

SENATE BILL NO. 122—SENATORS RAGGIO, TOWNSEND, CEGAVSKE, BEERS, WASHINGTON, AMODEI, CARE, CARLTON, COFFIN, HARDY, HECK, HORSFORD, LEE, MATHEWS, MCGINNESS, NOLAN, RHOADS, SCHNEIDER, TIFFANY, TITUS AND WIENER

FEBRUARY 23, 2005

Referred to Committee on Finance

SUMMARY—Authorizes certain public employees with active military service to purchase additional years of service in Public Employees' Retirement System. (BDR 23-630)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public employees' retirement; authorizing certain public employees who served on active military duty during Operation Enduring Freedom or Operation Iraqi Freedom to purchase additional years of service in the Public Employees' Retirement System; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes the Public Employees' Retirement System. The
2 System provides benefits for the retirement, disability or death of employees of
3 public employers and is funded on an actuarial reserve basis. (NRS 286.110) Under
4 existing law, a member of the System may purchase all previous creditable service
5 performed with his present employing agency if that service was performed before
6 the enrollment of his agency in the System. Existing law also provides that a
7 member of the System with 5 years of creditable service may purchase up to an
8 additional 5 years of service. (NRS 286.300, 286.367)
9 This bill authorizes a member of the Public Employees' Retirement System
10 who has 5 years of creditable service and who served on active military duty during
11 Operation Enduring Freedom or Operation Iraqi Freedom to purchase a number of
12 months of service equal to the number of full months he served on active military
13 duty during Operation Enduring Freedom or Operation Iraqi Freedom, but the
14 purchase may not exceed 3 years of service. The purchase is in addition to any
15 other purchase of service credit authorized by law and is in addition to any free



16 credit received for military service. To qualify for the purchase, the member must
17 have been honorably discharged or released from active duty. The member must
18 pay the full actuarial cost of the service.

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

1 **Section 1.** NRS 286.300 is hereby amended to read as follows:
2 286.300 Except as otherwise required as a result of
3 NRS 286.537:

4 1. Any member of the System may, except as otherwise
5 provided in subsection ~~[4.]~~ 5, purchase all previous creditable
6 service performed with his present employing agency if that service
7 was performed before the enrollment of his agency in the System,
8 even if the service is still creditable in some other system where it
9 cannot be cancelled. The public employer must certify the inclusive
10 dates of employment and number of hours regularly worked by the
11 member to validate the service. The member must pay the full
12 actuarial cost as determined by the actuary.

13 2. In addition to the ~~[purchase]~~ *purchases* authorized pursuant
14 to the provisions of ~~[subsection 1.]~~ *subsections 1 and 3*, any
15 member who has 5 years of creditable service may, except as
16 otherwise provided in subsection ~~[4.]~~ 5, purchase up to 5 years of
17 service. The member must pay the full actuarial cost of the service
18 as determined by an actuary of the System.

19 3. *In addition to the purchases authorized pursuant to the*
20 *provisions of subsections 1 and 2 and in addition to any free credit*
21 *received pursuant to NRS 286.303 and 286.479, any member who*
22 *has 5 years of creditable service, served on active military duty*
23 *during the period beginning on the date proclaimed by the*
24 *President of the United States as the date on which Operation*
25 *Enduring Freedom or Operation Iraqi Freedom began and was*
26 *honorably discharged or released from active duty may, except as*
27 *otherwise provided in subsection 5, purchase a number of months*
28 *of service equal to the number of full months he served on active*
29 *military duty, but in no case may the service purchased pursuant*
30 *to this subsection exceed 3 years. The member must pay the full*
31 *actuarial cost of the service as determined by an actuary of the*
32 *System.*

33 4. In addition to the ~~[purchase]~~ *purchases* authorized pursuant
34 to the provisions of ~~[subsection 1.]~~ *subsections 1 and 3*, any
35 member who:

- 36 (a) Is a licensed teacher;
37 (b) Has 5 years of creditable service;



1 (c) Is, pursuant to statute, regulation or contract, entitled to
2 payment for unused sick leave; and

3 (d) Is employed by the board of trustees of a school district that
4 has, pursuant to subsection 5 of NRS 391.180, provided for the
5 payment of unused sick leave in the form of purchase of service,

6 ~~may~~, except as otherwise provided in subsection ~~[4,] 5~~, cause to
7 be purchased on his behalf service credit, not to exceed the number
8 of hours of unused sick leave or 1 year, whichever is less. The full
9 actuarial cost of the service as determined by an actuary of the
10 System must be paid for such a purchase. Any service credit
11 purchased pursuant to this subsection must be included as a part of,
12 and is not in addition to, service purchased pursuant to subsection 2.

