service Officer	50				4	0	0
Pappageorge, J. Parker	Driver	37	1	6	0	11	7	0
	Deputy Sheriff							
	Radio Dispatcher	33				7	1	0
Rainey, K. E.	Maintenance and Supply Man	46				3	6	0
Rives, C. H.	Deputy Sheriff License Investigator I	54				8	6	0
Sage, M. F.	Process Officer	58				3	3	0
Schneider B.	Clerk Stenographer I	30				4	3	0
Schulte, M. L.	Technical Services Officer	43				4	0	0
Sigretto, M. R.	Clerk Typist	42				17	7	0
Strahan, J. F.	Bailiff	59				10	1	0
Templeton, L.	Animal Control Officer	64				8	1	0
Tucker, F. A.	Security Guard	44				3	4	0
Uleplic, M. J.	Fire Inspector	28				3	3	0
Wade, D. B.	Sheriff's Process Officer	60	4	9	0	5	6	0
Wagenhoffer, G. P.	Painter	37				6	9	0
Young, M. E.	Deputy Sheriff PBX	50				9	4	

CONFIDENTIAL

CONTRIBUTION 5/19/75 IN A DISAPPROVED POSITION

Agency/Name	Position	Age	Police/Fire Service			In This Position		
			Valid, other	Capacity				
DOUGLAS COUNTY								
O'Neill, C. A.	Juvenile Probation Officer	36				3 yr	8 mo	0 dy
ELKO COUNTY JUVENILE PROBATION								
Perry, B. J.	Juvenile Probation Officer	27				2	8	0
Richardson, J. L.	Assistant Juvenile Probation Officer	38				5	1	0
Welch, Richard	Juvenile Probation Officer	42	11	4	0	6	2	
LYON COUNTY								
Cables, Barbara J.	Dispatcher	37				3	11	0
Smith, C.	Dispatcher	35				3	0	0
MINERAL COUNTY SHERIFF'S DEPARTMENT								
Bunch, Kathryn E.	Dispatcher	32				3	2	0
Madraso, Jr., J.	Juvenile Probation Officer	30				5	6	0
Terry, K. L.	Dispatcher	24				2	10	0
NYE COUNTY								
Handt, Dorothy	Dispatcher	48				3	1	
Jeffrey, C. M.	Dispatcher	55				6	7	0
Perchetti, D. M.	Dispatcher II	31				6	2	0
PERSHING COUNTY								
Eyraud, J. I.	County Medical Services Director	57				7	6	
Richardson, G. N.	Juvenile Probation Officer	47				12	5	
STOREY COUNTY								
Lewis, Jr., W. R.	Deputy Juvenile Probation Officer	30				3	11	0
WASHOE COUNTY								
Arnoldson, J. E.	Boys' Supervisor	35				10	4	0
Bergevin, L. W.	Jailer	29				6	1	0
Brimm, G. C.	Group Supervisor	25				2	6	0
Burns, Cheryl A.	Juvenile Probation Officer	28				4	6	0
Cason, T. J.	Supervisor	43				11	4	0
Cavakis, Robert A.	Juvenile Probation Officer	30				5	3	0
Chapin, R. D.	Probation Officer	33				7	9	0
Coppa, D. G.	Deputy - Civil Department	34				7	5	0
Dempsey, G.	Group Supervisor	29				5	8	0

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CONFIDENTIAL

CONTRIBUTION 5/19/75 IN A DISAPPROVED POSITION

<u>Agency/Name</u>	<u>Position</u>	<u>Age</u>	<u>Police/Fire Service</u>			<u>In. This Position</u>		
			<u>Valid,</u>	<u>other</u>	<u>Capacity</u>			
<u>WASHOE COUNTY (Cont.)</u>								
Hughes, J. S.	Chief Civil		1	1	0	6	1	0
	Deputy	45				10	7	0
Ingraham, C. A.	Jailer	43				11	0	0
Law, R. R.	Jailer	59						
Lore, C. L.	Assistant Director					4	6	0
	Wittenberg Hall	44						
McCloskey, T. A.	Assistant Probation Officer	45				10	8	0
McClure, M. A.	Juvenile Probation Officer	29				3	7	0
Meek, T. H.	Detective	32				3	2	0
Mooney, R. L.	Jailer	38				7	1	0
Newell, M. R.	Group Supervisor	40				8	3	0
Paul, B. L.	Dispatcher	28				4	7	0
Putnam, R. L.	Detective	42				3	6	0
Reeves, G. L.	Detention Supervisor	28				6	5	0
Riparbelli, G.	Probation Officer	30				6	11	0
Robertson, W. A.	Civil Deputy	36				6	1	0
Schooley, R. T.	Chief Deputy							
	Technical Services	46				17	5	0
Sexton, C. H.	Jailer	45				7	6	0
Sohrt, R. D.	Assistant Probation Officer	52				13	8	0
Steinheimer, C. J.	Juvenile Probation Officer	26				3	0	0
Sullivan, F.	Assistant Probation Officer	44				15	10	0
Vitale, V.	Criminalist	46				4	5	0
Woodard, G. J.	Assistant Probation Officer	36				7	7	0
Wornek, D. C.	Group Supervisor	40				3	6	0
Wright, S. W.	Group Supervisor							
	Trainee	28				5	8	0
<u>WHITE PINE COUNTY</u>								
Montoya, M. B.	Dispatcher	41				6	5	0
Moorehead, H. T.	Juvenile Probation Officer	53	8	9	0	6	3	0
Orphan, A. M.	Relief Dispatcher	48				4	0	0
Saderup, D. E.	Dispatcher	44				15	1	0
Sampson, R. M.	Truant Officer	36				11	6	0
<u>CARSON CITY</u>								
Carter, R. L.	Bailiff	63				8	0	
Cocconie, J.	Dispatcher	37				3	3	
<u>CITY OF ELKO</u>								
Fobes, Dennis J.	Jailer	33				7	2	

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CONTRIBUTION 5/19/75 IN A DISAPPROVED POSITION

Agency/Name	Position	Age	Police/Fire Service			
			Valid, other Capacity	In This Position		
CITY OF HENDERSON						
Nelson, R. A.	Deputy Humane Officer	46		11	5	0
CITY OF LAS VEGAS						
Armstrong, M. C.	Bailiff	57		8	8	0
Carlson, Daryl W.	Bailiff	45		2	8	0
Chisholm, D. R.	Bailiff	57		8	4	0
Moore, J. W.	Court Bailiff	65		13	8	0
Schmitz, Jeanne	Fire Inspector	48		4	0	0
LAS VEGAS METROPOLITAN POLICE DEPARTMENT						
Lesniah, J. M.	Clerk Typist I	30		3	10	0
Norland, A. C.	Messenger	36		17	7	0
Pipkins, M. A.	PBX Operator	42		8	2	0
Renner, R. R.	Criminalist	32		5	3	0
Richardson, S. L.	PBX Operator	29		9	3	0
Stucker, F. E.	Guard	59		13	4	0
NORTH LAS VEGAS						
Azbarea, Z. L.	Bailiff	44		7	0	
Davis, Grant E.	Senior Animal Control Officer	57		9	6	
DeMarco, A. B.	Dispatcher	56		13	9	
Earle, H. J.	Dispatcher	41		10	8	
Fallon, S. H.	Dispatcher	41		6	7	
Fay, T. F.	Poundmaster	43		14	2	
George, K. G.	Senior Dispatcher	37		13	2	
Houch, P. D.	Animal Control Officer	45		4	4	0
Karas, S. M.	Animal Control Officer	64		6	11	0
CITY OF RENO						
Barrett, J. W.	Inspector	45	5	11	10	9
Dennison, L. C.	Cadet	33			12	4
Newsom, G. J.	Public Relations	52			20	6
CITY OF SPARKS						
Brown, T. L.	Humane Officer	29		4	8	0
Croak, W. C.	Bailiff	60		11	2	0
Dixon, W. E.	Humane Officer	44		16	1	0
Harris, L. K.	Humane Officer	34		5	2	0
Moss, T. C.	Humane Officer	42		17	0	0
Neville, M. B.	Humane Officer	27		4	7	0
Smith, R. R.	Humane Officer	39		11	1	0
Stokley, R. A.	Humane Officer	30		4	9	0
Whitman, J. A.	Police Clerk - Matron	46		4	7	0
Zacharias, J. W.	Humane Officer	25		2	6	0
CITY OF WINNEMUCCA						
Jones, L. W.	Training Officer	55		8	0	0

CONFIDENTIAL

CONTRIBUTING 5/19/75 IN AN APPROVED POSITION.
A SELECT GROUP TO BE RECONSIDERED BY SENATE FINANCE COMMITTEE

Agency/Name	Position	Age	Police/Fire Service			Valid Service		
			Questionable	Service				
ATTORNEY GENERAL								
Fettic, T. W.	Investigator	35	5	4	0	11	4	0
Greenhalgh, R. B.	Investigator	41	6	2	0	9	8	0
Hinson, Walter	Investigator	35	1	8	0			
CLARK COUNTY DISTRICT ATTORNEY								
Barrett, Wm. R.	Investigator	43	2	1	0			
Ewell, James N.	Investigator	45	1	8	0	7	0	0
Glynn, Elizabeth A.	Investigator	53	2	1	0			
Hanks, David W.	Investigator	34	1	5	0			
Martin, R. E.	Investigator	47	2	8	0			
Mendelson, Joseph	Investigator	57	3	3	0			
Miller, John T.	Investigator	42	1	6	0			
Oatey, John R.	Investigator	49	1	8	0			
Parker, Joe	Investigator	53	2	2	0			
Rakes, Olan W.	Investigator	47	1	6	0			
Shields, Edward	Investigator	45	3	7	0			
Simmons, C. K.	Investigator	42	1	6	0			
Smith, Edward P.	Investigator	54	2	2	0			
Varga, Paul	Investigator	46	6	2	0			
Werner, Steven E.	Investigator	27	1	6	0	1	7	
Zangel, R. A.	Investigator	37	2	1	0			
ELKO COUNTY DISTRICT ATTORNEY								
Ogden, Jno. A.	Investigator	76	4	2	0			
PAROLE & PROBATION DEPARTMENT (ADULT - STATE)								
Arnold, W. H.	Parole and Probation Officer (P&P)	33	2	5	24	1	8	0
Ballman, F. T.	Senior P & P	38	11	5	0			
Bernstone, L.	P & P Officer	30	3	8	0			
Burist, Edles	P & P Officer	33	4	1	0			
Burns, Robert	Unit Supervisor	59	8	5	0			
Cabana, Priscilla	P & P Officer	32	2	5	0			
Campos, A. A.	Chief P & P Officer	43	7	3	0	4	7	0
Cline, Charles A.	P & P Officer	31	3	0	0			
Comanor, J. M.	P & P Officer	39	1	8	0			
Concha, Carlos	P & P Officer	28	2	5	0			
Coyle, Edward J.	P & P Unit Supervisor	48	6	9	0			
Crump, C. H.	P & P Unit Supervisor	51	10	4	0			
DesArmier, Earl R.	P & P Supervisor II	52	13	6	0	1	6	24
Ernst, R. V.	P & P Officer	48	1	1	0	6	8	0
Estell, G. M.	P & P Officer	37	3	8	0			
Ferro, Christopher	P & P Officer Trainee	25	0	9	0	0	7	0

