

MEMBERS PRESENT: Chairman Dini  
Mr. Craddock  
Mr. Polish  
Mr. DuBois

MEMBERS ABSENT: None

GUESTS: See the Guest List attached to the Minutes of this Meeting.

Chairman Dini called the meeting to order at 9:02 A.M.

Mr. Dini announced that the Subcommittee of the Government Affairs Committee dealing with AB 168 had our counsel with us, Mr. Daykin, to help us review the amendments. Mr. Dini stated that Mr. Vernon Bennett, the Executive Officer of the Public Employees Retirement System would go over the amendments with the Subcommittee.

Mr. Bennett stated that on February 24, 1981 he provided testimony to the full committee which he had again passed out to the Subcommittee. He stated that they have tried to update the information based on the discussions from the committee. He indicated that the Committee had strong opposition to the four day week provided in Sections 1 and 10. Under current law PERS can go to a four day week provided we shift the schedule so some people work Monday through Thursday and the others Tuesday through Friday. We tried that, but we can do that under current law so if you do not favor our ability to physically close the office one day, we would suggest that you delete Sections 1 and 10 in their entirety.

Mr. Dini asked if there were any questions from the Subcommittee?

Mr. Bennett stated that they had an amendment on page 5, between lines 49 and 50 to bring into NRS 286.190 a provision that is currently in our cost of living increase bill which is AB 154. He stated that they were using the same language that is in AB 154. He indicated that they would just move it down as a part of 286.190. This would eliminate a conflict with AB 154 which are both amending the same section. If the committee adopts this amendment which has no fiscal impact we will remove it from AB 154.

Mr. Daykin stated that he feels that it is not up to you whether you put a particular amendment from another bill or not. The handling of the conflict can be done mechanically if you pass both bills. If you prefer to consider something like that on its own in another bill, it does not present my office with a problem.

Mr. Bennett stated that what this section does is allow the system on a regular basis to require the benefit recipients to determine that they are still eligible for the benefits and this came about - there is no cost impact to it - two years ago when we discovered

\* See Exhibit A

an inconsistent situation with our benefit recipients and we went out to all our members to make sure that they were still living and we discovered three of them were no longer living.

Mr. Bennett then referred to page 9, line 48, delete the word "is" and insert "will be". This is a technical correction recommended by the Attorney General.

Mr. Daykin stated that he would concur that that is probably a better phrasing in the statute than the present one.

Mr. Bennett then referred to page 10. He indicated lines 3 through 7 should be deleted and insert "he proves that he is unable to perform his present and any other position he has held within the past year". Mr. Bennett stated that this is a technical correction and deals with eligibility for disability retirement. The concern he has now is the way it reads - it says that the person to apply for disability must have been employed in his current position for at least a year. What we are afraid this could require is that if a person makes a change in jobs he loses his disability eligibility for one year which was never the intent. What we were trying to eliminate is a situation that occurred to us in one of our cities not long ago. We had a policeman who was working at the airport and was checking people through the security gates and he had phlebitis in the leg. He did not have any problem at all doing his job. The City moved him back to the city duty walking a beat in a much more complicated job and he applied for disability because he could not do his new job. We tried to get the City to move him back to the airport where he could do the job and they would not do it so what we are trying to do is to prevent someone who has a less complicated job and a mild disability from switching over to a very complicated job and then applying for disability based on the new job that he can't perform.

The new amendment would say that he proves that he is unable to perform his present and any other position he has held within the past year. That eliminates the concern about losing his eligibility for a year and accomplishes what we want is for you to be unable to perform the employment you have held within the past year.

Mr. Dini stated that that did not solve the problem of the City transferring him back to his original job.

Mr. Bennett stated that it would for them in that case because he had only been in the new job about three months and we would use his current job as a consideration plus his previous job and he still was eligible to do his previous job, we would turn down his disability and the City would have the option then to put him back on that job. Unfortunately, some of the employers try to use

our disability retirement as a way to get rid of undesirable employees rather than terminate them, and that is what we are trying to eliminate.

Mr. Polish asked Mr. Bennett if there were any checks that were made on these people that have these conditions on what help they are getting medically?

Mr. Bennett stated yes. They are reviewed once a year. They have to do a new examination each year until they are determined fully disabled and unless they are eligible to retire. Once they reach the equivalent of retirement eligibility, we don't check them, but once a year they have to do a physical examination at our expense, we check their employment at all times and we do as much follow up as we can.

Mr. Daykin stated that he thought it would accomplish the purpose that Vernon desires. Mr. Daykin explained that it was not a legal question. Mr. Daykin stated that if you want to approach it this way, then this is good language for the purpose.

Mr. Bennett stated that the Deputy Attorney General, Bill Isaeff, did help us with the amendments.

Mr. Bennett stated that the Committee had requested on NRS 286.180 which was a proposed amendment which would allow the board to receive a fee while on travel status and work projects to provide a definition of travel status and work projects. Mr. Bennett indicated that this was their first attempt at it and we have no pride in authorship, but travel status means "necessary travel on official business to perform work projects, attend retirement seminars and conferences and attend meetings of the board." The definition of work project means "any official function directly related to the System which is performed by a member of the board upon approval by the Board."

Mr. Daykin stated that his only comment would be to reserve working the language over a little bit. He stated he had no comment, of course, on the substance of it.

Mr. Bennett stated that they had no concern with that. We were just trying to provide a definition requested by the committee.

Mr. Daykin stated that they had provided the substance of what we need.

Mr. Bennett stated that he would like to add another one if he could because they forgot an amendment which was discussed with the Committee the other day. We have since discussed it and he did understand that there may be a change in position by the Clark County School District but as they testified the other day, on page 2, section 4 on line 17, this is where a public employee could go on leave to work with an employee association and still

contribute to the system. They had requested that this be amended to make sure that the member and the association make the payments and not the school district. Mr. Bennett stated that they would recommend that on line 19, you delete the word "continued" and insert "paid by the member and association". So it would then read: "when a public employee on leave to work for a recognized employee or employer association may remain a member of the system if retirement contributions to the system are paid by the member and association". Mr. Bennett stated that that clearly spells out that the employer will not be responsible for making the payments.

Mr. Daykin indicated that he would respectfully suggest then that perhaps we would want to say if both the members and the employers' retirement contribution are paid.

Mr. Bennett stated that that was fine.

Mr. Daykin indicated that we might as well triple rivot it as long as we were doing it.

Mr. Bennett stated that they had no problem with that.

Mr. Bennett stated that as he understood it, it would read that both the members and the employers contributions are paid by the member and association.

Mr. Bennett stated that he would like to go through their amendments from the other day while we have Frank here. Mr. Dini stated that that was a good idea.

Mr. Bennett stated that the amendments began on page 3 of the handout\* to the Subcommittee.

Mr. Bennett indicated that if the Committee would recall, they suggested two types of amendments. The ones beginning on page 3 were amendments to the bill as drafted and then we will have a later section which are additional amendments which have been proposed.

Mr. Bennett referred to page 2, line 7, delete the words "this benefit must be computed without any reduction for age" and on line 8, the words "for the deceased member". This statement is unnecessary because this section applies only to a person who is fully eligible to retire.

Mr. Daykin stated that was okay.

Mr. Bennett stated that on page 2, line 42 after the word "benefit" insert "unless he remains on sick leave for the entire period of continued employment". This deals with a person whose disability is approved and then he goes back to work. Our concern is that he he could go back and work sixty days he was not totally and

permanently disabled, but it does appear to close out a person who is fully disabled, but would like to use his sick leave up and we have no objection to that. This was requested by the School Employees Association and this would just allow a disclaimer unless he remains on sick leave for the entire period of continued employment.

Mr. Daykin stated that he would then be drawing pay from the school district let us say on sick leave and retirement benefits too?

Mr. Bennett stated no. His retirement - his disability retirement - would not start until the day after termination. He cannot draw both. But what this section would have provided is if the board approves -

Mr. Daykin stated he would have had to reapply.

Mr. Bennett stated that was correct. This will eliminate the necessity of replying but not double benefits.

Mr. Bennett stated that they have never favored double benefits. The benefit by law will not begin until after he totally terminates public employment so actually this will save the retirement system money. If he wants to stay on sick leave at full salary for six months rather than start drawing disability, we save six months of disability.

Mr. Bennett referred to page 3, line 17, delete the word "and" and insert "are". This is a technical correction. It could be read this way, that you would limit contributions to either standby pay or recall pay. The intent was that you would make contributions on either one or both.

Mr. Daykin stated that that would be all right.

Mr. Bennett then referred to page 5, line 40, after the word "records" and before the word "of" insert "or benefits", and on line 41, after the word "beneficiary" and before the ",", insert "after an error or inequity has been determined." This is the amendment that we are requested to allow the Retirement Board to restore to them the right to make corrections for an error or inequity if determined, that has been made by the employee, the employer or the System. The Board had that authority until 1979; you may recall it was removed then and we have encountered several unfortunate circumstances which the Board could have resolved, and we are requesting that that be restored. Mr. Bennett stated that this was Mr. Daykin's old wording from 1979.

Mr. Daykin stated yes.

Mr. Bennett then referred to page 6, line 30, delete the words "an additional one half percent of compensation earned". Delete 641

lines 31 and 32 in their entirety and insert "the additional contributions required for the police and fireman retirement fund from the".

What we are trying to do here, the law provides that after July 1, 1971 police and firemen make an additional contribution, this refers to it, so if a new group is added in this legislative session, those people would go back and contribute the additional amount back to their first day of employment or July 1, 1971. What we want to do is rather than put in the specific additional contribution rates, take the rates out, have a general phrase in there, which we would be glad to have Mr. Daykin rework if he has better wording, and I am sure he will, but to just say that they have to as they are enrolled in the police and fireman fund, pay the additional contributions, whatever they are to the police and fireman fund. That will eliminate future amendments.

Mr. Daykin stated that he would certainly concur in the principal there and Mr. Bennett's wording looks all right as far as he is concerned.

Mr. Bennett then stated that Section 14 should be deleted in its entirety. This is page 6, line 48. The original actuarial computation required an increase in the employer rate for police and firemen. Our auditors found a \$12,000,000 mistake which was transferred to their fund. We had a new actuary study and computation who then determined there was no need for a contribution increase in the employer pay part.

Mr. Polish questioned which fund this was.

Mr. Bennett stated that what happened was in 1975, the police and firemen fund was created and we transferred the money at that time. The auditors found a \$3,000,000 mistake plus the interest that had been earned on that \$3,000,000 since 1947, which came to \$12,000,000 that should have been transferred from PERS to the police and firemen. That transfer was made. A new study was performed which eliminated the need for the employer pay increase and contribution. He still determined - the actuary determined - the need for the employee/employer pay increase.

Mr. Bennett then referred to page 8, line 9. This is the same amendment as number 5 where under the employer paid part, where you take out the specific additional contributions and put in a general phrase that they pay the additional.

Mr. Bennett then referred to page 8, line 34, delete the word "made" and insert "submitted". This is a technical correction. The employer could make the report in his office but what is important to us is that he submit it to the retirement system.

Mr. Daykin stated that that made sense.

Mr. Daykin indicated that "filed" was probably the word because "file" is what occurs in line 28.

Mr. Bennett stated that they would accept "filed". Mr. Bennett stated that they just wanted to make sure that they had to get it to us.

Mr. Daykin stated that it does get to Mr. Bennett.

Mr. Bennett referred to page 8, line 50, after the word "the" insert "public". Mr. Bennett stated that his amendment numbers 9, 10, 11, 12 and 13 go together. He further stated that on page 8, line 50, insert the word "public" which is just a technical correction. On page 8, line 50, after the word "collect", insert "pay within 90 days". On page 9, line 1, delete the words "contributions that are due and pay all the" and insert "and". Page 9, line 2, delete the word "actuary" and insert "system". On page 9, line 3, after the ".", insert "The Public Employer shall have the right for a cause of action against the employee to recover the employee contributions and interest which has been paid."

Mr. Bennett stated that all of these amendments deal with the fact that a public employer failed to enroll a person in the retirement system whose membership was required by law. We now have several petty lawsuits, we are employing collecting agencies all over the country including Texas, New York, trying to get those peoples' contributions back just because the law requires it. The new law would say that if the employer failed to enroll the person, that the public employer would pay both the employee and employer contributions plus interest and then have legal cause to go back against the employee to get the employee part plus interest back but it would place the onus on the employer to correct his own mistake.

Mr. Bennett referred to page 9. Delete lines 15 through 17 and insert "(b) the employee is 55 years of age or older and has 30 years of service or more, or is 60 years of age and has ten years of service or more." This is a technical correction. What we had before is this is a phase in program that the university requested where a person who was fully eligible to retire could go on a half-time basis and phase in. It had first applied only to the people who were sixty years old with ten years service. They now have some people who are age 55 with thirty years service who would like to go into it. This will allow them to go into the phase program under either one of our eligibility requirements.

Mr. Dini asked if that had any fiscal impact.

Mr. Bennett stated no. Mr. Bennett stated that the new phase in program was adopted by the legislature in 1979. It was a special bill by the Board of Regents.

Mr. Bennett then referred to page 9, line 22, delete the opening bracket and on line 24 delete the closing bracket. The ";" on line 26 again delete the opening and closing brackets. These changes were not requested by the System. They would eliminate the option for a person to contribute on the lesser of the two amounts which was never requested or intended.

Mr. Dini asked Mr. Daykin if he knew how they got in the bill.

Mr. Daykin stated that was what he was looking for. Right off hand Mr. Daykin stated he did not but he would certainly take them out because the system does not desire them. Where we got them from is a very good question.