13 ~~[4,] 5.~~ A person who becomes a member of the System for the
14 first time on or after January 1, 2000, may, on or after July 1, 2001,
15 purchase creditable service pursuant to subsection 1 ~~[or 2,], 2 or 3,~~
16 or cause to be purchased on his behalf service credit pursuant to
17 subsection ~~[3,] 4~~, only if, at the time of the purchase, he is employed
18 by a participating public employer in a position eligible for
19 membership in the System.

20 ~~[5,] 6.~~ Any member of the System may use:

21 (a) All or any portion of the balance of the member's interest in
22 a qualified trust pursuant to section 401(a) of the Internal Revenue
23 Code, 26 U.S.C. § 401(a); or

24 (b) The money contained in an individual retirement account or
25 an individual retirement annuity of a member, the entire amount of
26 which is:

27 (1) Attributable to a qualified distribution from a qualified
28 trust pursuant to section 401(a) of the Internal Revenue Code, 26
29 U.S.C. § 401(a); and

30 (2) Qualified as an eligible rollover distribution pursuant to
31 section 402 of the Internal Revenue Code, 26 U.S.C. § 402,
32 ~~to purchase creditable service pursuant to subsection 1 [or 2,~~
33 ~~—6,], 2 or 3.~~

34 ~~7.~~ A member of the System who purchases creditable service
35 pursuant to subsection 1 ~~[or 2,], 2 or 3~~ is entitled to receive a refund
36 of any contributions paid toward the purchase of the service only if
37 he is no longer in the employ of a participating public employer.

38 ~~[7,] 8.~~ If a member of the System enters into an agreement
39 whereby he agrees to pay for the purchase of service credit in
40 installments and he defaults on that agreement, the member is
41 entitled to receive service credit in the proportion that the principal
42 paid bears to the principal due under the agreement.



1 **Sec. 2.** NRS 286.367 is hereby amended to read as follows:

2 286.367 1. The volunteers of a regularly organized and
3 recognized fire department may, by the joint application of a
4 majority of those volunteers addressed to the Board, become
5 members of the System. A volunteer firefighter who joins a fire
6 department of which all the volunteers have become members of the
7 System becomes a member of the System. The volunteers of a
8 participating fire department may withdraw from the System by the
9 joint application of a majority of those volunteers addressed to the
10 Board.

11 2. The city, town, county or district which recognizes the
12 volunteers is the public employer and shall collect and pay over the
13 employee's share and pay the employer's share of the contribution
14 to the Public Employees' Retirement Fund and the Public
15 Employees' Retirement Administrative Fund, in the manner
16 prescribed in this chapter. The local government may, if so
17 requested by the volunteers, further contribute any amount by which
18 the sum receivable by each volunteer for any month is less than the
19 amount of his required share of the contribution, but no further
20 contributions may be placed in a volunteer's account with the
21 System or refunded to a volunteer or his employer upon the
22 volunteer's termination.

23 3. In determining the amount of contributions to be paid for the
24 volunteers, they are assumed to be receiving a wage established by
25 the local government which is not less than \$150 nor more than
26 \$750 per month.

27 4. Except as otherwise required as a result of NRS 286.535 or
28 286.537, the average compensation for a volunteer firefighter is the
29 weighted average of:

30 (a) The assumed wage as a volunteer firefighter; and

31 (b) The average salary in other covered employment which, if
32 the service in that employment exceeds 3 years, is calculated upon
33 the 3 highest consecutive years.

34 ➤ The weight given to the assumed wage and average salary,
35 respectively, is proportionate to the length of service in each
36 capacity. Except as otherwise required as a result of NRS 286.535 or
37 286.537, average compensation is computed from the sum of the
38 assumed wage and actual salary if a member is employed
39 simultaneously as a volunteer firefighter and as a regular member.

40 5. Any dispute over the status of a person as a volunteer
41 firefighter under this section must be conclusively determined by the
42 Board.

43 6. A volunteer firefighter may purchase all previous service as
44 a volunteer firefighter with any volunteer fire department which is a



1 member of the System. To validate such service, the volunteer
2 firefighter must pay the full cost as determined by the actuary. The
3 employing agency may pay the employer's share of the cost but is
4 not required to do so.

5 7. In addition to the ~~[purchase]~~ *purchases* authorized pursuant
6 to the provisions of ~~[subsection 6.]~~ *subsections 6 and 8*, a volunteer
7 firefighter who has 5 years creditable service as a volunteer
8 firefighter may purchase up to 5 years of service to add to his
9 volunteer service. The member must pay the full actuarial cost of
10 the service as determined by an actuary of the System.

