

CHAPTER.....

AN ACT relating to the judiciary; authorizing justices of the peace and municipal judges to participate in the Judicial Retirement Plan under certain circumstances; and providing other matters properly relating thereto.

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

Section 1. Chapter 1A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A justice of the peace or municipal judge may participate in the Judicial Retirement Plan if:

(a) The board of county commissioners elects to allow the justices of the peace of the county or the city council elects to allow the municipal judges of the city to participate in the Judicial Retirement Plan; and

(b) The justice of the peace or the municipal judge elects to participate in the Judicial Retirement Plan.

2. Each justice of the peace or municipal judge who is allowed and who elects to participate in the Judicial Retirement Plan pursuant to this section must receive benefits for retirement, benefits for disability and survivor benefits under the Judicial Retirement Plan, if eligible to receive such benefits under the Judicial Retirement Plan.

3. If the board of county commissioners rescinds its election to allow the justices of the peace of the county or the city council rescinds its election to allow the municipal judges of the city to participate in the Judicial Retirement Plan, any justice of the peace or municipal judge who elected to participate in the Judicial Retirement Plan before the effective date of the rescission is entitled to continue to participate in the Judicial Retirement Plan.

4. A justice of the peace or municipal judge who is a member of the Public Employees' Retirement System established pursuant to chapter 286 of NRS on the date that he elects to participate in the Judicial Retirement Plan must give written notice to the Board of his intention to withdraw from the Public Employees' Retirement System and to become a member of the Judicial Retirement Plan.

5. If the Board receives notice pursuant to this section that a justice of the peace or municipal judge intends to withdraw from the Public Employees' Retirement System, it shall transfer from the Public Employees' Retirement Fund to the Judicial Retirement Plan the accrued actuarial liability and credit for service earned by the justice or judge while a member of the Public Employees'

Retirement System as determined by an actuary of the Judicial Retirement System. The service so transferred must be accredited under the Judicial Retirement Plan as if performed in the Public Employees' Retirement System.

6. *A justice of the peace or municipal judge who exercises the option granted by this section may not reestablish the service for which the liabilities were transferred.*

7. *No justice of the peace or municipal judge or survivor of a justice of the peace or municipal judge may receive benefits under both this chapter and chapter 286 of NRS.*

8. *A justice of the peace or municipal judge or survivor of a justice of the peace or municipal judge who is receiving a retirement allowance from the Public Employees' Retirement System on July 1, 2005, is not eligible for transfer to the Judicial Retirement Plan.*

Sec. 2. NRS 1A.030 is hereby amended to read as follows:

1A.030 1. "Compensation" means the salary paid to a justice of the Supreme Court or district judge by this State, *to a justice of the peace by a county or to a municipal judge by a city*, including:

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

(b) Additional payment for longevity; and

(c) Payment for extra duty assignments if it is the standard practice of this State, *the county or the city* to include such pay in the employment contract or official job description for the calendar year in which it is paid and such pay is specifically included in the justice's or judge's employment contract or official job description.

2. The term does not include any type of payment not specifically described in this section.

Sec. 3. NRS 1A.040 is hereby amended to read as follows:

1A.040 "Disability retirement allowance" means monthly payments from the Judicial Retirement Fund paid to disabled retired justices of the Supreme Court, ~~or~~ district judges, *justices of the peace or municipal judges* pursuant to the Judicial Retirement Plan.

Sec. 4. NRS 1A.060 is hereby amended to read as follows:

1A.060 "Retired justice or judge" means a justice of the Supreme Court, ~~or~~ district judge, *justice of the peace or municipal judge* who was a member of the Judicial Retirement Plan at the time he retired or *a justice of the Supreme Court or district judge* who decides, pursuant to NRS 1A.270 or 1A.280, to receive benefits for retirement pursuant to the Judicial Retirement Plan.