Mr. Bennett referred to page 9, line 43, delete the word "credible" and after the word "service" insert "credit". This is a technical correction. We have always referred to service credit. Creditable services raises the question that it might be eligible for credit but has not been actually applied for and the actual credit given.

Mr. Daykin concurred.

Mr. Bennett referred to page 10, line 1, delete the word "member" and insert "public employer". This is a technical correction.

Mr. Daykin stated that that was one that has lurked in the law for a long time.

Mr. Bennett stated that he is in the employ of a participating member.

Mr. Daykin stated he could not do that in the technical sense in which you use member. I'll bet that comes from the 1947 Act.

Mr. Bennett stated it probably does.

Mr. Daykin indicated that now would be the time to fix it.

Mr. Bennett referred to page 10, line 12, between the words "member" and "describing" delete the ",". This is just a typing error we think.

Mr. Daykin indicated that it must have been someone that likes commas better than Mr. Bennett does.

Mr. Bennett stated they had no strong feeling about it.

Mr. Daykin indicated that he thought that he would leave that comma.

Mr. Bennett then referred to page 10, line 37, delete the word "total" and insert "unmodified". This is a technical correction. We don't have a phrase "total benefit". We have an unmodified



benefit.

Mr. Daykin indicated he thought this was good because it subjects these sections to a line-by-line scrutiny and it make the language more consistent throughout the chapter.

Mr. Bennett indicated that they had also had some excellent assistance from our deputy attorney general this time and it is coming up.

Mr. Bennett referred to page 10, line 36, delete the words "to an unmodified allowance" and insert "provided in NRS 286.590" which is the section that refers to options.

Mr. Daykin asked what substantative change does that make, if any.

Mr. Bennett stated none whatever.

Mr. Daykin stated very well then it shall not be done. He informed the committee that it creates a very unnecessary internal reference.

Mr. Dini asked Mr. Daykin what he proposed.

Mr. Daykin stated to leave it the way it is.

Mr. Bennett then referred to page 11, line 37, after the word "advisers" insert "and staff". This is a technical correction. We had requested that "and staff" be included and it was omitted but basically both the retirement staff and the medical board provide disability recommendations to the retirement board.

Mr. Bennett then referred to page 11, line 47, delete the word "beneficiary" and insert the word "recipient". Mr. Bennett indicated that this was a technical correction.

Mr. Daykin agreed.

Mr. Bennett stated that we have some disability recipients who are not beneficiaries. Beneficiaries would be the surviving spouse under an option.

Mr. Daykin indicated they would and the recipient is the beneficiary himself.

Mr. Bennett stated it would be the disabled retired employee.

Mr. Bennett then referred to page 12, line 6, delete the words "reduced for his age" and insert "under N.R.S. 286.510, subsection 10" and then on line 6, and 7, the word "credible" and between "service", insert "service credit". This is the same correction that we had a few minutes ago on the service credit.

Mr. Daykin asked if the preceding one made any substantative change.

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Mr. Daykin indicated that he was referring to the one where Mr. Bennett was taking out reduced for his age and making the specific reference.

Mr. Bennett stated no.

Mr. Daykin indicated that the answer was the same. My drafters are carefully trained not to insert internal references unless they are necessary.

Mr. Bennett stated that was okay.

Mr. Daykin indicated that if internal references were necessary they would be glad to insert them.

Mr. Dini questioned NRS 286.510.

Mr. Bennett stated that NRS 286.510, subsection 4, merely spells out the early retirement program that you can take a 6% reduction for each year that you are under the required age. Frank is referring to it because he say elect a service retirement reduced for his age if he has a creditable service necessary to retire.

Mr. Bennett indicated that they had no problem with that. We felt that it would have been tighter the other way but we can understand his concern.

Mr. Bennett referred to page 12, line 11, after the word "participating" and before the word "employer" insert "public".

Mr. Bennett indicated that this was a technical correction.

Mr. Daykin concurred.

Mr. Bennett then referred to page 12, line 20, after the word "disability" and before the word "or" insert "retirement". That is a technical correction, so it will read "disability retirement".

Mr. Daykin concurred.

Mr. Bennett indicated that this was all of the technical corrections to the bill as written and asked if the committee would like to go through the additional amendments which they proposed at the full committee hearing?

Mr. Dini indicated that would be fine.

Mr. Bennett stated that their first was an amendment to NRS 286.190, which would accomplish three things. It would raise the daily fee for board members from \$40.00 to \$60.00 per day which we understand is being proposed for all boards. It would provide that the board would receive the fee while on travel status and work projects which the board used to do. Currently we have one board member who drives from Ely way which takes about five or six hours. He does not get

paid for it yet he has to take leave from his job and does not get paid from his job. The other board members usually come up from Las Vegas or Reno the evening before. We usually meet a day and a half and they return on the afternoon of the second day so they would be drawing status just one way. They would be paid the additional fee. In addition, subsection 4 allows the board to review mortgage and real estate at a special meeting. This would add to it that they could also review it on work projects, both of these, the meeting and the work project will be paid, the expenses will be paid out of commitment fees from the borrowers. During the last year the System did over \$100,000,000 in mortgage and real estate and quite often they can't have a full board meeting to go look at a \$15,000,000 property in Las Vegas, as an example, but it would be very easy to have the two or three board members in Las Vegas to go by and look at the property, and this bill would authorize them receiving the travel expenses and the \$60.00 per day while on that type of work project to be paid out of the borrower commitment fees, so the borrower will pay the expenses. The travel status for board meetings and on general things as an example, once a year we have an audit of our investment securities and we have one board member come and view the audit, things of that nature, the board would receive the \$40.00 per day fee as well for that. This is also where we offer to you today a new amendment to define what is travel status and what is a work project.

Mr. Daykin indicated he believed we could probably put the whole concept into clear English.

Mr. Bennett then referred to the amendment requested by Assemblyman Jeffrey to NRS 286.300. Basically what the amendment would do, the current law says that a person can purchase any other state, county or municipal federal service provided it had been previously credited in another public system but is no longer credited in that system. We have had several unfortunate circumstances such as a lady who was teaching school in Montana in 1942 to 1945. The Montana Retirement System was not created until 1947 and this current amendment would eliminate the requirement that you have had to have performed a public service under another public retirement system and allow you to purchase service that is performed with any public, state, county, municipal or federal entity, provided it is not credited in another system. We charge the full actuarial cost. It has been our experience that very few people found it feasible to buy the service unless it made them eligible to retire. If they were sixty years old and had seven years then it may be beneficial to buy three years of service, but they still pay the full actuarial cost which is very expensive. We feel this is a good amendment.

Mr. Dini asked how many people have taken this.

Mr. Bennett stated about ten. He indicated that on an average only about two people out of 100 that go through the procedure to buy service, actually buy it. It is very expensive. Some

people have been charged as much as \$40,000 to buy five years of service.

Mr. Craddock asked what it entails as far as the expense to the System when they have to do the research involved in an offer to buy.

Mr. Bennett stated that they are geared and budgeted it. First of all we have to write to the other retirement system or employer to have them verify the public service. We work the computation which probably takes us about 1/2 hour for one person. It is typed, which is no big deal, 10 or 15 minutes. Upon retirement, we flag their files if they buy it, and upon retirement we go back to that public retirement system and make sure they have not gone back and recredited in the other system so that they are double dipping. I would say an estimate of three or four hours per person who buys service. But we do have that in our budget and in our program we have had no real problems with it.

Mr. Daykin indicated that that was paid by the employee who requests the service.

Mr. Bennett stated that they pay \$10.00 towards the purchase. It does not cover it all but it does part of it.

Mr. Daykin indicated that he knew that they paid something.

Mr. Bennett stated that they don't consider this a major workload item.

Mr. Daykin indicated that on a mass production basis the \$10.00 goes farther than it sounds.

Mr. Bennett stated that they get the \$10.00 from each one - from the whole 100 people because if we do the computation they pay and then when only two people buy it then we have to do the other follow up on only two people out of the 100, so it works out pretty well.

Mr. Daykin then stated that they do break even.

Mr. Bennett stated they come close to breaking even.

Mr. Dini asked if an amendment like that would cause us a problem with the federal people.

Mr. Bennett stated no.

Mr. Bennett further indicated that in fact one of the things that the federal people for example - one of the key issues in the PERISA legislation is that you don't have portability and if they can get PERISA then there will be more portability so if you had ten years service in North Carolina and you moved to Nevada you can get the credit here. We are one of only three

states in the nation that allow the purchase of service in other public retirement systems so we are going much beyond the other states on portability. This is a plus factor. This is helpful legislation in our testimony because we can say to the federal committees which we have done in testimony already that we don't need PERISA to have portability. Our laws passed by the Nevada Legislature have taken care of this situation.

Mr. Craddock questioned the federal laws on vesting.

Mr. Bennett stated that so far the federal laws have not applied to public retirement systems. The ERISA bill does not apply to public retirement so far. There is a new bill - PERISA - that would put us under it, but we are not under any federal limitations now whatever. Our only law right now on retirement is this legislature and the governor, which we are trying to keep that way.

Mr. Bennett referred to the amendment on page 7 which would add to NRS 286.321 a new provision. This deals with who shall be members of the system. A vested member or member contributing immediately prior to commencement of a legislative session who is employed by either house of the legislature or the Legislative Counsel Bureau during a legislative session commencing after January 1, 1981. This would resolve a membership problem we have with employees of the legislature. It was requested by the Legislative Counsel and it would provide that people - although most people employed by the legislature are not enrolled in the system - those people who are already contributing members in PERS are already vested, would be enrolled in the system during the legislative session.

Mr. Daykin stated that they would be enrolled, they would pay on it, they would thereby earn additional service.

Mr. Bennett stated yes. Our other laws cover that if you are in the membership, you make the contributions, you get the credit. Mr. Bennett stated that this would be in addition to the existing law on who shall be members of the system.

Mr. Daykin stated that this, of course, because of the terms member does not apply to the retired employees who are covered under other legislation. I remember doing it. He further stated that these are the people who cross over from executive agencies to work for us and it avoids a break in there as would otherwise occur.

Mr. Bennett stated that you have about five to seven people who do that every legislative session.

Mr. Daykin stated that some of them are key employees, including your Chief Clerk, Mr. Dini.

Mr. Bennett indicated that if you don't do this, every other year they are going to lose four or five months of retirement credit.

Mr. Daykin stated that that would be unfair to them.

Mr. Bennett stated the next amendment was to NRS 286.330 which is the opposite. These are the groups who cannot be members. It would add school crossing guards employed on a part time basis on or after July 1, 1981. This was requested by the Las Vegas Metro Police Department to eliminate problems they are encountering with school crossing guards. These people are usually over age 60, they are less than half time, will seldom earn retirement. We support the legislation.

Mr. Bennett then referred to NRS 286.430. Mr. Bennett stated that this was drawn by their Deputy Attorney General. The situation and the problem that we encounter is that a person is terminated for cause - he is fired. He comes to the Retirement System and he applies for a refund of his contributions which he is entitled to. We pay him. Then he decides that he was incorrectly terminated and he appeals his termination. This may take 3, 6, 9, 12 months, but either the Appellate body of the courts rule in his favor and say your job shall be fully reinstated with all rights and all benefits thereto. Unfortunately it seldom spells out that he has to repay the refund to the Retirement System and restore his retirement credit and the purpose of this legislation is that it would spell out that in any cases like that where they got a refund and the court subsequently said due to a termination that the court subsequently said was not a legal termination, that they have to go back immediately and pay that refund plus the appropriate interest. We will be very happy to accept any amendments or any clean up that Frank (Daykin) would like to do. We think this would help us tremendously. We recently had a case where it was not paid back, the man died, would have been eligible for survivor benefits but he had not repaid the money and his wife came in and tried to repay it after his death which the law prohibits. If you wash out a termination you should totally wash it out in all factors. This would help us do that as far as retirement.

Mr. Dini questioned the time period - sixty days - and indicated that it might be too short a period of time.

Mr. Bennett stated that they had no problem with the time factor.

Mr. Dini suggested that we could leave it where it could be negotiable.

Mr. Bennett suggested ninety days.

Mr. Daykin indicated that he was going to suggest that possibly the same as the option for a member who returns employment. If he pays in by installments, he gets charged interest. If he pays in at once, of course he has to pay interest in that case on the time he was out. This would not be so because it was

wrongful, but given the option of deferring over the same period of time but charging the same interest on deferred payments that you charge somebody who returns voluntarily.

Mr. Bennett stated that they just wanted to make sure he pays it back. One thing though, many of these people receive a very large lump sum settlement. They might get \$50,000 to \$75,000 and we would like those people to pay it back immediately, but if they don't have the money - if they don't get a big settlement, then we would be happy to give them say ninety days or set up the option of a repayment program if that is agreeable.

Mr. Daykin stated that a repayment program would really give the employee the choice. If he was smart and had the lump sum he would pay it.

Mr. Bennett asked Mr. Daykin if he would agree to change it to ninety days or the repayment program.

Mr. William E. Isaef of the Deputy Attorney General's Office stated that the way the bill is drafted he would not have a choice. The money will come out of the lump sum back payment to repay the retirement system. He would have a delayed payment under the way it is draft now only if there is insufficient money in his back pay award to pay the retirement contribution system. I think it is important to us that we get that question answered promptly so that it can be put back into the investment stream again. The interest rate he would be paying us would be less than what we would be earning with that money and the sooner it is returned to us the more we will make for the full system and all members thereof.

