



# **Public Employees' Benefits Program (PEBP)**

**Presentation to:  
New Legislators**

**November 30, 2010**



# Topics

- **Governance**
- **Eligible Participants**
- **Current Benefit Options**
- **Current Funding and 2011-2013 Agency Request**
- **Benefit Plan Changes for July 1, 2011**
- **Other Post-Employment Benefits Liability**
- **PEBP Legislative Platform**



## Governance

- **Chapter 287 of NRS and Administrative Code**
  - **Non-state benefit plans**
  - **PEBP**
- **Board - Nine members appointed by Governor**
  - **Jacque Ewing-Taylor, NSHE representative (Vice-Chairman)**
  - **Karen Caterino, Risk Manger**
  - **Julia Teska, Director of Administration designee**
  - **Leo Drozdoff, Acting Director, Department of Conservation and Natural Resources**
  - **George Campbell, retiree representative**
  - **Dawn Stout, City of Elko (non-state representative)**
  - **Teresa Thienhaus, Director, Department of Personnel**
  - **Jeffery Garofalo, Private**
  - **Vacant, Private**



## Eligible Participants

- **State**
  - **Active employees**
  - **Retirees**
    - **at the time of retirement, or**
    - **during “late enrollment” in even numbered years**
- **Non-state**
  - **Actives if employer “participates” in the Program**
  - **Retirees**
    - **Eligibility frozen at those enrolled as of 11/30/08 except from any “participating” entity**
    - **“All in or all out” policy of SB 544 (2007)**



## Eligible Participants

- **As of November 1, 2010**
  - **25,612 Active Employees**
    - **25,399 State; 213 Non-State**
  - **8,370 State Retirees**
    - **3,335 Non-Medicare; 5,035 Medicare**
  - **9,110 Local Government Retirees**
    - **4,883 Non-Medicare; 4,227 Medicare**
- **About 1,000 who will never have Medicare Part A**



## Current Benefit Options

- **Medical Coverage (Including Prescription Drugs)**
  - **Self-funded Preferred Provider Organization (PPO) Option**
  - **Health Maintenance Organization (HMO) Option**
  - **Medicare Advantage plans for Medicare retirees**
- **Dental**
- **Basic Life Insurance and Accidental Death & Dismemberment**
- **Long Term Disability**



## Current Benefit Options

- **Voluntary Products**
  - **Flexible Spending Accounts**
    - **Medical**
    - **Dependent Care**
  - **Additional Life Insurance**
  - **Long Term Care**
  - **Short Term Disability**
  - **Home & Auto**



## 2011-2013 Biennial Budget Request

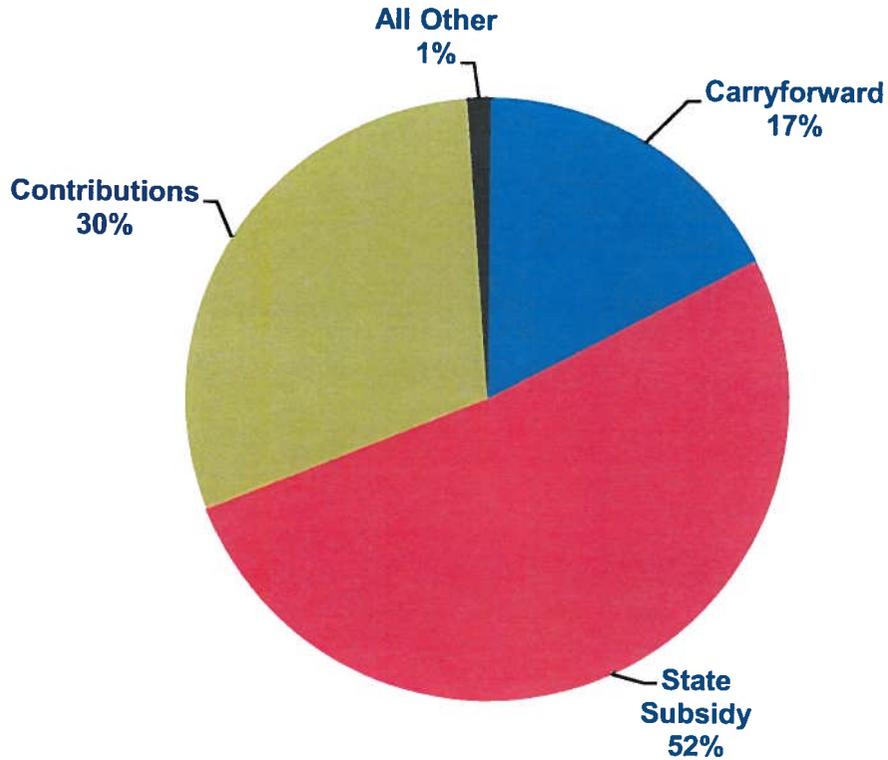
- **Flat subsidy levels for FY 2012 & FY 2013**
  - Retired Employee Group Insurance (REGI)-\$75 Million / biennium
  - Active Employee Group Insurance Subsidy (AEGIS) remains at the 2011 per employee amount of \$680.84; \$425 Million / biennium
  - Total State Revenue (REGI/AEGIS) \$500 Million for the biennium
- **Maintaining the current plan design and State subsidization policy would have required \$611.2 Million due to medical inflation, utilization and Federal Health Care Reform**
- **Leaves a “shortfall” of \$111.2 Million**