Sec. 5. NRS 1A.070 is hereby amended to read as follows:

1A.070 "Service" means all creditable employment which is validated pursuant to the provisions of this chapter and can be used in determining eligibility and scope of benefits for justices of the

Supreme Court , ~~or~~ district judges , *justices of the peace or municipal judges* pursuant to the Judicial Retirement Plan.

Sec. 6. NRS 1A.080 is hereby amended to read as follows:

1A.080 “Service retirement allowance” means monthly payments from the Judicial Retirement Fund paid to a retired justice of the Supreme Court , ~~or~~ district judge , *justice of the peace or municipal judge* pursuant to the Judicial Retirement Plan for the remainder of his life.

Sec. 7. NRS 1A.100 is hereby amended to read as follows:

1A.100 1. A system of retirement providing benefits for the retirement, disability or death of all justices of the Supreme Court and district judges , *and certain justices of the peace and municipal judges*, and funded on an actuarial reserve basis is hereby established and must be known as the Judicial Retirement System.

2. The System consists of the Judicial Retirement Plan and the provisions set forth in NRS 2.060 to 2.083, inclusive, and 3.090 to 3.099, inclusive, for providing benefits to justices of the Supreme Court or district judges who served either as a justice of the Supreme Court or district judge before November 5, 2002. Each justice of the Supreme Court or district judge who is not a member of the Public Employees’ Retirement System is a member of the *Judicial Retirement* System.

3. The official correspondence and records, other than the files of individual members of the System or retired justices or judges, and the minutes and books of the System are public records and are available for public inspection.

4. The System must be administered exclusively by the Board, which shall make all necessary rules and regulations for the administration of the System. The rules must include, without limitation, rules relating to the administration of the retirement plans in accordance with federal law. The Legislature shall regularly review the System.

Sec. 8. NRS 1A.110 is hereby amended to read as follows:

1A.110 All records maintained for a member of the System, retired justice or judge, justice *of the Supreme Court* or *district* judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or his beneficiary may be reviewed and copied only by the System, the member, the Court Administrator, *the board of county commissioners if the records concern a justice of the peace or retired justice of the peace whom the board of county commissioners allowed to participate in the Judicial Retirement Plan pursuant to section 1 of this act, the city council if the records concern a municipal judge or retired municipal judge whom the city council allowed to participate in the Judicial Retirement Plan pursuant to section 1 of this act*, the spouse of the member, or the retired justice or judge or his spouse,

or pursuant to a court order, or by a beneficiary after the death of the justice or judge on whose account benefits are received pursuant to the System. Any member, retired justice or judge, justice *of the Supreme Court* or *district* judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or beneficiary may submit a written waiver to the System authorizing his representative to review or copy all such records.

Sec. 9. NRS 1A.160 is hereby amended to read as follows:

1A.160 1. The Judicial Retirement Fund is hereby established as a trust fund.

2. It is hereby declared to be the policy of the Legislature that the Judicial Retirement Fund is established to afford a degree of security to long-time justices of the Supreme Court, ~~and~~ district judges, *justices of the peace and municipal judges* in this State. The money in the Fund must not be used or appropriated for any purpose incompatible with the provisions of this chapter or NRS 2.060 to 2.083, inclusive, or 3.090 to 3.099, inclusive. The Fund must be invested and administered to ensure the highest return consistent with safety in accordance with accepted investment practices.

3. All money appropriated by the Legislature to the Judicial Retirement Fund, all money submitted to the System for deposit in the Fund pursuant to NRS 1A.180 and all income accruing to the Fund from all other sources must be deposited in the Fund.

4. The interest and income earned on the money in the Judicial Retirement Fund, after deducting any applicable charges, must be credited to the Fund.

5. The System must pay all retirement allowances, benefits, optional settlements and other obligations or payments payable by the System pursuant to this chapter and NRS 2.060 to 2.083, inclusive, and 3.090 to 3.099, inclusive, from the Judicial Retirement Fund. The money in the Fund must be expended by the Board for the payment of expenses authorized by law to be paid from the Fund.