Mr. Bennett stated that the other big problem is the longer he waits to repay it, let's say he goes back on a similar thing like repayment of refund, he does not get the credit until he fully repays. He may go back on a one year or a two year program but if he dies in between then he does not have his survivor benefits or if he does not have his credit, his five years to acquire for disability, so it is good for him to try and pay it back if he can, but if he can't pay it out, then go to the option. I think we could make that work.

Mr. Bennett stated if there was no objection he would like to have Mr. Isaef and Frank (Daykin) work on it.

Mr. Daykin stated that he would welcome.

Mr. Bennett stated that he would like to discuss amendment number 6 from Assemblyman Nicholas. It would delete in N.R.S. 218.238(3)(1) the legislators' purchase of service with their provisions and provide that a member of the legislators' retirement system is entitled to the same purchase of service options as provided to members of PERS in 286.300 and this would eliminate our having to make amendments in 218 every time we amend the purchase of

service in 286.300 and so far, 286.300 has been amended every legislative session since it was passed in 1975.

Mr. Daykin indicated that he would have to say though that he thought he was going to have to bear that cross and make the legislators' amendments. Mr. Daykin stated that this eventually gets us into trouble when we are trying to apply the different words, so what he would do, if the committee desired this amendment, is change 238(3)(1) so that it conforms to the present language rather than picking up - this is worse than the straight internal reference because this requires you not only to look to the other law, but then to make changes in it that you are not necessarily told how to make; that is, read where you see employee read legislator and there are a few other changes that are a little more subtle.

Mr. Bennett stated that they had no objection to that.

Mr. Daykin stated that he was sure Mr. Bennett didn't but he just wanted to bring it to the committee's attention. Mr. Daykin indicated that he did it either in this or another bill already in a draft amendment.

Mr. Bennett stated that Mr. Daykin did it in AB 34, which incorporated SB 56.

Mr. Bennett stated that he would then assume that you would make the same amendment to this that Assemblyman Jeffrey made where you would eliminate that the service had to be performed in a public retirement system and allow the purchase in a public agency.

Mr. Daykin indicated they would.

Mr. Bennett stated that the same amendments should be made so that they would be identical.

Mr. Daykin agreed.

Mr. Dini questioned if you were a county commission and you wanted to pick up those credits, could you do it?

Mr. Bennett agreed that you could. Mr. Bennett further stated that you would pay the full actuarial cost which is substantial. I can assure you that they are not getting a bargain.

Mr. Daykin stated especially not in the legislative retirement system if they pay the full actuarial cost.

Mr. Bennett stated that that was what they were doing.

Mr. Craddock stated that he had asked Mr. Bennett to write a little resume for him on this and he was astounded at the cost.



Mr. Bennett stated that it was drawn by their actuary, Dr. John Mackin of the Martin E. Segal Company and it is tied to the person's age and lifetime expectancy and the only way you come out ahead is if you outlive your normal life expectancy.

Mr. Bennett stated that the system supports the amendment if the committee wanted it. We are not sure whether you want the amendment.

Mr. Bennett then referred to the amendment requested by Assemblyman May. Based on the recent comments, Mr. Daykin may wish to adjust this, but it would provide to NRS 218.238(8) that a legislator who has the years necessary to adjust this but it would provide to NRS 218.238(8) that a legislator who has the years necessary to retire but not the required age could take the same actuarial reduction which is 6% per year that you are under the required age that is now provided to members of PERS under NRS 286.510, subsection 4. There is no cost impact, you just get your money earlier but you get less money and as an example if they were 55 years old when they took the benefit there would be a 30% reduction. That reduction is every month for the rest of your life. It does not go back up when you get to be 60, so it just allows for those people who need it to take it earlier to get a reduced benefit earlier, but by your normal life expectancy you will have drawn the same amount of money. Mr. Bennett stated that they support the amendment.

Mr. Bennett then recommended that NRS 218.239(4) be deleted in its entirety. We consider this a technical correction to eliminate a conflict with subsections 24 and 26. Subsections 24 and 26 will transfer the payment of monthly retirement benefits for retired legislators and their beneficiaries from the controller's office to PERS and 218.239(4) says that warrants will be drawn by the controller and will be passed upon the Board of Examiners for approval.

Mr. Daykin stated that it would be necessary to repeal that in order to make the change.

Mr. Bennett then stated that the only other thing they would like to comment on for the record and Frank (Daykin) is aware of this is that on Section 23, Subsection 2 which is on page 13, line 29, that section, lines 29 through 36 should be in italics because they are added legislation and I think that was a printing error.

Mr. Daykin stated that that was simply a misprint.

Mr. Daykin indicated that this was restoring language which was in the law as 286.570 for 1979. It was taken out then because it appeared to be unnecessary. The recent Supreme Court decision which somewhat clouds what vesting means makes it appear that this needs to be back in and spelled out. Vernon (Bennett) and Will Keating may have suggestions later on concerning more precise language of it, but what this does is just put back the

existing language but it is new language as of this year.

Mr. Bennett stated that at this time PERS has no need to change the section other than to have section 2 in italics to reflect that it is new language.

Mr. Daykin stated okay. He just wanted to reserve Mr. Bennett the same privilege of changing his work that he always reserves on Mr. Bennett's.

Mr. Dini questioned after 10 years and you are vested if you can leave the money there and you can continue until you actually decide to draw?

Mr. Daykin stated that this has been the law since 1947 actually. What it means is that for example if you are 50 years old but you have ten years of creditable service and you leave state employment instead of withdrawing your contributions you leave them there. Then when you reach the age of 60 you get a pension based upon the number of years (prorated) you served. Instead of getting half pay if you had just ten years, you get 1/4 pay. You don't get it until you are sixty, however. This goes with the concept that rights are vested after ten years of service, even though you might not be able to draw the pension until you reached a later age.

Mr. Bennett stated that the retirement system had no objection to this section in 1979. We took it out because we felt it was unnecessary, but if Frank feels now that it might serve a purpose, we will be happy to leave it in. Basically in our law currently, no one who is a member who has contributions in the system can have his membership cancelled by the system unless he physically applies for a refund. We feel that law is very clear. This merely substantiates that fact. It eliminates - now some public systems in the nation do have a provision that if you don't contribute for five years you get an automatic refund. We don't have that provision. But we feel that if Frank is more comfortable with it, we have no concern with it. It should be put in italics.

Mr. Daykin stated that he just felt that it ought to be back in the law so that no one drew any influence of change in the law from the combination of the 1979 Act plus the decision which came after it.

Mr. Daykin stated that he would proceed with the amendments whenever the committee instructs him. He stated that he had his annotated copy and if the committee so instructed him now he would take them downstairs and do it. Mr. Daykin stated that the committee may want to consider them individually.

Mr. Dini stated that he thought the committee might want to listen to the additional testimony today Frank and I will then consult with you.

Mr. Dini asked who would like to testify next on AB 168.

Mr. Keith Hendrickson, representing the Airport Authority Fire Department in Reno at Cannon International Airport.

Mr. Hendrickson stated that the Airport Authority Fire Department presently - recently formed I should say - and is not included in the wording for definition of a firman under the retirement system. The amendment and I gave you a copy of it - on page 3, line 39, would simply insert them into the system. These firefighters do the same job as the Reno firefighters, the McCarran International Airport firefighters and there does not appear to be any objection by any of the entities or by the system or by the advisory board.

Mr. Dini asked if they were under contract?

Mr. Hendrickson stated that it was a regular fire department.

Mr. Dini asked how many men were in it.

Mr. Hendrickson stated there were 27 men and a Chief.

Mr. Bob Gagnier, Executive Director of the State of Nevada Employees Association, testified next. He stated they had two concerns with the bill and I believe that the committee has already taken care of one of them; the matter of closing the office of PERS for three days so I won't address that.

Mr. Gagnier stated that he did think however it was necessary to bring to the attention of the committee that we have a separate bill being drafted that will address Section 8 of the bill which starts on page 3 and goes through to line 26 on page 4. This regards the membership of the retirement board itself and how the various members are appointed. The retirement board has considered our language and chose to put their language in the bill instead. Really I am here just to alert the committee to the fact that we will have bill coming that will be I think broader and much more specific in how the members of the retirement board are appointed. At that time you can determine yourself whether you wish to amend it into this bill or consider this a separate bill.

Mr. Dini stated that if Mr. Gagnier's bill comes after this bill (AB 168) becomes law, then it's just a matter of adjusting it. Mr. Dini asked Mr. Gagnier if he had any idea when his bill was going to surface?

Mr. Gagnier stated no.

Mr. Dini asked if Mr. Gagnier wanted the committee to amend his language into this bill?

Mr. Gagnier stated that it might be easier but he certainly would not want to do anything on Vern's bill and his people have already rejected our language so I wouldn't want to interfere with passage of his bill.

Mr. Ernest Newton of the Nevada Taxpayers Association testified next. Mr. Newton stated that he wanted to call the committee's attention particularly to Section 4 of the bill beginning on line 17, at page 2.

This problem came to my attention about a year ago when I discovered that for perhaps some thirty years various public employers had been violating the law and committing perjury by certifying monthly that certain individuals were public employees when as a matter of fact they were not public employees. They had been given leaves of absence from their public employment status and their salaries were not paid by their public employer. Their benefits were not paid by a public employer and they were in effect not public employees. I called that to the attention of one of the derelict public employers and the retirement board and suggested that perhaps the easiest and less public way to solve the problem would be to discontinue what I believe to be an illegal practice and sort of get right with the world, and we would have nothing more to say about it.

The retirement board chose to make this a matter of public record by the introduction of Section 4. I believe that it is completely inappropriate for the Public Employees Retirement System to be opened up to union officers or employer representative officers to circumvent the provisions of the Public Employees Retirement System by putting almost anybody they want to within the public retirement system. I point out the fact that on at least two occasions, one about twelve years ago, and again about six years ago, the League of Cities attempted to - or asked the legislature - to include their executive staff in the Public Employees Retirement System. They were going to pay the employees' salary and fringe benefits - in one case the City of Reno and another case - the City of Boulder City - and allow those people, or ask those people to falsify the records that they submitted to the Public Employees Retirement System and cover those people under the system. The legislature specifically rejected that proposal and I believe properly rejected that proposal because the way is open for any willing public employer to put any number of people within the Public Employees Retirement System or continue them within the Public Employees Retirement System when they are not actually public employees.

Mr. Newton asked what the impact was. The impact is that a person who in effect takes a leave of absence or resigns his public employment for a period of time in order to serve his union or his organization of public employers - there is a hiatus in the development of these years of retirement credit. It seems to me that if a person is sufficiently motivated to be willing to go to work for this non-public employer, that he would not object to the

postponement for a year or two years of his eligibility for full retirement. Now that does not have any effect on his retirement age or his eligibility as far as age is concerned. It might in some instances delay the vesting - the 10 year period necessary to provide vesting, and it would delay his eligibility for full retirement benefits - that is - it would take another year to reach the thirty year cut off for full retirement, but otherwise there is no reduction in benefits that he receives and is paid for.

I just think that this Section 4 is an effort to expand the system to people who are not public employees through the falsification of records of public employers, and I insist that those records are falsified, because the employer, clerk or agent, or official certifies every month that everybody on that payroll is a public employee and has been working for that public employee during the month in which the contributions are made. That is just flatly not so. I think that if you are going to open the Public Employees Retirement System up to anybody that can convince a City Council or a Board of School Trustees or a Board of County Commissioners to let them let his real employer channel his pay and fringe benefits through their payroll, you are going to open up an opportunity for a complete breakdown in the basic philosophy of Public Employees Retirement. Mr. Newton urged the Subcommittee and the full committee and the legislature to delete Section 4. I don't suggest that you ought to report to the attorney general that these people have been lying to the Public Employees Retirement System for thirty years. That is water over the dam and I don't that some of the people who were the beneficiaries of that program are now actually retirees. It is procedure that should have been stopped thirty years ago and was not and it gives us an opportunity to stop it now.

There are other statutory objections to Section 4. I suggest you may want to hear from Mr. Neely who has researched the matter and has found a section that I didn't realize even existed in Chapter 288 which prohibits this kind of plowing around, playing with words of the statute.

Mr. Newton stated that he would be glad to respond to any questions.

Mr. Polish asked if with regard to the falsifying the records, he was wondering if there was any way that we could tighten that up. He asked Mr. Newton if he had any suggestions on that.

Mr. Newton stated that he did not know. He asked the committee to bear in mind that he had no criticism of the Public Employees Retirement System's staff because they take those certifications at face value. If a certification comes in from a public employer that these people are on the payroll, they don't go back and check out to see if the certification in actuality does tell the truth. However, the public employer officer who makes that certification knows when he makes it - when he swears to it - that those people are not public employees and I don't know how you can tighten it up

any tighter than it is because it is a sworn statement that these people are public employees, that they have been engaged in work for their public employer and that they have been paid by their public employer, a certain amount during the previous month, when as a matter of fact neither, no one of those three statements is true. They are working for the public employer, they are not public employees and their salary was paid by their real employer which was either their organization of public employers or their union organization.

Mr. Craddock stated that as he views this, this opens up the range of people who can make the contribution or the payment to the employment system. Heretofore you are saying that the contribution was made by the public employer when in effect the employee had taken a leave of absence for an association. Is that what you are actually saying?

Mr. Newton stated no that he thought that in every case that he had any knowledge of the actual employer was reimbursing the public employee fully for everything that it costs to maintain that person on the payroll, his salary, his fringe benefits, his employer contributions, I don't know for sure, but I would suggest his medical benefits - whatever benefits were provided through the public employer were fully paid by the actually employer.

Mr. Newton asked Mr. Craddock if that answered his question.

Mr. Craddock stated that he got the picture.