CONFIDENTIAL

CONTRIBUTING 5/19/75 IN AN APPROVED POSITION
A SELECT GROUP TO BE RECONSIDERED BY SENATE FINANCE COMMITTEE

Agency/Name	Position	Age	Police/Fire Service			Valid Service		
			Questionable	Service				
PAROLE & PROBATION DEPARTMENT (ADULT - STATE) ((Cont.))								
Fisk, T. D.	Senior P & P Officer	32	3	2	0			
Garamendi, A. G.	District Supervisor II	38	7	3	0			
Hamilton T.	P & P Officer	26	3	8	0			
Harris, Frances E.	Senior P & P Officer	48	8	6	0			
Hill, D. N.	P & P Officer	33	1	7	0			
Johnson, S. D.	P & P Officer	28	1	8	0	0	10	0
Kassel, William J.	Unit Supervisor							
	P & P	44	10	1	0			
Lloyd, L. B.	P & P Officer	28	5	4	0			
Marks, D. B.	P & P Officer	36	1	7	0	7	5	0
Martin, G. G.	Senior P & P Officer	54	9	6	0	2	0	0
Matlack, J. R.	P & P Officer	39	5	7	0	2	0	0
Maynard, Eddie	P & P Officer	35	1	6	0	4	6	0
Morseth, D. C.	Senior P & P Officer	53	11	2	0			
Nolan, L. L.	P & P Officer	41	3	8	0	12	1	0
Nollsch, Henry	Senior P & P Officer	60	11	7	0			
Peebles, Wiley F.	Pre-Release Supervisor	49	2	5	0	19	8	0
Petersen, H. D.	Pre-Release Supervisor	45	5	9	0			
Pitts, Ella R.	P & P Officer	36	1	8	0			
Rock, Susan N.	Supervisor, Interstate Services	37	4	7	0			
Shown, John R.	P & P Officer	59	9	8	0			
Skidmore, A. W.	District Supervisor II	48	5	7	0			
Smith, Gene	P & P Officer	27	1	8	0			
Smith, Karren L.	Unit Supervisor	34	4	4	0			
Smith, T. C.	Senior P & P Officer	30	3	8	0			
Tyler, Wilson	P & P Officer	29	5	4	0			
Way, Donald R.	P & P Officer	50	3	6	0			
White, K. D.	P & P Officer	34	6	7	0			
Willis, Clyde M.	P & P Supervisor	58	11	6	0			
Wyett, R. E.	P & P Officer	35	2	6	0	2	2	0

Special Note

Ray, John

* Current Special Master

46 11 3 0

* Currently employed by City of Carson as Special Master, Juvenile Probation Department
Received approval for coverage in P/F Fund even though this position was not approved
All prior service was with Parole and Probation.

CONFIDENTIAL

CONTRIBUTING 5/19/75 IN AN APPROVED POSITION
A SELECT GROUP TO BE RECONSIDERED BY SENATE FINANCE COMMITTEE

<u>Agency/Name</u>	<u>Position</u>	<u>Age</u>	<u>Police/Fire Service</u>			<u>Valid Service</u>		
			<u>Questionable</u>	<u>Service</u>				
<u>UNIVERSITY OF NEVADA (POLICE)</u>								
Antunovich, George	Patrol Sergeant	48	7	5	0			
Cullen, Rodney W.	Patrolman II	28	3	0	0			
Florian, Dale A.	Chief, University Police	35	4	8	10			
Grinnell, S. A.	University Patrolman	23	0	9	0			
Kolber, W. E.	University Patrolman I	42	2	0	0			
Landas, Frank D.	University Patrolman	23	1	4	0			
Logan, S. D.	University Patrolman	31	3	6	0			
Rivas, Eddie	University Police Sergeant	36	3	9	0	1	8	0
Shumway, K.	Chief, University Nevada Police Department	43	10	0	0			
Smith, Willis E.	Patrol Sergeant	57	9	8	0			
Steele, L. E.	University Patrolman	30	3	0	0			
Stubbs, E. S.	University Patrolman	23	0	6	0			
Wood, D. B.	Patrolman II	55	10	0	0			
<u>WASHOE COUNTY DISTRICT ATTORNEY</u>								
Canfield, Robert	Investigator	46	10	8	0	6	2	0
Holden, P. B.	Investigator	30	2	9	0			
McMillan, John R.	Investigator	24	0	6	0			

Refer to page 4, line 5.

YERNON BENNETT
EXECUTIVE OFFICER

STATE OF NEVADA

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1369
CARSON CITY, NEVADA 89701
TELEPHONE (702) 883-4200

UNIVERSITY BOARD
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ROBERT C. WEEMS

October 5, 1976

ANALYSIS OF STATE EMPLOYEE BENEFITS

CLASSIFIED

1. Receives annual step increases equivalent to 5%.
2. Cost-of-living increases provided by Legislature.
3. Cost-of-living negotiations represented by employee association.
4. Overtime paid at time and a half.
5. No restrictions on additional employment after working hours.
6. Employment protected after probationary period with appeal rights provided.
7. Work responsibility limited to official assignments provided during regular working hours.
8. Work evaluations and normal step increases provided by the employer in dignified, private conferences.

UNCLASSIFIED

1. No step increases provided.
2. Cost-of-living increases provided by Legislature.
3. No official representation for cost-of-living negotiations.
4. No payment for overtime.
5. Prohibited from performance of any office of profit at any time.
6. No employment protection whatsoever.
7. Work responsibility continuous without limit around the clock.
8. Job performance and salary openly discussed by Legislature and the press without dignity.

NOTE: Unclassified salaries are recommended by the Governor on a percentage basis without regard to professional expertise, accomplishments or productivity. This approach encourages mediocrity. Salaries for Presidents, the Chancellor and most professors are set by the University Board of Regents; Legislative Counsel officers by a Committee of the Legislature, and school Superintendents and their assistants by County School Boards.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

December 9, 1975

Vernon Bennett, Executive Officer
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Optional Annuity Program For Public Employees

Dear Mr. Bennett:

In your letter of December 1, 1975, you submitted five questions to the Attorney General for his study and opinion concerning the provisions of Section 22 of Chapter 575, Stats. of Nevada 1975.

Subsection 3(b) of Section 22 in the 1975 amendments to the Public Employees Retirement Act grants discretionary authority to the Retirement Board to adopt an optional annuity program for members of the Retirement System which has been designed and recommended by the actuary for the System. Your first question to the Attorney General inquired whether Subsection 3(b) limits the Retirement System to providing an optional annuity program. The answer to this question is "yes" the system is so limited by the specific language of the statute itself.

Your second question asked whether the deferred compensation program contemplated by Subsection 3(b) must be one qualified under Section 401(a) of the Internal Revenue Code. Again, the answer to your question is "yes", the optional annuity program according to the specific language of the statute "shall be a trust, qualified under Section 401(a) of the Internal Revenue Code, to invest contributions of voluntarily deferred employee compensation." (emphasis added)

Your third question asked whether the provisions of Public Law 93-406, Section 2006, Subsections (a) through (e) prohibit tax savings to an employee if the Retirement System should develop a deferred compensation plan of the

Vernon Bennett, Executive Officer
December 9, 1975
Page Two

type contemplated by our state enactment after June 27, 1974. Public Law 93-406, known as the Employees Retirement Income Security Act, in Section 2006 imposed a freeze on the tax status of contributions made to deferred compensation plans. Subsection (a) of Section 2006 provides that except for plans in effect prior to June 27, 1974, contributions to plans qualified under Section 401(a) and certain other sections of the Internal Revenue Code shall be treated as contributions of the employees rather than contributions of the employers. This has the effect of imposing income taxes on those contributions to Section 401(a) plans unless such plans were in effect prior to June 27, 1974. As you can readily see, if the Retirement Board were to establish such a plan in late 1975 or early 1976, the effect of Section 2006 of Public Law 93-406 would prohibit a tax savings to employees participating in such a deferred compensation plan. This treatment of such plans will continue by law until at least January 1, 1977, or until the Treasury Department has issued new regulations in this area following Congressional review of this entire matter. See Am.Jur.2d, New Topic Service, Pension Reform Act, Section 363.

The fourth question presented in your letter of December 1st inquired whether present Nevada statutes allow public entities such as the Public Employees Retirement Board to establish a non-qualified plan for deferred compensation. To this question we must answer in the negative. The Public Employees Retirement Board, like any other public entity, has only those powers conferred upon it by law or those powers necessarily incidental to the effective discharge of specific powers. There is no authority in the Nevada Revised Statutes, including Chapter 286, which grants the Retirement Board any authority to create a deferred compensation plan of the type contemplated by your question except for Section 22 of the 1975 amendments to the Retirement Act. And, as noted above, the plan called for by Section 22 must by specific language in the law be a plan which is qualified under Section 401(a) of the Internal Revenue Code.