Sec. 10. NRS 1A.180 is hereby amended to read as follows:

1A.180 1. Beginning July 1, 2003, the Court Administrator shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each *justice of the Supreme Court or district judge who is a* member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments *for such members* pursuant to subsection 5 of NRS 1A.160 and ~~any~~ the administrative expenses of the System ~~that~~ *are attributable to such members*. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the Court Administrator. The compensation must be reported separately for each month that it is paid.

2. Beginning July 1, 2003, the State of Nevada shall pay to the System for deposit in the Judicial Retirement Fund from any fund created for the purpose of paying pension benefits to justices of the Supreme Court or district judges an amount as the contribution of the State of Nevada as employer which is actuarially determined to be sufficient to provide the System with enough money to pay ~~fall~~ *the benefits for justices of the Supreme Court and district judges* for which the System will be liable.

3. *Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to section 1 of this act, the county or city shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the peace or municipal judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:*

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the county or city. The compensation must be reported separately for each month that it is paid.

4. *Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to section 1 of this act, the county or city shall pay to the System for deposit in the Judicial Retirement Fund an amount as the contribution of the county or city as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the peace and municipal judges for which the System will be liable.*

5. Except as otherwise provided in this subsection, the total contribution rate that is actuarially determined for members of the Judicial Retirement Plan must be adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report. The adjusted rate must be rounded to the nearest one-quarter of

1 percent. The total contribution rate must not be adjusted pursuant to this subsection if the existing rate is within one-half of 1 percent of the actuarially determined rate.

Sec. 11. NRS 1A.220 is hereby amended to read as follows:

1A.220 1. The Board, subject to the limitations of this chapter, is responsible for managing the System.

2. The Board shall:

(a) Arrange for a biennial actuarial valuation and report of the actuarial soundness of the System to be prepared by an independent actuary based upon data compiled and supplied by employees of the System, and shall adopt actuarial tables and formulas prepared and recommended by the actuary;

(b) Provide for a biennial audit of the System, including, without limitation, the Judicial Retirement Administrative Fund, by an independent certified public accountant; and

(c) Provide an annual report concerning the ~~Judicial Retirement~~ System established pursuant to this chapter to the Court Administrator, *each board of county commissioners that allows justices of the peace to participate in the Judicial Retirement Plan pursuant to section 1 of this act, each city council that allows municipal judges to participate in the Judicial Retirement Plan pursuant to section 1 of this act*, the Governor and each member of the Legislature, and make the report available to all members of the ~~Judicial Retirement~~ System upon request. The report must contain, when available, a review of the actuarial valuation required by paragraph (a).

3. The Board may:

(a) Adjust the service or correct the records, allowance or benefits of any member of the System, retired justice or judge or beneficiary after an error or inequity has been determined, and require repayment of any money determined to have been paid by the System in error, if the money was paid within 6 years before demand for its repayment.

(b) Examine and copy personnel and financial records of ~~the~~:

(1) A justice of the Supreme Court or district judge that are maintained by the Court Administrator ~~the~~;

(2) A justice of the peace who participates in the Judicial Retirement Plan pursuant to section 1 of this act that are maintained by a county; and

(3) A municipal judge who participates in the Judicial Retirement Plan pursuant to section 1 of this act that are maintained by a city.

(c) Require an annual notarized statement from a retired justice or judge or beneficiary that he is in fact receiving an allowance or benefits, and withhold the allowance or benefits if he fails to provide the statement.

4. As used in this section, “error or inequity” means the existence of extenuating circumstances, including, without limitation, a member’s reasonable and detrimental reliance on representations made by the System which prove to be erroneous, or the mental incapacity of the member.

Sec. 12. NRS 1A.250 is hereby amended to read as follows:

1A.250 Except as specifically provided in this chapter, the accounts of members of the System and recipients of benefits of the System must be administered in accordance with the provisions of chapter 286 of NRS as if the justice of the Supreme Court, ~~the~~ the district judge, *the justice of the peace or the municipal judge* were or had been a member of the Public Employees’ Retirement System.