Mr. Newton stated that he did not know whether there is anybody that is operating under that procedure right at the moment or not. The one that came to my attention was the one here in Carson City and I know that that person is not now operating under that program, but I found out that it goes back in some school districts and in public employment more than thirty years.

Mr. Craddock asked what the difference would be in allowing the employee who took a leave of absence in allowing them to buy in and allowing someone without the credit in any kind of service?

Mr. Newton stated he did not know. He indicated that he did not know if there would be any difference and I think that would be illegal too.

Mr. Bennett stated that as he had previously testified before the full committee this is a situation that has been going on since 1937. The Retirement Board gave consideration to it. We could not under any circumstances have provided this credit under existing law unless the public employer did every month submit a monthly retirement report in which he certified that all of these people are employees, etc. That has been understood. The Board gave

consideration to the approaches they could take regarding this matter. The first approach would have been to question each of the public employers to remove the service. This is something that has been done for years and has been known for years - the procedure. And there are people who have received this service credit who have retired. There are possibly people who have received it and have died and the Board took the position that because this is an exception status - it is a status that is provided only to people who are members of the system, who leave the system, work for one year, come back to the system that they would make an exception and present to the legislature the recommended legislation which would in effect verify or confirm that this would be an acceptable procedure. If you pass Section 4 it becomes legal. If you do not pass Section 4 it is not legal and will raise the serious question of should the retirement system go back, cancel the service for the people who have received it in the past, take it away from the people who are retired; lawsuits will be involved. The legislature in the three sessions that I have been here has, I feel, been very humane in their approach to confirm that which has been done, make a decision as to what the status will be in the future. A good example of that is the case we had two sessions ago, where it was determined that although the law specifically prohibited it, the University had enrolled certain agricultural extension employees in PERS and the Federal Retirement System and they were getting double credit. The legislature at that time determined that we will allow those people to stay in and phase out and our legislation here is based on a similar premise, that what is done has been done. Those employers did make the certification. They did it, I would have to assume, in full knowledge, and ironically I understand that a representative of one of the employers who has made the certification is hereto today to object to this section. I would suggest that his superintendent relook at his status if this section is not passed. Because he has signed those reports. We feel this is the more workable way to get out of a very unfortunate situation and it is the only situation of its nature that we know of and it only applies to a very few people - three to five people out of 42,000 who are already members of the system, who take a one year sabbatical to work for an employee or employer association and come back the following year to active membership. It does not open up membership to any employee or any private employee or anything of that nature. We don't think that the scope of it is that broad.

We explained to you the circumstances during our full presentation and we feel it is something that you must decide.

Mr. Bennett stated he would like to answer one question that Mr. Polish raised as to what can be done about making sure. About four years ago we started a program of auditing our employers and some of the things we look at are employment - who is enrolled, who is not enrolled - but the one thing we do not do and do not possibly have the staff to do is go out there and check where they actually work. If there is an employment document that says

John Doe is enrolled full time and his hourly rate shows he has worked full time and he has everything else it is very hard for us to catch. Ironically we are going to be reducing that service. We have two auditors and we will be reducing that service this year, starting next year, and the amount of travel and audits we can make because of the governor's new austerity program.

Mr. Newton stated that he might supplement what Vernon has had to say. There is no requirement that an employee who takes a leave of absence to work for a non-public employer and still channel his payroll through the public employer, there is no requirement that he go back to work. That may be his terminal year of membership in the Public Employment Retirement System. I don't know what the impact of it is. If you are afraid that some of these past public employer officers are going to be sued for perjury or the system may go back on them for falsification of their records or whatever, you can do the same thing you did for the County Agricultural agents four years ago or two years ago. In effect excuse the past derelictions and say don't do it again. That would solve it because I don't have any desire to put anybody in jail for making a false statement, although there are some of them that I think belong there, not because of that. But as far as this is concerned, I don't have any reason to want them in jail. If you can figure out a way to excuse the past derelictions and confirm the fact that the Public Employees Retirement System is designed for the benefit of Public Employees and Public Employers, I would be very happy about it.

Section 4 as it is currently drafted not only excuses what has gone past ever since 1947, but it says it is a good idea and go ahead and continue it and I just don't think that is the proper function of government to provide retirement benefits for employer or organization employees.

Mr. Bennett stated that he does not recommend this amendment, he would like to express to the committee that there could be an alternative if you had concerns with the continuing thing, it would be to provide wording in Section 4 that would honor the credit that has been earned in the past and provide that after September 1, 1981, which I understand is your new effective date unless specifically stated, that any employment of this nature would be prohibited membership in the system. That would be an alternative approach. Mr. Bennett stated that the system favors Section 4 as written.

Mr. Newton stated that he did not understand why you would use September 1. He was thinking that that section could be made effective immediately. Normally it would be effective July 1, 1981.

Mr. Bennett stated that the reason he would recommend September 1 is that you do have school district employees who are on a school term sabbatical which will expire August 31st, so if you are going to approve that which is done in the past and is currently being



done, I would assume that you would do it through the current sabbaticals that are involved and then you would know starting September 1st that if anyone started new under a program of this nature, they would not be covered under the retirement system. That is the reason I selected this date.

Mr. Newton stated he understood that and that he did not know that there were people now that were the beneficiaries of false statements made by their employers to the Public Employees Retirement Board.

Mr. Newton stated that if there are he thought it was highly reprehensible in view of the fact that they have known about this for almost a year, that it was illegal and a false statement being made and I know here in Carson City for instance that as soon as the employer realized what was going on he stopped it.

Mr. Bennett asked if he could correct one statement that Mr. Newton has made. As he understood, and he would be happy to check their records, the employer in Carson City stopped it at the end of that sabbatical term. He allowed that school year to end. I don't think he stopped it in the middle of the term.

The committee took a five minute recess at 10:27 A.M.

Chairman Dini called the meeting back to order at 10:35 A.M.

Mr. Dini stated the committee should discuss the definition of firemen to include the Airport Authority Firemen.

Mr. Craddock moved that was proposed by Keith Hendrickson with regard to the Airport Authority Firemen. The motion was seconded by Mr. Polish. All four members of the subcommittee voted unanimously for the motion. This recommendation would go to the main committee, Mr. Dini stated.

Mr. Dini stated that the subcommittee had the amendments that they had gone through with Mr. Daykin and Mr. Bennett.

Mr. Dini stated that two controversial things begin on page 6 of the handout. The controversial thing is paying the guys with travel status, work projects and for attending meetings.

Mr. Dini stated that they do quite a bit of work and handle quite a bit of money and he stated that he personally was in favor of it. Mr. Craddock stated that he did not have any problem with it. If you hired someone to do it we would have to pay a lot more than that.

Mr. Dini stated that the other one was NRS 286.300 that Jack Jeffrey requested where you can purchase service if you were a county commissioner.

Mr. Craddock stated that since Vern (Bennett) indicated that every part of the transaction was actuarially sound. He says the only way you can beat the system is live longer than the average life expectancy.

Mr. DuBois stated that he thought it was all worked out actuarially so that there is no loss to them.

Mr. Dini then referred to NRS 218.238(3)(1), Mr. Nicholas amendment. Mr. Dini stated that what this really does is that we would have to amend the legislative retirement law. Mr. Dini indicated that Mr. Daykin was going to redo that language anyway.

Mr. Dini next discussed the amendment by Mr. May for early retirement and taking 6% less.

Mr. Craddock stated that he believed that that was actuarially sound.

The Subcommittee then discussed Mr. Newton's testimony with regard to Section 4.

Mr. Craddock stated that the way he saw it was that the associations have representatives who have taken a leave of absence for a year or so so that they can represent the group of people who were contractors obligated to the Board of School Trustees and in negotiations. They take a leave of absence and the organization that they work for pays all of the premiums into PERS while they are gone. It probably enhances the people who do take the leave of absence and when they take it and return to their normal job there is nothing that has been lost. It is just a matter of the thing that we are doing for Mouryne Landing and Leola Armstrong.

Mr. DuBois asked if Mr. Newton was just arguing a legal point.

Mr. Dini indicated he was arguing the concept. He has a concept problem. I had a concept problem myself, but I am not sure it is good in trying to undermine some good people.

Mr. Craddock stated that he did not have a concept problem but even if he did he did not know if he could carry it through to Mrs. Armstrong and Mouryne. It is exactly the same thing to me. Mr. Craddock stated it is a matter of whether or not you can live with yourself to penalize one group and let another one get by.

Mr. Dini suggested that the Subcommittee leave it the way it is now and let's recommend to the committee that we amend it with Mr. Hendrickson's recommendation, get it reprinted and re-referred back to the committee and we will have additional hearings at that point.

Mr. Craddock made the motion that the Subcommittee amend the bill on the amendments agreed upon by the Subcommittee and then re-refer it back to the committee and we will make that full recommendation

to the full committee in the morning. The motion was seconded by Mr. Polish. The motion carried unanimously.

A copy of AB 168 is attached to the minutes of this meeting as EXHIBIT B.

There being no further business to come before the Subcommittee on AB 168, the Subcommittee meeting adjourned at 9:44 A.M.

Respectfully submitted,



Barbara Gomez  
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date March 2, 1968

SUBCOMMITTEE

AB 168

<u>PLEASE PRINT YOUR NAME</u>	<u>PLEASE PRINT REPRESENTING:</u>	<u>I WISH TO SPEAK</u>		
		<u>FOR</u>	<u>AGAINST</u>	<u>BILL NO.</u>
BOB Gagnier	SNIA	✓		AB 168
I.L. Newton	NTA		✓	AB 168
VanBennett	PERS	✓		AB 168
Rich McIlroy	Carroll City			
MIKE COOL	City of Las Vegas			
Wendell	City of Las Vegas			
Ray Coulter	NPAAC	✓		
GK Fletcher	New Leaders of Cities			AB-168
Joe Collier	City of North Las Vegas			

Please Print

ASSEMBLY

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS SUBCOMMITTEE

Monday

Date March 2, 1981 Time 9:00 A.M. Room 214

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

AB 168

Makes various changes in law relating  
to active members and members receiving  
disability retirement of public employees'  
retirement system.

\*Please do not ask for counsel unless necessary.

VERNON BENNETT  
EXECUTIVE OFFICER

WILL KEATING  
ASSISTANT EXECUTIVE OFFICER

STATE OF NEVADA



RETIREMENT BOARD  
DARREL R. DAINES  
CHAIRMAN  
SAM A. PALAZZOLO  
VICE CHAIRMAN  
MEMBERS  
WILLIS A. DEISS  
PEGGY GLOVER  
BOYD D. MANNING  
MARGIE MEYERS  
TOM WIESNER

PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE  
CARSON CITY, NEVADA 89701  
TELEPHONE (702) 885-4200

TESTIMONY PROVIDED TO THE  
ASSEMBLY GOVERNMENT AFFAIRS SUB-COMMITTEE ON RETIREMENT  
March 2, 1981

On February 24, 1981, we provided testimony to the full Government Affairs Committee which is attached. Based on discussion with members of the Committee, our Deputy Attorney General, retirement staff and Legislative Counsel, we recommend the following, additional amendments and comments:

1. The Committee has indicated strong opposition to the four-day week provided in Sections 1 and 10. Discussion was held regarding the possibility of amending these sections so that PERS could go to a four-day week if, at sometime in the future, our staff is sufficient to do so while remaining open five days. Our current budget calls for a reduction in staff of 11%. Therefore, we do not feel this will be reasonable in the near future. We have already tried this approach under current law. Should the Committee not favor Sections 1 and 10 as written, we feel that it would be appropriate to delete Sections 1 and 10 in their entirety. Section 1 appears on page 1, lines 1 through 14 and Section 10 appears on page 5, lines 4 through 20.

2. On page 5, between lines 49 and 50, insert:

(d) Require an annual notarized statement from a retired employee or beneficiary that he is in fact receiving benefits, and withhold the benefits for failure to provide the statement.

Comment: This will eliminate a conflict with AB 154 which is the System's post-retirement increase bill. This merely authorizes the System to periodically require benefit recipients to verify that they are still eligible for benefits. Should you adopt this amendment, we will delete this section from AB 154.

3. On page 9, line 48, delete the word "is" and insert will be.

Comment: Technical correction recommended by Attorney General.

4. On page 10, delete lines 3 through 7 and insert:

(c) He proves that he is unable to perform his present and any other position he has held within the past year.

Comment: Technical clarification to prohibit a member in a less physical job from transferring to a more physical job and applying for disability due to inability to perform the new, more difficult job.

Exhibit A

666

037

5. NRS 286.180, add the following:

5. The following definitions shall apply for the purposes of this section:

(a) "Travel status" means necessary travel on official business to perform work projects, attend retirement seminars and conferences and attend meetings of the Board;

(b) "Work project" means any official function directly related to the System, which is performed by a member of the Board, upon approval by the Board.

Comment: This amendment was requested by the Government Affairs Committee. It relates to suggested amendment #1 on page 6 of the attached presentation.

We will be pleased to answer any question you may have.