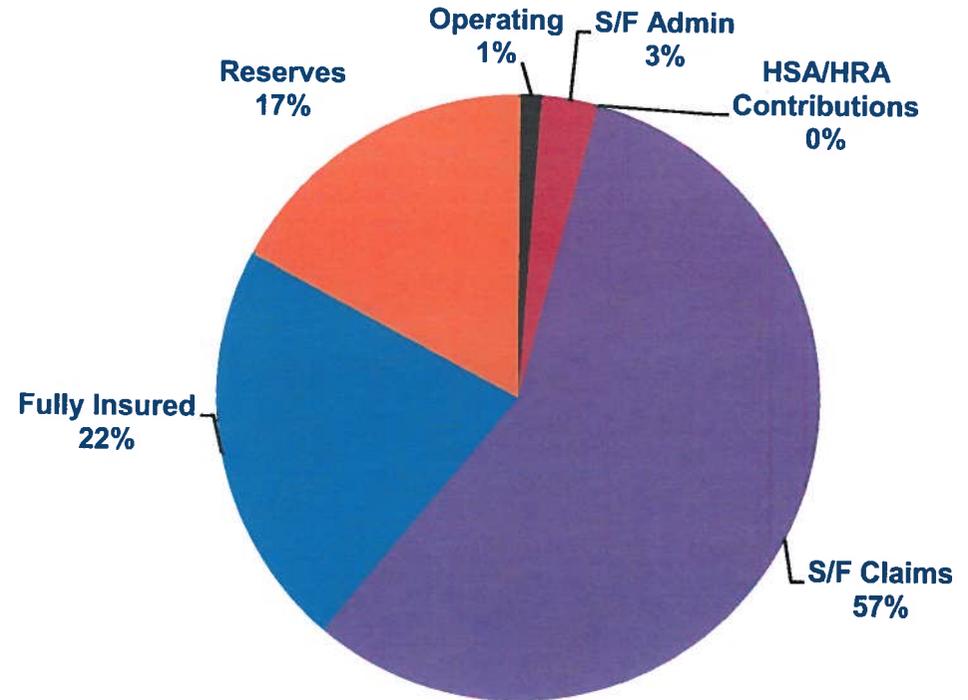
# Current Funding FY 2011

**\$487.9 Million**

## Sources



## Uses

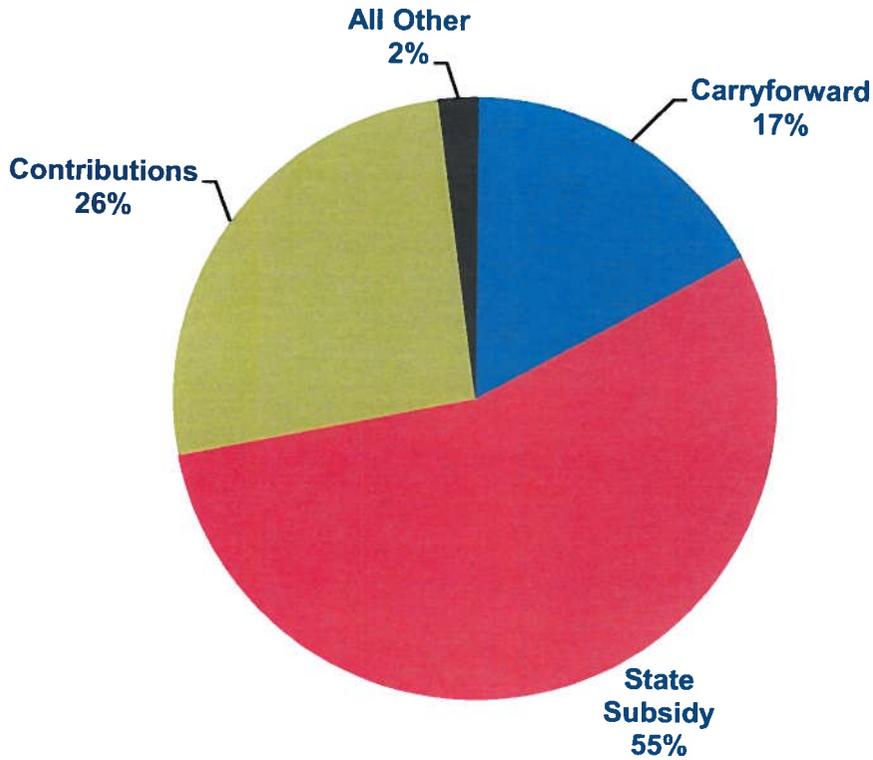




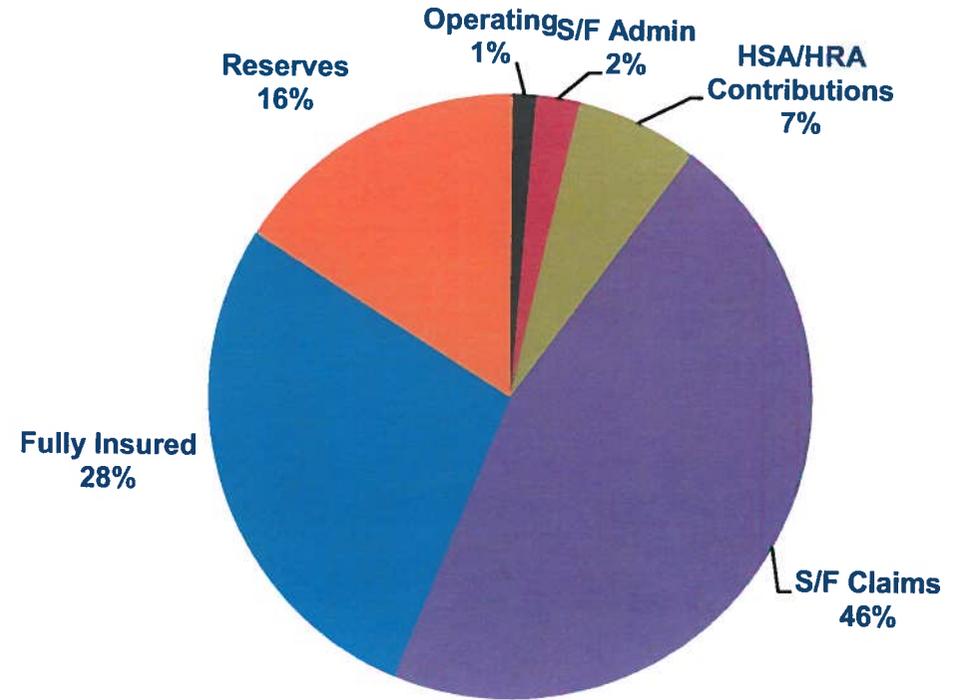
# Agency Request 2011-2013

## \$914.0 Million

### Sources

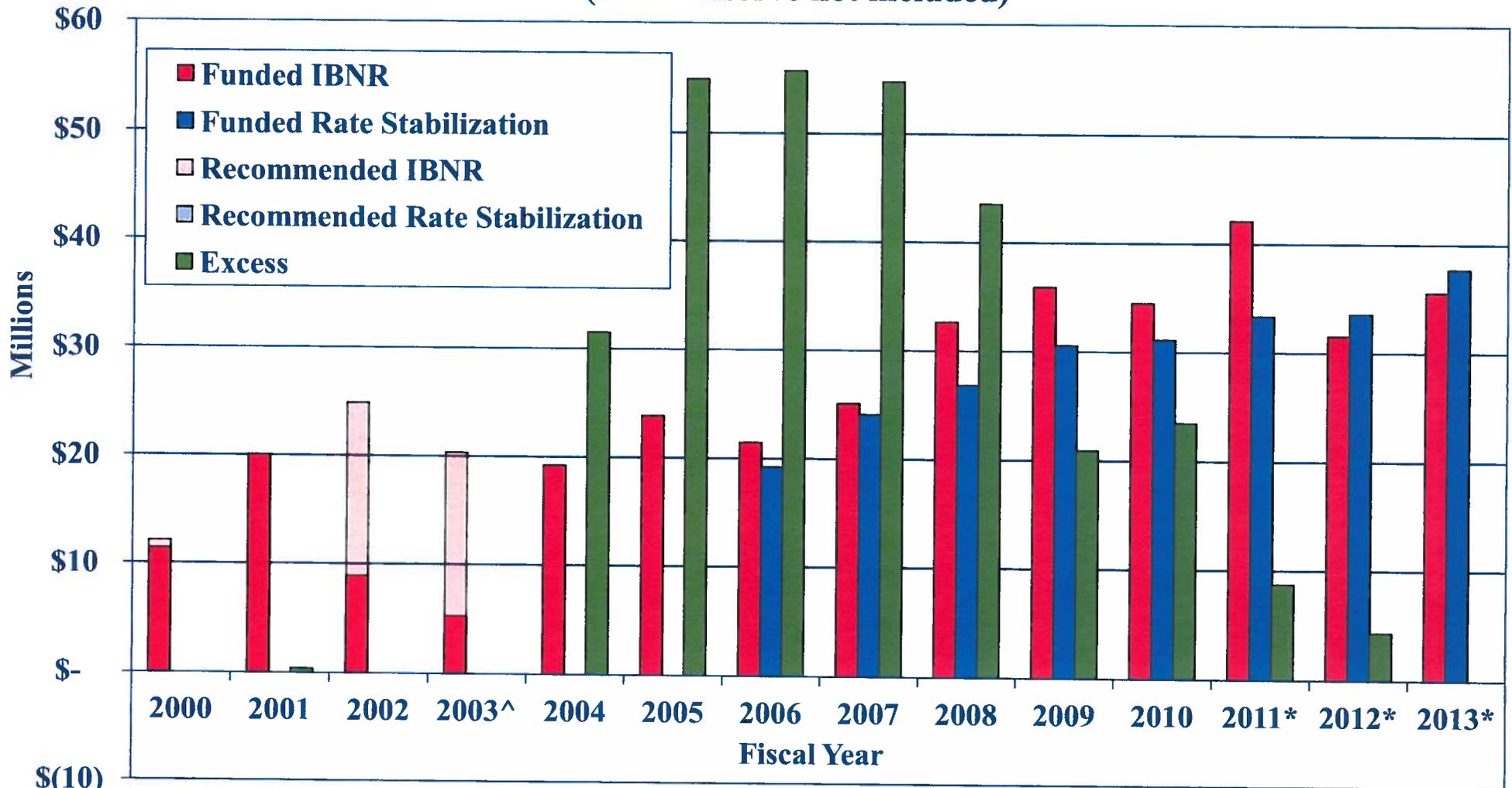


### Uses





## Reserves by Fiscal Year (HRA Reserve not included)

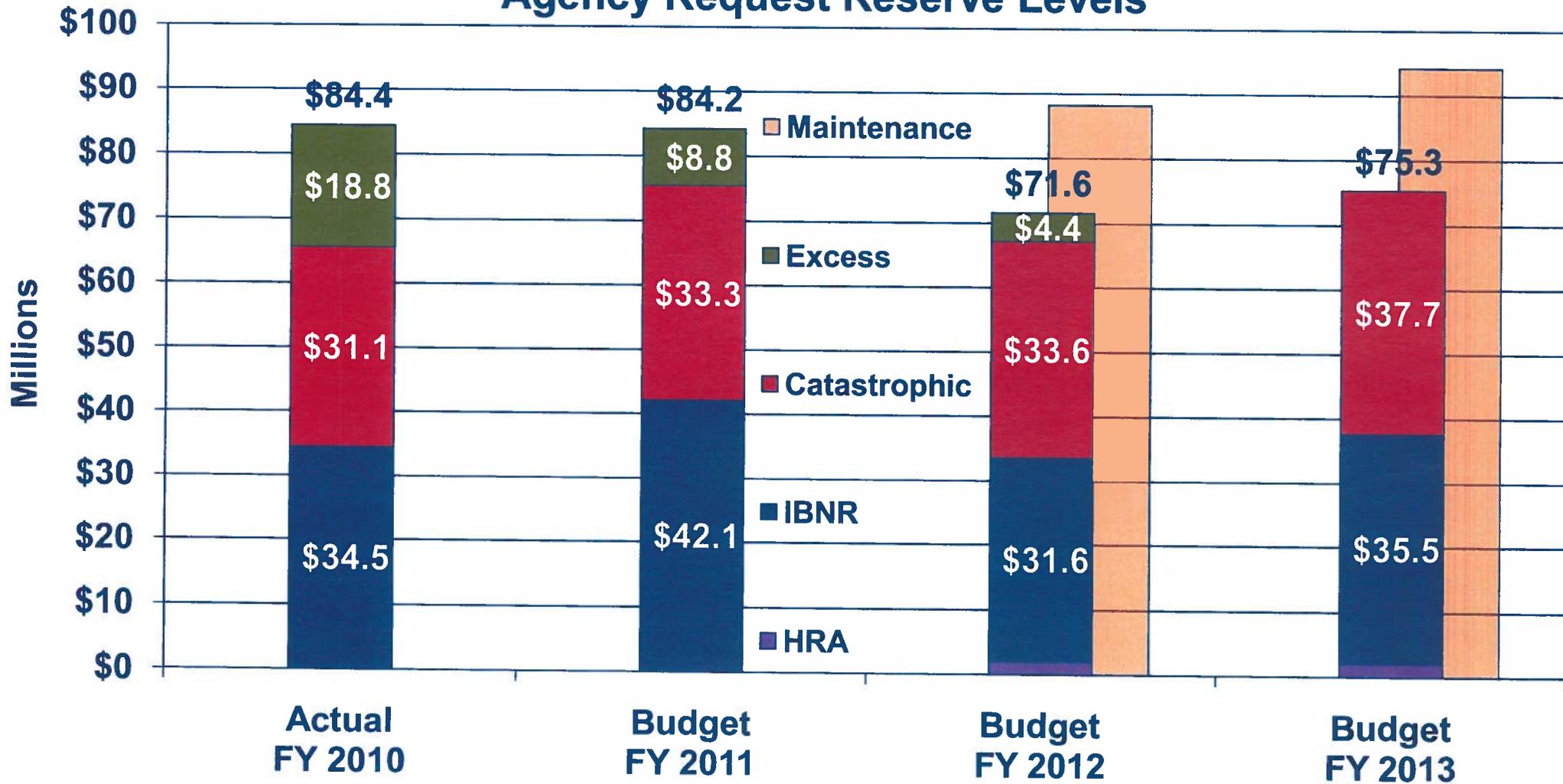


<sup>^</sup>Supplemental Appropriation

\*Agency Request

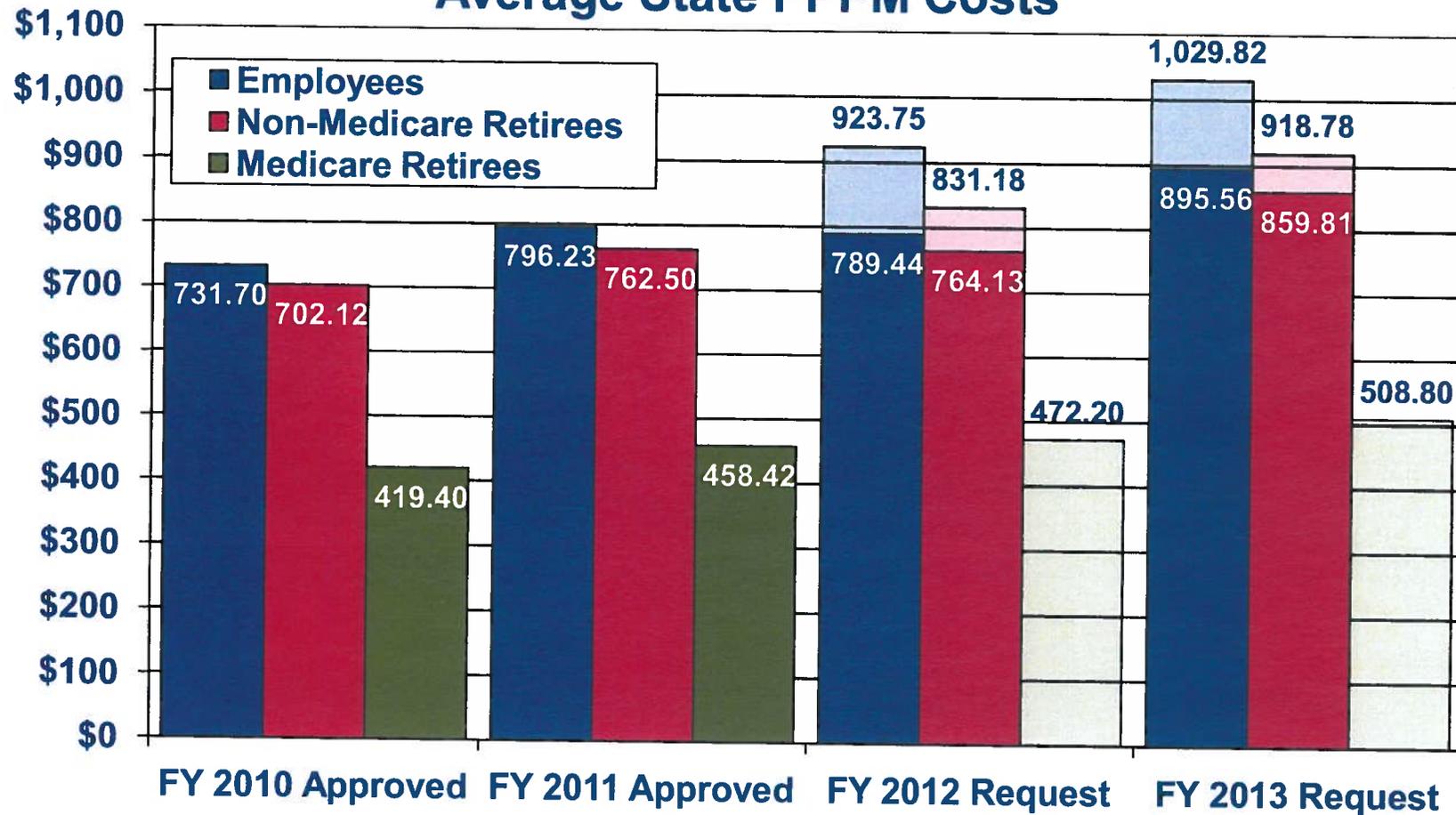


## Agency Request Reserve Levels



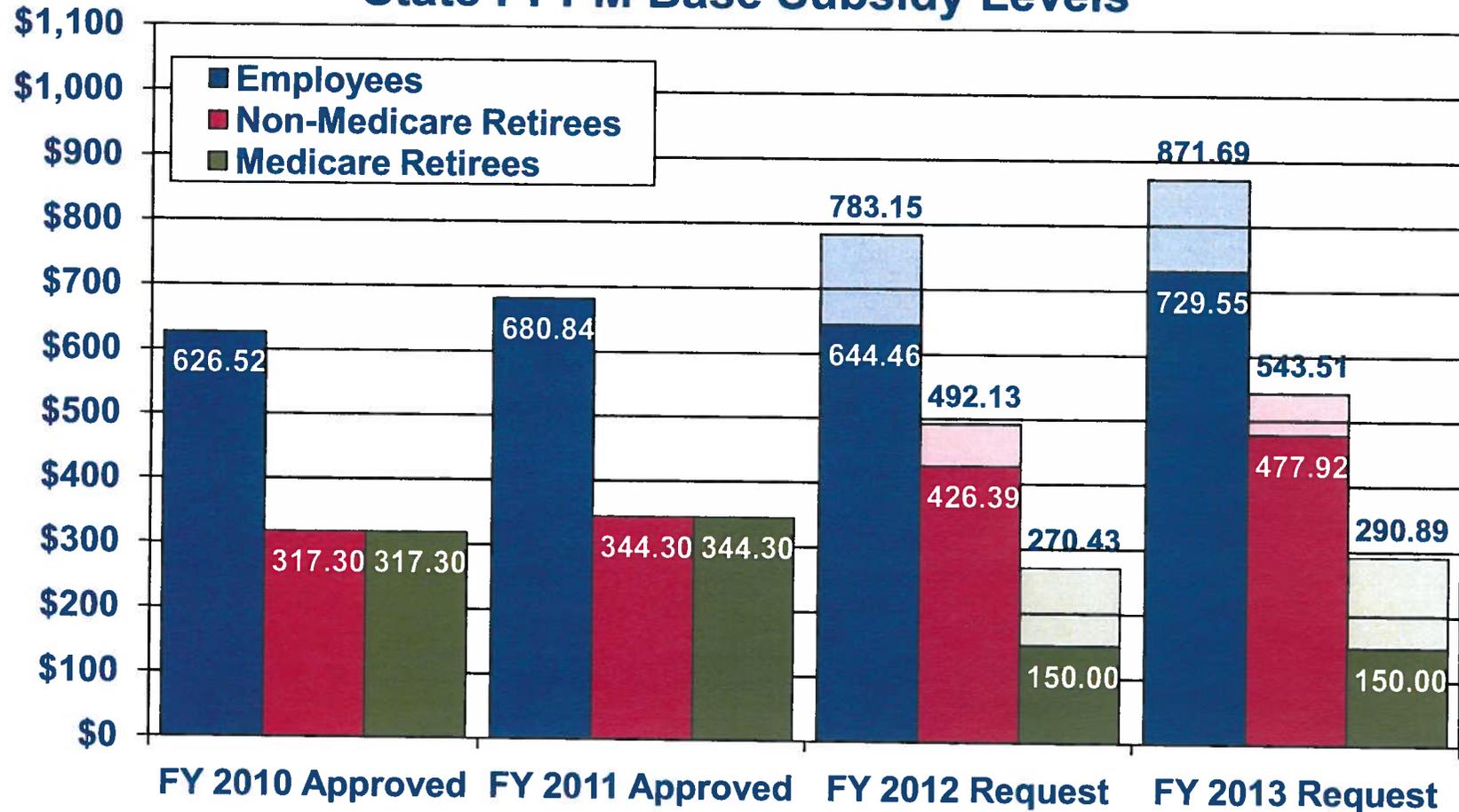


## Average State PPM Costs





## State PPPM Base Subsidy Levels





## **Benefit Plan Changes for July 1, 2011**

- **New High Deductible CDH PPO Plan**
  - **Increase deductible from \$800/\$1,600 to \$2,000/\$4,000 (Individual/Family)**
  - **Increase Out-of-Pocket Maximums from \$3,700/\$7,400 to \$3,900/\$7,800 (Individual/Family)**
  - **Change Co-Insurance from 80% to 75%**
  - **Add Health Savings Account (HSA) and Health Reimbursement Arrangement (HRA)**
  - **Provide Plan contributions to the HSA/HRA (PPO participants only) in the amount of \$600 for the primary participant and \$200 per dependent (max 3 dependents) to a max of \$1,200 per year**
  - **First dollar preventive/wellness care**



## **Benefit Plan Changes for July 1, 2011**

- **Health Savings Accounts (for Active Employees)**
  - **Funded by employer (PEBP) and/or employee money**
    - **Employee contributions, earnings and distributions are pre-tax**
    - **Annual contribution limits to the HSA (combination of employer and employee); CY 2011: \$3,050/\$6,150**
    - **Employee can “buy-up” to low deductible plan through contributions**
    - **Funds can be carried over in perpetuity**



## **Benefit Plan Changes for July 1, 2011**

- **Health Savings Accounts (for Active Employees)**
  - **Accounts are owned by the employee**
    - **Portable – If you leave, the money is yours to take**
    - **Income tax reporting requirements**
  - **Only used for medical related costs without tax and/or penalty**
  - **Are only allowed with High Deductible Plans, even if secondary**



## Benefit Plan Changes for July 1, 2011

- **Health Reimbursement Arrangements (HRA)**
  - **For Retirees and active employees with Medicare or other secondary coverage not high deductible**
  - **Similar to HSA except:**
    - **Accounts are owned by the employer (PEBP)**
    - **Not Portable – If you leave unused funds are returned to PEBP**
    - **Participants cannot contribute**
    - **PEBP Board can limit carryover balances**
  - **Can only be used for medical related costs**
    - **Includes out-of-pocket costs and, in the case of Medicare Retirees participating in the Medicare Exchange, insurance premiums**



## **Benefit Plan Changes for July 1, 2011**

- **Other Medical Plan Changes**
  - **Eliminate lab tests performed at hospitals except for pre-admit, urgent care, emergency room and in-patient admissions**
  - **Reduce TMJ coverage from 80% to 50%**
  - **Allow for 90 day supply of certain retail drugs**
  - **Eliminate vision coverage except for annual eye exam**
  - **Remove “or as needed” from Wellness/Preventive guidelines**
- **Eliminate coverage for spouse/domestic partner with other employer based coverage**



# Benefit Plan Changes for July 1, 2011

- **Dental Plan Changes**
  - **Eliminate dental benefits except routine preventive services**
    - 4 routine cleanings per year
    - Annual exam and bitewing x-rays
    - Fluoride and sealant treatments
  - **Maintain existing dental network and preferred provider discounts**
- **Long-Term Disability Changes**
  - **Reduce benefit from 60% of base pay to 40%**
  - **Allow employee to buy back up to the 60% at group rates**



# Benefit Plan Changes for July 1, 2011

- **Life Insurance Plan Changes**
  - **Reduce Basic Life Insurance payouts by 50%**
    - **Actives from \$20,000 to \$10,000**
    - **Retirees from \$10,000 to \$5,000**
    - **Policy amounts for voluntary life will not be reduced**
  - **Eliminate Dependent Life Insurance**
  - **Eliminate Accidental Death & Dismemberment**



# Benefit Plan Changes for July 1, 2011

- **Medicare Retiree Plan Changes**
  - **Move retirees eligible for Medicare Part A to an individual market Medicare Exchange**
