

SENATE BILL NO. 434—SENATOR NEAL

MARCH 27, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions related to public retirement systems. (BDR 23-16)

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.

AN ACT relating to public retirement systems; revising provisions governing eligibility for membership in the Public Employees’ Retirement System; revising provisions governing the options for service retirement allowances under the System; revising provisions governing the disposition of certain pension or retirement benefits upon dissolution of marriage; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Eligible retired public employees receive retirement allowances through
2 membership in and contributions to the Public Employees’ Retirement System.
3 (Chapter 286 of NRS) Under existing law, certain persons are not eligible to be
4 members of the System, including substitute teachers. (NRS 286.297) **Section 1** of
5 this bill makes long-term substitute teachers eligible for membership in the System.

6 Existing law provides several different alternative options to an unmodified
7 retirement allowance under the Public Employees’ Retirement System that
8 members are authorized to elect upon retirement. (NRS 286.590) **Section 2** of this
9 bill provides the additional alternative option of a reduced service retirement
10 allowance with a benefit paid for 6 months to a designated beneficiary or an
11 alternate beneficiary.

12 Existing law provides for the disposition of pension or retirement benefits
13 provided by the Public Employees’ Retirement System or the Judicial Retirement
14 Plan upon dissolution of marriage. Existing law codifies the “time rule,” whereby
15 the community interest in such retirement benefits is calculated by dividing an
16 employee’s length of service during marriage by his or her total length of service.
17 (NRS 125.155) With an exception for homemakers, **section 3** of this bill replaces
18 the “time rule” with the “frozen benefit rule,” whereby the community interest in
19 such retirement benefits is “frozen” at the salary base and years of service of the
20 party participating in the retirement system on the date on which the decree of legal



21 separation or divorce is entered. The "frozen benefit rule" currently applies to
22 military pensions under the Uniformed Services Former Spouses' Protection Act.
23 (10 U.S.C. § 1408(a)(4)(B))

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

1 **Section 1.** NRS 286.297 is hereby amended to read as follows:

2 286.297 The following persons are not eligible to become
3 members of the System:

4 1. Inmates of state institutions even though they may be
5 receiving compensation for services performed for the institution.

6 2. Independent contractors or persons rendering professional
7 services on a fee, retainer or contract basis.

8 3. Except as otherwise provided in NRS 286.525, persons
9 retired under the provisions of this chapter who are employed by a
10 participating public employer.

11 4. Members of boards or commissions of the State of Nevada
12 or of its political subdivisions when such boards or commissions are
13 advisory or directive and when membership thereon is not
14 compensated except for expenses incurred. Receipt of a fee for
15 attendance at official sessions of a particular board or commission
16 does not constitute compensation for the purpose of this subsection.

17 5. ~~Substitute~~ *Short-term substitute* teachers and students who
18 are employed by the institution which they attend.

19 6. District judges, judges of the Court of Appeals and justices
20 of the Supreme Court first elected or appointed on or after July 1,
21 1977, who are not enrolled in the System at the time of election or
22 appointment.

23 7. Members of the professional staff of the Nevada System of
24 Higher Education who are employed on or after July 1, 1977.

25 8. Persons employed on or after July 1, 1979, under the
26 Comprehensive Employment and Training Act.

27 9. Except as otherwise provided in NRS 286.293, persons
28 assigned to intermittent or temporary positions unless the
29 assignment exceeds 6 consecutive months.

30 10. Persons employed on or after July 1, 1981, as part-time
31 guards at school crossings.

32 11. Nurses who:

33 (a) Are not full-time employees;

34 (b) Are paid an hourly wage on a daily basis;

35 (c) Do not receive the employee benefits received by other
36 employees of the same employer; and

37 (d) Do not work a regular schedule or are requested to work for
38 a shift at a time.



1 **Sec. 2.** NRS 286.590 is hereby amended to read as follows:
2 286.590 The alternatives to an unmodified service retirement
3 allowance are as follows:

4 1. Option 2 consists of a reduced service retirement allowance
5 payable monthly during the retired employee's life, with the
6 provision that it continue after the retired employee's death for the
7 life of the beneficiary whom the retired employee nominates by
8 written designation acknowledged and filed with the Board at the
9 time of retirement should the beneficiary survive the retired
10 employee.