Attch:  
VB:bb

VERNON BENNETT  
EXECUTIVE OFFICER

WILL KEATING  
ASSISTANT EXECUTIVE OFFICER

STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE  
CARSON CITY, NEVADA 89701  
TELEPHONE (702) 885-4200

RETIREMENT BOARD  
DARREL R. DAINES  
CHAIRMAN  
SAM A. PALAZZOLO  
VICE CHAIRMAN  
MEMBERS  
WILLIS A. DEISS  
PEGGY GLOVER  
BOYD D. MANNING  
MARGIE MEYERS  
TOM WIESNER

TESTIMONY PROVIDED TO THE ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE  
REGARDING ASSEMBLY BILL 168 ON FEBRUARY 24, 1981

I am Vernon Bennett, Executive Officer of the Public Employees Retirement System of Nevada. AB 168 is the Retirement System's general legislation bill. I will provide a layman's term breakdown of the various sections to be followed by requested amendments. The breakdown is as follows:

1. Sections 1 and 10 will allow the System the option to go to a four day week with ten hour days. This will allow us to physically close one day per week which would save substantially on cost to heat the building and for transportation expenses to and from work. We have discussed the matter with our staff and a majority favor the four day week. The current law, as provided in Section 1, requires all offices to be open from 8:00 a.m. to 5:00 p.m., five days per week. Section 10 spells out our option to go to the four day week.
2. Section 2 is merely a numbering section.
3. Section 3 will provide retirement option 2 benefits to the surviving spouse of a member who was fully eligible to retire at time of death. They currently receive option 3 after ten years of service. This bill will be retroactive to May 19, 1975, to take care of several unfortunate cases. For example, a member recently died over a weekend with 43 years of service. The Actuary has determined that there is no cost impact because members who are fully eligible to retire could have begun drawing benefits earlier and then provided the same option to a spouse. The System actually saves money for each day that a member eligible to retire remains as a contributing member.
4. Section 4 will allow a public employee, on leave to work for a recognized employee or employer association to remain a member of the System if retirement contributions are continued. For example, a member of the System may take a one year leave of absence and serve as an elected officer of an employee association. This will allow those persons to remain contributing members and not forfeit one year of credit. This section will also be retroactive, to July 1, 1947, to cover situations of this nature which have received credit in the past.
5. Sections 5, 6, 18, 19, 20, 21 and 22 clarify the current disability laws without basically changing the benefits. We are trying to place the disability portion of our law in layman's terms this Session as we did the survivor benefits portion last Session. We will provide information to you on these respective sections that have any significant change. There were no significant changes to Sections 5 and 6.



6. Section 7 will allow retirement contributions for all members on standby and recall pay. The 1979 Session allowed contributions on standby pay for a police officer and recall pay for a fireman. We feel this is an equitable provision for all members.
7. Section 8 will clarify appointment procedures for the Retirement Board to eliminate the current provision that appointment must be made from a panel of ten persons selected by nominations. We understand this procedure has never been followed. The new procedure will allow the Governor to make appointment from all written nominations submitted which is the actual procedure. In addition, it will spell out that a nominee must be a member of the group or organization that is nominating him and a member of the System.
8. Section 9 will exempt the Executive Officer of PERS from the 95% rule. Our budget request for the next biennium will provide raises equivalent to the SNEA proposal which is \$100 per month, plus 10% the first year and 12% the second year. The current 95% limitation will prohibit the Executive Officer from receiving \$1,000 of this raise the first year and all of the raise the second year.
9. Section 11 will clarify the required mailing of the System's Annual Report. Copies will go to the Governor, each member of the Legislature, each public employer, each employee and employer association and to all members upon request. The current law could be interpreted to mean we had to mail a copy to each of our 42,000 members which would be very expensive printing and difficult due to the fact that we do not have individual addresses.
10. Section 12 will eliminate the current administrative fee limitation of \$2.20 per police and firemen and \$2.00 for members. This is unnecessary because our budget is approved and adopted by the Legislature. Our current budget and future biennium budget request is well within these limitations. However, we are concerned that this may create a problem in the future if public employee reductions continue.
11. Section 13 will increase the employee contribution rate for police and firemen who are not under the employer pay program from 8.50% to 9.00% based upon recommendation of the Actuary. This will apply only to police and firemen who are State employees because all other police and firemen will be under the employer pay program by July 1, 1981. We have established a fiscal cost of approximately \$62,000 per annum for the affected employees. This is one of the sections that has a fiscal impact.
12. Section 14 should be deleted in its entirety because the Actuary has rescinded his previous increase recommendation.
13. Section 15 provides the employer increase from 8.50% to 9.00% for police and firemen who are not under the employer pay program. This will apply only to the State of Nevada. We estimate the cost to be approximately \$62,000 for the next biennium. This is the other fiscal section.
14. Section 16 will make a public employer responsible for collecting and submitting to PERS, the back employee and employer contributions, plus interest, for a person who was not enrolled due to error.
15. Section 17 provides technical clean up at the request of the University Board of Regents for a program whereby an employee fully eligible to retire may phase out retirement. The current law was applicable only to a person

who had ten years of service and was 60 years of age. This provision will also cover a member who is eligible with 30 years of service and age 55.

16. Sections 18, 19 and 20 clarify the disability laws without making substantive changes.
17. Section 21 allows a disabled retired employee to return to employment provided he forfeits \$1 of benefits for each \$4 of gross income from employment if earnings are over his average compensation and disability benefit. The adjustment will be a \$1 reduction in benefit for each \$2 of gross income if the employment and disability benefit exceeds average compensation. This program is designed to encourage disabled retired employees to seek employment and rehabilitation. This section will provide some savings to the System.
18. Section 22 will allow the System to withhold money from a refund or monthly benefit check when the person involved owes money to the System. This would correct a current, frustrating situation where we continue to pay out monthly benefits or a refund to a person that we are attempting to collect back debts from.
19. We are not clear as to why Section 23 appears in this bill. It does not currently reflect any change to the Statute.
20. Sections 24 and 26 will transfer the jurisdiction for paying monthly retirement benefits from the Controller's Office and the State Treasury to PERS. This is based upon a request from a benefit recipient of the Legislators' Retirement System who attempted to have income tax deductions withheld from the benefit check and was advised by the State Controller's Office that they were not able to provide this service. The Retirement System has computer programs which provide this service to any benefit recipient. This will eliminate the current procedure whereby the System has to prepare an individual check voucher, by hand, each month for the benefit recipients of the Legislators' Retirement System. It will also make our new direct deposit program available to benefit recipients of the Legislators' Retirement System.
21. Section 25 will provide legislative authorization for the System to use its funds to sue the federal government if Congress passes a bill to provide mandatory Social Security coverage for public employees of Nevada. Our Attorney General has researched the matter and officially recommended that such a move by Congress will be in violation of State's Rights and the prohibition in the Constitution that Congress cannot tax the States. It is possible that Congress may pass such legislation between now and the next Legislative Session in 1983.

We will be pleased to answer any questions the Committee may have regarding these sections before we proceed with a list of recommended amendments.

We are requesting 25 amendments to AB 168 as drafted. These have been reviewed by the Retirement Staff and the Attorney General's Office.

1. On page 2, line 7, delete the words "This benefit must be computed without any reduction for age" and on line 8, delete the words "for the deceased member."

Comment: This statement is unnecessary because this section only applies to a person who is fully eligible to retire.

2. On page 2, line 42, after the word "benefit" insert unless he remains on sick leave for the entire period of continued employment .

Comment: Requested by school employees association so that a person who is disabled but unable to return to work can remain on sick leave as long as possible.

3. On page 3, line 17, delete the word "and" and insert or.

Comment: The current wording would limit contributions to one of the two rather than to either one which is the intent.

4. On page 5, line 40, after the word "records" and before the word "of" insert or benefits and on line 41, after the word "beneficiary" and before the ",", insert after an error or inequity has been determined .

Comment: This would restore the right of the Board to make adjustments where an error or inequity has been discovered. This right was removed by the 1979 Legislature. The System has encountered several unfortunate circumstances where logic and compassion would suggest an equitable adjustment.

5. On page 6, line 30, delete the words "an additional 0.5 percent of compensation earned", delete lines 31 and 32 in their entirety and insert the additional contributions required for the police and firemen retirement fund from the .

Comment: This new wording will clear up problems with the current section and limit the need to adjust this section each time in the future when the police and firemen retirement fund has an increase in contributions.

6. Delete Section 14 in its entirety. This begins on page 6, line 48 and ends on page 8, line 2.

Comment: This amendment is no longer necessary because the Actuary has rescinded his recommended employer pay contribution rate increase for police and firemen.

7. On page 8, line 9, delete the words "an additional 0.5"; delete line 10 in its entirety; and, insert the additional contributions required for the police and firemen retirement fund from .

Comment: This new wording will clear up problems with the current section and limit the need to adjust this section each time in the future when the police and firemen retirement fund has an increase in contributions.

8. On page 8, line 34, delete the word "made" and insert submitted.

Comment: Technical correction.

9. On page 8, line 50, after the word "the" insert public .

10. On page 8, line 50, delete the word "collect" and insert pay within 90 days.

11. On page 9, line 1, delete the words "contributions that are due and pay all the" and insert and .
12. On page 9, line 2, delete the word "actuary" and insert system.
13. On page 9, line 3, after the "." insert The public employer shall have the right for a cause of action against the employee to recover the employee contributions and interest which has been paid.

Comment: These amendments recommended by the Attorney General's Office will clarify that the employer must collect the necessary contributions and interest, forward same to the System within 90 days and then make claim against the employee to recover the payments made. This deals with contributions required where an employer failed to properly enroll the member.

14. On page 9, delete lines 15 through 17 and insert (b) The employee is 55 years of age or older and has 30 years of service or more, or is 60 years of age or older and has 10 years of service or .

Comment: Technical correction.

15. On page 9, line 22, delete the "["; on line 24, delete "]" the"; on line 26, delete "["; and, on line 29, delete the "]"

Comment: These changes were not requested by the System. They would eliminate the right of a member to contribute on the lesser of the two amounts which was never requested or intended.

16. On page 9, line 43, delete the word "creditable" and after the word "service" insert credit .

Comment: Technical correction.

17. On page 10, line 1, delete the word "member" and insert public employer.

Comment: Technical correction.

18. On page 10, line 12, between the words "member" and "describing", delete the ",."

Comment: Technical correction.

19. On page 10, line 37, delete the word "total" and insert unmodified .

Comment: Technical correction.

20. On page 10, line 46, delete the words "to an unmodified allowance" and insert provided in NRS 286.590 .

Comment: Technical correction.

21. On page 11, line 37, after the word "advisers" insert and staff .

Comment: Technical correction.

22. On page 11, line 47, delete the word "beneficiary" and insert recipient .

Comment: Technical correction.

23. On page 12, line 6, delete the words "reduced for his age" and insert under NRS 286.510, subsection 4 ; at the end of line 6, delete the word "cred-"; on line 7, delete the word "itable"; and, on line 7, between the word "service" and the word "necessary" insert credit .

Comment: Technical correction.

24. On page 12, line 11, after the word "participating" and before the word "employer" insert public .

Comment: Technical correction.

25. On page 12, line 20, after the word "disability" and before the word "or" insert retirement .

Comment: Technical correction.

We will be pleased to answer any questions you may have regarding these amendments.

We have eight new amendments to the bill which have been requested by either PERS, employee or employer groups or members of the Legislature. The Retirement System supports these amendments as follows:

1. NRS 286.180, subsection 2, Members of the board are entitled to receive a fee of [\$40] \$60 per day for travel status, work projects and attendance at meetings.

Subsection 4, Fees and reimbursement for expenses must be paid from commitment fees obtained from borrowers whenever the members of the board hold special meetings or work projects limited solely to mortgage and real estate investments.

Comment: Last year, the Retirement System evaluated and approved over \$100 million in mortgage and real estate projects in Nevada at returns above 15% per annum. The 1979 Legislature deleted from the Board the right to receive a daily fee while performing work projects and in travel status. One member of our Board travels from Ely to attend meetings which usually requires five to six hours driving time one way. The Board normally travels to a meeting the day before and returns on the afternoon of the second Board meeting day. We have been advised that there is legislative consideration to raise all daily fees from \$40 to \$60 per day. Section 4 will enlarge and allow Board fees to be paid for work projects to evaluate property for mortgage and real estate investments.

2. NRS 286.300

Comment: See the attached amendment to NRS 286.300 which was requested by Assemblyman Jeffrey. This will allow purchase of service with any public agency even if not previously enrolled in another retirement system. It will eliminate several hardship situations we have encountered during the past four years. For example, a current Nevada teacher taught in a

school system in another State in the early 1940's before the public retirement system in that State was formed. Under current to law she is unable to purchase the service but would be able under this amendment.

3. NRS 286.321, a new subsection 3, A vested member or member contributing immediately prior to commencement of a legislative session who is employed by either house of the legislature or the legislative counsel bureau during a legislative session commencing after January 1, 1981.

Comment: This legislation was recommended by the Legislative Counsel Bureau to eliminate problems encountered by persons who work in the Legislature and who are vested members or contributing members from other agencies. Several prospective employees were not willing to work in the Legislature if they would lose retirement credit for the time involved.

4. NRS 286.330, a new subsection 10, School crossing guards employed on a part-time basis on or after July 1, 1981.

Comment: This legislation was requested by the Las Vegas Metropolitan Police Department to eliminate problems they are encountering with part-time school crossing guards. Most of these persons are over age 60 and have little opportunity to earn retirement. Due to the fact that Metro is on employer pay, they pay the entire contributions for these persons.

5. NRS 286.430

Comment: See the attached amendment. This will correct a problem area quite often encountered by PERS. A member is terminated for cause and withdraws his retirement contributions, then applies for reinstatement through the courts. If the court orders a full reinstatement of employment and benefits, they seldom require repayment of the employee contributions to PERS for a refund that should not have occurred. This section which was drafted by the Attorney General's Office spells out the necessary procedures to make sure that PERS is reimbursed under these circumstances.

6. NRS 218.23831

Comment: See attached letter to Assemblyman Nicholas which will amend NRS 218.23831 to provide that Legislators may purchase service in the same manner and under the same restrictions as provided to members of PERS. This procedure is currently used for survivor benefits and post-retirement increases. This will eliminate future amendments to the Legislators' Retirement System Law whenever technical changes are made to PERS' law.