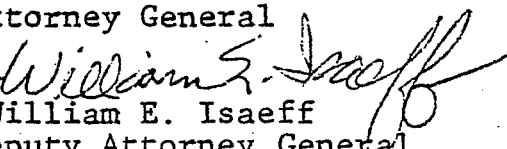
Your fifth question was dependent upon an affirmative answer to Question No. 4. Since we have answered Question No. 4 in the negative, your fifth question appears to require no answer.

Vernon Bennett, Executive Officer
December 9, 1975
Page Three

We trust that the above satisfactorily answers your inquiries concerning a deferred compensation plan for Nevada public employees. If you have any additional questions on this or other matters of mutual concern, please advise.

Sincerely,

ROBERT LIST
Attorney General

By 
William E. Isaeff
Deputy Attorney General

WEI:rab

cc: Mr. Howard E. Barrett
Dr. John Mackin
Mr. Dave Davenport
Mr. Robert Gagnier

VERNON BENNETT
EXECUTIVE OFFICER

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
TELEPHONE (702) 883-4200

RETIREMENT BOARD
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GLENDON F. WALTHER
ROBERT C. WEEMS

January 12, 1977

To: Vernon Bennett

From: Will Keating

I have a premonition that there is going to be considerable questioning of our \$2.00 and \$2.20 limit on administrative fees. For that reason I asked Carol to work up some numbers on what we actually need for our next biennium.

1977-78		% of Membership	Admin Fees Budgeted	Cost	Est. Admin Fees	Rounded
**Membership						
Regular	31,889	69.8%	\$842,400	\$587,995.20	1.536	1.60
P & F	3,543	7.8	7,986*	73,693.20	1.733	1.80
Inactive	5,891	12.9		108,669.60	1.537	1.60
Retirees (11/30/76)	<u>4,363</u>	<u>9.5</u>	<u> </u>	<u>80,028.00</u>	1.528	1.60
Total	45,686	100%	\$850,386	\$850,386.00		
1978-79						
***Membership						
Regular	33,483	70.2%	\$883,400	\$620,146.80	1.54	1.60
P & F	3,720	7.8	8,350	77,255.20	1.73	1.80
Inactive	5,891	12.4		109,541.60	1.54	1.60
Retirees	<u>4,581</u>	<u>9.6</u>	<u> </u>	<u>84,806.40</u>	1.54	1.60
Total	47,675	100.0%	\$891,750	\$891,750.00		

* Not Budgeted

** Membership as of 1/7/77 - 34,693 active and 739 suspense = 35,432 (P&F comprise 10% of membership)

*** Assuming 5% growth except Inactive.

Numbers presented above include \$7,896 for 77-78 and \$8,350 for 78-79 in order to pay the expense for the Police and Firemen Advisory Committee meetings.

Taken from the July 12, 1976, Police and Firemen Retirement Fund Advisory Committee meeting minutes.

Will Diess moved to request the following legislative change:

286.230 (5) An additional fee shall be paid by each member of the Police and Firemen Retirement Fund and his public employer to fund the Police and Firemen Retirement Fund Advisory Committee.

VERNON BENNETT
EXECUTIVE OFFICER

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
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RETIREMENT BOARD
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DONALD L. REAM
GLENDON F. WALTHER
ROBERT C. WZEMS

July 8, 1976

TO: ALL CITY AND COUNTY LIAISON OFFICERS AND REPRESENTATIVES

At their regularly scheduled meeting held June 23 and 24, 1976, the Retirement Board considered the retirement problems determined by the City and County representatives at their meeting held May 5, 1976 and the suggested corrections determined at the meeting held June 9, 1976. The problems, recommended solutions and Board actions are outlined below:

1. Problem: Required membership for persons employed 40 hours or more within a given month.
Solution: Provide that effective July 1, 1977, membership shall be required for all employees who are employed in a position that would normally require half-time or more, for the individual agency work week requirements, on a regular twelve-month basis.
Board Action: Motion determining that we shall introduce legislation in the 1977 session to provide that effective July 1, 1977, membership shall be required for all employees who are employed in a position that would normally require half-time or more on a regular twelve-month basis for the individual agency work week requirements.
2. Problem: Proof of birth and restrictive list of acceptable documents.
Solution: Add the following as acceptable documents for proof of birth under Group 2 as listed in Rule 10.12:
 - (1) Passport;
 - (2) Notarized statement of knowledge by a person who was an adult at time of member's birth;
 - (3) Motor Vehicle records;
 - (4) Hospital record of birth;
 - (5) Social Security records;
 - (6) Voter registration records;
 - (7) Any other document over ten years old.Board Action: Motion approving an addendum to the existing Rules and Regulations listing the following items as acceptable documents for proof of birth under Rule 10.12, Group 2:
 - (1) Passport;
 - (2) Notarized statement of knowledge by a person who was an adult at time of member's birth;

Refer to page 10, line 4.

CITY/COUNTY LIAISON OFFICERS AND REPRESENTATIVES

July 8, 1976

Page 2

- (3) Motor Vehicle records;
- (4) Hospital record of birth;
- (5) Social Security records;
- (6) Voter registration records;
- (7) Any other document over ten years old which lists the person's date of birth.

3. Problem: Two-year marriage requirement for survivor benefit eligibility for spouse.

Refer to
page 23,
line 26.

Solution: Amend definition of "spouse" to eliminate two-year marriage requirement and provide that a "spouse" is the surviving husband or wife of a deceased member who was legally married under a legally-recognized marriage contract upon the death of the member.
Board Action: Motion determining that we shall introduce legislation in the 1977 session to eliminate the two-year marriage requirement in the term "spouse" and to provide that a "spouse" is the surviving husband or wife of a deceased member who was legally married under a legally-recognized marriage contract upon the death of the member.

4. Problem: City/County employees would like to see first-day coverage for survivor benefits for on-the-job or job-related deaths.

Refer to
page 23,
line 45.

Solution: Provide first-day coverage for survivor benefits for on-the-job or job-related deaths.
Board Action: Motion determining that the System shall introduce legislation in the 1977 session to provide first-day coverage for survivor benefits for on-the-job or job-related deaths.

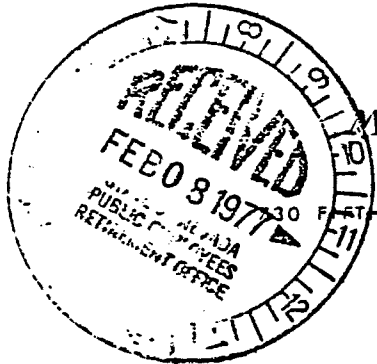
We deeply appreciate the cooperation and effort which you provided in this endeavor.

Sincerely,



Vernon Bennett
Executive Officer

VB/sm



MARTIN E. SEGAL COMPANY

30 FIFTH AVENUE • NEW YORK, N. Y. 10019 • (212) 586-3600

February 4, 1977

JOHN P. MACKIN
SENIOR VICE PRESIDENT

ATLANTA
BOSTON
CHICAGO
CLEVELAND
DALLAS
DENVER
HARTFORD
HOUSTON
LOS ANGELES
NEW ORLEANS
PHOENIX
SAN FRANCISCO
WASHINGTON, D. C.
TORONTO

Mr. Vernon Bennett
Executive Officer
Nevada Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Dear Vernon:

This letter confirms our discussions regarding several provisions of the legislative program proposed by the Retirement Board.

Employer Paid

The last page of our 1976 actuarial valuation report included the following contribution rates based on normal cost plus amortization of the unfunded accrued liability by level percentage contributions over the next 40 years:

		<u>Regular Employees</u>	<u>Police and Firemen</u>
Refer to Section 27 page 12, line 15.	All employer paid	13.1%	14.6%
	No employer paid:		
	Employee	8.4%	8.6%
	Employer	5.3	6.5
	Total	<u>13.7%</u>	<u>15.1%</u>

As we have discussed, the above rates understate the differences between the total contributions required to fund the Retirement System on a fully employer-paid basis as compared to an employee-employer basis. The differences in total contribution rates shown above (.6% for regular employees and .5% for police and firemen) take account of the fact that a substantial majority of current members have accumulated contributions which are refundable upon termination or death,

even though over one-third are now covered under the employer paid provisions. Even if all members were covered under the employer paid provisions, the full cost impact of the employer paid concept would not be realized for many years -- because the Retirement System would continue to have active members with contribution accounts for possibly 30 or more years.

A better estimate of the long-term cost impact of employer-paid vs. employee-employer can be obtained by comparing the normal cost rates shown on page 39 of our report. As you will note, the differences in total normal cost rates are .8% for regular employees and .7% for police and firemen. These differences will increase in the future if turnover is higher than the assumed rates, and the Retirement Board adopts higher turnover rates for use in actuarial valuations. Because the present differences are relatively close to 1.0% of salary (and because of other considerations involved in the employer paid concept, including possible savings in administrative costs), we agree that the differential between employer-paid and employee-employer should be maintained at one percentage point -- i.e., 15%-16% for regular employees and 16%-17% for police and firemen.

Refer to Additional Contributions of Older Entrants

page 12,
line 20.

Under present provisions members enrolled after 7/1/73 contribute an additional 2% if age 36 through 45 at the time of employment and an additional 4% if age 46 or older at the time of employment. As stated in your "Rationalization of Final Legislative Program" dated October 29, 1976, the additional 2% and 4% contributions for older entrants "may be considered discriminatory because they are not shared by the employer, they do not provide additional benefits for additional contributions, and were not assessed to members enrolled prior to 7/1/73 regardless of age at time of enrollment." You also note that "This procedure increases administrative costs because each rate must be reported separately."

Other points which you may wish to consider in connection with the additional 2% and 4% contributions include:

1. They raise a question of general equity for all members, because even though the actuarial cost of retirement benefits is higher for older entrants under the present provisions, one can contend that the State of Nevada and other public employers participating in PERS benefit in many cases from the experience and skills acquired by older entrants prior to entering public employment in Nevada.
2. Additional contributions for older entrants may be counterproductive in terms of overall personnel policies, because they may discourage certain qualified individuals (those 36 and over) from accepting positions in public employment in Nevada.
3. The justification for the additional contributions (in terms of higher actuarial costs for older entrants) will be diminished if the proposed changes in the basic benefit formula are enacted by the Legislature. Under the present formula ($2\frac{1}{2}\%$ for each of first 20 years plus $1\frac{1}{2}\%$ for each of next 10), older entrants are much more likely than younger entrants to receive a $2\frac{1}{2}\%$ benefit for all years of service. To illustrate, consider regular employees who retire at the assumed retirement age of 63: those who entered PERS at age 43 or older now receive a benefit of $2\frac{1}{2}\%$ for all years of service, while those who entered at younger ages receive a lower average benefit for all years of service (assuming continuous employment) -- age 38 - an average benefit of 2.3% for each of 25 years, age 33 - an average benefit of 2.167% for each of 30 years, etc. Under the proposed formula, however, the average benefit for most younger entrants will be the same as for older entrants ($2\frac{1}{2}\%$ for each year); therefore, the additional contributions for older entrants would be much more difficult to justify if the proposed formula is enacted by the Legislature.