11 2. Option 3 consists of a reduced service retirement allowance
12 payable monthly during the retired employee's life, with the
13 provision that it continue after the retired employee's death at one-
14 half the rate paid to the retired employee and be paid for the life of
15 the beneficiary whom the retired employee nominates by written
16 designation acknowledged and filed with the Board at the time of
17 retirement should the beneficiary survive the retired employee.

18 3. Option 4 consists of a reduced service retirement allowance
19 payable monthly during the retired employee's life, with the
20 provision that it continue after the retired employee's death for the
21 life of the retired employee's beneficiary, whom the retired
22 employee nominates by written designation acknowledged and filed
23 with the Board at the time of the election, should the retired
24 employee's beneficiary survive the retired employee, beginning on
25 the attainment by the surviving beneficiary of age 60. If a
26 beneficiary designated under this option dies after the date of the
27 retired employee's death but before attaining age 60, the
28 contributions of the retired employee which have not been returned
29 to the retired employee or the retired employee's beneficiary must
30 be paid to the estate of the deceased beneficiary.

31 4. Option 5 consists of a reduced service retirement allowance
32 payable monthly during the retired employee's life, with the
33 provision that it continue after the retired employee's death at one-
34 half the rate paid to the retired employee and be paid for the life of
35 the retired employee's beneficiary whom the retired employee
36 nominates by written designation acknowledged and filed with the
37 Board at the time of the election, should the retired employee's
38 beneficiary survive the retired employee, beginning on the
39 attainment by the surviving beneficiary of age 60. If a beneficiary
40 designated under this option dies after the date of the retired
41 employee's death but before attaining age 60, the contributions of
42 the retired employee which have not been returned to the retired
43 employee or the retired employee's beneficiary must be paid to the
44 estate of the deceased beneficiary.



1 5. Option 6 consists of a reduced service retirement allowance
2 payable monthly during the retired employee's life, with the
3 provision that a specific sum per month, which cannot exceed the
4 monthly allowance paid to the retired employee, be paid after
5 the retired employee's death to the beneficiary for the life of the
6 beneficiary whom the retired employee nominates by written
7 designation acknowledged and filed with the Board at the time of
8 retirement, should the beneficiary survive the retired employee.

9 6. Option 7 consists of a reduced service retirement allowance
10 payable monthly during the retired employee's life, with the
11 provision that a specific sum per month, which cannot exceed the
12 monthly allowance paid to the retired employee, be paid after
13 the retired employee's death to the beneficiary for the life of the
14 beneficiary whom the retired employee nominates by written
15 designation acknowledged and filed with the Board at the time of
16 election, should the beneficiary survive the retired employee,
17 beginning on the attainment by the surviving beneficiary of age 60
18 years. If a surviving beneficiary dies after the date of the retired
19 employee's death, but before attaining age 60, all contributions of
20 the retired employee which have not been returned to the retired
21 employee or the retired employee's beneficiary must be paid to the
22 estate of the beneficiary.

23 *7. Option 8 consists of a reduced service retirement allowance*
24 *payable monthly during the retired employee's life, with the*
25 *provision that a specific sum per month, which cannot exceed the*
26 *monthly allowance paid to the retired employee, be paid for 6*
27 *months after the retired employee's death to the beneficiary whom*
28 *the retired employee nominates by written designation*
29 *acknowledged and filed with the Board at the time of retirement,*
30 *should the beneficiary survive the retired employee. The retired*
31 *employee may also designate at the time of retirement one*
32 *alternate beneficiary should the initial designated beneficiary not*
33 *survive the retired employee. Except as otherwise provided in this*
34 *subsection, if the designated beneficiary dies less than 6 months*
35 *after the date of the retired employee's death, any amount which*
36 *has not been paid to the designated beneficiary pursuant to this*
37 *subsection must be paid to the estate of the designated beneficiary.*
38 *If the retired employee designated an alternate beneficiary, any*
39 *amount which has not been paid pursuant to this subsection to the*
40 *initial designated beneficiary before the initial designated*
41 *beneficiary's death must be paid to the alternate designated*
42 *beneficiary. If the alternate designated beneficiary also later dies*
43 *less than 6 months after the date of the retired employee's death,*
44 *any amount which has not been paid to the alternate designated*
45 *beneficiary pursuant to this subsection must be paid to the estate*



