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SENATE BILL NO. 83—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE CONTROLLER)

PREFILED NOVEMBER 20, 2018

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Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the dissemination of information and data of the Public Employees’ Retirement System. (BDR 23-467)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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

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AN ACT relating to the Public Employees’ Retirement System; increasing the membership of the Public Employees’ Retirement Board; making the State Controller and State Treasurer members of the Board ex officio; requiring the Board to provide certain information to the State Controller; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, the Public Employees’ Retirement System is governed by  
2 the Public Employee’s Retirement Board consisting of seven members appointed  
3 by the Governor. (NRS 286.120) **Section 2** of this bill increases the membership of  
4 the Board to eleven members, adding two members who are appointed by the  
5 Governor to represent the general public and adding the State Controller and the  
6 State Treasurer as members by virtue of their offices. **Section 3** of this bill  
7 establishes the qualifications for appointment for the two new approved members.

8 Existing law provides for the payment of a fee of \$80 per day and travel  
9 expenses to members for each meeting and other function of the Board attended by  
10 the member. **Section 4** of this bill excludes the new ex officio members from being  
11 entitled to receive these fees and reimbursements.

12 The Constitution of the State of Nevada requires the Public Employees’  
13 Retirement Board to employ an independent actuary and to adopt actuarial  
14 assumptions based upon the recommendations made by the independent actuary it  
15 employs. (Nev. Const. Art. 9, § 2) Existing law requires the Board to: (1) arrange  
16 for a biennial actuarial valuation and report of the actuarial soundness of the  
17 System to be prepared by an independent actuary; and (2) adopt actuarial tables and  
18 formulas prepared and recommended by the actuary. (NRS 286.190) **Section 5** of



19 this bill requires the Board to provide to the State Controller all information  
20 concerning the actuarial valuation and actuarial soundness of the System that the  
21 State Controller determines is necessary to: (1) verify any claim or estimate made  
22 by or for the Board concerning certain aspects of the System; (2) assess those  
23 aspects of the System using assumptions, projections, estimates and other variables  
24 selected by the State Controller; and (3) perform analyses of various costs, benefits,  
25 risks and probabilities that may affect the System. **Section 5** also requires the Board  
26 to make the information it provides to the State Controller available to any person  
27 upon request.

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

1 **Section 1.** The Legislature hereby finds and declares:

2 1. The actuarial valuation and soundness of the Public  
3 Employees' Retirement System are matters of vital concern, not  
4 only to the members, retired employees and beneficiaries of the  
5 System, but to the public employers, state officers, Legislators, press  
6 and people of this State.

7 2. It is in the best interest of those concerned persons that all  
8 information relating to the System's actuarial valuation and  
9 soundness, other than the confidential, personal information of  
10 individual members, retired employees and beneficiaries of the  
11 System, be provided to the State Controller as the chief fiscal officer  
12 of this State and made available to any other concerned person.

13 3. As trustees for the Public Employees' Retirement Fund, the  
14 Public Employees' Retirement Board is required by federal law,  
15 the Nevada Constitution and state statutes to administer the Fund for  
16 the exclusive benefit of the members, retired members and  
17 beneficiaries of the System.

18 4. In all matters that are not in conflict with those  
19 requirements, the Board owes duties of good faith, diligence and  
20 transparency to the public employers, state officers, Legislators,  
21 press and people of this State.

22 **Sec. 2.** NRS 286.120 is hereby amended to read as follows:

23 286.120 1. The governing authority of the System shall be a  
24 board of ~~seven~~ *11 members consisting of:*

- 25 (a) *Nine* persons appointed by the Governor ~~{}~~;
- 26 (b) *The State Controller who serves ex officio; and*
- 27 (c) *The State Treasurer who serves ex officio.*

28 2. The name of the board shall be the Public Employees'  
29 Retirement Board.

30 3. The Governor shall review periodically the broad  
31 administrative policies and performance standards as they are being  
32 administered by the Board.



1 4. The Governor may remove and replace any *appointed* Board  
2 member for cause shown.