Sec. 13. NRS 1A.260 is hereby amended to read as follows:

1A.260 1. No person may become a member of the ~~Judicial Retirement~~ System unless he is a justice of the Supreme Court or a district judge ~~the~~, *or a justice of the peace or municipal judge who is allowed and elects to participate in the Judicial Retirement Plan pursuant to section 1 of this act.*

2. Except as otherwise provided in NRS 1A.370, persons retired under the provisions of this chapter who are employed as a justice of the Supreme Court, ~~the~~ district judge, *justice of the peace or municipal judge* in any judicial capacity, including, without limitation, employment as a senior justice, ~~the~~ senior judge, *senior justice of the peace or senior municipal judge* of the Nevada Court System, are not eligible to become members of the System.

Sec. 14. NRS 1A.290 is hereby amended to read as follows:

1A.290 1. Membership of a justice of the Supreme Court or a district judge in the System terminates upon:

(a) The death of ~~the~~ *the* member;

(b) Receipt of retirement allowances by ~~the~~ *the* member of the Judicial Retirement Plan or retirement benefits pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive; or

(c) Receipt of disability allowances by ~~the~~ *the* member of the Judicial Retirement Plan or disability benefits pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive.

2. *Membership of a justice of the peace or municipal judge in the System terminates upon:*

(a) The death of the member;

(b) Receipt of retirement allowances; or

(c) Receipt of disability allowances.

3. A retired justice or judge is not entitled to any right conferred by this chapter upon a member of the System unless the

provision conferring that right expressly states that it is conferred upon a retired justice or judge.

~~3.1~~ 4. A justice *of the Supreme Court* or *a district* judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, is not entitled to any right conferred by this chapter upon a member of the System unless the provision conferring that right expressly states that it is conferred upon a justice or judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive.

Sec. 15. NRS 1A.300 is hereby amended to read as follows:

1A.300 1. A plan under which all justices of the Supreme Court and district judges who are elected or appointed for the first time as either a justice of the Supreme Court or district judge on or after November 5, 2002, and who take office on or after January 1, 2003, and who do not elect to remain in the Public Employees' Retirement System, if eligible to do so, must receive benefits for retirement, disability and death, *and under which justices of the peace and municipal judges who are allowed to participate in the plan pursuant to section 1 of this act may receive benefits for retirement, disability and death*, is hereby established and must be known as the Judicial Retirement Plan.

2. Each justice of the Supreme Court or district judge elected or appointed for the first time as either a justice of the Supreme Court or district judge on or after November 5, 2002, and who takes office on or after January 1, 2003, and who does not elect pursuant to NRS 1A.280 to remain in the Public Employees' Retirement System, if eligible to do so, is a member of the Judicial Retirement Plan.

3. *Each justice of the peace and municipal court judge who is allowed and who elects to participate in the Judicial Retirement Plan pursuant to section 1 of this act is a member of the Judicial Retirement Plan.*

4. Benefits are earned pursuant to the Judicial Retirement Plan in the manner set forth in NRS 1A.120 to 1A.150, inclusive, 1A.190, 1A.240 and 1A.310 to 1A.670, inclusive.

Sec. 16. NRS 1A.360 is hereby amended to read as follows:

1A.360 1. Except as otherwise provided in subsection 4 and NRS 1A.370, if a retired justice or judge accepts employment as a justice of the Supreme Court, ~~or~~ district judge, *justice of the peace or municipal court judge* in any judicial capacity, including, without limitation, employment as a senior justice, ~~or~~ senior judge, *senior justice of the peace or senior municipal judge* of the Nevada Court System, he is disqualified from receiving any allowances under the Judicial Retirement Plan for the duration of his active service.