  - **Eliminate premium subsidy and Fund an HRA for retirees in the Medicare Exchange**
    - **\$10 per month per Year of Service (YOS)**
      - **minimum 5 YOS (\$50/month; \$600/year)**
      - **maximum 20 YOS (\$200/month; \$2,400/year)**
    - **Can be used for premiums and other out of pocket costs**
    - **Can use the HRA for expenses of both the primary retiree and the spouse**



# Benefit Plan Changes for July 1, 2011

- **Individual Market Medicare Exchange**
  - **Offers Medicare Advantage and Medigap or Medicare Supplement plans provided by recognizable insurance companies (e.g., Anthem, Cigna, Aetna, Humana, United Healthcare, etc.)**
    - **Guaranteed issue and pricing regardless of health status**
    - **Multiple plans available in every zip code in which PEBP Medicare retirees reside**



# Benefit Plan Changes for July 1, 2011

- **Individual Market Medicare Exchange**
  - **Larger risk pool (40+ million) over which to spread risk**
    - **Provides for more competitive rates due to**
      - **Size of risk pool**
      - **Competition in each geographic location**
      - **Medicare coverage is core competency of carriers**
    - **Allows for similar benefits at lower cost for PEBP and retiree**

*How will this plan save \$?*



## **Benefit Plan Changes for July 1, 2011**

- **Individual Market Medicare Exchange**
  - **Allows for participant and spouse to enroll in different plans depending on their individual circumstances**
    - **Healthy individual may select a low premium plan**
    - **Spouse with medical conditions can select a plan covering more out-of-pocket costs**
    - **Based on RX usage, geographic location, provider preferences**
  - **Provides licensed benefit advisors to guide retirees through the plan evaluation and selection process**
  - **Provides advocacy to retirees in dealing with insurers**
  - **Can add prescription drug, dental and vision coverage**



# **Benefit Plan Changes for July 1, 2011**

- **Medicare Retiree Plan Changes**
  - **Retirees not eligible for Medicare Part A or those with non-Medicare Dependents**
    - **Option to remain on non-Medicare PEBP plan (High Deductible Consumer Driven Health Plan or HMO Plan)**
    - **Pay non-Medicare retiree rates and receive premium subsidy and HRA contributions as a non-Medicare retiree**
    - **Receive a credit for primary insured Medicare Part B premium**
    - **Option for retiree to go on Exchange and pay full premiums for dependents to remain on a PEBP plan**
  - **Eligible to participate in Dental (voluntary)**
  - **Eligible for Basic Life (except reinstated retirees)**



# **Benefit Plan Changes for July 1, 2011**

- **HMO Plans**
  - Will continue to offer a Northern and Southern HMO plan to active and non-Medicare retirees
  - Single blended “statewide” HMO rates
- **Live Well, Be Well Wellness Program**
  - Will continue to offer the existing PPO wellness program
- **Flexible Spending Accounts (FSA) - voluntary**
  - Health Care FSA for (state active) HMO participants and HRA employees
  - FSA limited purpose (for dental and vision only) for state employees who reach the maximum annual HSA contribution
  - Dependent Care FSA (all state employees)



## Other Post-Employment Benefits (OPEB)

- **Liability to the State of the cost to provide subsidized health insurance to retirees**
  - **Comprised of cash subsidy and benefit of commingling experience with less expensive active employees (“implicit” subsidy)**
  - **Earned during working career and considered “deferred compensation” since it is provided after retirement**
  - **Governmental Accounting Standards Board (GASB) requires recognition of cost when incurred not paid**
  - **Record liability in financial statements or footnotes**



## **Other Post-Employment Benefits (OPEB)**

- **OPEB liability is actuarially calculated based on current plan design and these components:**
  - **The number of employees and retirees eligible for the retiree health insurance benefit;**
  - **The amount of the benefit already earned;**
  - **The life expectancy of the employees and retirees;**
  - **The estimate of how long employees/retirees will receive the benefit in the future;**
  - **The investment earnings of any funds set aside to cover the long term liability, and**
  - **The estimated medical trend rate associated with the medical plan in future years.**