3 **Sec. 3.** NRS 286.130 is hereby amended to read as follows:

4 286.130 *Of the appointed members of the Board:*

5 1. Three members ~~[of the Board]~~ must be persons who:

6 (a) Have had at least 10 years of service as employees of the  
7 State of Nevada or its political subdivisions;

8 (b) Are not elected officers of the State of Nevada or its political  
9 subdivisions;

10 (c) Are active members of the System; and

11 (d) Are appointed from written nominations submitted by the  
12 following groups:

13 (1) Employees of the State and the Nevada System of Higher  
14 Education;

15 (2) The academic staff of school districts;

16 (3) Employees of cities, excluding Carson City;

17 (4) Employees of counties, including Carson City and  
18 excluding employees of county hospitals;

19 (5) Employees of county hospitals, public utilities, power  
20 districts, sanitation districts, classified school employees and  
21 employees of other districts as determined by the Board; and

22 (6) Employees whose current positions entitle them to  
23 participate in the Police and Firefighters' Retirement Fund.

24 ↪ Each nominee must be a member of the group or organization  
25 that is nominating the nominee.

26 2. Two members ~~[of the Board]~~ must be persons who:

27 (a) Have had at least 10 years of service as employees of the  
28 State of Nevada or its political subdivisions;

29 (b) Are not elected officers of the State of Nevada or its political  
30 subdivisions;

31 (c) Are active members of the System; and

32 (d) Are appointed from written nominations submitted by the  
33 following groups:

34 (1) Administrators of school districts or members of boards  
35 of trustees of school districts; and

36 (2) Members of boards of county commissioners or the  
37 governing bodies of cities or administrators of counties or cities.

38 3. One member ~~[of the Board]~~ must be a person who:

39 (a) Is an employee of the State of Nevada or its political  
40 subdivisions with at least 10 years of service;

41 (b) Is serving in a position at least equivalent to the manager of  
42 a department or division;

43 (c) Is not an elected officer of the State of Nevada or its political  
44 subdivisions; and

45 (d) Is an active member of the System.



- 1 4. One member ~~[of the board]~~ must be a person who:  
2 (a) Has had at least 10 years of service as an employee of the  
3 State of Nevada or its political subdivisions;  
4 (b) Is not an elected officer of the State of Nevada or its political  
5 subdivisions; and  
6 (c) Is receiving an allowance for service or disability retirement  
7 pursuant to this chapter.

- 8 5. ~~[A]~~ *One member must be a person who:*  
9 (a) *Has never been an elected officer or employee of the State*  
10 *of Nevada or its political subdivisions;*  
11 (b) *Is not a member, retired member or beneficiary of the*  
12 *System; and*  
13 (c) *Is appointed from written nominations submitted by the*  
14 *State Treasurer.*

- 15 6. *One member must be a person who:*  
16 (a) *Has never been an elected officer or employee of the State*  
17 *of Nevada or its political subdivisions;*  
18 (b) *Is not a member, retired member or beneficiary of the*  
19 *System; and*  
20 (c) *Is appointed from written nominations submitted by the*  
21 *State Controller.*

22 7. *Each* member ~~[of the Board]~~ shall serve for 4 years, so long  
23 as the member has the qualifications required by this section, and  
24 until the member's successor is appointed and takes office. A  
25 member of the Board who no longer has the qualifications specified  
26 in the subsection under which the member was appointed may serve  
27 the remainder of the member's term if the member loses those  
28 qualifications in the final 24 months of the member's term.

29 **Sec. 4.** NRS 286.180 is hereby amended to read as follows:  
30 286.180 1. ~~[Members]~~ *Appointed members* of the Board are  
31 entitled to receive a fee of \$80 per day for:

- 32 (a) Attendance at meetings of the Board;  
33 (b) Any official function directly related to the System which is  
34 approved by the Board; or  
35 (c) Necessary travel to attend a meeting of the Board or a  
36 conference or seminar on retirement or to perform an official  
37 function described in paragraph (b).

38 2. Fees and reimbursement for expenses must be paid from the  
39 Public Employees' Retirement Administrative Fund.