The Retirement Board has proposed that the benefit formula be improved, effective June 30, 1977, to $2\frac{1}{2}\%$ of average compensation (highest successive 36 months) for each year of service up to age 55, or up to a maximum of 30 years for members who complete their 30th year of service after age 55. As you know, we prepared estimates of the actuarial cost of the proposed formula but our valuation as of June 30, 1976 was based on the present provisions of the Retirement System. Accordingly, our estimate of the cost of removing the additional 2% and 4% contributions - between .4% and .5% of salary - is based on the results of our 1976 valuation.

If the Legislature agrees that the additional 2% and 4% contributions should be removed, we would recommend that the amendment apply prospectively and that the additional contributions made by older entrants up to July 1, 1977 not be refunded by July 1, 1978. Prospective application of this amendment would reduce the actuarial cost (which would be slightly higher than .4% to .5% if such additional contributions were refunded), eliminate the additional administrative expenses required to effectuate the refund procedure, and take account of the fact that older entrants have been "favored" by the present benefit formula of $2\frac{1}{2}\%$ for each of the first 20 years plus $1\frac{1}{2}\%$ for each of the next 10.

Refer to Highest Successive 36 Months

page 20,
line 39.

The proposed change in the definition of average compensation - from highest successive 36 months in last 10 years to highest successive 36 months - will have virtually no effect on the calculated actuarial cost of the Retirement System. For the 1976 actuarial valuation it was assumed that the salaries of all active members will increase at a constant rate of 4% per year; therefore, the cost calculations assume that all members will receive benefits based on their final 3-year average salary (which is assumed to be the highest 3-year average in all cases). Although a few members may actually receive higher benefits because of the removal of the present 10-year restriction, the actuarially-determined contribution rates will be essentially the same under the present or proposed definition of average compensation.

* * *

Please let me know if you would like any further comments on proposed retirement legislation.

With my best wishes.

Sincerely,



John P. Mackin

JPM:ns

Minutes:

POLICE AND FIREMEN RETIREMENT FUND ADVISORY COMMITTEE

Meeting held February 23, 1977, Carson City, Nevada

In attendance were - Julie Conigliaro, Co-chairman in charge
Norm Saferite - Co-chairman
Gene Coughlin
Will Deiss
Bob Kerns

Following a discussion of SB 173, Bob Kerns moved that the Committee approve the following amendment to same: "Disabled members who are injured on the job and receive industrial insurance benefits for temporary total disability shall remain contributing members of the system for the duration of such benefits. The public employer shall pay the employer contributions on these benefits when the public employer continues to pay the difference between temporary total disability benefits and regular compensation." This is an amendment to NRS 286.410, Section 27 (7). The motion was seconded by Will Deiss and carried.

Gene Coughlin moved to recommend to the Retirement Board that the request for legislation to cover the cooks in the Las Vegas Jail under early retirement be denied. The motion was seconded by Bob Kerns and carried.

Gene Coughlin moved to recommend to the Retirement Board that coverage under early retirement be approved for the position of Fire Prevention Inspectors of the Las Vegas City Fire Department, who are promoted from the line and are actively involved in one or more of the following functions: Law enforcement aspects of arson investigation, fire suppression or bomb squad duties. The motion was seconded by Norm Saferight and carried.

Respectfully submitted

JULIUS CONIGLIARO
Co-chairman

bh

1009

RECOMMENDATIONS

Refer to Section 28, page 13, line 22.

1. The subcommittee recommends the continuation of the optional employer-paid program and allowing it to "sell itself" to the public employers and the public employees on its own merits. As of this report date, the optional employer-paid program has been in effect for just a little over 1 year. The information developed from this relatively short time frame of operation does not at this point justify mandating the program. Contrarily, the subcommittee has found no evidence which would justify the discontinuance of the optional program.
2. The subcommittee found that there is a savings or cost avoidance for the public employer under the employer-paid program. It is, therefore, recommended that public employers consider implementation of the employer-paid program as a means of holding down or avoiding costs in the future.
3. The subcommittee recommends that the 1977 legislature strongly consider legislation to be sponsored by the public employees' retirement board dealing with the employer-paid program with regard to:
 - (a) Changing the method for calculating retirement benefits for members under the employer-paid program to provide that a member's average compensation shall be increased by 50 percent of the contribution rate for each month that the member is under the employer-paid program.
 - (b) Providing survivor benefits to vested members regardless of whether or not they were under accredited contributing service at the time of death and providing for either a lump sum refund of 50 percent of the contributions made by the public employer under the employer-paid program or the monthly survivor benefits.

Refer to page 24, line 37.

The subcommittee has not included proposed legislation in this report since the public employees' retirement board will be submitting a complete legislative package to the 1977 legislature. This will include all legislation dealing with the public employees' retirement act.

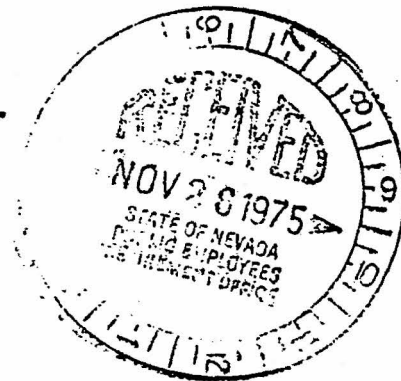
This is a true copy of the report to: The Members of the Subcommittee on Employer Payment of Employee Contributions to the Public Employees' Retirement System, November 1976, one of 40 pages.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

November 24, 1975



Richard A. Wagner
District Attorney
Pershing County Courthouse
Lovelock, Nevada

Re: Retirement Benefits for Andrew F. Davidson

Dear Mr. Wagner:

In your letter of October 29, 1975, you brought to the attention of this office several questions concerning the retirement benefits due Andrew F. Davidson, as the result of his public service as a county commissioner for Pershing County and as an employee of the Pershing County Road Department.

We understand that Mr. Davidson served for approximately eight years as a Pershing County Commissioner during which time he paid contributions into the Public Employees Retirement System. We further understand that Mr. Davidson was subsequently employed by the Pershing County Road Department for a period of slightly in excess of ten years. Based upon these years of service, Mr. Davidson has been provided with information by the Retirement System which gives him an option between receiving a retirement allowance of \$149.10 per month, based upon his approximately ten years of service as a road department employee, or, in the alternative, to receive \$57.76 per month, based upon both the ten years of service as a road department employee and his approximately eight years as a County Commissioner.

In your letter you have correctly noted that by counting the County Commissioner years Mr. Davidson suffers a reduction in the size of his retirement allowance of approximately \$90.00 per month. You have inquired if the interpretation of the retirement law by the retirement staff in this situation is correct. You have further asked if the interpretation of the retirement law by the retirement staff

Richard A. Wagner
November 24, 1975
Page Two

is correct, is this statute constitutional in that it appears to penalize county commissioners, city councilmen and mayors for having more than three consecutive years of service in such capacities if such an official later applies for retirement benefits.

This situation is governed by the provisions of NRS 286.470, as amended by Section 43 of Chapter 575, Statutes of Nevada, 1975. The amended law in part reads:

"Service as a commissioner of a county participating in the system or as a councilman or mayor of an incorporated city participating in the system, shall be service to be credited for retirement under this chapter and service credit shall be granted for the entire tenure of office upon the following conditions:

- (a) The average monthly salary of a member applying for retirement, including, as any part of his total service, service in the foregoing capacities, shall be calculated upon the monthly average of all sums earned in covered employment throughout the total service of the individual. When service in any of the foregoing capacities shall be in excess of three consecutive years, the monthly average salary for the entire service in such capacity shall be deemed to be the average salary received in the three highest salaried consecutive years."

This law provides two methods for computing the retirement allowance of persons who wish to include in the calculation service years and contributions made while acting as a county commissioner, city councilman or mayor. The first method provides for the retirement allowance to be calculated on the basis of the average monthly salary of all years in public employment. The second calculation method is for those persons serving in such capacities who have more than three years of such service in those capacities. This method of calculation provides that the benefit shall be calculated only on the average monthly salary of such

Richard A. Wagner
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person while serving as a county commissioner, city councilman or mayor, and such average is deemed by law to be the average salary received in the three highest salaried consecutive years. This latter reference is to the standard used for calculating retirement benefits for retirees who have no elective office time to claim.

This is the interpretation being placed on the Act by the retirement staff and, in the opinion of the Attorney General, it is the proper interpretation of this statutory language.

You are correct that it appears to inflict a disadvantage on persons who claim time as a county commissioner, city councilman or mayor for purposes of public employment retirement. However, Subsection 3 of NRS 286.470 provides that members of the system who have some service in the foregoing capacities and who have reached retirement age may waive service in such capacities, at their election, at the time of retirement and elect to have their allowances computed in the same manner as those of other members of the system and under the same provisions as are applicable to other members of the system. In this way, such a member may escape any disadvantages imposed by subsection 1 of NRS 286.470.

It is our understanding that subsection 1 was written in this manner by the Legislature in order to reflect in the law the obvious reality that service as a county commissioner for a year is not really equivalent in all respects to service as a deputy county clerk, deputy city clerk, typist, etc. The amount of time actually devoted within the year is usually substantially less for the person who serves as county commissioner, city councilman or mayor in contrast with these other positions.