## **Other Post-Employment Benefits (OPEB)**

- **Current eligibility for cash subsidy**
  - **Five years of service total with Nevada public system(s)**
  - **Fifteen years of service if hired after January 1, 2010**
  - **Everyone receives implicit subsidy**
  
- **"Base" amount established each Legislative session for following two years**
  - **Amount received based upon date of retirement and years of service (for post 1/1/94 Retirees)**



## **GASB OPEB Valuation – July 1, 2009**

- **Present Value of Benefits \$3.3 Billion**
  - Total amount of the expected benefits to be paid in the future including amounts earned by existing employees throughout the remainder of their working career
- **Actuarial Accrued Liability \$1.9 Billion**
  - Snapshot of the liability for benefits earned as of 7/1/09
- **Annual Required Contribution \$222 Million**
  - Cost of benefits earned during FY 10 plus 30 year amortization payment on previous unfunded liabilities
  - “Pay-as-you-go” subsidy payments about \$46 million



## 2011 PEBP Legislative Platform

- **Fiscal BDR List**
  - **M501 – Cover surviving children to age 26 (required by FHCR)**
  - **E250 – Move AEGIS to from Fund 625 to Fund 666**
  - **E600 – Fund Medicare Retirees \$10/month/YOS**
- **Non-fiscal BDR List**
  - **Eliminate pre-existing condition exclusions (required by FHCR)**
  - **Simplify and improve annual reporting requirements to the Legislative Commission**



## 2011 PEBP Legislative Platform

- **Non-fiscal BDR List (Cont.)**
  - Clarify subsidization of local government retirees, state employees and state retirees
  - Clarify subrogation rights
  - Provides domestic partners survivor health benefits similar to a spouse
  - Replace biennial late enrollment with one-time late enrollment during annual open enrollment
  - Allow closed meeting to appoint and review performance of Executive Officer



# Questions?

Welcome to PEBP - Windows Internet Explorer  
http://www.pebp.state.nv.us/

File Edit View Favorites Tools Help

Welcome to PEBP

PEBP Health Matters  
We're in it together

Need Help? About PEBP PEBP Health Plans Staying Informed Forms

**Calendar of Events**

Select A Month

**Enroll Now**

Update Your Information

**Quick Links**

- Employee
- Retiree
- Agency Reps
- Provider Search
- Wellness
- Vendor Contact Information

**Welcome to the  
Public Employees' Benefits Program**

**MAXIMIZING HEALTHCARE VALUE FOR MEDICARE RETIREES**

- [Southern Nevada Medicare Retirees](#)
- [Northern Nevada Retirees](#)

**FAST FACTS: NAVIGATING THE 2012 PLAN DESIGN CHANGES:**

- [Fast Facts: Active Employees](#)
- [Fast Facts: Medicare Retirees](#)
- [Fast Facts: Non-Medicare Retirees](#)

**Presentation: Plan Design Changes Effective July 1, 2011**

**Plan Year 2012 Design Changes and Frequently Asked Questions**

**Live Well, Be Well**

**What's Ahead: Presentations on plan design changes for Plan Year 2012-**  
[click here for meeting schedule and locations](#)

# Nevada PERS' Mission

**To furnish public workers and their dependents with a retirement program that provides a reasonable base income for retirement or for periods where a disability has removed a worker's earning capacity.**

**To encourage those workers to enter into and remain in government service for such periods of time to give public employers and the people of the State of Nevada the full benefit of their training a experience.**



# What is Nevada PERS?

- **Constitutionally created trust fund**
- **A multiple employer, cost sharing defined benefit pension plan**
- **Human resource tool designed to achieve goals for the employer and benefits to the employee**



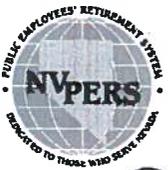
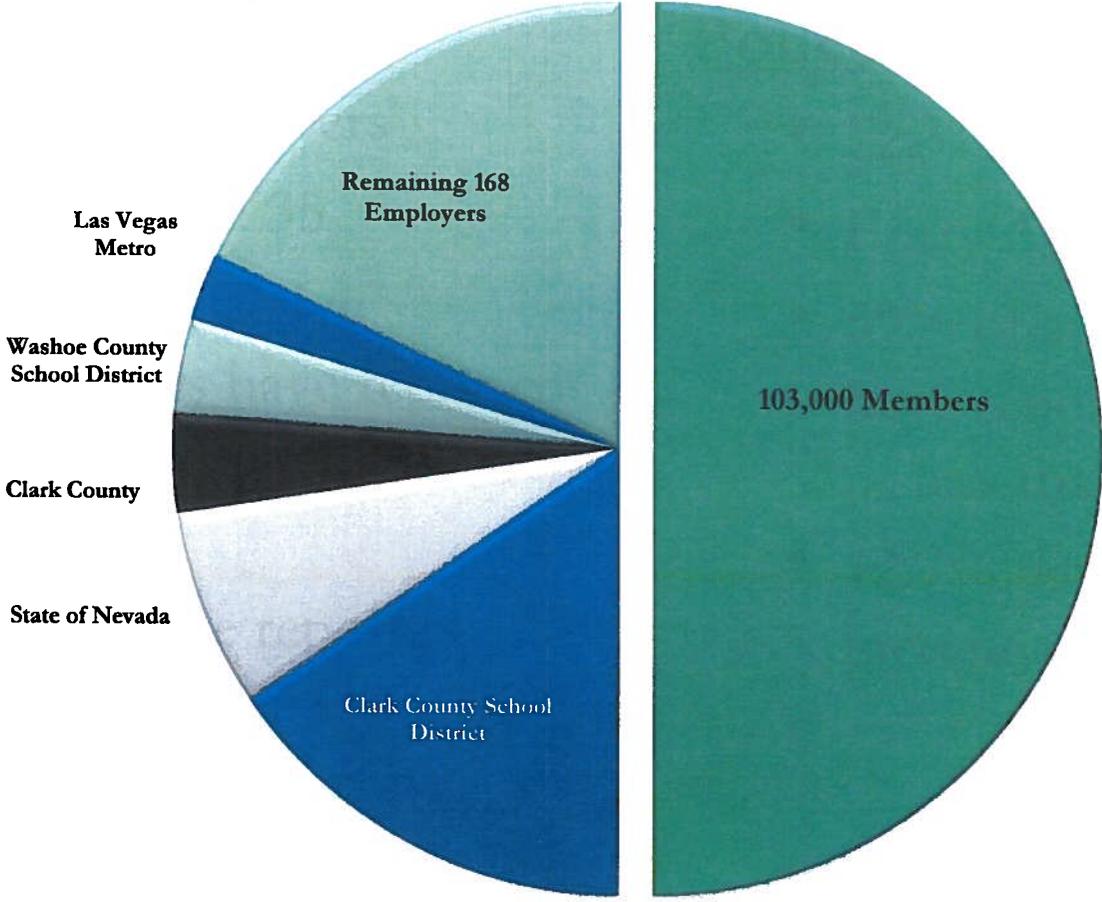
# Review of Nevada PERS' Benefits

- **Benefits are based upon a statutory formula:**
  - A member's length of service, final average compensation, and a benefit multiplier
- **It is a lifetime benefit, guaranteed by the trust**
- **Members qualify by vesting, attaining required levels of age and service**

*In place of Social Security and an employer sponsored retirement benefit*



# PERs' Multiple Employer Cost Sharing Structure



# Average Active Member

## Regular Fund

- 90,219 members
- Entry Age: 35
- 54.5% of active members have reported income of less than \$50,000
- 2.8% have reported income over \$100,000

## Police/Fire

- 12,375 members
- Entry Age: 28.5
- 59% of active members have reported income of less than \$75,000
- 12.7% have reported income over \$100,000



# Benefit Recipients

## Regular fund

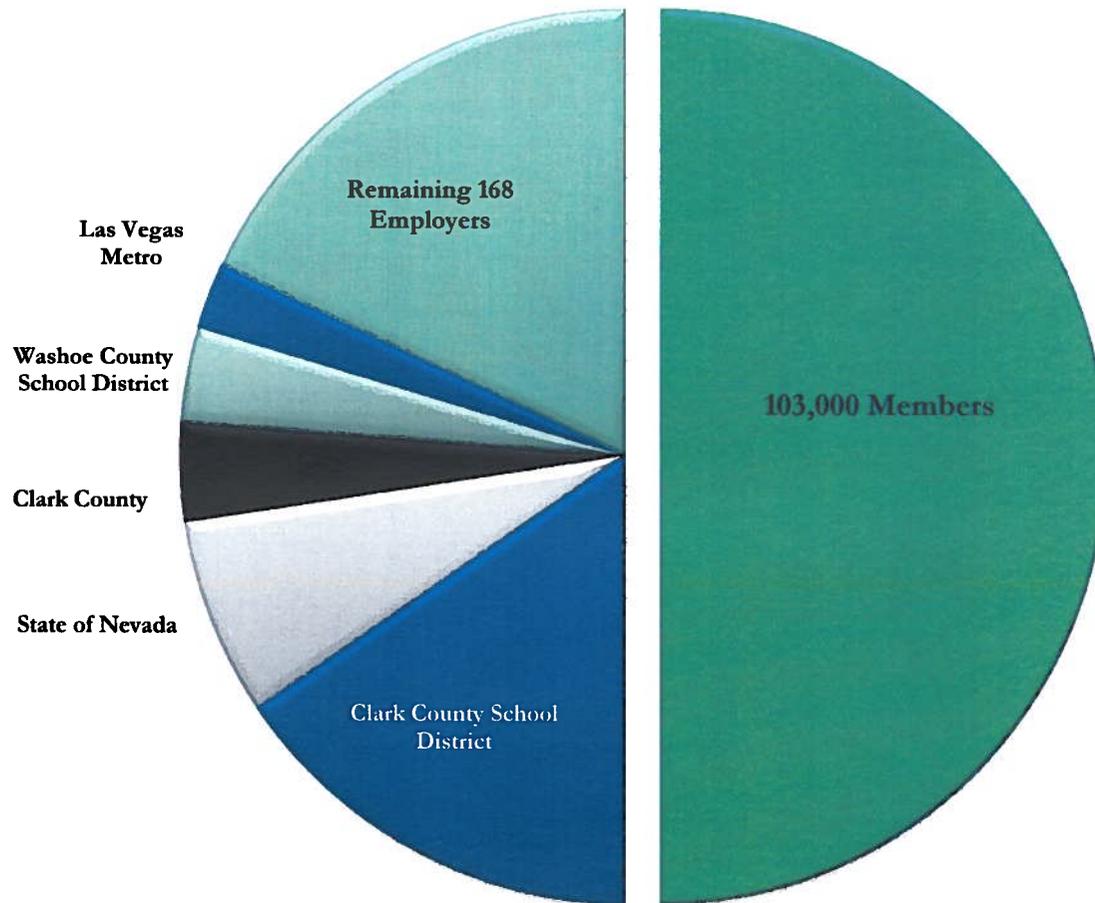
- 38,400 beneficiaries
- Average benefit
  - \$2,486
- Average age at retirement: 61

