

SENATE BILL NO. 434—SENATOR NEAL

MARCH 27, 2023

Referred to Committee on Government Affairs

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

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

~

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

AN ACT relating to retirement; 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 relating to the granting of a divorce; 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 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 specifies certain powers and duties of courts in granting a divorce.
- 13 (NRS 125.150) **Section 2.5** of this bill requires a court, in granting a divorce, to
- 14 provide an explanation, or ensure that an explanation has been provided, to the
- 15 parties of any provision relating to the disposition of pension or retirement benefits
- 16 that will be included in the decree of divorce or any related order.



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 teachers and students}~~ *Students* who are  
18 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.

39       **Sec. 2.** NRS 286.590 is hereby amended to read as follows:

40       286.590 The alternatives to an unmodified service retirement  
41 allowance are as follows:



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

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

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

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

42       5. Option 6 consists of a reduced service retirement allowance  
43 payable monthly during the retired employee's life, with the  
44 provision that a specific sum per month, which cannot exceed the  
45 monthly allowance paid to the retired employee, be paid after



1 the retired employee's death to the beneficiary for the life of the  
2 beneficiary whom the retired employee nominates by written  
3 designation acknowledged and filed with the Board at the time of  
4 retirement, should the beneficiary survive the retired employee.

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

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



1 *to be paid pursuant to this subsection to a beneficiary must be paid*  
2 *to the estate of the retired employee.*

3 **Sec. 2.5.** NRS 125.150 is hereby amended to read as follows:

4 125.150 Except as otherwise provided in NRS 125.155 and  
5 125.165, and unless the action is contrary to a premarital agreement  
6 between the parties which is enforceable pursuant to chapter 123A  
7 of NRS:

8 1. In granting a divorce, the court:

9 (a) May award such alimony to either spouse, in a specified  
10 principal sum or as specified periodic payments, as appears just and  
11 equitable; ~~and~~

12 (b) Shall, to the extent practicable, make an equal disposition of  
13 the community property of the parties, including, without limitation,  
14 any community property transferred into an irrevocable trust  
15 pursuant to NRS 123.125 over which the court acquires jurisdiction  
16 pursuant to NRS 164.010, except that the court may make an  
17 unequal disposition of the community property in such proportions  
18 as it deems just if the court finds a compelling reason to do so and  
19 sets forth in writing the reasons for making the unequal disposition  
20 ~~}; and~~

21 *(c) Shall provide an explanation, or ensure that an*  
22 *explanation has been provided, to the parties of any provision*  
23 *relating to the disposition of pension or retirement benefits that*  
24 *will be included in the decree of divorce or any related order.*

25 2. Except as otherwise provided in this subsection, in granting  
26 a divorce, the court shall dispose of any property held in joint  
27 tenancy in the manner set forth in subsection 1 for the disposition of  
28 community property. If a party has made a contribution of separate  
29 property to the acquisition or improvement of property held in joint  
30 tenancy, the court may provide for the reimbursement of that party  
31 for his or her contribution. The amount of reimbursement must not  
32 exceed the amount of the contribution of separate property that can  
33 be traced to the acquisition or improvement of property held in joint  
34 tenancy, without interest or any adjustment because of an increase in  
35 the value of the property held in joint tenancy. The amount of  
36 reimbursement must not exceed the value, at the time of the  
37 disposition, of the property held in joint tenancy for which the  
38 contribution of separate property was made. In determining whether  
39 to provide for the reimbursement, in whole or in part, of a party who  
40 has contributed separate property, the court shall consider:

41 (a) The intention of the parties in placing the property in joint  
42 tenancy;

43 (b) The length of the marriage; and

44 (c) Any other factor which the court deems relevant in making a  
45 just and equitable disposition of that property.



1 ↪ As used in this subsection, “contribution” includes, without  
2 limitation, a down payment, a payment for the acquisition or  
3 improvement of property, and a payment reducing the principal of a  
4 loan used to finance the purchase or improvement of property. The  
5 term does not include a payment of interest on a loan used to finance  
6 the purchase or improvement of property, or a payment made for  
7 maintenance, insurance or taxes on property.

8 3. A party may file a postjudgment motion in any action for  
9 divorce, annulment or separate maintenance to obtain adjudication  
10 of any community property or liability omitted from the decree or  
11 judgment as the result of fraud or mistake. A motion pursuant to this  
12 subsection must be filed within 3 years after the discovery by the  
13 aggrieved party of the facts constituting the fraud or mistake. The  
14 court has continuing jurisdiction to hear such a motion and shall  
15 equally divide the omitted community property or liability between  
16 the parties unless the court finds that:

17 (a) The community property or liability was included in a prior  
18 equal disposition of the community property of the parties or in an  
19 unequal disposition of the community property of the parties which  
20 was made pursuant to written findings of a compelling reason for  
21 making that unequal disposition; or

22 (b) The court determines a compelling reason in the interests of  
23 justice to make an unequal disposition of the community property or  
24 liability and sets forth in writing the reasons for making the unequal  
25 disposition.

26 ↪ If a motion pursuant to this subsection results in a judgment  
27 dividing a defined benefit pension plan, the judgment may not be  
28 enforced against an installment payment made by the plan more  
29 than 6 years after the installment payment.