In addition, persons serving in this capacity could, if subsection 1 of NRS 286.470 were not present, acquire substantial retirement benefits for which they would have made very small contributions. For example, a person could serve as a county commissioner, city councilman or mayor for seventeen years followed by regular, full time public employment for three years at a large salary and then seek a retirement allowance based on the salary earned in

Richard A. Wagner
November 24, 1975
Page Four

the last three years, which would be grossly disproportionate to the amount of contributions he had made to the system during the years when he earned only small salaries in the capacity of county commissioner, city councilman or mayor.

Although the disadvantages placed on such positions by law may appear to go further than is necessary, this is essentially a policy question to be resolved by the Legislature, not by the retirement board or this office. It is our understanding, however, that the retirement board is aware of this situation and intends to propose new legislation to the 1977 Legislature to correct it. This legislation might well take the form of a recommended law whereby a retirement allowance would be calculated proportionately according to the number of years served in the capacity of county commissioner, city councilman or mayor in relation to the number of years served in regular, full-time public employment.

We believe the present statute is constitutional because, although it may have the appearance of discriminating against persons who serve as county commissioners, city councilmen and mayors, it discriminates, if at all, as to all persons in the same class (i.e. those with more than three years service in such capacities) and therefore appears to satisfy the due process and equal protection requirements of the federal and state constitutions. See State ex. rel. Dickerson v. Boyne, 80 Nev. 160, 390 P.2d 225 (1964). In addition, there exists a rational basis for the legislation, as illustrated above.

We trust that the above satisfactorily answers your inquiry concerning the retirement allowance calculation for Mr. Davidson pursuant to NRS 286.470. However, if you have any further questions on this or other matters of mutual concern, please advise.

Sincerely,

Robert List
Attorney General

By
William E. Isaeff
Deputy Attorney General

1014

WEI:rab

S. B. 24

SENATE BILL NO. 24—SENATORS SHERRIN, GOJACK
AND HILBRECHT

JANUARY 18, 1977

Referred to Committee on Finance

SUMMARY—Increases public salary allowance to retired public employees.
(BDR 23-179)

FISCAL NOTE—Local Government Impact: No.
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public employees' retirement; increasing the amount which a retired public employee may be paid before losing retirement benefits; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 286.520 is hereby amended to read as follows:
2 286.520 1. Any person accepting or receiving the benefits of retire-
3 ment compensation under this chapter shall not be employed in any
4 capacity by the State of Nevada, by a political subdivision of the State
5 of Nevada which participates in the system, or any department, branch
6 or agency thereof, except as provided in subsection 2. Any person
7 accepting or enjoying the benefits of retirement compensation under
8 this chapter who accepts employment or receives any other compensa-
9 tion from the State of Nevada, from a political subdivision of the State
10 of Nevada which participates in the system, or any department, branch
11 or agency thereof for the services rendered, except as provided in sub-
12 section 2, shall forfeit all the benefits of this chapter so long as he [shall
13 retain such] *retains his* employment or [receive such] *receives* com-
14 pensation. The proper officer shall forthwith strike such person's name
15 from the retirement compensation roll and refuse to honor any requis-
16 itions for retirement compensation made by [such person.] *him*.
17 2. [Persons] *A person* accepting or receiving the benefits of retire-
18 ment compensation under this chapter may:
19 (a) Serve as [legislators] *a legislator* in this state or be employed as
20 [members of boards or commissions] *a member of a board or com-*
21 *mission* of the State of Nevada or of its political subdivisions when
22 [such boards or commissions are] *the board or commission* is advisory
23 or directive and when membership thereon is noncompensable except
24 for expenses incurred. Receipt of a fee for attendance at official sessions

1 of a particular board or commission shall not be regarded as compensa-
2 tion, [provided] if such fees do not normally exceed a total of \$300 in
3 a fiscal year.

4 ~~(b) Return to employment for the State of Nevada or a political~~
5 ~~subdivision thereof during any 1 fiscal year without forfeiture of retire-~~
6 ~~ment benefits until [they have] he has earned a gross amount of~~
7 ~~[\$3,600,] \$4,800, at which time the benefits of retirement compensa-~~
8 ~~tion shall be suspended and shall remain suspended for any month~~
9 ~~during which such person is employed for any period of time by the~~
10 ~~State of Nevada or its political subdivisions.~~

11 3. Within 10 days after return to employment such person shall
12 notify the board, in writing, of the fact of his employment. Failure to
13 notify shall result in the forfeiture of retirement benefits for the period
14 of employment.

15 4. A person is not considered to have returned to employment in
16 any fiscal year unless he has been absent from employment by the State
17 of Nevada or a political subdivision thereof for not less than 1 calendar
18 month immediately preceding his return.

19 5. Notwithstanding any other provisions of this section or chapter
20 any retired person who is elected or appointed as a county commissioner
21 or city councilman may elect to waive any retirement rights accruing by
22 such service and may thereafter receive his retirement allowance during
23 the entire period of service in such designated offices. The retirement
24 allowance of any retired person serving as a state legislator will not be
25 affected by such service.

26 SEC. 2. This act shall become effective upon passage and approval.

19

Dear Retired Employee:

You have expressed to me concern regarding the provisions of Senate Bill 173 concerning reemployment of retired employees. I have requested that the Retirement System research the matter and provide an indepth reply to me which is briefly as follows:

1. The present law provides that a retired employee may return to public employment and earn up to \$3600 per year without affecting his retirement benefit. He must notify the Retirement System within ten days after returning to public employment and must be away from employment at least 30 continuous days per fiscal year. Once the retired employee earns \$3600, his retirement benefit is suspended for the duration of his employment regardless of whether or not it carries over into another fiscal year. His benefit is also immediately suspended if he fails to provide written notice to the Retirement System within ten days.
2. The proposed legislation will increase the earnings restriction from \$3600 to \$4800 per year. A retired employee will be prohibited from employment with a public employer for the first 90 days that he enters into retirement but will no longer be required to be absent from employment 30 days each fiscal year. The retired employee will have 30 days in which to provide the written notification of employment rather than ten days.
3. The benefit of the retired employee will be immediately forfeited under the new law if he accepts employment in a position which would normally be eligible for membership. The proposed membership requirement under Senate Bill 173 will be for positions that are normally one-half time or more. A retired employee would not immediately forfeit his benefit if he returns to employment less than one-half time, temporary or intermittent employment, substitute school teaching, and casual employment.
4. The Retirement System will be authorized to waive any employment penalty for a person who returns to emergency employment for up to 30 days where the public employer certifies that no other qualified person is available.

Therefore, the proposed legislation in Senate Bill 173 actually improves the working conditions for a retired employee who returns to public employment. A retired employee may accept employment with someone other than a public employer with absolutely no restrictions or effect on his retirement benefit.

Sincerely,

VERNON BENNETT
Executive Officer

VERNON BENNETT
EXECUTIVE OFFICER

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200

RETIREMENT BOARD
ELBERT B. EDWARDS
CHAIRMAN
L. ROSS CULBERTSON
VICE CHAIRMAN
MEMBERS
CHARLES H. COLLINS
BOYD MANNING
DONALD L. REAM
GLENDON F. WALTHER
ROBERT C. WEEMS

MEMO

April 13, 1977

TO: Vernon Bennett

FROM: Ann ^{AG}Gary and Larry ^{LG}Grissom

SUBJECT: Abuses of Reemployment Privilege by Retirees

Per your request, we have reviewed the above subject. Although time has not permitted an exhaustive review, we have listed below recent examples of abuses. It is interesting to note that those listed have occurred in major employment areas rather than in the smaller outlying areas as one might expect.

CHARLOTTE ALLSEBROOK - Clark County Teacher - Retired effective 9-1-76 and immediately reemployed as a "substitute". Board action was required to resolve her appeal of our suspension of her allowance.

FRANK A. HUNT - Janitor, Clark County School District - Retired effective 12-31-76, indicated reemployment effective 2-7-77 as a janitor for 4 hours per day. He indicated verbally that he would be so employed for 2 or 3 years.

ORLA DAVIS - Washoe County Teacher - Retired effective 11-1-71 and has taught each year since. Is currently on a "short term" contract. Her case has been before the Board once previously and will undoubtedly be again due to re-instatement of her allowance based upon erroneous information.

CHAUNCEY OAKLEY - Professor - UNR - Retired effective 9-1-77, reemployed with Community College 10-1-71 and has worked full time since. Due to application of the law in effect at the time of his initial retirement, his reemployment will serve to increase his unmodified allowance at the time of his re-retirement by approximately \$300.00 per month.

AG:LG:sr

1718

VERNON BENNETT
EXECUTIVE OFFICER

STATE OF NEVADA

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



RETIREMENT BOARD
ELBERT B. EDWARDS
CHAIRMAN
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PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200

April 11, 1977

MEMORANDUM

TO: Vernon Bennett
FROM: Will Keating *Will*
SUBJECT: Reemployment of Retirees from the System by State Agencies

I have conducted a survey among the major departments of the State of Nevada to determine the impact that Section 36.5 of SB 173 will have on the departments. Section 36.5 provides that: "1. Any person accepting or receiving the benefits of retirement compensation under this chapter shall not be employed in any capacity by the State of Nevada. . . , " with certain exceptions.

The comments I received back from the State agencies indicated that in general they just do not "reemploy" retirees. After considering this section further, it appears to me that beneficiaries under Options 2 through 5 of deceased retirees would also be affected by this section, but I did not attempt to ascertain the impact on them.

The comments I received are as follows:

Highways - Larry Sherrod

To the best of his knowledge, they have in the past had some PERB retirees on independent contracts, but they have not "reemployed" PERB retirees.

Conservation - Ed Stokke

Several years ago, they had some retirees on independent contract, but to the best of his knowledge, for the past several years, they have not "reemployed" any PERB retirees.

Human Resources - Gordy Cronenberger

They checked with most of their agencies and could find that they only have one "reemployed" PERB retiree working for them, nor would they anticipate any future "reemployments."

Memorandum to Vernon Bennett

RE: Reemployment of Retirees from the System by State Agencies

Page 2

April 11, 1977

Employment Security - Steve Frostick

He is not aware of any PERB retirees working for their agency.

University - Al Stoess

Al did not feel that this law would impact their agency. He felt that periodically they do engage a PERB retiree to teach a class or because of their "special expertise in the field," but of course this would not entitle them to membership. He said that obviously there might be one or two retirees who would fit this category, but he did not feel that it was a problem to the University.