## Police/Fire fund

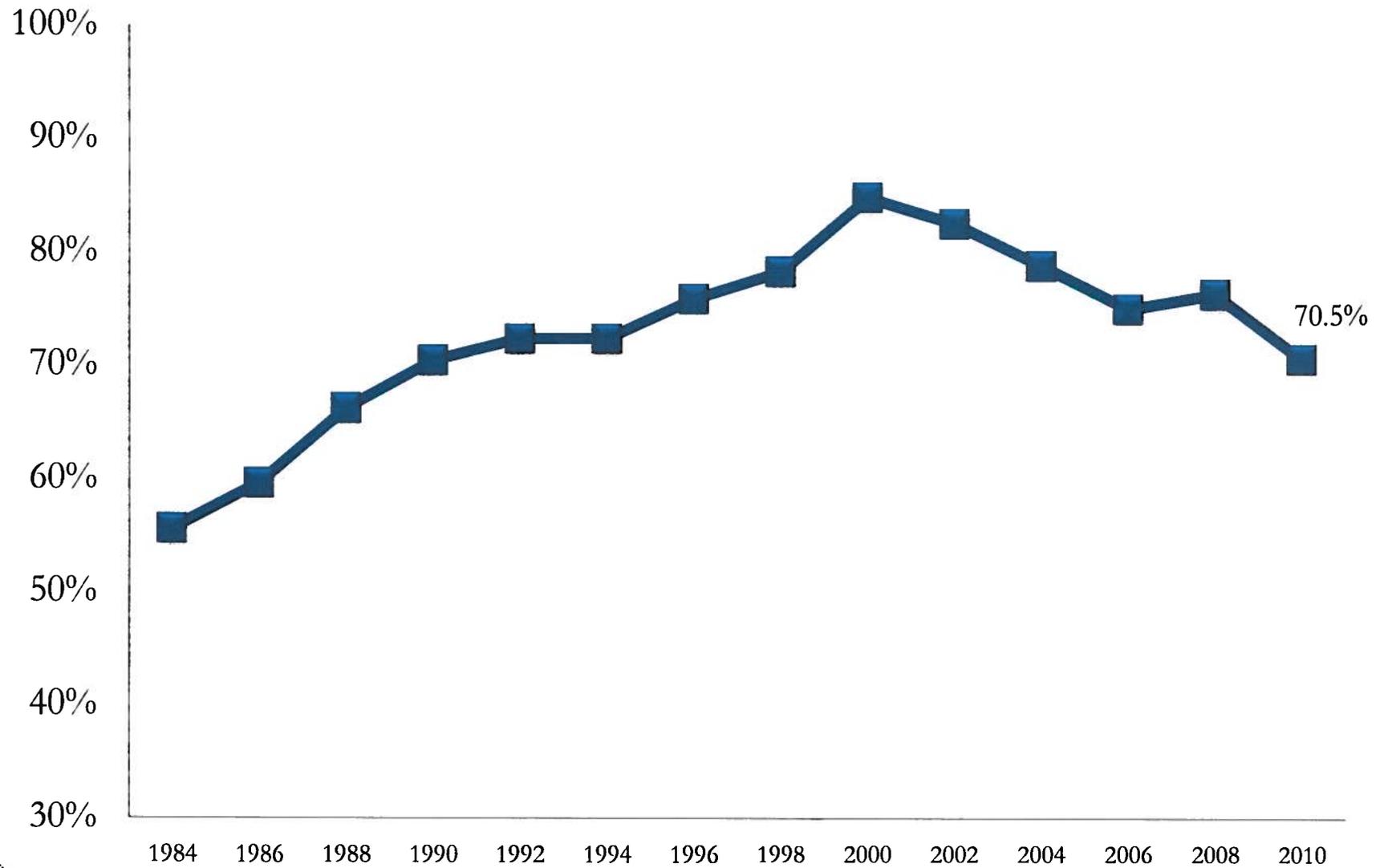
- 5,519 beneficiaries
- Average benefit:
  - \$4,141
- Average age at retirement: 55