7. NRS 218.2388

Comment: See attached letter to Assemblyman May. This will provide that members of the Legislature who have the years of service necessary to retire but have not attained the required age 60, the option to take an early benefit reduced 6% for each year that they are under age 60 as is currently provided to members of PERS. There

would be no fiscal impact because the benefits are actuarially reduced.

8. NRS 218.2394, delete in its entirety.

Comment: This will eliminate a conflict with Subsections 24 and 26.

We will be pleased to answer any questions the Committee may have regarding these requested amendments.

VB:bb

NRS 286.300 Purchase of service credit.

3. Any member who has 5 years of contributing creditable service may purchase up to 5 year of out-of-state service performed with any federal, state, county or municipal [public system] agency if that service is no longer creditable in [the other system] another public retirement system other than Social Security. To validate that service, the member must obtain a certification of the inclusive dates of previous service performed with the other public [system] agency, together with certification from that [system] agency that this credit is no longer creditable in [the other system] another public retirement system other than Social Security. Upon application to retire, the system shall ascertain whether or not the purchased service has been reestablished in [the other system] another public retirement system other than Social Security. The member must pay the system's actuary for the computation of cost, and pay the full actuarial [costs] cost as determined by the actuary.



PROPOSED AMENDMENT TO PUBLIC EMPLOYEES RETIREMENT ACT

Amend NRS 286.430 by adding thereto a new subsection as follows:

6. Any member who is involuntarily terminated from his employment and is thereafter reinstated retroactively to employment with a participating public employer by order of any administrative or judicial authority, or by the terms of any settlement agreement, so that there is no effective break in the member's service must repay to the System all employee contributions withdrawn pursuant to subsection 1, together with interest on said amount from the date of withdrawal to the date of repayment at the assumed investment income rate used in the most recent actuarial valuation of the System. The member's public employer must deduct from any back pay awarded or granted to the member all the employee contributions withdrawn by the member together with the required interest and forward such amount to the System. If the amount of back pay awarded or granted to the member is not sufficient to repay all the withdrawn employee contributions and the required interest, the member must pay any balance due to the System within sixty (60) days of reinstatement. Upon receipt by the System of the full amount of the employee contributions previously withdrawn and the required interest, the member must have restored to him all the membership rights and service credit which were cancelled by the withdrawal of contributions from the member's account.

VERNON BENNETT  
EXECUTIVE OFFICER

WILL KEATING  
ASSISTANT EXECUTIVE OFFICER

STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE  
CARSON CITY, NEVADA 89701  
TELEPHONE (702) 885-4200

RETIREMENT BOARD  
DARREL R. DAINES  
CHAIRMAN  
SAM A. PALAZZOLO  
VICE CHAIRMAN  
MEMBERS  
WILLIS A. DEISS  
PEGGY GLOVER  
BOYD D. MANNING  
MARGIE MEYERS  
TOM WIESNER

February 23, 1981

The Honorable David D. Nicholas  
Assemblyman, State of Nevada  
State Legislature  
Carson City, Nevada 89710

Dear Assemblyman Nicholas:

Please refer to our letter dated January 29, 1981, regarding an amendment to NRS 218.23831, purchase of service for members of the Legislators' Retirement System, which is attached. We would like to recommend a more simplified amendment as follows:

Delete subsections 1 through 8 in their entirety and insert the following: A member of the Legislator's Retirement System is entitled to the same purchase of service options as provided to members of the Public Employees Retirement System in NRS 286.300.

This will eliminate any specific amendments which may create undue publicity. It will also eliminate the need for future amendments to NRS 218.23831 when adjustments are made to NRS 286.300. The Legislators' Retirement System law currently has provisions that allow your members to receive the same survivor benefits and benefit recipients to receive the same post-retirement increase as those provided to PERS. Senate Finance amended AB 34 this morning to provide that benefit recipients of the Legislators' Retirement System would be entitled to the same employment benefits as provided to a retired employee of PERS. Therefore, the above amendment would be consistent with the approach used for the Legislators' Retirement System.

As you know, AB 168 is scheduled to be heard by the Assembly Government Affairs Committee on Tuesday, February 24, 1981, at 8:00 a.m. This would be the appropriate place to add this amendment if you so desire. We presented your proposed amendment to the Retirement Board at their last meeting held February 18 and 19, 1981, and the Board determined that they would support the amendment. We understand that Assemblyman Jeffrey is considering an amendment to NRS 286.300 to allow purchase of any public service even if not covered in another retirement system. Therefore, we are providing to him a courtesy copy of this letter. We are also providing courtesy copies to members of the Assembly Government Affairs Committee.

Please advise if we can be of further assistance.

Sincerely

*Vernon Bennett*  
VERNON BENNETT  
Executive Officer

Encl:  
C.c.: Assemblyman Jeffrey  
Assembly Government Affairs Committee

VB:bb

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VERNON BENNETT  
EXECUTIVE OFFICER

WILL KEATING  
ASSISTANT EXECUTIVE OFFICER

STATE OF NEVADA



PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE  
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RETIREMENT BOARD  
DARREL R. DAINES  
CHAIRMAN  
SAM A. PALAZZOLO  
VICE CHAIRMAN

MEMBERS  
WILLIS A. DEISS  
PEGGY GLOVER  
BOYD D. MANNING  
MARGIE MEYERS  
TOM WIESNER

February 23, 1981

The Honorable Paul W. May  
Assemblyman, State of Nevada  
State Legislature  
Carson City, Nevada 89710

Dear Assemblyman May:

Per your request, we have drafted an amendment to the Legislators' Retirement Fund Law as follows:

NRS 218.2388, subsection 2, the provisions of NRS 286.510, subsection 4, shall apply to members of the Legislators' Retirement System.

This will allow a Legislator who has eight years of service but is not age 60 to begin drawing a reduced benefit prior to age 60 if he so desires. The benefit will be reduced 6% for each year that the Legislator is under age 60 with portions of a year pro-rated.

The above amendment which you proposed was presented to the Retirement Board at their meeting held February 18 and 19, 1981. The Board determined that they would support this amendment. We recommend that this be provided as a Committee amendment to AB 168 when it is heard by the Assembly Government Affairs Committee. As you know, this is the System's general legislation bill.

Please advise if you have any questions or concerns or require any further assistance regarding this matter.

Sincerely

*Vernon Bennett*

VERNON BENNETT  
Executive Officer

VB:bb

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A. B. 168

ASSEMBLY BILL NO. 168—COMMITTEE ON  
GOVERNMENT AFFAIRS

FEBRUARY 16, 1981

Referred to Committee on Government Affairs

SUMMARY—Makes various changes in law relating to active members and members receiving disability retirement of public employees' retirement system. (BDR 23-314)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to the public employees' retirement system; adding an option for the spouse of a deceased member; providing that an employee on leave under certain conditions may remain a member of the system; increasing the contribution rates for police officers and firemen; authorizing the system to withhold money from a benefit or refund; revising the procedure for applying for and receiving disability retirement allowances; authorizing the system to defray the expenses of certain litigation; 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 281.110 is hereby amended to read as follows:  
2 281.110 1. The offices of all state officers, departments, boards,  
3 commissions and agencies [~~shall:~~] *must*:  
4 (a) Maintain not less than a 40-hour workweek.  
5 (b) [~~Be~~] *Except as otherwise provided in NRS 286.170, be open for*  
6 *the transaction of business at least from 8 a.m. until 12 m. and from 1*  
7 *p.m. until 5 p.m. every day of the year, with the exception of Saturdays,*  
8 *Sundays and legal holidays. Variable workweek scheduling may be*  
9 *required in those agencies where coverage is needed on Saturdays, Sun-*  
10 *days and legal holidays.*  
11 2. The offices of all state officers, departments, boards, commissions  
12 and agencies [~~shall~~] *must* remain open during the noon hour of each  
13 regular working day if any such office has more than one person on its  
14 staff.  
15 SEC. 2. Chapter 286 of NRS is hereby amended by adding thereto  
16 the provisions set forth as sections 3 to 6, inclusive, of this act.  
17 SEC. 3. 1. *Except as limited by subsection 2, the spouse of a*  
18 *deceased member who was fully eligible to retire, both as to service and*



1 age, is entitled to receive a monthly allowance equivalent to that provided  
2 by option 2 in NRS 286.590. This section does not apply to the spouse  
3 of a member who was eligible to retire only under subsection 4 of NRS  
4 286.510. For the purposes of applying the provisions of option 2, the  
5 deceased member shall be deemed to have retired on the date of his  
6 death immediately after having named the spouse as beneficiary under  
7 option 2. This benefit must be computed without any reduction for age  
8 for the deceased member. The benefits provided by this section must be  
9 paid to the spouse for the remainder of the spouse's life. The spouse may  
10 elect to receive the benefits provided by any one of the following only:

- 11 (a) This section;
- 12 (b) NRS 286.674;
- 13 (c) NRS 286.676; or
- 14 (d) NRS 286.678.

15 2. The benefits provided by this section may only be paid to the  
16 spouses of members who died on or after May 19, 1975.

17 SEC. 4. 1. A public employee on leave to work for a recognized  
18 employee or employer association may remain a member of the system if  
19 retirement contributions to the system are continued.

20 2. When an employee on leave continues to be a member of the sys-  
21 tem, the public employer from whom the employee is on leave shall  
22 include the payment of the contributions and all other required informa-  
23 tion on his regular monthly retirement report as provided in NRS  
24 286.460.

25 3. For the purposes of this section, "compensation" shall be deemed  
26 to be the salary paid for the position from which the employee is on  
27 leave.

28 4. Any member of the system may purchase credit for any period on  
29 or after July 1, 1947, for which contributions were not paid, which quali-  
30 fies under this section. The member must pay the system's actuary for any  
31 necessary computation, and must also pay the full actuarial costs deter-  
32 mined by the actuary.

33 SEC. 5. 1. The effective date of disability retirement for a member  
34 whose application for disability retirement has been approved by the  
35 board is:

- 36 (a) The day after his last day of employment; or
- 37 (b) The day after his death, if death intervenes between his application  
38 and his retirement.

39 2. A member whose application for disability retirement has been  
40 approved by the board must retire from his employment and begin draw-  
41 ing benefits within 60 days after the date of the approval or he must  
42 reapply and be reapproved before he may draw benefits.

43 SEC. 6. 1. Each recipient of a disability retirement allowance shall  
44 provide to the system a copy of his federal income tax return and with-  
45 holding statements for all income for the preceding calendar year by  
46 May 1 of each year.

47 2. The board may adopt regulations to require medical examinations  
48 of recipients of disability retirement allowances. Expenses for such medi-  
49 cal examinations must be paid from the public employees' retirement

1 administrative fund. If any member receiving such benefits refuses a rea-  
2 sonable request from the board to submit to a medical examintaion, the  
3 board may discontinue the payment of his benefits and may provide for  
4 the forfeiture of all his benefits which accrue during the discontinuance.

5 SEC. 7. NRS 286.025 is hereby amended to read as follows:

6 286.025 1. Except as otherwise provided [with respect to volunteer  
7 firemen,] by specific statute, "compensation" is the salary paid to a mem-  
8 ber by his principal public employer.

9 2. The term includes:

10 (a) Base pay, which is the monthly rate of pay excluding all fringe  
11 benefits.

12 (b) Additional payment for longevity, shift differential, hazardous  
13 duty, work performed on a holiday if it does not exceed the working  
14 hours of the normal workweek or pay period for that employee, [and:

15 (1) In the case of a police officer,] holding oneself ready for duty  
16 while off duty [.

17 (2) In the case of a fireman,] and returning to duty after one's reg-  
18 ular working hours.

19 (c) Payment for extra duty assignments if it is the standard practice of  
20 the public employer to include such pay in the employment contract or  
21 official job description for the calendar or academic year in which it is  
22 paid and such pay is specifically included in the member's employment  
23 contract or official job description.

24 (d) The aggregate compensation paid by two separate public employ-  
25 ers, if one member is employed half time or more by one, and half time  
26 or less by the other, if the total does not exceed full-time employment and  
27 the duties of both positions are similar and the employment is pursuant  
28 to a continuing relationship between the employers.

29 3. The term does not include:

30 (a) Payment for overtime, terminal leave or secondary employment.

31 (b) Payment for employment which is not eligible service.

32 (c) [Any] Except as provided in NRS 286.477, any bonus or addi-  
33 tional salary which is paid to an employee on account of his promise,  
34 express or implied, to retire on a specified date or within a specified  
35 period, or any bonus or additional salary paid to an employee predicated  
36 upon his eligibility to retire whether promised or not. Failure to pay a  
37 like bonus or additional salary to another employee in like circumstances  
38 who has not promised so to retire creates a rebuttable presumption that  
39 payment to the first employee was on account of his promise.

40 SEC. 8. NRS 286.130 is hereby amended to read as follows:

41 286.130 1. Two board members [shall] must be citizens:

42 (a) Who have resided in the state for 2 years immediately preceding  
43 their appointment to the board; and

44 (b) Neither of whom:

45 (1) Is an employee of a public employer during his term of office  
46 on the board; or

47 (2) Has been such an employee for 2 years immediately preceding  
48 his appointment to the board.

49 2. Three board members [shall] must be:



1 (a) Persons who have had at least 10 years of service as employees of  
2 the State of Nevada or its political subdivisions; and

3 (b) Persons who:

- 4 (1) Are active members of the system;
- 5 (2) Have retired pursuant to the provisions of this chapter; or
- 6 (3) Are receiving a disability allowance pursuant to the provisions  
7 of this chapter.