Clark County - Dwight Turner

Can't think of any retirees that they presently have reemployed in a position, nor can he imagine that they would, except under some rare circumstance, employ a retiree in a position which would entitle him to membership.

Washoe County - Margaret Wittenberg

Might affect some individual cases, but will not be an impact on the County.

Clark County School District - Gene Schultz

In some special circumstances, which are rare, they might rehire retirees in a position which would normally entitle them to membership, but it certainly will have no big impact on the District.

Washoe County School District - Deloy Anderson

Can only think of one person they presently have employed who would be affected by this provision.

City of Las Vegas - Secretary of Angus MacEachern

Does not believe that they presently have PERB retirees reemployed in a position requiring membership. It certainly would not impact the City.

City of Reno - Jim Scott

Would not impact the City.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

November 3, 1976



Barnard & Hildahl
Certified Public Accountants
201 West Liberty Street
Suite 202
Reno, Nevada 89501

Re: Status of Lawsuits and Pending Litigation against the
Public Employees Retirement System of the State of
Nevada

Gentlemen:

In response to a request from Vernon Bennett,
Executive Officer of the Public Employees Retirement System
of the State of Nevada, we are pleased to provide you with
information on the following lawsuits or pending litigation
involving the system:

1. Cragun v. Nevada Public Employees Retirement System. This case concerns survivor benefits for two children and the spouse of a deceased public school teacher. The case was originally won by the system at the district court level, but was subsequently reversed by the supreme court. During the course of the litigation the spouse died, so that benefits to her would terminate upon her death. The system is obligated to pay her from the date of her husband's death until her death. The system is likewise now obligated to pay survivor benefits to the two children, one of whom is over age 18 but is believed to be a full time student at Western High School in Las Vegas, while the other is under 18. Following statutory amendment in 1975, the system is obligated to the 18 year old until age 23 or until she ceases to be a full time

student. By stipulation the system has agreed to pay an attorney's fee in this case to the attorneys for the children of \$3,500. Exact dollar amounts due the children and the estate of their late mother can be obtained from Mr. Bennett.

2. State of Nevada Employees Association v. State of Nevada, et al. This case challenges the constitutionality of requiring a person who has 30 years of service but is not yet age 55 and therefore eligible for retirement to continue making contributions to the system, since under present law the retirement percentage cannot exceed 65 percent of gross compensation after 30 years service. It is our best information that only one or two people will be affected by this lawsuit in the immediate future. At the same time, the Public Employees Retirement Board is sponsoring legislation at the 1977 session which would allow the retirement percentage to continue to grow beyond 65 percent for persons who are not yet age 55 and eligible for retirement. Such legislation would make this lawsuit moot and therefore it is anticipated that this case will probably never go to trial.

Refer to
Section 37,
page 20,
line 21

3. York v. York and Public Employees Retirement System of Nevada. This case is a challenge by a member of the Public Employees Retirement System to effect a change of option plans after he entered into retirement and began receiving benefits. Mr. York is presently receiving an unmodified allowance which he selected upon entry into retirement in early 1974, contrary to an order of the Ninth Judicial District Court that he select an option plan which would provide a minimum of \$250. per month to his ex-wife upon his death. He now seeks to go back and select such an option, but the Attorney General has opined that he has no such authority under statute. The outlook to this litigation is considered good by the Attorney General so

Refer to
page 23,
line 5.

Bernard & Hildahl
November 3, 1976
Page Three

far as effects upon the Retirement System are concerned. Possible dollar impact on the system should the court authorize the selection of an option would have to be calculated by the actuary.

4. The Cragun case was pending on June 30, 1976. The SNEA and York cases were both filed in September of 1976.

We trust that this information will prove adequate for your purposes, however, if we can be of any further assistance on this or other matters of mutual concern, please advise.

Sincerely,

ROBERT LIST
Attorney General

By
William E. Isaeff
Deputy Attorney General

WEI:rab

cc: Vernon Bennett

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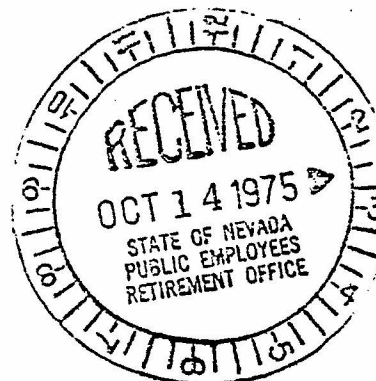




STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

October 14, 1975



Mr. Vernon Bennett
Executive Officer
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Investment Duties and Liabilities

Dear Mr. Bennett:

In your letter of September 26, 1975, you asked of this office a series of questions concerning the investment authority and liability of the Public Employees Retirement Board under the provisions of the Public Employees Retirement Act, Chapter 286 of the Nevada Revised Statutes, as amended by Chapter 575, Statutes of Nevada 1975.

Your first question sought the meaning of the term "investment counselor" as said term is used in NRS 286.284, as amended by Section 27 of the 1975 Amendatory Act. This statute now reads:

"1. The board shall be guided in its investment functions under the provisions of this chapter by the investment committee.

2. This committee shall be composed of four persons:

(a) Three member of the board appointed by the chairman of the board; and

(b) An investment counselor selected by the board and paid from the investment return of the public employees' retirement fund and the police and fireman's retirement fund in proportion to their respective assets.

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

3. The chairman of the board shall appoint a chairman of the investment committee from among the three board members.

4. The executive officer shall serve as a consultant to the investment committee."

It appears that this is the only reference in Chapter 286 of the NRS to a "investment counselor"; however, a similar term is used in NRS 286.680 i.e. "investment counsel". After comparing these two statutes, it is the opinion of this office that the two terms were intended by our Legislature to be synonymous.

Both an investment counselor and investment counsel give advice, for a fee, to persons, organizations and institutions on the making of investments of various types with monies available for such purposes. Sometimes more than just advice is given and the investment counselor or investment counsel may actually take an active role in managing investments, including determining within established limits what should be bought or sold at any given time. J. Low, The Investor's Dictionary (1964).

Whether called an investment counselor or investment counsel, each would clearly come within the provisions of 15 U.S.C.

§ 80b-3, which requires registration with the Securities and Exchange Commission of all persons "who, for compensation, engage in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing income, purchasing or selling securities, or who, for compensation and as part of a regular business, issue or promulgate analyses or reports concerning securities ***."

Although the above quoted federal act calls such persons "investment advisors", it is apparent that they are the same persons being referred to as "investment counselors" or "investment counsel" in our own state laws. In fact, one of the qualifications of any investment counsel retained by the board under NRS 286.680 is that such counsel must first be a registered investment advisor under federal laws.

And finally, we note that the method of compensating the board's investment counsel, provided for in Section 74 of the 1975 Amendatory Act is identical in all respects to the method set forth in Section 27 of said Act for the investment counselor who sits on the investment committee.

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

Mr. Vernon Bennett
October 14, 1975
Page Three

Since we have concluded that the term "investment counselor" used in NRS 286.284 is synonymous with the term "investment counsel" as used in NRS 286.680, we likewise conclude that the qualifications of each must be the same. The qualifications and conditions for employment of the board's investment counsel are set forth in paragraphs 2 and 3 of NRS 286.680. We believe that the person chosen to sit on the investment committee as the "investment counselor" must be selected according to the same qualifications and conditions.

Your next several questions concern themselves with the actual physical investment of the funds of the Public Employees Retirement System on a day-to-day basis. You have inquired as to who may make investment decisions and what liability, if any, attaches to which persons or groups when such decisions are made. In particular, you wish to know if the Public Employees Retirement Board can legally contract with its investment counsel to allow it to make certain day-to-day investment decisions in accordance with investment objectives and policies set by the Retirement Board.

Before attempting to answer these questions, it should first be noted that there is no legal requirement that the Retirement Board actually employ investment counsel. NRS 286.680 merely authorizes such employment whenever the Retirement Board believes such services would be useful to have.

Since the general election in November, 1974 all monies paid for the purpose of funding and administering a Public Employees Retirement System in Nevada have been declared to be a constitutionally protected trust fund for such uses and purposes. See Nevada Constitution, Article 9, Section 2. Before that date, such monies were part of a statutory trust fund. See NRS 286.220.

Pension and retirement trusts are usually viewed by the courts as charitable trusts, in contrast to private trusts, even though there is no requirement that the beneficiaries of the trust be poor. Bogert, The Law of Trusts and Trustees, 2nd Edition, Section 373, Note 96.

Since all the funds of the Public Employees Retirement System are trust funds, the members of the Public Employees Retirement Board may properly be classed as trustees of such funds for the ultimate benefit of the more than 30,000 members of the Nevada Public Employees Retirement System. Being trustees means the members of the Retirement Board have assumed a fiduciary relationship to the funds under their control and management and to the members of the system as beneficiaries of the trust.

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

Mr. Vernon Bennett
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Page Four

The investment duties and liabilities of charitable trustees are usually the same under the law as those of private trustees. Bogert, supra, Section 396.

With respect to the administration of trust monies, including their investment, a trustee is under a general duty not to delegate to others the doing of acts which the trustee can reasonably be required personally to perform. 1, Restatement of Trusts 2d, Section 171. Although a trustee most certainly cannot commit the entire administration of the trust to an agent or co-trustee or other person, he can delegate the performance of certain acts to others, especially where they are of a purely ministerial nature or where they involve professional skill or facilities not possessed by the trustee himself.

While it is a general rule of the law of trusts that a trustee cannot properly delegate to another complete power to select investments, this office is of the opinion that the trustees represented by the members of the Nevada Retirement Board may, if they so desire, legally delegate to their chosen investment counsel a certain well defined authority in the area of buying and selling investments. However, the final liability for losses arising from improvident action will always rest with the Retirement Board itself. While, in appropriate circumstances, investment counsel may be made to share the burden of any losses, the Retirement Board, as trustees of the retirement funds, cannot escape ultimate responsibility for decisions made and action taken.