30 4. Except as otherwise provided in NRS 125.141, whether or  
31 not application for suit money has been made under the provisions  
32 of NRS 125.040, the court may award a reasonable attorney’s fee to  
33 either party to an action for divorce.

34 5. In granting a divorce, the court may also set apart such  
35 portion of the separate property of either spouse for the other  
36 spouse’s support or the separate property of either spouse for the  
37 support of their children as is deemed just and equitable.

38 6. In the event of the death of either party or the subsequent  
39 remarriage of the spouse to whom specified periodic payments were  
40 to be made, all the payments required by the decree must cease,  
41 unless it was otherwise ordered by the court.

42 7. If the court adjudicates the property rights of the parties, or  
43 an agreement by the parties settling their property rights has been  
44 approved by the court, whether or not the court has retained  
45 jurisdiction to modify them, the adjudication of property rights, and



1 the agreements settling property rights, may nevertheless at any time  
2 thereafter be modified by the court upon written stipulation signed  
3 and acknowledged by the parties to the action, and in accordance  
4 with the terms thereof.

5 8. If a decree of divorce, or an agreement between the parties  
6 which was ratified, adopted or approved in a decree of divorce,  
7 provides for specified periodic payments of alimony, the decree or  
8 agreement is not subject to modification by the court as to accrued  
9 payments. Payments pursuant to a decree entered on or after July 1,  
10 1975, which have not accrued at the time a motion for modification  
11 is filed may be modified upon a showing of changed circumstances,  
12 whether or not the court has expressly retained jurisdiction for the  
13 modification. In addition to any other factors the court considers  
14 relevant in determining whether to modify the order, the court shall  
15 consider whether the income of the spouse who is ordered to pay  
16 alimony, as indicated on the spouse's federal income tax return for  
17 the preceding calendar year, has been reduced to such a level that  
18 the spouse is financially unable to pay the amount of alimony the  
19 spouse has been ordered to pay.

20 9. In addition to any other factors the court considers relevant  
21 in determining whether to award alimony and the amount of such an  
22 award, the court shall consider:

- 23 (a) The financial condition of each spouse;
- 24 (b) The nature and value of the respective property of each  
25 spouse;
- 26 (c) The contribution of each spouse to any property held by the  
27 spouses pursuant to NRS 123.030;
- 28 (d) The duration of the marriage;
- 29 (e) The income, earning capacity, age and health of each spouse;
- 30 (f) The standard of living during the marriage;
- 31 (g) The career before the marriage of the spouse who would  
32 receive the alimony;
- 33 (h) The existence of specialized education or training or the  
34 level of marketable skills attained by each spouse during the  
35 marriage;
- 36 (i) The contribution of either spouse as homemaker;
- 37 (j) The award of property granted by the court in the divorce,  
38 other than child support and alimony, to the spouse who would  
39 receive the alimony; and
- 40 (k) The physical and mental condition of each party as it relates  
41 to the financial condition, health and ability to work of that spouse.

42 10. In granting a divorce, the court shall consider the need to  
43 grant alimony to a spouse for the purpose of obtaining training or  
44 education relating to a job, career or profession. In addition to any



1 other factors the court considers relevant in determining whether  
2 such alimony should be granted, the court shall consider:

3 (a) Whether the spouse who would pay such alimony has  
4 obtained greater job skills or education during the marriage; and

5 (b) Whether the spouse who would receive such alimony  
6 provided financial support while the other spouse obtained job skills  
7 or education.

8 11. If the court determines that alimony should be awarded  
9 pursuant to the provisions of subsection 10:

10 (a) The court, in its order, shall provide for the time within  
11 which the spouse who is the recipient of the alimony must  
12 commence the training or education relating to a job, career or  
13 profession.

14 (b) The spouse who is ordered to pay the alimony may, upon  
15 changed circumstances, file a motion to modify the order.

16 (c) The spouse who is the recipient of the alimony may be  
17 granted, in addition to any other alimony granted by the court,  
18 money to provide for:

19 (1) Testing of the recipient's skills relating to a job, career or  
20 profession;

21 (2) Evaluation of the recipient's abilities and goals relating to  
22 a job, career or profession;

23 (3) Guidance for the recipient in establishing a specific plan  
24 for training or education relating to a job, career or profession;

25 (4) Subsidization of an employer's costs incurred in training  
26 the recipient;

27 (5) Assisting the recipient to search for a job; or

28 (6) Payment of the costs of tuition, books and fees for:

29 (I) The equivalent of a high school diploma;

30 (II) College courses which are directly applicable to the  
31 recipient's goals for his or her career; or

32 (III) Courses of training in skills desirable for  
33 employment.

34 12. For the purposes of this section, a change of 20 percent or  
35 more in the gross monthly income of a spouse who is ordered to pay  
36 alimony shall be deemed to constitute changed circumstances  
37 requiring a review for modification of the payments of alimony. As  
38 used in this subsection, "gross monthly income" means the total  
39 amount of income received each month from any source of a person  
40 who is not self-employed or the gross income from any source of a  
41 self-employed person, after deduction of all legitimate business  
42 expenses, but without deduction for personal income taxes,  
43 contributions for retirement benefits, contributions to a pension or  
44 for any other personal expenses.

45 **Sec. 3.** (Deleted by amendment.)





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

⑩