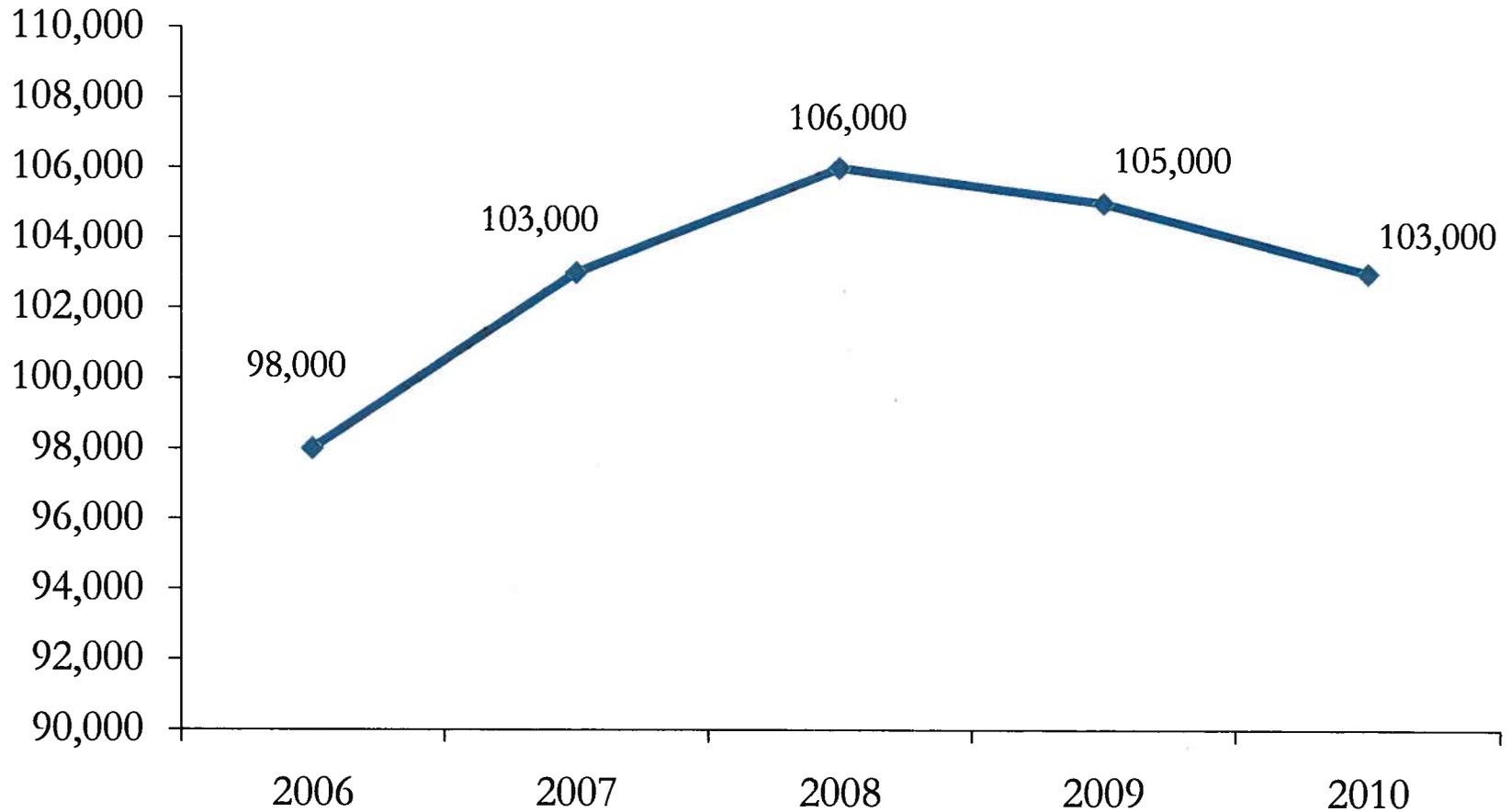
# Unfunded Liability Obligation



# PERs' Funded Ratio

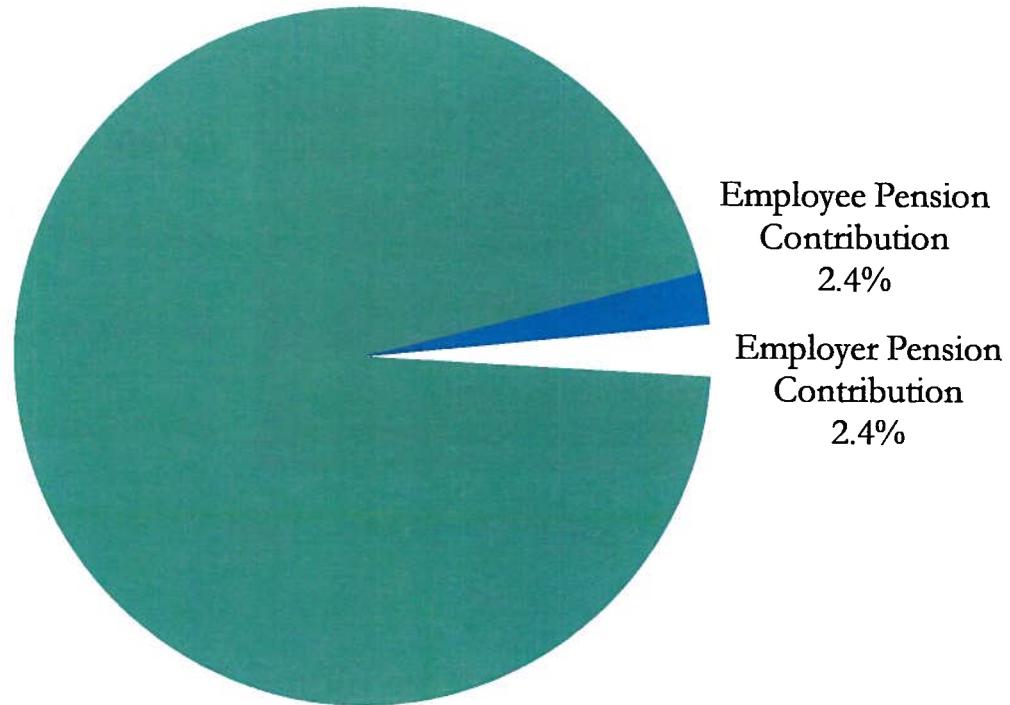


# PERs' Active Membership



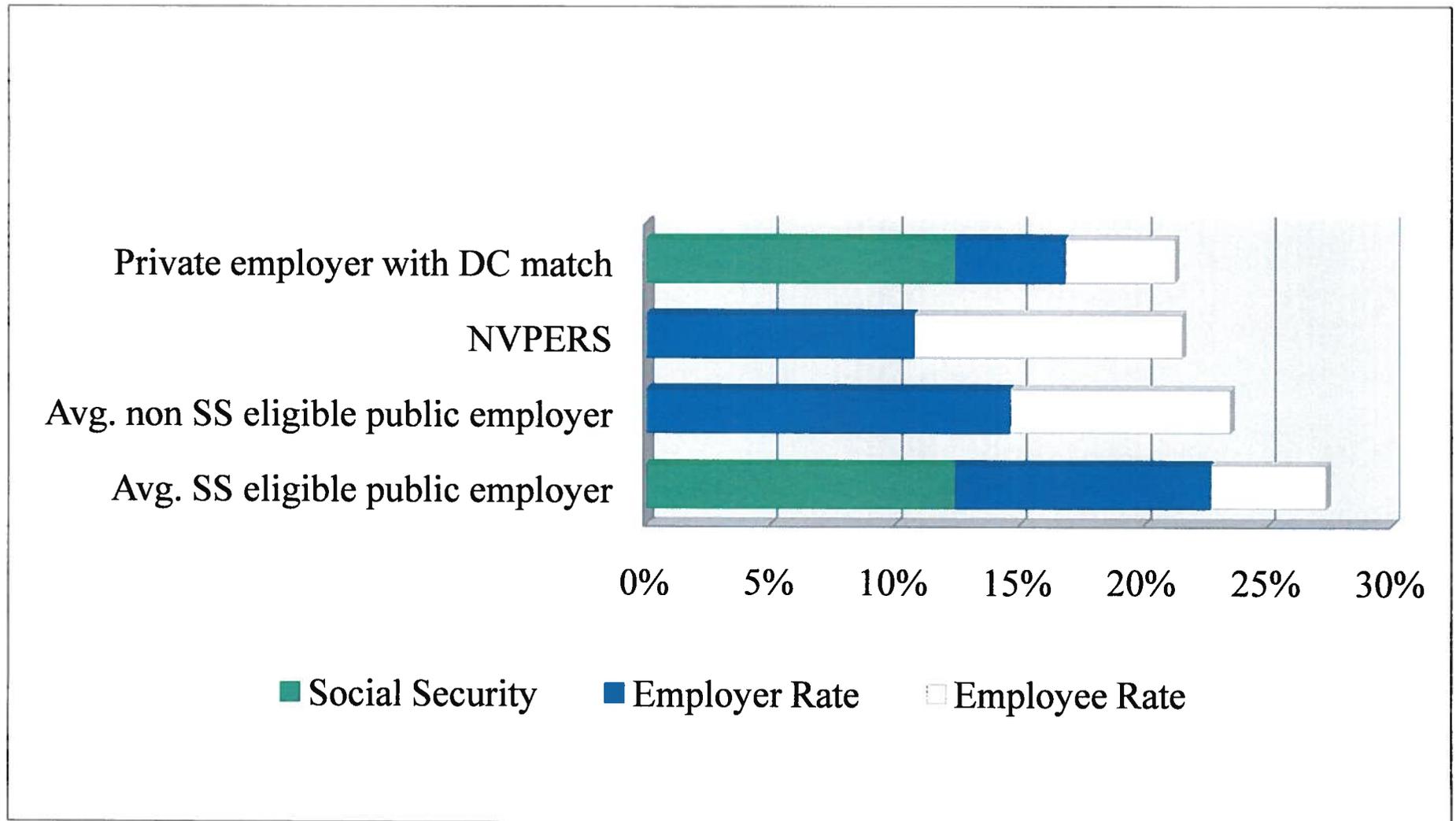
# Pension Cost

As a percentage of total Nevada public budgets



Estimates based on Nevada Department of Taxation data on public budgets

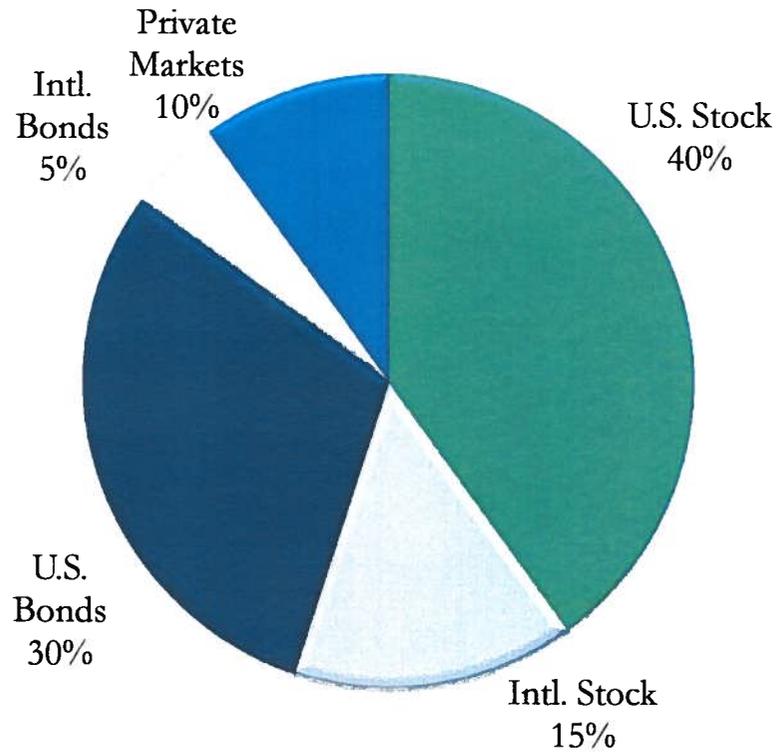
# Cost Efficiency



Source: Public Funds Survey/ Towers Watson

# PERs' Investment Strategy

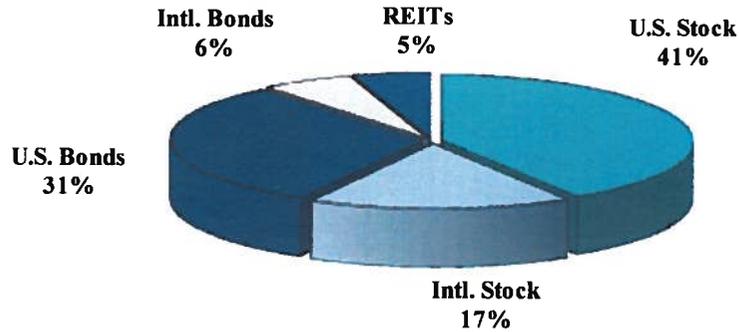
Total Assets = \$23.3 Billion



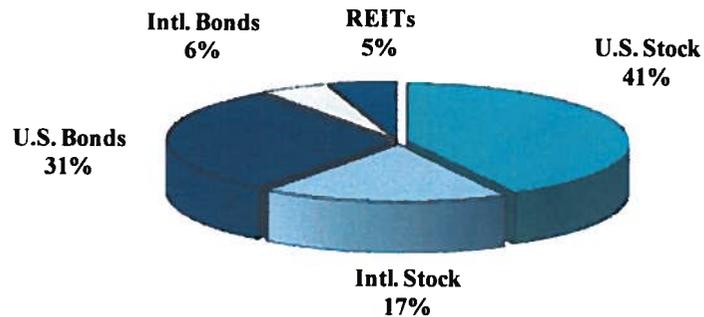
October 31, 2010

\*Private Markets = 6.5% private real estate, 3.5% private equity

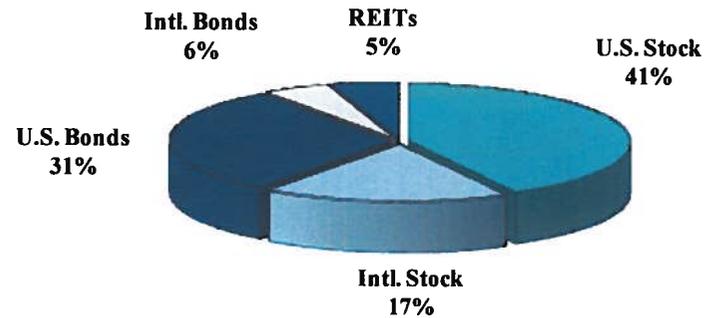
*Legislators' Fund*  
*Total Assets = \$4.1 million*



*Judicial Fund*  
*Total Assets = \$51.6 Million*

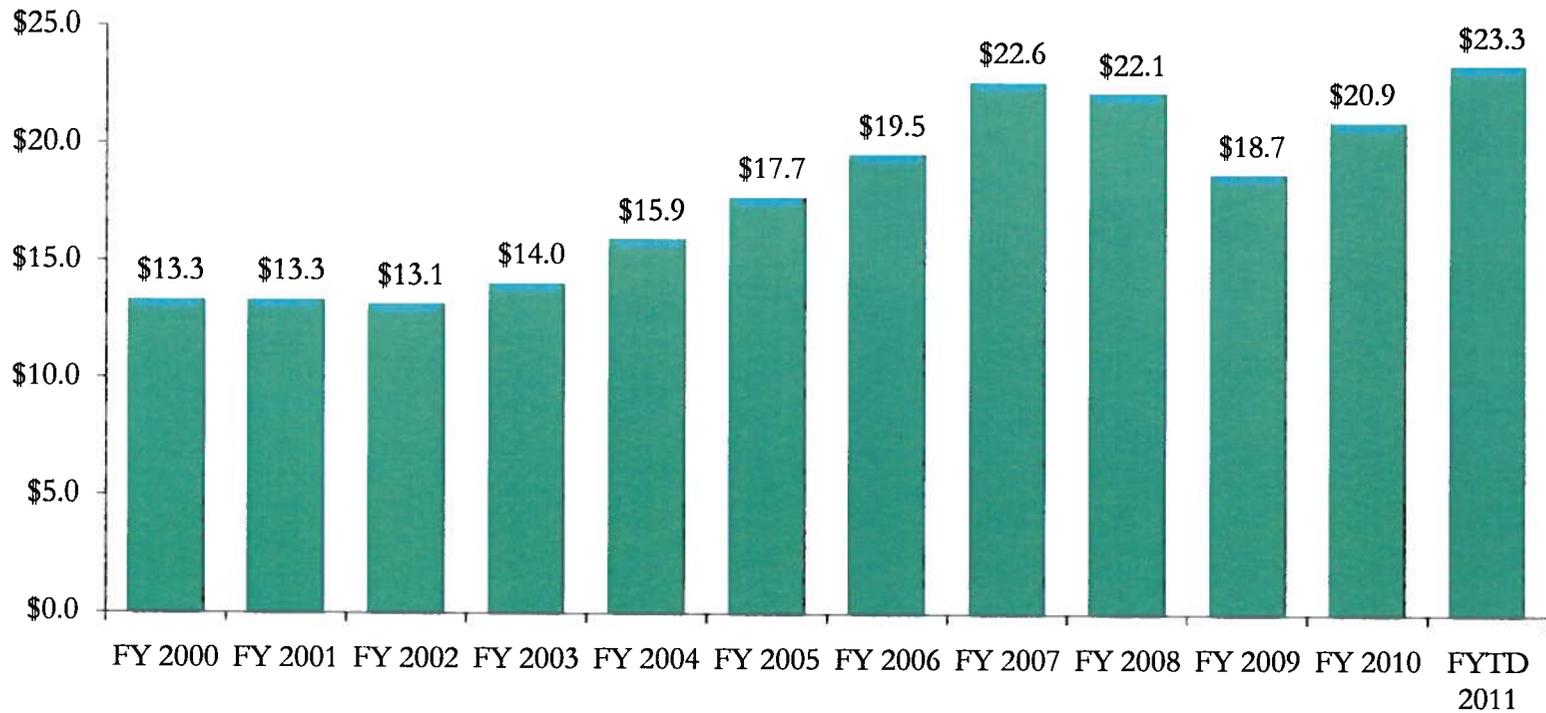


*Retirement Benefits Investment Fund*  
*Total Assets = \$67.9 Million*



October 31, 2010

# PERS' Assets (in billions)



Fiscal Year Return	7.4%	-1.6%	-2.8%	4.8%	12.0%	9.1%	8.6%	14.8%	-3.4%	-15.8%	10.8%	11.6%
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Data as of October 31, 2010

## PERS' Benefit Modifications in Senate Bill 427 of the 2009 Session

The 2009 Legislature enacted S.B. 427 (Chapter 426, *Statutes of Nevada*), making various changes to the Public Employees' Retirement System (PERS), the Public Employees' Benefits Program, and relations between local government employers and employee organizations. Below is a summary of the PERS' benefit modifications in SB 427. The benefit modifications do not apply to employees who became members of the PERS prior to January 1, 2010, and do not apply to retirees.

PERS STATUTES FOR EMPLOYEES HIRED ON OR AFTER JANUARY 1, 2010	PRIOR TO 2009 LEGISLATION
After 10 years of service, a regular member may retire at age 62.	After 10 years may retire at age 60.
After 10 years of service, police/firefighter may retire at age 60; and deletes provision for retirement at any age after 25 years of service.	After 10 years may retire at age 55; after 25 years may retire at any age.
Reduces retirement benefit by 6% for each full year under retirement age and 0.5% for each additional month under retirement age.	Reduction factors were 4% and 0.33%, respectively.
Monthly service retirement allowance (multiplier) is 2.5% for each service year.	Multiplier is 2.5% for pre-July 2001 service; and 2.67% for post-July 2001.
"Call-back pay" as "compensation" is limited to when member returns to duty within 12 hours after regular working hours for an emergency involving clear and imminent danger as declared by the public employer.	"Call-back pay" not limited to returning to duty within 12 hours in emergency situations.
When calculating "average compensation," salary increases are limited to 10% per year in the 2 years leading up to and during the 36 months of highest compensation. Promotion and assignment-related compensation are to be excluded when calculating the 10% limit.	Currently no restrictions on salary increases when calculating "average compensation."
A retiree is entitled to a refund (within 6 months of retirement) of a portion of employee contributions if his retirement is calculated using new limits on average compensation.	No refunds permitted.
After the 12th year, post-retirement increases are limited to the <u>lesser</u> of either 4% each year or average percentage increase of Consumer Price Index (CPI) (All Items) for preceding 3 years.	After the 13th year, post-retirement increases are the <u>lesser</u> of 5% or 3-year average CPI increase.