By way of example, the Public Employees Retirement System in the State of Washington operates under laws similar in many ways to our own. With respect to their investment and the day-to-day decisions which often must be made in today's changing market, the Washington Retirement Board allows its investment counsel to buy and sell securities and other equities pursuant to well defined investment objectives and policies adopted in advance by the board and from a list of acceptable investments which has also been studied and approved in advance by the same board. As a further safeguard, the Washington Retirement Board requires investment counsel to check with the board's executive director prior to making any actual sale or purchase.

At each monthly board meeting, the Washington Retirement Board then carefully reviews all acts of its investment counsel during the preceding 30 days and either ratifies or disaffirms them. At the same time, appropriate investment

Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

guidelines for the next month are considered and approved with such additions, changes or deletions as are thought necessary.

In this most practical way, the need to sometimes make a quick response to a change in the market is met by investment counsel who is right on top of the day-to-day situation, while final decisions and ultimate responsibility in all such areas remain firmly entrenched with the retirement fund trustees.

We would respectfully suggest that procedures for investments similar to those in use in the State of Washington would be compatible with our Nevada laws governing the Public Employees Retirement Fund and the general laws on trust administration and investment.

The selection of investment counsel to perform acts like those described above places a heavy burden on the Retirement Board. As trustee, the Retirement Board members must use reasonable skill and care in ascertaining the qualifications of any person, firm or corporation being considered for such an important position.

The investment counsel should fully satisfy the requirements of NRS 286.680, paragraphs 2 and 3, and any other requirements imposed by the Retirement Board which are not inconsistent with those set out in the statute.

After a selection is made, the trustees must continue to use reasonable skill, care and caution in monitoring and supervising the activities of their investment agent, since a trustee is liable for the acts of an agent which, if done by the trustee, would constitute a breach of trust. 1 Restatement of Trusts 2d, Section 225.

In setting investment objectives and policies and in the making of actual investments, the Public Employees Retirement Board, under Nevada law, is governed by the so-called "Prudent Man Rule", i.e. "The board may invest monies in its funds in every kind of investment which men of prudence, discretion and intelligence acquire or retain for their own account." NRS 286.682, as amended by Section 75 of the 1975 Amendatory Act. In addition, NRS 286.220 (2) requires retirement funds to be "invested and administered to assure the highest return consistent with safety in accordance with accepted investment practices." The above stated rules require

Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

Mr. Vernon Bennett
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Page Six

a trustee to use due care in investigating the safety of an investment and the probable income to be derived therefrom. Ordinarily, this involves securing information from sources on which prudent men in the community customarily rely. The skill of a man with ordinary intelligence must be applied by a trustee in this connection.

Besides using due care and skill, the trustee is expected to use the caution of a prudent man. Trust funds are not intended for speculation. Rather, they must be invested with the view to the safety of the principle and to the securing of an income reasonable in amount and payable with regularity.

In making investments, a loss is always possible, since in any investment some risk is involved. In determining whether a trustee has acted properly in making a particular investment which later proved unwise, courts look at the circumstances at the time the investment was made and not at subsequent events. If, when the trustee made an investment it was one which a prudent man would have made at that time, the trustee incurs no liability for unexpected losses which subsequently occur. However, liability may still attach where a trustee fails to dispose of property which no longer constitutes a prudent investment because of a change in circumstances. 1 Restatement of Trusts 2d, Section 231.

Among the other duties of trustees which should be mentioned is the duty to actually make investments and cause the trust to produce income. Trustees may find themselves liable for lost profits if they fail to invest trust property within a reasonable time after it comes into their possession. Bogert, supra, Section 611.

There is also a duty on trustees to distribute the risk of loss by a reasonable diversification of investments. 1 Restatement of Trusts 2d, Section 228.

And where there is more than one trustee, as exists on our Retirement Board, each trustee is under a duty to actively participate in the administration and investment of the trust and to use reasonable care to prevent a co-trustee from committing a breach of trust or to compel a co-trustee to redress a breach of trust. 1 Restatement of Trusts 2d, Section 184.

A particularly important duty placed upon trustees by the law is the duty of loyalty. As mentioned earlier, a trustee

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

Mr. Vernon Bennett
October 14, 1975
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is in a fiduciary relationship to his beneficiary, and, as to all matters within the scope of that relationship, he is under a duty not to profit at the expense of his beneficiary. For example, a trustee may not purchase trust property for himself either at a private sale or auction even though he acts in good faith and pays a fair consideration; nor may he allow a sale to a firm or corporation in which he has a substantial interest. Likewise, a trustee violates the duty of loyalty if he sells his individual property or that of a firm in which he has a substantial interest to the trust and himself as trustee.

A trustee may not use trust property for his own purposes, nor may he accept from any third person any bonus, commission or other compensation for any act done by him in connection with the administration of the trust.

And finally, a trustee has a duty not to disclose to third persons information which he has acquired as trustee where he should know that the effect of such disclosure would be detrimental to the interests of the trust and its beneficiaries.

In connection with the above-stated rules as to a trustee's duty of loyalty, see 1 Restatement of Trusts 2d, Section 170.

In your letter of September 26, you inquired as to the liability of the members of the Retirement Board individually and as a whole in connection with the making of investments. At this point in our reply, it should be clear that liability is imposed under the law of trusts on individuals as trustees for their breaches of trust and not on the trust itself or some particular organization, institution or board. The same holds true for the investment committee, which, by law, is limited to reviewing the investment portfolio, and making recommendations to the full board. NRS 286.287, as amended by Section 28 of the 1975 Amendatory Act. Since no final decisions or actions are actually taken by the investment committee, no liability attaches to members of the committee as members of the committee.

Violation by a trustee of any of the duties herein discussed would constitute a breach of trust under the law. In this connection, the beneficiary of the trust, i.e. a public employee member of the retirement system, could maintain a lawsuit among other things, compel the trustee to perform his duties as trustee; enjoin the trustee from committing a breach of trust; or compel the trustee to redress a breach of trust. 1 Restatement of Trusts 2d, Sections 199, 201.

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

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In general, if a trustee commits a breach of trust, he is chargeable with:

- (a) Any loss or depreciation in value of the trust property resulting from the breach of trust; or
 - (b) Any profit made by him through the breach of trust; or
 - (c) Any profit which would have accrued to the trust if there had been no breach of trust.
- 1 Restatement of Trusts 2d, Section 205.

On the other hand, a successor trustee is not liable for a breach of trust committed by his predecessor, except if he:

- (a) Knows or should know of the situation constituting a breach of trust committed by his predecessor and he improperly permits it to continue; or
- (b) Neglects to take proper steps to compel the predecessor to deliver the trust property to him; or
- (c) Neglects to take proper steps to redress a breach of trust committed by the predecessor.

Commission of any of the acts described in (a), (b), or (c) above by a successor trustee would constitute his own breach of trust. 1 Restatement of Trusts 2d, Section 223.

Similar rules of law apply in a case involving a breach of trust by a co-trustee. In general, there is no liability on one trustee for the breach of trust of a co-trustee, except where there has been participation with the co-trustee in a breach of trust, acquiescence in a breach of trust, improper delegation or neglect. 1 Restatement of Trusts 2d, Section 224.

In conclusion, the questions in your letter were of a general nature, thus necessitating our general reply. We have attempted, however, to set forth the customary duties and legal liabilities of trustees with respect to administering and investing a trust fund of the type for which the

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Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

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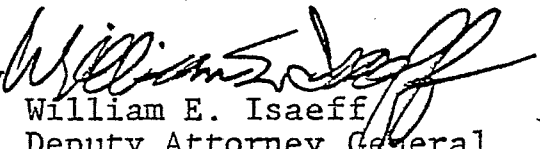
Nevada Public Employees Retirement Board is responsible. We are continuing our research into the question of the legality of the Retirement Board purchasing a liability insurance policy to protect its members in event of a suit for breach of trust by one or more of said members, and, therefore, we will not attempt an answer to that question at this time.

The undersigned Deputy Attorney General will be pleased to meet with you and the members of the Retirement Board at any time to discuss this opinion and answer questions any of you may have on the points discussed herein.

Sincerely yours,

ROBERT LIST
Attorney General

By


William E. Isaeff
Deputy Attorney General

WEI/ema

cc: Members of the Retirement Board

Refer to: Page 5, line 39; page 6, line 22; page 25, line 21.

DR. JOHN MACKIN, ACTUARY
MARTIN E. SEGAL COMPANY

NEVADA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Rough Estimates of the Cost of Possible Amendments

<u>Amendment</u>	<u>% of Salary Cost</u>
(1) 30 years, any age (assumes average retirement age will decline approximately 1 year)	.8% to 1.1%
(2) 2½% per year after 7/1/77, maximum of 75%	1.0% to 1.2%
(3) 2½% per year for all years, maximum of 75%	1.4% to 1.6%
(4) One and two combined	2.2% to 2.5%
(5) One and three combined	2.6% to 2.9%
(6) Survivor Benefit Improvements	.1%
(7) Graduated vesting beginning with - 5 years at 50%	1.0%
8 years at 80%	.4%
(8) Age 55 with 10 years	.9% to 1.2%
(9) Automatic cost-of-living increases 3% per year, compounded	2.1%
5% per year, compounded	5.8%
(10) 25 years any age, Police & Firemen	1.9% to 2.2%
(11) Post-retirement survivor's benefit 50% of retiree's benefit	1.5%
75% of retiree's benefit	2.0%
100% of retiree's benefit	2.8%

VERNON BENNETT
EXECUTIVE OFFICER

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200

RETIREMENT BOARD
ELBERT B. EDWARDS
CHAIRMAN
L. ROSS CULBERTSON
VICE CHAIRMAN
MEMBERS
CHARLES H. COLLINS
BOYD MANNING
DONALD L. REAM
GLENDON F. WALTHER
ROBERT C. WEEMS

October 20, 1976

COST ANALYSIS OF PROPOSED LEGISLATION ADOPTED BY RETIREMENT BOARD AND
OFFICIAL FIRST DRAFT DATED SEPTEMBER 22, 1976

I. Regular Members

<u>Benefit</u>	Employee Employer Cont.	Employer Paid Cont.
A. Normal cost for present benefits plus payment of unfunded liability over 40 year period.	13.7%	13.1%
B. Retirement with 30 years at any age.	.8%	.8%
C. 2½% per year of service up to 75% retroactive.	1.8%	1.8%
D. Survivor benefit coverage for job related death from first day of employment and coverage to vested members regardless of working status.	.1%	.1%
E. Cost of living increase July 1, 1977 and thereafter on graduated scale.	.5%	.5%
	<u>16.9%</u>	<u>16.3%</u>

NOTE: Recommendation was that employee and employer contributions be increased to 8½% each for a total of 17% and employer paid contribution rate be increased to 16%.