40 3. Fees and reimbursement for expenses must be paid from  
41 commitment fees obtained from borrowers whenever the members  
42 of the Board hold special meetings or perform official functions, as  
43 described in paragraph (b) of subsection 1, which are limited solely  
44 to mortgage and real estate investments.



1       **Sec. 5.** NRS 286.190 is hereby amended to read as follows:

2       286.190 The Board:

3       1. Has the powers and privileges of a body corporate and,  
4 subject to the limitations of this chapter, is responsible for managing  
5 the System.

6       2. Shall:

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

12       (b) Provide for a biennial audit of the System, including the  
13 Administrative Fund, by an independent certified public accountant.  
14 The independent certified public accountant performing the audit of  
15 the System must be selected by a process for open bidding or  
16 requests for proposals that is conducted not less than once every 4  
17 years. The Board shall not consider any bid or proposal submitted  
18 by a person who was selected to provide the audit of the System in  
19 the immediately preceding cycle of selection.

20       (c) Provide an annual report to the Governor, each member of  
21 the Legislature, each participating public employer, and each  
22 participating employee and employer association, and make the  
23 report available to all members upon request. The report must  
24 contain, when available, a review of the actuarial valuation required  
25 by paragraph (a).

26       (d) *Provide to the State Controller, upon request, all*  
27 *information concerning the actuarial valuation and actuarial*  
28 *soundness of the System that the State Controller determines is*  
29 *necessary to:*

30       (1) *Verify any claim or estimate made by the Board, or by*  
31 *any actuary or other consultant retained by the Board, concerning*  
32 *the funded status, prospects, risks and contingencies of the*  
33 *System, including without limitation, the actuarial assumptions*  
34 *for:*

35       (I) *Annual aggregate assets and liabilities;*

36       (II) *Rate of inflation;*

37       (III) *Rate of growth in membership;*

38       (IV) *Rate of growth in compensation;*

39       (V) *Relevant demographic factors, such as life*  
40 *expectancies and mortality rates;*

41       (VI) *Investment income rates; and*

42       (VII) *Employee contribution rates.*

43       (2) *Assess the funded status, prospects, risks and*  
44 *contingencies of the System using assumptions, projections,*  
45 *estimates and other variables selected by the State Controller that*



1 *may be different from those used by the Board, its actuary or other*  
2 *consultant; and*

3 *(3) Perform analyses of various costs, benefits, risks and*  
4 *probabilities that may affect the System and are of interest to the*  
5 *members, retired employees and beneficiaries of the System and to*  
6 *public employers, state officers, and the general public using the*  
7 *assumptions, projections, estimates and other variables that are*  
8 *used by the Board, its actuary or other consultant or those that are*  
9 *selected by the State Controller as described in paragraph (b).*

10 *↳ The information required pursuant to this section is not*  
11 *confidential and must be made available by the Board to any*  
12 *person upon request.*

13 *(e) Post on its website any document that a public employer is*  
14 *required to submit to the System on or after January 1, 2010,*  
15 *relating to the contribution mechanism used by the public employer*  
16 *pursuant to NRS 286.410, 286.421 or 286.450.*

17 3. May:

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

23 (b) Examine and copy personnel and financial records of public  
24 employers.

25 (c) Receive requests for membership from state, county or  
26 municipal entities which are not presently public employers, and  
27 determine whether or not any such entity and its employees qualify  
28 for membership as provided by this chapter.

29 (d) Require an annual notarized statement from a retired  
30 employee or beneficiary that the retired employee or beneficiary is  
31 in fact receiving an allowance or benefits, and withhold the  
32 allowance or benefits if the retired employee or beneficiary fails to  
33 provide the statement.

34 4. As used in this section, "error or inequity" means the  
35 existence of extenuating circumstances, including, but not limited  
36 to, a member's reasonable and detrimental reliance on  
37 representations made by the System or by the public employer  
38 pursuant to NRS 286.288 which prove to be erroneous, or the  
39 mental incapacity of the member.

40 **Sec. 6.** As soon as practicable after October 1, 2019, the  
41 Governor shall appoint to the Public Employees' Retirement Board  
42 the members described in subsections 5 and 6 of NRS 286.130, as  
43 amended by section 3 of this act.