**SUMMARY PLAN  
DESCRIPTION**

**FOR  
REGULAR MEMBERS**

[www.nvpers.org](http://www.nvpers.org)

**PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM**  
of Nevada  
693 W. Nye Lane  
Carson City, NV 89703

Prsrt. Std  
U. S. Postage  
PAID  
Permit #15  
Carson City, NV  
89710

*This document has been prepared for members of the Public Employees' Retirement System of Nevada to provide general information.*

*It is based on retirement law effective from the 74<sup>th</sup> session of the Nevada Legislature, 2007. This is not a legal document, nor is it intended to serve as a basis for legal interpretation. Official legal reference may be found in the Nevada Revised Statutes.*

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## INTRODUCTION

This document has been prepared for regular members of the Public Employees' Retirement System (PERS) to provide general information concerning the system.

If you work for a Nevada public employer chances are that you are enrolled in PERS. Membership in PERS is required for all employees who work half time or more according to their employer's full-time work schedule. Membership is not cancelled automatically upon termination of employment. Membership can only be cancelled upon refund, retirement or death of the member.

## TYPES OF CONTRIBUTION PLANS

Your base pay, longevity pay, shift differential pay, and call-back pay are subject to retirement contribution. Extra-duty assignments are also subject to contribution provided they are included in your employment contract or job description. Overtime, terminal leave, pay from secondary employment, and any other type of payment not specifically listed as subject to retirement contribution within Chapter 286 of the NRS is not subject to contribution.

### ***Employer Pay Contribution Plan (EPC)***

If you are a school teacher or an employee of a large, local government employer, it is likely that you are contributing under EPC. You might also be contributing under EPC if you work for the State of Nevada or another employer whereby you voluntarily chose to participate under EPC. Under this plan, the employer pays the total PERS contribution on your behalf. Such contributions are not deposited to your individual member account and are not available for refund upon termination of employment.

### ***Employee/Employer Contribution Plan***

Employees of the State of Nevada and many of the smaller employers have the option to contribute under this plan. You and your employer share equally in the contribution to PERS.

Your **after tax** contribution is refundable upon termination of employment, if you do not elect to receive a monthly retirement benefit.

You can find current contribution rates at [www.nvpers.org](http://www.nvpers.org). If you are unsure of which plan you are contributing under, contact your employer or PERS.

## SERVICE

Public employees, except school district employees, earn service credit for years, months and days actually worked. School district employees who are not regular 12-month employees receive service on the basis of a full year if they worked full-time for the full school year. For these same school district members, employment for a part of the school year is credited on a ratio of one and a third days for each day worked.

### ***Purchase of Service***

If you have five years of creditable service, you may purchase up to five years of additional service credit. You must pay the full actuarial cost associated with your age and average compensation at the time of purchase. The cost to purchase one year of service averages about one-third of your annual salary. Payment can be made in a lump sum or by installment agreement.

Purchase of service may also be accomplished using certain types of retirement savings accounts such as 401 (a), 401 (k) qualified pension trusts, 403 (b) and 457 retirement savings plans and IRAs.

### ***Refund of Contributions***

If you contribute under the employee/employer contribution plan, you may withdraw your employee contributions if you terminate all employment for which contribution is required or if you are employed in a position ineligible for membership for at least 90 days.

A refund cancels all rights to membership including service credit earned under the EPC plan.

### ***Repayment of Refunded Contributions***

If you received a refund of employee contributions and later return to work and reestablish active membership for a period of at least six months, you

may repay the refunded contributions and restore service credit. Repayment, including interest at the actuarially determined rate, may be made in a lump sum or by monthly installments.

## BENEFITS

### Service Retirement

#### *Vesting*

If you are a contributing member of PERS after June 30, 1989, you earn the right to receive a retirement allowance after five years of service.

#### Eligibility for Monthly Unreduced Retirement Benefit

<u>Years of Service</u>	<u>Age</u>
5	65
10	60
30	Any age

#### *Benefit Calculation Factors*

The monthly benefit you receive will be based on three factors:

- **Service Credit** – years, months and days on which contributions were paid.
- **Average Compensation** – average of highest 36 consecutive months of employment.
- **Selection of Retirement Option and Age of Member and Beneficiary at the Time of Retirement.**

#### *Benefit Formula*

The formula used for calculating your retirement benefit is as follows:

$$\text{Service Credit} \times 2.5\% \times \text{Average Monthly Compensation} = \text{Unmodified Allowance}$$

Example: 25 years  $\times$  2.5% = 62.5%  
 62.5%  $\times$  \$2,800 = \$1,750

\*For service credit earned after July 1, 2001, a 2.67% multiplier will be used

## Retirement Options

Benefits are paid to you for life and, after your death, to the one person named as beneficiary on the retirement application. It is not mandatory to name a beneficiary. Prospective retirees may elect one of seven retirement options.

**Option 1 – The Unmodified Allowance** pays you the full monthly allowance you have earned but provides no income protection for your beneficiary after your death.

**Option 2** – provides an actuarially reduced allowance for your lifetime. After your death, the same allowance continues for the lifetime of your beneficiary.

**Option 3** – provides an actuarially reduced allowance for your lifetime. After your death, 50% of the allowance continues for the lifetime of your beneficiary.

Options 4 and 5 are calculated the same as 2 and 3 but are not payable to a beneficiary before age 60. In Options 6 and 7, a retiree may designate the beneficiary amount.

The reduction from the Unmodified Allowance is determined by an actuarial percentage based on the ages of the member and beneficiary at the time of retirement.

After retirement, the named beneficiary cannot be changed; however, you may under certain conditions choose to revert to the Unmodified Option. If your beneficiary predeceases you, the law provides that your benefit will revert to the Unmodified Option.

#### *Early Retirement Reduction*

In the event you earn the years of service necessary to receive a retirement benefit but have not reached the age for an unreduced benefit, you may retire at any age with your benefit reduced by four percent for each full year that you retire early. An example of how this reduction would work is provided below for a 59-year-old retiree with 20 years of service, a \$2,800 per month average compensation, and a beneficiary who is age 59.

### Benefit Calculation Formula

#### Unreduced Service Retirement Benefit

Using the example in the benefit formula mentioned earlier, let us assume that you will retire at age 60 with 25 years of service credit and an average monthly compensation of \$2,800. Your beneficiary is age 58.

Average Compensation = \$2,800

Service = 25 years x 2.5%\* = 62.5%

	Monthly Amount Retiree Will Receive	Monthly Amount Beneficiary Will Receive After Retiree's Death
Unmodified (Option 1)	\$1,750	\$ -0-
Option 2	\$1,502.55	\$1,502.55**
Option 3	\$1,616.83	\$ 808.41**

The additional options can be calculated upon request.

\* For service credit earned after July 1, 2001, a 2.67% multiplier will be used

\*\* The reduced amounts under Options 2 and 3 are based on your age and your beneficiary's age at the time of retirement.

### Your PERS benefit and Social Security

Your PERS benefit will not be affected by a Social Security Benefit. However, a Social Security benefit may be affected because you receive a PERS benefit. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are the two Federal Government regulations that may reduce your Social Security benefit. We suggest you contact the Social Security Administration at 800-772-1213 or visit their website at [www.ssa.gov](http://www.ssa.gov) for more information.

### Benefit Calculation Formula

#### Reduced Service Retirement Benefit

This calculation is based on retiring at age 59 with a beneficiary who is age 59.

Average Compensation = \$2,800

Service = 20 years x 2.5%\* = 50%

Unmodified Allowance (Option 1) = \$1,400

Early Retirement Reduction:

4% (1 year) x \$1,400 = \$56.00

Reduced Unmodified Allowance = \$1,344

	Monthly Amount Retiree Will Receive	Monthly Amount Beneficiary Will Receive After Retiree's Death
Unmodified (Option 1)	\$1,344.00	\$ -0-
Option 2	\$1,175.19	\$ 1,175.19**
Option 3	\$1,253.95	\$ 626.98**

\* For service credit earned after July 1, 2001, a 2.67% multiplier will be used.

\*\* The reduced amounts under Options 2 and 3 are based on your age and your beneficiary's age at the time of retirement.

### How to Apply

Between three and six months before your retirement, request an estimate of retirement allowance and an application for retirement. The request should include:

1. *Your anticipated retirement date*
2. *Your name and Social Security number*
3. *Your beneficiary's name, birth date and Social Security number*

It is also wise to consult a PERS counselor prior to your retirement.

## Disability Retirement

If you have five or more years of service credit and become totally unable to perform your current or any comparable job because of an injury or mental or physical illness of a permanent nature, you are eligible to apply for disability retirement. **Your application must be filed with PERS prior to your termination of employment.**

### **How to Apply**

The disability application has four parts:

1. *Member's statement of disability and retirement plan selection*
2. *Personnel officer's report*
3. *Supervisor's report*
4. *Physician's statement*

The completed application is submitted to the Retirement Board for consideration at its regular monthly meetings. Disability retirement benefits are calculated in the same manner as service retirement benefits described before, but without reduction for age. To apply for disability benefits, you are urged to contact PERS or the retirement liaison officer where you work.

For special information regarding disability retirement, ask for a copy of the PERS Disability Retirement Document.

## Survivor Benefits

### **Eligibility**

If you were to die prior to retirement, your eligible survivors would be entitled to a survivor benefit if:

1. *You had two years of service in the two and one half years immediately preceding your death; or*
2. *You had more than 10 years of accredited service; or*
3. *Your death was caused by an occupational disease or an accident arising out of or in the course of your employment, regardless of service credit.*

### **Who is Included**

Your eligible survivors include:

1. *Your spouse*
2. *Your survivor beneficiary and additional payees*
3. *Your dependent children under age 18*
4. *Your dependent parents, provided there are no other eligible survivors at the time of your death.*

All members of the System should list one person as the Survivor Beneficiary (not a spouse, trust or charitable organization) to receive a lifetime benefit in the event of the member's death or member and spouse's simultaneous death prior to retirement. Additional Payees may be designated to split the payment with the Survivor Beneficiary by percentage. Monthly payments to Additional Payees cease upon the death of the designated Survivor Beneficiary. If a monthly payment is not available and no spouse exists, then the Survivor Beneficiary and Additional Payees may be eligible to split, by percentage designated, a one-time, lump-sum payment of any existing member contributions in the system.

### **Amount of Survivor Benefits**

The following monthly benefits are payable to a surviving spouse, survivor beneficiaries and/or dependent children if your death occurs prior to retirement:

<u>Service Credit</u>	<u>Spouse/ Survivor</u>	<u>Each Child*</u>
2+	\$450	\$400
10+	Option 3	\$400
(If member was under age for full eligibility)		
10+	Option 2	\$400
(If member was fully eligible to retire)		
15+	Option 2	\$400

\* Until age 18 or to age 23 if a full time, unmarried student. Incapacitated adult children may be eligible.

(Other restrictions may apply)

## **PERS Counseling Services**

*In Carson City:* Weekdays at the PERS building located at 693 W. Nye Lane, from 8:00 a.m. to 5:00 p.m. If possible, please call ahead for an appointment.

*In Las Vegas:* Weekdays at our office at 5820 S. Eastern Ave, Suite 220, from 8:00 a.m. to 5:00 p.m. Due to a high demand for counselors in this office, it is advisable to schedule an appointment.