II. Police/Firemen

A. Normal cost for present benefits plus payment of unfunded liability over 40 year period.	15.1%	14.6%
B. Retirement with 25 years at any age.	2. %	2. %
C. 2½% per year of service up to 75% retroactive.	1.4%	1.4%
D. Survivor benefit coverage for job related death from first day of employment and coverage to vested members regardless of working status.	.1%	.1%
E. Cost of living increase July 1, 1977 and thereafter on graduated scale.	.5%	.5%
	<u>19.1%</u>	<u>18.6%</u>

NOTE: Recommendation was that employee and employer contributions be increased to 9½% each for a total of 19% and employer paid contribution rate be increased to 18%.

NOTE: The System adopted the official first draft on September 22, 1976 because we were required to file same with Legislative Counsel by September 30, 1976. However, we have the right to make additions, deletions and/or corrections until November 1, 1976. Therefore, the final decision on our legislative package will be made October 28 and October 29, 1976. The above package also includes paying the employee and employer monthly administrative fees from the increase in contributions; deletion of the plus 2% and plus 4% contribution rate for older employees beginning July 1, 1977 and determination that all members will receive 4/3's credit as presently provided to school district employees.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

LEGISLATIVE BRIEFING

held

FEBRUARY 22, 1977

4:00 P. M.

STATISTICS

MEMBERSHIP - As of December 31, 1976, there were 35,482 active members in the System, as compared with 30,152 at the end of 1974, and 29,291 at the end of 1972. Of the current 35,482 members of the System, 3,163 are Policemen or Firemen. The regular members are distributed as follows: 8,672 State, 12,108 school districts, 4,976 counties, 2,857 cities, 3,283 hospitals and 423 miscellaneous.

BENEFITS - There are 3,690 retirees receiving benefits as of December 31, 1976, as compared with 3,073 at the end of 1974. Of the current members, 2,614 have retired under the unmodified option and the remaining 1,076 have retired under one of the modified options. In fiscal year 1976, benefits received by regular retirees amounted to \$12,767,666 while Policemen or Firemen benefits were \$1,251,230 for a total of \$14,018,896.

DISABILITY RETIREMENTS - There are presently 222 disability retirees of which 18 were Policemen or Firemen. At the end of 1974, there were 140 disability retirees. The average age of the retirees at the time of their disability was 53. In the fiscal year 1976, disability payments to Policemen or Firemen amount to \$65,297 and regular disability payments amounted to \$641,721 for a total of \$707,018.

SURVIVOR BENEFITS - There are presently 454 survivors receiving benefits as compared to 408 at the end of 1974. Of the current survivors, 233 are spouses, 216 are minor children and 5 are dependent parents. In fiscal year 1976, the Retirement System paid \$51,885 in survivor benefits for Policemen or Firemen survivors and \$436,948 for regular survivors for a total of \$488,833.

ACCOUNTING

CPA AUDIT - Audit was performed for FY 74-75 and FY 75-76 by Barnard & Hildahl in conjunction with physical count of securities. Every registered CPA firm in Nevada was provided the audit criteria and given an opportunity to submit a bid. Barnard & Hildahl was selected from the top five CPA firms to perform our annual independent audit.

POLICE/FIREMEN FUND - Fund was established as directed by the last session of the Legislature. Approximately 3000 member records and contributions, which represents about 10% off the membership, were audited and segregated.

CHART OF ACCOUNTS - The Chart of Accounts for all funds was standardized. In the past, each fund had its own Chart of Accounts.

AUDITOR POSITION - An Auditor position was established. This position is responsible for auditing agencies to make sure they comply with the law.

EQUIPMENT INVENTORY - Inventory was brought up to date and is being maintained on a current basis.

CONTROLS - These were established for various asset and liability accounts. These controls provide for balancing as well as follow-up when necessary.

MICROFILM - Approximately 35,000 refunded and deceased files, from 7/1/67 to 6/30/76 have been microfilmed. All payrolls prior to FY 75-76 have been microfilmed.

MEMBER AGENCY PAYROLL SUBMITTALS - Instructions for proper submittal were sent to all agencies and training is provided as needed. The retirement staff is available to provide training throughout the state.

MEMBER RECORDS

MEMBER'S ACCOUNT STATEMENTS - These were prepared and mailed to each member after our books were balanced at the end of each fiscal year. This statement included basic data, total service, contributions during the last fiscal year, total contributions and beneficiaries as listed. In 1974, 40 - 50% were returned for correction, in 1975, 3% were returned and 1.8% were returned in 1976.

MEMBERSHIP DOCUMENT - This document, listing provisions and benefits of the System in layman's terms, was revised, printed and distributed to all members of the System. Police and Firemen received a listing of their provisions and benefits. Each agency has been provided with a supply of documents for issuance to new members.

QUARTERLY NEWSLETTER - Called PERBlication, is printed and distributed to each member every three months. This provides up-to-date information on the Retirement System to all members on a regular basis. All Legislators are on the mailing list.

INFORMATION PROGRAMS - These have been presented to members and member groups throughout the State on a regular basis and on specific request. The program usually lasts 1½ hours and consists of a general description of retirement benefits, plus a question and answer period. Time is provided immediately after each program for individual member's questions and confidential counseling as required.

MEMBER COUNSELING - This is now being provided on a regular basis to Las Vegas on the first Thursday and Friday of each month, Ely and Elko every three months and to other areas as requested. Members in those areas have been advised of appropriate meeting places and given the opportunity to schedule individual counseling as needed.

SERVICE TIME AUDIT PROGRAM - The audit of all member records which was begun in September 1974 was completed May 1975. Service credit is currently calculated on the computer.

REFUNDS - The system refunded \$4,447,596.18 to 5517 members in fiscal year 1974-75 and \$5,387,793.88 to 6164 members in fiscal year 1975-76.

NRS COMPLIANCE - To the best of our knowledge and the advice of the Attorney General's office, the Public Employees Retirement System is in full compliance with the Nevada Revised Statutes.

INVESTMENTS

INVESTMENT COUNSEL - Provided by Funds Advisory of Houston, Texas. We advertized nation-wide and received 34 applications. Funds Advisory was selected from the top four firms and began in March 1976. This was the first change in Investment Counsel since 1959.

TRUST AUDIT SERVICE - This is provided by Blyth Eastman Dillon & Co. of Las Vegas. This service is responsible for monitoring the Trust Department of our bank to determine that our securities are handled in a proper manner and that all interest payments and dividends are collected and placed in our account promptly. Trust audit will also provide the annual fiscal count of securities.

INVESTMENT OBJECTIVES AND POLICIES - Were officially revised in March 1976. These provide the guidelines for our investment committee, investment counseling, investment monitoring and trust audit.

SBA LOANS - In April 1976 the Retirement Board set aside \$5,000,000 to be invested in SBA loans made to Nevadans through Nevada banks. The System would provide 90% of the loans which is the amount fully insured by the Federal Government. The bank would provide the additional 10% of the loan and also would receive a service fee for handling and processing the loan. We have four SBA loans to date, totaling \$506,064. Each Nevada bank and Savings and Loan has been provided the criteria and opportunity to participate.

NEVADA INVESTMENTS - These are a matter of considerable interest to the Retirement Board; however, there is no blue chip common stock located in Nevada and only two utility companies. Investments in Nevada increased from \$554,731.22 on July 1, 1974 to \$17,342,457.02 on January 31, 1977. We have purchased the four buildings in Capital Plaza Complex. The Retirement Staff is presently housed on the second floor of one of the buildings with Gaming located on the first floor. The Tax Commission is located in one of the other buildings as is Employment Security. The fourth building is occupied by the Bureau of Land Management.

INVESTMENT PORTFOLIO - The Retirement Fund has an investment portfolio of \$393,815,267. These funds are invested 78% in corporate bonds, 17% in stock, 3% in short-term securities and 2% in real estate and secured loans. The portfolio increased by 50% from the portfolio of \$261,806,114 on December 31, 1974. The System's average annual yield on investments was 4.04% in 1974, 6.02% in 1975 and 8.77% in 1976. To our knowledge, there is only one other retirement system with a higher yield, which is the State of Nevada Legislator's Retirement System. Attached is an example of the yield from several Western States.

CB:vm

RESULTS OF POLLING WESTERN STATES'
RETIREMENT SYSTEMS
REQUESTING INVESTMENT YIELDS

State	Person Contacted & Title		Investment Yield			(Projected)
			1974	1975	1976	1977
Nevada	Vernon Bennett Executive Officer	PERB	4.04	6.04	8.77	8.0
Alaska	Ron Reck Dept. of Revenue	PERB	2.6	2.2	5.9	N/A
		Teachers	4.8	1.8	6.8	N/A
Arizona	Max Sullivan Director	PERB	5.0	5.4	5.6	N/A
Colorado	Jack Kennedy Director	PERB	6.75	6.75	7.0	N/A
Oregon	Carol Rockney Admin Secretary	Fixed	Calendar Year End			
			5.50	7.50	7.50	N/A
New Mexico	Leonard Valdes Exec. Secretary	PERB	7.15	6.75	7.25	7%+
Montana	Lawrence Nachtsheim Secretary	PERB	6.83	7.06	7.34	7+ Unpredicted
		Teachers	6.98	7.07	7.20	7+ Unpredicted
Utah	Mr. Gunderson Investment Officer	PERB	Calendar Year End			
		PERB	5.17	6.82	7.52	
California	Carl Wilberg Investment Officer	PERB	5.74	5.90	6.08	N/A
		Teachers	6.50	6.78	N/A	N/A
Idaho	Tommy Terrell Director	PERB	Only time and dollar-weighted figures available.			

The above represents the information received from telephone calls to the various retirement systems. Many of the states were hesitant in properly defining what information was included in yield percentages; therefore, it is difficult to attest to the accuracy of all the information.