2. If a retired justice or judge accepts any employment other than that described in subsection 1, the justice , or judge is entitled to the same allowances as a retired justice or judge who has no employment.

3. If a retired justice or judge who accepts employment as a justice of the Supreme Court , ~~or~~ district judge , *justice of the peace or municipal judge* in a judicial capacity pursuant to this section elects not to reenroll in the Judicial Retirement Plan pursuant to subsection 1 of NRS 1A.370, the Court Administrator *if the retired justice or judge is a justice of the Supreme Court or a district judge, the county if the retired justice or judge is a justice of the peace or the city if the retired justice or judge is a municipal judge,* may pay contributions on behalf of the retired justice or judge to a retirement fund which is not a part of the Judicial Retirement Plan in an amount not to exceed the amount of the contributions that the Court Administrator , *county or city* would pay to the System on behalf of a participating justice , or judge who is employed in a similar position.

4. The System may waive , for one period of 30 days or less , a retired ~~justice's~~ *justice of the Supreme Court's* or *district* judge's disqualification under this section if the Chief Justice of the Supreme Court certifies in writing, in advance, that the retired justice *of the Supreme Court* or *district* judge is recalled to meet an emergency and that no other qualified person is immediately available. *The System may waive, for one period of 30 days or less, a retired justice of the peace's disqualification under this section if the board of county commissioners of the jurisdiction in which the justice of the peace is to be assigned certifies in writing, in advance, that the retired justice of the peace is recalled to meet an emergency and that no other qualified person is immediately available. The System may waive, for one period of 30 days or less, a retired municipal judge's disqualification under this section if the city council of the jurisdiction in which the municipal judge is to be assigned certifies in writing, in advance, that the retired municipal judge is recalled to meet an emergency and that no other qualified person is immediately available.*

Sec. 17. NRS 1A.370 is hereby amended to read as follows:

1A.370 1. A retired justice or judge who accepts employment as a justice of the Supreme Court , ~~or~~ district judge , *justice of the peace or municipal judge* in any judicial capacity, including, without limitation, employment as a senior justice , ~~or~~ senior judge , *senior justice of the peace or senior municipal judge* of the Nevada Court System, may enroll in the Judicial Retirement Plan as of the effective date of that employment. As of the date of enrollment:

(a) He forfeits all retirement allowances for the duration of that employment; and

(b) Except as otherwise required as a result of NRS 1A.400 or 1A.410, if the duration of the employment is at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment is:

(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and ~~{designated}~~ *designate* the same beneficiary as the original allowance; or

(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 1A.430.

2. The original service retirement allowance of such a retired justice or judge must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:

(a) NRS 1A.440; and

(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415.

3. Except as otherwise required as a result of NRS 1A.400 or 1A.410, a retired justice or judge who has been receiving a retirement allowance pursuant to the Judicial Retirement Plan and who is reemployed and is enrolled in the Plan for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.

4. The survivor of a deceased member of the Judicial Retirement Plan who had previously retired and was reemployed and enrolled in the Plan, who qualifies for benefits pursuant to NRS 1A.340 and 1A.530 to 1A.670, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.

Sec. 18. NRS 1A.440 is hereby amended to read as follows:

1A.440 Except as otherwise required as a result of NRS 1A.400 or 1A.410:

1. Except as otherwise provided in this subsection, a monthly service retirement allowance must be determined by multiplying a member of the Judicial Retirement Plan's average compensation by 3.4091 percent for each year of service, except that a member of the Plan is entitled to a benefit of not more than 75 percent of his average compensation.