8 3. Two board members [shall] *must* be appointed from [a panel of  
9 10 persons selected pursuant to this subsection. Each of the following  
10 classes of public servants shall nominate two persons to be members of  
11 the panel:] *written nomination submitted by the following groups:*

- 12 (a) Employees of the state and the University of Nevada System;
- 13 (b) The academic staff of school districts, including principals and  
14 administrators;
- 15 (c) Employees of cities, excluding Carson City;
- 16 (d) Employees of counties, including Carson City and excluding  
17 employees of county hospitals; and
- 18 (e) Employees of county hospitals, public utilities, power districts,  
19 sanitation districts, classified school employees and employees of other  
20 districts as determined by the board.  
21 *Each nominee must be a member of the group or organization that is  
22 nominating him and a member of the system.*

23 4. A member of the board shall serve for 4 years and until his suc-  
24 cessor is appointed and takes office. Each member of the board [shall]  
25 *must* have the same qualifications and be appointed in the same manner  
26 as this chapter prescribes for his predecessor.

27 SEC. 9. NRS 286.160 is hereby amended to read as follows:

28 286.160 1. The board shall employ an executive officer who serves  
29 at the pleasure of the board. The executive officer shall select an assist-  
30 ant executive officer and administrative assistant whose appointments are  
31 effective upon confirmation by the [retirement] board. The assistant  
32 executive officer and administrative assistant serve at the pleasure of the  
33 executive officer.

34 2. The executive officer, assistant executive officer and administrative  
35 assistant are entitled to annual salaries fixed by the board with the  
36 approval of the interim retirement committee of the legislature. *The  
37 salary of the executive officer is exempt from the limitations of NRS  
38 281.123.*

39 3. The executive officer [shall:] *must*:

- 40 (a) Be a graduate of a 4-year college or university with a degree in  
41 business administration or public administration or equivalent degree.
- 42 (b) Possess at least 5 years' experience in a high level administrative  
43 or executive capacity, responsible for a variety of administrative func-  
44 tions such as retirement, insurance, investment or fiscal operations.

45 4. The assistant executive officer [shall] *must* be a graduate of a  
46 4-year college or university with a degree in business administration or  
47 public administration or an equivalent degree.

48 5. The executive officer shall not pursue any other business or occu-  
49 pation or perform the duties of any other office of profit during normal  
50 office hours unless on leave approved in advance. The executive officer

1 shall not participate in any business enterprise or investment in real or  
2 personal property if the system owns or has a direct financial interest in  
3 that enterprise or property.

4 SEC. 10. NRS 286.170 is hereby amended to read as follows:  
5 286.170 1. Subject to the limitations of this chapter and the budget  
6 prescribed by the board, the system [shall] *must* be administered by the  
7 executive officer, an assistant executive officer and a staff authorized by  
8 the board and appointed by the executive officer with the approval of the  
9 board.

- 10 2. The board shall:
- 11 (a) Create such positions within the system as it deems necessary for  
12 the sound and economical administration of the system.
- 13 (b) Fix the salaries of all persons employed in the classified service  
14 for purposes of administering the system in accordance with the pay plan  
15 of the state adopted pursuant to the provisions of chapter 284 of NRS.

16 3. No classified employee on the staff of the system may be removed  
17 in a manner contrary to the provisions of chapter 284 of NRS.

18 4. *The board may fix the working hours for the office of the system  
19 at 10 hours per day and 4 days per week, and close the office for three  
20 days each week.*

21 SEC. 11. NRS 286.190 is hereby amended to read as follows:  
22 286.190 The board:

23 1. Has the powers and privileges of a body corporate and, subject to  
24 the limitations of this chapter, is responsible for managing the system.

- 25 2. Shall:
- 26 (a) Arrange for a biennial actuarial valuation and report of the actu-  
27 rial soundness of the system to be prepared by an independent actuary  
28 based upon data compiled and supplied by employees of the system, and  
29 shall adopt actuarial tables and formulas prepared and recommended by  
30 the actuary.

31 (b) Provide for a biennial audit of the system, including the adminis-  
32 trative fund, by an independent certified public accountant.

33 (c) Provide an annual report to the [members and participating pub-  
34 lic employers of the system.] *governor, each member of the legislature,  
35 each participating public employer, and each participating employee and  
36 employer association, and make the report available to all members upon  
37 request.* The report must contain, when available, a review of the actu-  
38 arial valuation required by paragraph (a).

- 39 3. May:
- 40 (a) Adjust the service or correct the records of any member, retired  
41 employee or beneficiary, and require repayment of any money determined  
42 to have been paid by the system in error, if the money was paid within 6  
43 years before demand for its repayment.

44 (b) Examine and copy personnel and financial records of public  
45 employers.

46 (c) Receive requests for membership from state, county or municipal  
47 entities which are not presently public employers, and determine whether  
48 or not any such entity and its employees qualify for membership as pro-  
49 vided by this chapter.

50 SEC. 12. NRS 286.230 is hereby amended to read as follows:



1 286.230 1. The board shall establish a fund known as the public  
2 employees' retirement administrative fund in which [shall] must be  
3 deposited all administrative fees.

4 2. The board shall fix an administrative fee per capita sufficient to  
5 pay the operating expense of the system. [but not more than \$2.20 per  
6 month per capita for police officers and firemen and \$2 per month per  
7 capita for all other members.] The system shall transfer monthly from  
8 the respective retirement funds to the public employees' retirement  
9 administrative fund the amount of the per capita fee multiplied by the  
10 combined number of members and persons receiving allowances from  
11 that fund.

12 3. The board may establish a separate and additional administrative  
13 fee for police officers and firemen and their public employers to pay the  
14 additional expense of maintaining a separate fund and to pay the actual  
15 and necessary travel expenses and other expenses, within the limits estab-  
16 lished by the board, for meetings of the police and firemen's retirement  
17 fund advisory committee.

18 SEC. 13. NRS 286.410 is hereby amended to read as follows:

19 286.410 1. The employee contribution rate is [8.5] 9 percent of  
20 compensation for police officers and firemen and 8 percent of compensa-  
21 tion for all other members.

22 2. From each payroll during the period of his membership, the  
23 employer shall deduct the amount of the member's contributions and upon  
24 transmit the deduction to the board at intervals designated and upon  
25 forms prescribed by the board. [Such contributions shall] The contribu-  
26 tions must be paid on compensation earned by a member from his first  
27 day of service.

28 3. Any employee whose position is determined after July 1, 1971,  
29 to be eligible under the early retirement provisions for police officers and  
30 firemen shall contribute an additional 0.5 percent of compensation earned  
31 in this position from July 1, 1971, through June 30, 1981, and 2.2 per-  
32 cent of compensation earned in this position from July 1, 1981, to the  
33 date of his enrollment under the police and firemen's retirement fund, if  
34 employment in this position occurred prior to July 1, 1971, or from date  
35 of employment in this position to the date of his enrollment under the  
36 police and firemen's retirement fund, if employment occurs later.

37 4. The system shall guarantee to each member the return of at least  
38 the total employee contributions which the member has made and which  
39 was credited to his individual account. These contributions may be  
40 returned to the member, his estate or beneficiary or a combination thereof  
41 in monthly benefits, a lump sum refund or both.

42 5. Disabled members who are injured on the job and receive indus-  
43 trial insurance benefits for temporary total disability shall remain con-  
44 tributing members of the system for the duration of such benefits if and  
45 while the public employer continues to pay the difference between these  
46 benefits and his regular compensation. The public employer shall pay the  
47 employer contributions on these benefits.

48 SEC. 14. NRS 286.421 is hereby amended to read as follows:

49 286.421 1. Except as limited in this section, any participating public

1 employer may pay on behalf of its employees the employee contributions  
2 required by subsection 1 of NRS 286.410. The state board of examiners  
3 shall elect on behalf of all state agencies which have employees within  
4 the classified service of the state, as established by chapter 284 of NRS,  
5 whether to pay such contributions. The public employees' retirement  
6 board shall elect whether to pay such contributions on behalf of its  
7 employees in the unclassified service. The board of regents shall elect  
8 whether to pay such contributions on behalf of the professional staff of  
9 the University of Nevada System.

10 2. Payment of employee contributions [shall] must be:

11 (a) Made in lieu of equivalent basic salary increases or cost of living  
12 increases, or both; or

13 (b) Counterbalanced by equivalent reductions in employee salaries.

14 3. The average compensation from which the amount of benefits  
15 payable pursuant to this chapter is determined [shall] must be increased  
16 with respect to each month beginning after June 30, 1975, by 50 percent  
17 of the contributions made by the public employer, and [shall] may not  
18 be less than it would have been if contributions had been made by the  
19 member and the public employer separately.

20 4. Employee contributions made by a public employer [shall] must  
21 be deposited in either the public employees' retirement fund or the police  
22 and firemen's retirement fund as is appropriate. These contributions  
23 [shall] may not be credited to the individual account of the member and  
24 may not be withdrawn by the member upon his termination.

25 5. The membership of an employee who became a member on or  
26 after July 1, 1975, and all contributions on whose behalf were made by  
27 his public employer [shall] may not be canceled upon the termination of  
28 his service.

29 6. If an employer elects to pay the basic contribution on behalf of  
30 its employees, the total contribution rate is, in lieu of the amounts speci-  
31 fied in subsection 1 of NRS 286.410 and subsection 1 of NRS 286.450:

32 (a) For all employees except police officers and firemen, 15 percent  
33 of compensation.

34 (b) For police officers and firemen, [17] 17.5 percent of compensa-  
35 tion.

36 Except as provided in subsection 7, a public employer which has elected  
37 to pay the basic contribution on behalf of its employees may, to the  
38 extent that the respective percentage rates of [such] contribution are  
39 increased above the rates set forth in this section on May 19, 1975,  
40 require each employee to pay one-half of the amount of [such] the  
41 increase as provided in subsection 2.

42 7. For the purposes of adjusting salary increases and cost of living  
43 increases or of salary reduction, the total contribution [shall] must be  
44 equally divided between employer and employee.

45 8. An election by an employer to begin or to discontinue paying the  
46 basic contribution on behalf of its employees becomes effective at the  
47 beginning of the next fiscal year or established payroll adjustment period.

48 9. Public employers other than the State of Nevada must pay the  
49 entire employee contribution for those employees who contribute to the



1 police and firemen's retirement fund. [on and after July 1, 1981, and  
2 may before that date pay all or part of this contribution.]

3 SEC. 15. NRS 286.450 is hereby amended to read as follows:

4 286.450 1. The employer contribution rate is [8.5] 9 percent of  
5 compensation for police officers and firemen and 8 percent of compensa-  
6 tion for all other members.

7 2. The public employer of any employee whose position is deter-  
8 mined after July 1, 1971, to be eligible under the early retirement provi-  
9 sions for police officers and firemen shall contribute an additional 0.5  
10 percent of compensation earned in this position from July 1, 1971, to  
11 the date of his enrollment under the police and firemen's retirement fund,  
12 if employment in this position occurred prior to July 1, 1971, or from  
13 date of employment in this position to the date of his enrollment under  
14 the police and firemen's retirement fund, if employment occurs later.

15 SEC. 16. NRS 286.460 is hereby amended to read as follows:

16 286.460 1. Each participating public employer which pays compen-  
17 sation to its officers or employees in whole or in part from funds received  
18 from sources other than money appropriated from the state general fund,  
19 shall pay public employer contributions, or the proper portion thereof, to  
20 the system from the funds of the department, board, commission or  
21 agency.

22 2. Public employer contributions for compensation paid from the  
23 state general fund [shall] must be paid directly by each department,  
24 board, commission or other agency concerned, and allowance therefor  
25 shall be made in the appropriation made for each such department, board,  
26 commission or other state agency.

27 3. All participating public employers that are required to make pay-  
28 ments pursuant to this section shall file payroll reports not later than 15  
29 days after the end of the reporting period, together with the remittance of  
30 the amount due to the system. The 15-day limit is extended 1 working  
31 day for each legal holiday that falls within the 15-day period and is offici-  
32 ally recognized by the public employer. [Such] These payroll reports  
33 [shall] must contain information deemed necessary by the board. If the  
34 payroll reports are not made or the amounts due are not [paid at]  
35 remitted within the time provided, a penalty equal to the assumed invest-  
36 ment income rate per annum used in the most recent actuarial valuation of  
37 the system, prorated for the period delinquent, on the unpaid balance due  
38 [shall] must be added to the amount to be paid. The notice of penalty  
39 assessed for delinquent reports [shall] must be mailed by certified mail  
40 to the chief administrator of the delinquent public employer. The public  
41 employer shall pay the assessment within 90 days after receipt of the  
42 notice or an additional penalty of 1 percent of the assessment per month  
43 [shall] must be imposed until paid. Refusal or failure by the public  
44 employer to pay the assessment within 12 months after receipt is a mis-  
45 demeanor on the part of the chief administrator of the delinquent public  
46 employer. The retirement board may accept an appeal from a public  
47 employer for waiver or reduction of a penalty assessed on account of  
48 extenuating circumstances and make any adjustment it deems necessary.

49 4. Upon notification that a current employee was not properly  
50 enrolled in the system by the public employer, the employer shall collect

1 all the employee contributions that are due and pay all the employer  
2 contributions and the interest that is due as computed by the actuary  
3 from the first day the employee was eligible for membership.

4 5. As used in this section, "reporting period" means the calendar  
5 month for which members' compensation and service credits are reported  
6 and certified by participating public employers. Compensation paid dur-  
7 ing each month [shall] must be reported separately, and retroactive sal-  
8 ary increases [shall] must be identified separately for each month to  
9 which they apply.