1 *of the alternate designated beneficiary. If the initial designated*
2 *beneficiary and, if applicable, the alternate designated beneficiary*
3 *do not survive the retired employee, any amount which is required*
4 *to be paid pursuant to this subsection to a beneficiary must be paid*
5 *to the estate of the retired employee.*

6 **Sec. 3.** NRS 125.155 is hereby amended to read as follows:

7 125.155 Unless the action is contrary to a premarital agreement
8 between the parties which is enforceable pursuant to chapter 123A
9 of NRS or is prohibited by specific statute:

10 1. In determining the value of an interest in or entitlement to a
11 pension or retirement benefit provided by the Public Employees'
12 Retirement System pursuant to chapter 286 of NRS or the Judicial
13 Retirement Plan established pursuant to NRS 1A.300, the court:

14 (a) *Except as otherwise provided in paragraph (b), shall base*
15 *its determination upon the amount of the pension or retirement*
16 *benefits to which the participating party would have been entitled*
17 *using the salary base and years of service of the participating*
18 *party on the date on which a decree of legal separation or divorce*
19 *is entered.*

20 (b) *If the nonparticipating party is a homemaker:*

21 (1) Shall base its determination upon the number of years or
22 portion thereof that the ~~contributing~~ *participating* party was
23 employed and received the interest or entitlement, beginning on the
24 date of the marriage and ending on the date on which a decree of
25 legal separation or divorce is entered; and

26 ~~(b)~~ (2) Shall not base its determination upon any estimated
27 increase in the value of the interest or entitlement resulting from a
28 promotion, raise or any other efforts made by the party who
29 contributed to the interest or entitlement as a result of his or her
30 continued employment after the date of a decree of legal separation
31 or divorce.

32 2. The court may, in making a disposition of a pension or
33 retirement benefit provided by the Public Employees' Retirement
34 System or the Judicial Retirement Plan, order that the benefit not be
35 paid before the date on which the participating party retires. To
36 ensure that the party who is not a participant will receive payment
37 for the benefits, the court may:

38 (a) On its own motion or pursuant to an agreement of the
39 parties, require the participating party to furnish a performance or
40 surety bond, executed by the participating party as principal and by
41 a corporation qualified under the laws of this state as surety, made
42 payable to the party who is not a participant under the plan, and
43 conditioned upon the payment of the pension or retirement benefits.
44 The bond must be in a principal sum equal to the amount of the



1 determined interest of the nonparticipating party in the pension or
2 retirement benefits and must be in a form prescribed by the court.

3 (b) On its own motion or pursuant to an agreement of the
4 parties, require the participating party to purchase a policy of life
5 insurance. The amount payable under the policy must be equal to
6 the determined interest of the nonparticipating party in the pension
7 or retirement benefits. The nonparticipating party must be named as
8 a beneficiary under the policy and must remain a named beneficiary
9 until the participating party retires.

10 (c) Pursuant to an agreement of the parties, increase the value of
11 the determined interest of the nonparticipating party in the pension
12 or retirement benefit as compensation for the delay in payment of
13 the benefit to that party.

14 (d) On its own motion or pursuant to an agreement of the
15 parties, allow the participating party to provide any other form of
16 security which ensures the payment of the determined interest of the
17 nonparticipating party in the pension or retirement benefit.

18 3. If a party receives an interest in or an entitlement to a
19 pension or retirement benefit which the party would not otherwise
20 have an interest in or be entitled to if not for a disposition made
21 pursuant to this section, the interest or entitlement and any related
22 obligation to pay that interest or entitlement terminates upon the
23 death of either party unless pursuant to:

24 (a) An agreement of the parties; or

25 (b) An order of the court,

26 ↪ a party who is a participant in the Public Employees' Retirement
27 System or the Judicial Retirement Plan provides an alternative to an
28 unmodified service retirement allowance pursuant to NRS 1A.450
29 or 286.590.

30 **Sec. 4.** This act becomes effective on July 1, 2023.