2. For the purposes of this section, “average compensation” means the average of a member of the Plan’s 36 consecutive months of highest compensation as certified by the Court Administrator ~~§~~ *if the member is a justice of the Supreme Court or a district judge, by the county if the member is a justice of the peace or by the city if the member is a municipal judge.*

Sec. 19. NRS 1A.470 is hereby amended to read as follows:

1A.470 1. In addition to the options provided in NRS 287.023 and subject to the requirements of that section, any justice of the Supreme Court, ~~§~~ district judge, *justice of the peace or municipal judge* who retires under the conditions set forth in NRS 1A.350 and, at the time of his retirement, was covered or had his dependents covered by any group insurance or medical and hospital service established pursuant to NRS 287.010, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, has the option of having the Executive Officer of the Board deduct and pay his premium or contribution for that group insurance or medical and hospital service coverage, as well as the amount due or to become due upon any obligation designated by the Board pursuant to subsection 2, from his monthly retirement allowance until:

(a) He notifies the Executive Officer of the Board to discontinue the deduction; or

(b) Any of his dependents elect to assume the premium or contribution applicable to the dependent’s coverage before the death of such a retired justice or judge and continue coverage pursuant to NRS 287.023 after his death.

2. The Board may adopt regulations to carry out the provisions of subsection 1, including, without limitation, regulations governing the number and types of obligations, amounts for the payment of which may be deducted and paid by the Board at the option of the retired justice or judge pursuant to this section.

3. The Executive Officer of the Board, the Board and the System are not liable for any damages resulting from errors or omissions concerning the deductions and payment of premiums or contributions authorized pursuant to this section unless willful neglect or gross negligence is proven.

Sec. 20. NRS 1A.480 is hereby amended to read as follows:

1A.480 1. A member of the Judicial Retirement Plan who has 5 years or more of service credit and who becomes totally unable to perform his current job or any comparable job for which he is qualified by his training and experience ~~§~~ because of injury or mental or physical illness of a permanent nature is eligible to apply for disability retirement if:

(a) Except as otherwise provided in subsection 5, his employment as a justice of the Supreme Court, ~~§~~ district judge,

justice of the peace or municipal judge will be terminated because of the disability;

(b) He is employed as a justice of the Supreme Court , ~~for~~ a district judge , *a justice of the peace or a municipal judge* at the time of application for disability retirement;

(c) He proves that his disability renders him unable to perform the duties of his present position and of any other position he has held within the past year;

(d) He files a notarized application for disability retirement with the System which indicates a selection of option and to which is attached a personal statement by the member of the Judicial Retirement Plan ~~is~~ describing the disability, the duties which he can and cannot perform, and any benefits he is entitled to receive for disability from any other public source; and

(e) The Court Administrator *if the member is a justice of the Supreme Court or a district judge, the county if the member is a justice of the peace or the city if the member is a municipal judge,* files an official statement certifying the member's employment record, record of disability, absences that have occurred because of the disability, the effect upon the work of the member after the disability, and job functions that can and cannot be performed because of the disability.

2. Except as otherwise required as a result of NRS 1A.410, the amount of the disability retirement allowance must be calculated in the same manner as provided for service retirement calculations in NRS 1A.440, except that no reduction for the age of a member of the Judicial Retirement Plan may be made and that the allowance must be reduced by the amount of any other benefit received from any source on account of the same disability:

(a) If the benefit is provided or was purchased by the expenditure of money by a Nevada public employer; and

(b) To the extent that the total of the unmodified benefit and the other benefit would otherwise exceed his average compensation.

3. A member of the Judicial Retirement Plan may apply for disability retirement even if he is eligible for service retirement.

4. Each child of a deceased recipient of a disability retirement allowance is entitled to receive the benefits provided by NRS 1A.580 only if the decedent had not reached the age and completed the service required to be eligible for a service retirement allowance, except that these benefits must not be paid to anyone who is named as a beneficiary under one of the options to an unmodified allowance.

5. If a member of the Judicial Retirement Plan whose application for disability retirement has been:

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

(b) Mailed before his death , as indicated by the date of the postmark dated by the post office on the envelope in which it was mailed, dies before the Board has acted upon his application and the Board approves thereafter his application,

↳ his beneficiary is entitled to receive an allowance under the option selected rather than the benefit otherwise provided for a survivor.