11 *8. In addition to the purchases authorized pursuant to the*
12 *provisions of subsections 6 and 7 and in addition to any free credit*
13 *received pursuant to NRS 286.303 and 286.479, a volunteer*
14 *firefighter who has 5 years of creditable service as a volunteer*
15 *firefighter, served on active military duty during the period*
16 *beginning on the date proclaimed by the President of the United*
17 *States as the date on which Operation Enduring Freedom or*
18 *Operation Iraqi Freedom began and was honorably discharged or*
19 *released from active duty may purchase a number of months of*
20 *service equal to the number of full months he served on active*
21 *military duty, but in no case may the service purchased pursuant*
22 *to this subsection exceed 3 years. The member must pay the full*
23 *actuarial cost of the service as determined by an actuary of the*
24 *System.*

25 **Sec. 3.** NRS 391.180 is hereby amended to read as follows:

26 391.180 1. As used in this section, "employee" means any
27 employee of a school district or charter school in this State.

28 2. A school month in any public school in this State consists of
29 4 weeks of 5 days each.

30 3. Nothing contained in this section prohibits the payment of
31 employees' compensation in 12 equal monthly payments for 9 or
32 more months' work.

33 4. The per diem deduction from the salary of an employee
34 because of absence from service for reasons other than those
35 specified in this section is that proportion of the yearly salary which
36 is determined by the ratio between the duration of the absence and
37 the total number of contracted workdays in the year.

38 5. Boards of trustees shall either prescribe by regulation or
39 negotiate pursuant to chapter 288 of NRS, with respect to sick
40 leave, accumulation of sick leave, payment for unused sick leave,
41 sabbatical leave, personal leave, professional leave, military leave
42 and such other leave as they determine to be necessary or desirable
43 for employees. In addition, boards of trustees may either prescribe
44 by regulation or negotiate pursuant to chapter 288 of NRS with



1 respect to the payment of unused sick leave to licensed teachers in
2 the form of purchase of service pursuant to subsection ~~3~~ 4 of NRS
3 286.300. The amount of service so purchased must not exceed the
4 number of hours of unused sick leave or 1 year, whichever is less.

5 6. The salary of any employee unavoidably absent because of
6 personal illness or accident, or because of serious illness, accident or
7 death in the family, may be paid up to the number of days of sick
8 leave accumulated by the employee. An employee may not be
9 credited with more than 15 days of sick leave in any 1 school year.
10 Except as otherwise provided in this subsection, if an employee
11 takes a position with another school district or charter school, all
12 sick leave that he has accumulated must be transferred from his
13 former school district or charter school to his new school district or
14 charter school. The amount of sick leave so transferred may not
15 exceed the maximum amount of sick leave which may be carried
16 forward from one year to the next according to the applicable
17 negotiated agreement or the policy of the district or charter school
18 into which the employee transferred. Unless the applicable
19 negotiated agreement or policy of the employing district or charter
20 school provides otherwise, such an employee:

21 (a) Shall first use the sick leave credited to the employee from
22 the district or charter school into which he transferred before using
23 any of the transferred leave; and

24 (b) Is not entitled to compensation for any sick leave transferred
25 pursuant to this subsection.

26 7. Subject to the provisions of subsection 8:

27 (a) If an intermission of less than 6 days is ordered by the board
28 of trustees of a school district or the governing body of a charter
29 school for any good reason, no deduction of salary may be made
30 therefor.

31 (b) If, on account of sickness, epidemic or other emergency in
32 the community, a longer intermission is ordered by the board of
33 trustees of a school district, the governing body of a charter school
34 or a board of health and the intermission or closing does not exceed
35 30 days at any one time, there may be no deduction or
36 discontinuance of salaries.

37 8. If the board of trustees of a school district or the governing
38 body of a charter school orders an extension of the number of days
39 of school to compensate for the days lost as the result of an
40 intermission because of those reasons contained in paragraph (b) of
41 subsection 7, an employee may be required to render his services to
42 the school district or charter school during that extended period. If
43 the salary of the employee was continued during the period of
44 intermission as provided in subsection 7, the employee is not



1 entitled to additional compensation for services rendered during the
2 extended period.

3 9. If any subject referred to in this section is included in an
4 agreement or contract negotiated by:

5 (a) The board of trustees of a school district pursuant to chapter
6 288 of NRS; or

7 (b) The governing body of a charter school pursuant to
8 NRS 386.595,

9 → the provisions of the agreement or contract regarding that subject
10 supersede any conflicting provisions of this section or of a
11 regulation of the board of trustees.

12 **Sec. 4.** This act becomes effective upon passage and approval.