10 SEC. 17. NRS 286.477 is hereby amended to read as follows:

11 286.477 1. An employee may receive full service credit for part-  
12 time employment if:

13 (a) The employee and his employer enter into an agreement covering  
14 his part-time employment and the agreement is approved by the board;

15 (b) The employee is 55 years of age and has contributed to the system  
16 on a full-time basis for at least 30 years, or is 60 years of age or older [.]  
17 and has contributed to the system on a full-time basis for 10 years or  
18 more, as of the date on which the agreement becomes effective;

19 (c) The employee works half time or more, but less than full time,  
20 according to the regular schedule established by the employer for his  
21 position;

22 (d) The employee and the employer make contributions equal to [the  
23 lesser of:

24 (1) The] the amount which a person serving on a full-time basis  
25 in the position would contribute and which his employer would contrib-  
26 ute for him; [or

27 (2) The amount which the employee and employer contributed dur-  
28 ing the last 12 months of the employee's full-time employment;]

29 (e) Employment ends on or before the fifth anniversary of the day on  
30 which the agreement became effective; and

31 (f) The employee agrees in writing to the forfeiture of credit provided  
32 in subsection 2.

33 2. An employee loses all service credit which he did not earn by  
34 actual work and which has accrued pursuant to this section if he:

35 (a) Returns to full-time employment in the service of any public  
36 employer at any time after beginning part-time work under the agree-  
37 ment, except for full-time employment as an elected public officer as a  
38 result of appointment to an elective office.

39 (b) Continues in his part-time employment beyond the fifth anniver-  
40 sary of the date on which the agreement became effective.

41 SEC. 18. NRS 286.620 is hereby amended to read as follows:

42 286.620 1. A member of the system who has 5 years or more of  
43 creditable service and who becomes totally unable to perform [a] his  
44 current job or any comparable job for which he is qualified by his train-  
45 ing and experience, because of injury or mental or physical illness of a  
46 permanent nature is [entitled] eligible to [receive a] apply for disability  
47 retirement [allowance] if:

48 (a) Except as provided in subsection [6.] 5, his employment is ter-  
49 minated because of such disability;



1 (b) He is in the employ of a participating member at the time of  
2 [incapacitation for service;] application for disability retirement;

3 (c) He has been [in such employ for a minimum period of 6 months  
4 prior to such incapacitation unless such incapacitation is the result of  
5 injuries] employed in his current position for at least 1 year before he  
6 applies for disability retirement, unless the injury or mental or physical  
7 illness was incurred in the course of [such] his employment;

8 (d) He proves to the board that he is disabled;

9 (e) He files [official] a notarized application for disability retirement  
10 with the system [prior to termination of employment with the public  
11 employer;] which indicates a selection of option and to which is attached  
12 a personal statement by the member, describing the disability, the duties  
13 which he can and cannot perform, and any benefits he is entitled to receive  
14 for disability from any other public source;

15 [(e)] (f) The public employer files an official statement certifying  
16 the member's employment record, job description, work evaluations, rec-  
17 ord of disability and absences that have occurred because of the disability;  
18 and

19 [(f)] (g) The immediate supervisor of the member files an official  
20 statement regarding the [disability incident,] effect upon the work of the  
21 member after the disability, job functions that can [no longer] and can-  
22 not be performed because of the disability, and whether or not there are  
23 [related activities] alternative jobs that can be performed by the mem-  
24 ber.

25 2. [If 6 months or more of employment immediately precede the  
26 incapacitation, such injury or mental or physical illness need not have  
27 arisen out of and in the course of employment.

28 3. Such] The amount of the disability retirement allowance [shall]  
29 must be calculated in the same manner [and under the same conditions]  
30 as provided for service retirement calculations in NRS 286.551, except  
31 that [age is not a condition of eligibility] no reduction for the member's  
32 age may be made and that the allowance [shall] must be reduced by the  
33 amount of any other benefit received from any source on account of the  
34 same disability:

35 (a) If such benefit is provided or was purchased by the expenditure of  
36 [public moneys;] money by a Nevada public employer; and

37 (b) To the extent that the total benefit would otherwise exceed his  
38 average compensation.

39 [4.] 3. A member may apply for disability retirement even if he is  
40 eligible for service retirement.

41 [5.] 4. Each child of a deceased recipient of a disability retirement  
42 allowance is entitled to receive the benefits provided by NRS 286.673  
43 only if the decedent had not reached the age and completed the service  
44 required to [receive] be eligible for a service retirement allowance [.] ,  
45 except that these benefits must not be paid to anyone who is named as a  
46 beneficiary under one of the options to an unmodified allowance.

47 [6.] 5. If a member whose application for disability retirement has  
48 been [approved] :

49 (a) Approved, dies before his employment is terminated, but within  
50 60 days after his application was approved; or

1 (b) Received by the system, dies before the board has acted upon his  
2 application and the board approves thereafter his application,  
3 his beneficiary is entitled to receive an allowance under the option selected  
4 rather than the benefit otherwise provided for a survivor.

5 SEC. 19. NRS 286.630 is hereby amended to read as follows:

6 286.630 1. The board shall designate medical advisers [who are  
7 specialists in their respective fields of medicine and who maintain their  
8 medical practices in the Reno-Carson City or Las Vegas areas. As directed  
9 by the board, the medical advisers shall] to review information which  
10 has been submitted by the private physician of the member, conduct medi-  
11 cal examinations, make recommendations and consult with the board  
12 concerning applications for disability [allowances.] retirement.

13 2. The board shall require a medical [examinations of all applic-  
14 ants] examination of each applicant for disability retirement. [allow-  
15 ances. Such examinations shall] The examination must at least consist of:

16 (a) An examination at an applicant's expense and by his personal  
17 physician who shall submit a written statement to the board describing  
18 the nature and extent of the applicant's disability [;] , the physician's  
19 statement whether or not the member is disabled, and copies of any medi-  
20 cal information necessary to support the statement; and

21 (b) A review of the written statement from the applicant's physician  
22 by the board's medical advisers.

23 [If the medical advisers deem it necessary, the advisers, or any one of  
24 them, may conduct] The member shall provide any additional informa-  
25 tion which the board or medical advisers deem necessary and shall sub-  
26 mit to an additional medical examination [of the applicant.] upon the  
27 request of the board. The costs of such additional examination [shall]  
28 must be paid from the public employees' retirement administrative fund.

29 3. [The board may adopt regulations providing for medical exam-  
30 inations of persons receiving disability retirement allowances. Expenses  
31 for such medical examinations shall be paid from the public employees'  
32 retirement administrative fund. If any person receiving such an allowance  
33 refuses a reasonable request from the board to submit to a medical exam-  
34 ination, the board may discontinue the payment of his allowance and  
35 may further provide for the forfeiture of all allowances accruing during  
36 such discontinuance.] The board shall consider the complete disability  
37 retirement application and the recommendations of the medical advisers  
38 and approve or deny the application.

39 4. A member may apply to the board for one reconsideration [of a  
40 decision concerning the eligibility of an applicant for a disability retire-  
41 ment allowance or the discontinuance of such an allowance.] within 45  
42 days after the denial by the board of his application, if the member can  
43 present new evidence which was not available or the existence of which  
44 was not known to him at the time the board originally considered his  
45 application.

46 SEC. 20. NRS 286.640 is hereby amended to read as follows:

47 286.640 1. When a disability beneficiary is determined by the board  
48 to be [not incapacitated to the extent that he is disabled from perform-  
49 ance of duty,] no longer disabled, his disability [allowance shall] retire-  
50 ment allowance must be canceled. [forthwith.]



1 2. [A] An employee retired on account of disability [retiree] whose  
2 benefit is canceled may [apply] :

- 3 (a) Apply for a refund of unused contributions [or suspend] ;
- 4 (b) Suspend his monthly benefit until eligible for service retire-  
5 ment [.] ; or
- 6 (c) Elect a service retirement reduced for his age if he has the cred-  
7 itable service necessary to retire.

8 SEC. 21. NRS 286.650 is hereby amended to read as follows:  
9 286.650 [Whenever a member] 1. Except as provided in subsec-  
10 tion 2, whenever a recipient of a disability retirement allowance returns to  
11 employment with a participating employer [after having received a disa-  
12 bility retirement allowance,] , the allowance must be discontinued, he  
13 shall again become a contributing member of the system and his service  
14 credit at time of disability retirement [shall] must be restored. His  
15 employee contributions, which [shall] must be equivalent to his total  
16 employee contributions at time of disability less 15 percent of total disa-  
17 bility benefits paid, [shall] must be returned to his individual member  
18 account. The member shall retire under the same retirement plan previ-  
19 ously selected [as a disability retiree] for retirement on account of disa-  
20 bility if he returns to disability or elects service retirement within 1 year  
21 after his return to employment.

22 2. A recipient of a disability retirement allowance may be employed  
23 and continue to receive part of this allowance if he applies to the board  
24 for approval of the employment before he begins to work and the board  
25 approves his application. The application must include:

- 26 (a) A full description of the proposed employment; and
- 27 (b) A statement written by the member declaring the reasons why the  
28 proposed employment should not be found to conflict with his disability.

29 3. Whenever a recipient of a disability retirement allowance is  
30 employed pursuant to subsection 2:

31 (a) The amount of his allowance must be adjusted. If the total of his  
32 gross income from the employment and his disability retirement allow-  
33 ance:

34 (1) Does not exceed his average compensation as adjusted by any  
35 post-retirement allowances, the system shall deduct \$1 from his benefits  
36 for each \$4 of gross income from the employment.

37 (2) Exceeds his average compensation as adjusted by any post-  
38 retirement allowances, the system shall deduct \$1 from his benefits for  
39 each \$2 of gross income from the employment.

40 (b) All adjustments made pursuant to paragraph (a) must be made on  
41 an estimated basis for the period of employment and adjusted to the  
42 actual amount annually or at the time he resigns or is discharged from  
43 the employment.

44 (c) If the gross income from the employment exceeds his average com-  
45 pensation, as adjusted by any post-retirement allowances, for a period of  
46 1 year, the board shall require a reevaluation of his disability.

47 4. For the purposes of this section:

48 (a) "Average compensation" means the average of a member's 36  
49 consecutive months of highest compensation as certified by the public  
50 employer.

1 (b) "Employment" includes all employment, whether for a public  
2 employer or not, and all self-employment.

3 SEC. 22. NRS 286.670 is hereby amended to read as follows:  
4 286.670 [The] 1. Except as limited by subsection 2, the right of  
5 a person to a pension, an annuity, a retirement allowance, the return of  
6 contributions, the pension, annuity or retirement allowance itself, any  
7 optional benefit or death benefit or any other right accrued or accruing  
8 to any person under the provisions of this chapter, and the money in the  
9 various funds created by this chapter, [shall:] is:

10 [1. Be exempt] (a) Exempt from all state, county and municipal  
11 taxes.

12 [2. Not be] (b) Not subject to execution, garnishment, attachment  
13 or any other process.

14 [3. Not be] (c) Not subject to the operation of any bankruptcy or  
15 insolvency law.

16 [4. Not be] (d) Not assignable, by power of attorney or otherwise.

17 2. The system may withhold money from a refund or benefit when the  
18 person applying for or receiving the refund or benefit owes money to the  
19 system.

20 SEC. 23. NRS 286.6793 is hereby amended to read as follows:

21 286.6793 1. All retirement allowances or benefits for survivors  
22 offered pursuant to this chapter become vested on the date that the  
23 employee completes 10 years of creditable service or becomes entitled to  
24 begin receiving such benefits or on the date of his death, whichever event  
25 occurs first. Unless otherwise specifically provided by the amendatory  
26 act, any change in the provisions of this chapter is retroactive for all  
27 service of any member prior to the date of vesting, but no such change  
28 may impair any vested allowance or benefit.

29 2. Any person employed by the state or its political subdivisions who  
30 is a participating member of the system, who has been employed for a  
31 period of 10 or more years, and who leaves the employ of the state or  
32 its political subdivisions prior to the attainment of the minimum service  
33 retirement age, may elect to refuse the return of his contributions, and in  
34 place thereof, upon reaching minimum service retirement age, may  
35 receive the same benefits to which he would otherwise have been entitled  
36 had he continued membership in the system.

37 SEC. 24. NRS 218.2375 is hereby amended to read as follows:

38 218.2375 1. [The] The board shall establish a fund known as the  
39 legislators' retirement fund. [is hereby created in the state treasury.]

40 2. All [moneys] money paid as individual and employer contribu-  
41 tions, all [moneys] money appropriated by the legislature to [such] the  
42 fund and all income accruing to [such] the fund from all other sources  
43 [shall] must be deposited in the legislators' retirement fund.

44 3. [All] The system shall pay all retirement allowances, benefits,  
45 optional settlements, refunds and other obligations or payments payable  
46 by the legislators' retirement system pursuant to NRS 218.2371 to 218.-  
47 2395, inclusive. [shall be paid] from the legislators' retirement fund.

48 SEC. 25. The public employees' retirement board may defray, from  
49 the public employees' retirement fund and the police and firemen's retire-  
50 ment fund in equitable proportions, the expenses of litigation to test the



1 legality of mandatory social security coverage of public employees if such  
2 litigation is required as a result of actual enactment of federal legisla-  
3 tion. The legislature finds that such expenditure, if made, is a proper  
4 expense for the protection of the public employees' retirement system.

5 SEC. 26. The state controller shall draw his warrant in favor of the  
6 public employees' retirement system for the amount of money in the  
7 legislators' retirement fund.