6. The termination or adjustment of a disability retirement allowance resulting from the death of a recipient of an allowance pursuant to this section must not become effective until the first day of the month immediately following the death of the recipient.

7. As used in this section, "public employer" has the meaning ascribed to it in NRS 286.070.

Sec. 21. NRS 1A.510 is hereby amended to read as follows:

1A.510 1. Except as otherwise provided in subsection 2, whenever a recipient of a disability retirement allowance pursuant to NRS 1A.480 returns to employment as a justice of the Supreme Court , ~~for~~ district judge, *justice of the peace or municipal judge*, the allowance must be discontinued and his service credit at the time of disability retirement must be restored. The member shall retire under the same retirement plan previously selected for retirement on account of disability if he returns to disability retirement or elects service retirement within 1 year after his return to employment.

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

(a) A full description of the proposed employment; and

(b) A statement written by the member of the System declaring the reasons why the proposed employment should not be found to conflict with his disability.

Sec. 22. NRS 1A.570 is hereby amended to read as follows:

1A.570 1. Except as otherwise provided in subsection 3, if a deceased member of the Judicial Retirement Plan had 2 years of creditable service in the 2 1/2 years immediately preceding his death, or if the employee had 10 or more years of creditable service, certain of his dependents are eligible for payments as provided in NRS 1A.530 to 1A.670, inclusive. If the death of the member resulted from a mental or physical condition which required him to leave his position as a justice of the Supreme Court , ~~for~~ district judge , *justice of the peace or municipal judge* or go on leave without pay, eligibility pursuant to the provisions of this section extends for 18 months after his termination or commencement of leave without pay.

2. If the death of a member of the Judicial Retirement Plan occurs while he is on leave of absence for further training and if he

met the requirements of subsection 1 at the time his leave began, certain of his dependents are eligible for payments as provided in subsection 1.

3. If the death of a member of the Judicial Retirement Plan is caused by an occupational disease or an accident arising out of and in the course of his employment, no prior creditable service is required to make his dependents eligible for payments pursuant to NRS 1A.530 to 1A.670, inclusive, except that this subsection does not apply to an accident occurring while the member is traveling between his home and his principal place of employment.

4. As used in this section, "dependent" includes a survivor beneficiary designated pursuant to NRS 1A.620.

Sec. 23. NRS 1A.670 is hereby amended to read as follows:

1A.670 The amount of each monthly allowance paid as specified in NRS 1A.580 to 1A.660, inclusive, must not exceed the deceased member of the Judicial Retirement Plan's average compensation and must be reduced by the amount of any other benefit received from any source:

1. If that benefit was provided or purchased by the expenditure of money by this State ~~if~~ *if the deceased member was a justice of the Supreme Court or district judge, by the county if the deceased member was a justice of the peace or by the city if the deceased member was a municipal judge*, except for lump-sum payments under a group insurance program; and

2. To the extent that the total of the allowance and the other benefit would otherwise exceed the deceased member's average compensation.

Sec. 24. NRS 286.293 is hereby amended to read as follows:

286.293 1. The following employees of public employers shall participate in the System:

(a) Those employed on or after July 1, 1977, in positions considered to be half-time or more according to the full-time work schedule established for that public employer.

(b) Elected officials or persons appointed to elective positions who are elected or appointed after July 1, 1975, except where excluded by NRS 286.297 ~~and~~ *and except justices of the peace and municipal judges who are allowed and who elect to participate in the Judicial Retirement Plan pursuant to section 1 of this act.*

(c) A member whose allowance is vested or who is contributing immediately before a legislative session who is employed on or after January 1, 1981, by either house of the Legislature or by the Legislative Counsel Bureau.

(d) A member of the Nevada Gaming Commission.

2. The Board shall establish standards for determining what constitutes a full-time work schedule pursuant to paragraph (a) of subsection 1.

Sec. 25. This act becomes effective on July 1, 2005.