*In rural Nevada:* Counselors are available during the Spring and Fall. Please watch for our notices and call our Carson City office for an appointment.

For further information, contact your agency's retirement liaison officer or PERS.

**Public Employees' Retirement System**  
693 West Nye Lane  
Carson City, NV 89703

**7455 W. Washington Ave., Suite 150**  
Las Vegas, NV 89128  
(702) 486-3900  
Fax: (702) 304-0697

**5820 S. Eastern Avenue, Suite 220**  
Las Vegas, NV 89119  
(702) 486-3900  
Fax: (702) 678-6934

For telephone inquiries, call:

- *from Las Vegas: (702) 486-3900*
- *from Carson City or Reno:  
(775) 687-4200*
- *from anywhere else in the USA:  
1-866-473-7768*

Website: [www.nvpers.org](http://www.nvpers.org)

## **PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD**

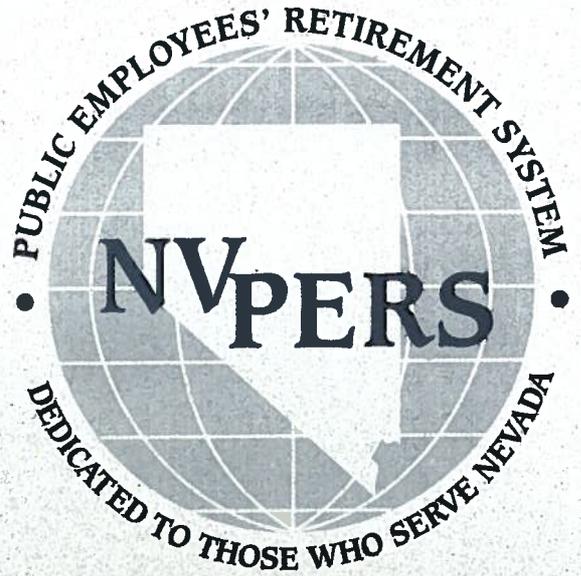
Sue DeFrancesco, *Chairman* Las Vegas  
Charles A. Silvestri, *Vice Chairman* Las Vegas  
Elizabeth Fretwell, *Member* Las Vegas  
Purissimo Hernandez, *Member* Carson City  
David F. Kallas, *Member* Las Vegas  
George W. Stevens, *Member* Las Vegas  
Warren Wish, *Member* Carson City

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### **EXECUTIVE STAFF**

Dana K. Bilyeu, *Executive Officer*  
Tina Leiss, *Operations Officer*  
Ken Lambert, *Investment Officer*

-NOTES-



**SUMMARY PLAN  
DESCRIPTION**

**FOR  
REGULAR MEMBERS**

**ENROLLED ON OR AFTER  
JANUARY 1, 2010**

*This document has been prepared for members of the Public Employees' Retirement System of Nevada to provide general information.*

*It is based on retirement law effective from the 75<sup>th</sup> session of the Nevada Legislature, 2009. This is not a legal document, nor is it intended to serve as a basis for legal interpretation. Official legal reference may be found in the Nevada Revised Statutes.*

## **INTRODUCTION**

This document has been prepared for regular members of the Public Employees' Retirement System (PERS) to provide general information concerning the System.

If you work for a Nevada public employer, chances are you will be enrolled in PERS. Membership is not cancelled automatically upon termination of employment. Membership can only be cancelled upon refund, retirement or death of a member.

## **TYPES OF CONTRIBUTION PLANS**

Your base pay, longevity pay, shift differential pay and call-back pay are subject to retirement contribution. Overtime, terminal leave, pay from secondary employment, and any other type of payment not specifically listed as subject to retirement contribution within Chapter 286 of the NRS is not subject to contribution.

### ***Employer Pay Contribution Plan (EPC)***

If you are an employee of a local government employer, you are contributing under EPC. You might also be contributing under EPC if you work for the State of Nevada and you voluntarily chose to participate under EPC. Under this plan, the employer pays the total PERS contribution on your behalf. These contributions are not deposited to your individual member account and are not available for refund upon termination of employment.

### ***Employee/Employer Contribution Plan***

Employees of the State of Nevada and many of the smaller employers have the option to contribute under this plan. You and your employer share equally in the contribution to PERS. Your **after tax** contribution is refundable upon the termination of your employment, if you do not elect to receive a monthly retirement benefit. You can find current contribution rates at [www.nvpers.org](http://www.nvpers.org). If you are unsure of which plan you are contributing under, contact your employer or PERS.

## **SERVICE**

Regular members earn service credit based on years, months and days actually worked.

### ***Purchase of Service***

If you have five years of creditable service, you may purchase up to five years of additional service credit. You must pay the full actuarial cost associated with your age and average compensation at the time of the purchase. The cost to purchase one year of service averages about one-third of your annual salary. Payment may be made in a lump sum or by installment agreement.

Purchase of service may also be accomplished using certain types of retirement savings accounts such as 401(a), 401(k) qualified pension trusts, 403(b) and 457 retirement savings plans and IRAs.

### ***Refund of Contributions***

If you contribute under the employee/employer contribution plan, you may withdraw your employee contributions if you terminate all employment for which a contribution is required or if you are employed in a position ineligible for membership for at least 90 days.

A refund cancels all rights to membership including service credit earned under the EPC plan.

### ***Repayment of Refunded Contributions***

If you received a refund of employee contributions and later return to work and reestablish active membership for a period of at least six months, you may repay the refunded contributions and restore service credit. Repayment, including interest at the actuarially determined rate, may be made in a lump sum or by monthly installments. Service will not be restored until your agreement is paid in full.

## **BENEFITS**

### **Service Retirement**

#### ***Vesting***

If you are a contributing member of PERS after June 30, 1989, you earn the right to receive a retirement allowance after five years of service.

## Eligibility for Monthly Unreduced Retirement Benefits

Years of Service	Age
5 Years	65
10 Years	62
30 Years	Any Age

### *Benefit Calculation Factors*

The amount of allowance you receive will be based on three factors:

- **Service Credit** – years, months and days on which contributions were paid.
- **Average Compensation** – average of your highest 36 consecutive months of employment with provision that each 12 month period of salary may not increase greater than 10% of the prior 12 months of salary reported. Salary increases due to promotion and assignment related compensation are excluded from salary cap calculation.
- Selection of retirement option and age of you and your beneficiary at the time of retirement.

### *Benefit Formula*

The formula used for the calculation of your retirement benefit is as follows:

$$\text{Service Credit} \times 2.5\% \times \text{Average Monthly Compensation} = \text{Unreduced Monthly Benefit}$$

Example: 20 Years  $\times$  2.5% = 50%  
50%  $\times$  \$3,000 = \$1,500

## Retirement Options

Benefits are paid to you for life and, after your death, to the one person named as your beneficiary on the retirement application. It is not mandatory to name a beneficiary. Prospective retirees may elect one of seven retirement plans.

### **Option 1 – The Unmodified Allowance** –

This option pays you the full monthly allowance you have earned for your lifetime but provides no income protection for your beneficiary after your death.

**Option 2** – This option pays an actuarially reduced benefit for your lifetime. After your death, the same benefit continues for the lifetime of your beneficiary.

**Option 3** – This option pays an actuarially reduced benefit for your lifetime. After your death, 50% of the benefit continues for the lifetime of your beneficiary.

**Options 4 and 5** – These options are calculated the same as options 2 and 3 but are not payable to a beneficiary before the age of 60.

**Options 6 and 7** – These options allow you to designate a specific amount to be paid to the beneficiary.

The reduction from the Unmodified Allowance is determined by an actuarial percentage based on your age and your beneficiary's age at the time of retirement.

After retirement, the named beneficiary cannot be changed. If you chose any of the Options 2-7, you may, under certain conditions, choose to revert to the Unmodified Option. Additionally, if your beneficiary predeceases you, the law provides that your benefit will revert to the Unmodified Option.

**Benefit Calculation Formula  
Unreduced Service Retirement Benefit**

Using the example in the benefit formula mentioned previously, let us assume that you will retire at age 62 with 20 years of service credit and an average compensation of \$2,800. Your spouse or registered domestic partner is age 58 and is the beneficiary in this calculation.

Average Compensation = \$2,800  
Service Credit = 20 years x 2.5% = 50%

	<u>Retiree Benefit</u>	<u>Beneficiary Benefit</u>
Option 1 (Unmodified)	\$1,400.00	\$ 0.00
Option 2	\$1,168.16	\$1,168.16
Option 3	\$1,273.58	\$ 636.79

Options 2 and 3 are reduced based on your age and your beneficiary's age, rounded to the nearest year, at the time of your retirement.

**Early Retirement Reduction**

In the event you earn the years of service necessary to receive a retirement benefit but have not reached the age required for an unreduced benefit, you may retire at any age with your benefit reduced by 6% for each full year you retire early.

An example of how this reduction would work is provided below for a 59-year-old retiree with 20 years of service, a \$2,800 per month average compensation, and a beneficiary who is age 59.

**Benefit Calculation Formula  
Reduced Service Retirement Benefit**

Average Compensation = \$2,800.00  
Service = 20 years x 2.5% = 50%  
Unmodified Allowance = \$1,400.00  
Early Retirement Reduction =  
18% (36 months early) x \$1,400.00 = \$252.00  
Reduced Unmodified Allowance = \$1,316.00

	<u>Retiree Benefit</u>	<u>Beneficiary Benefit</u>
Option 1 (Unmodified)	\$1,148.00	\$ 0.00
Option 2	\$1,003.81	\$1,003.81*
Option 3	\$1,071.08	\$ 535.54*

\* The reduced amounts under Options 2 and 3 are based on your age and your beneficiary's age, rounded to the nearest year, at the time of your retirement.

**How to Apply**

Between three and six months before your retirement date, request an estimate of your retirement benefit and an application for retirement. The request should include:

1. *Your anticipated retirement date.*
2. *Your name and the last four numbers of your Social Security number.*
3. *Your beneficiary's name, birth date and the last four numbers of his or her Social Security number.*

It is also wise to consult a PERS counselor prior to your retirement.

## **Disability Retirement**

If you have five or more years of service and become totally unable to perform your current or any comparable job because of an injury or mental or physical illness of a permanent nature, you are eligible to apply for disability retirement. **Your application must be filed with PERS prior to your termination of employment.**

### ***How to Apply***

The disability packet includes a disability retirement application and four supplemental parts:

1. *Disability Retirement Application – Your retirement plan selection*
2. *Employee Report – Completed by you*
3. *Employer's Report – Completed by your Personnel or Human Resources representative*
4. *Supervisor's Report – Completed by your supervisor*
5. *Physician's Report – Completed by your physician and submitted with copies of your recent medical records*

The completed application is submitted to the Retirement Board for consideration at its regular monthly meetings. Disability retirement benefits are calculated in the same manner as service retirement benefits described previously, but without a reduction for age. To apply for disability benefits, employees are urged to contact PERS or the retirement liaison officer where you work.

For special information regarding disability retirement, ask for a copy of PERS' Disability Retirement Publication. All PERS publications are on our website: [www.nvpers.org](http://www.nvpers.org) under the "Publications" link.

## **Survivor Benefits**

### ***Eligibility***

If you were to die prior to retirement, your eligible survivors would be eligible for a survivor benefit if:

1. *You had two years of service in the two and one-half years immediately preceding your death; or*
2. *You had more than 10 years of accredited service; or*
3. *Your death was caused by an occupational disease or an accident arising out of or in the course of your employment, regardless of service credit.*

### **Who is Included**

Your eligible survivors include:

1. *Your spouse or registered domestic partner*
2. *Your survivor beneficiary and additional payees, if designated*
3. *Your dependent children under the age of 18*
4. *Your dependent parents, provided there are no other eligible survivors at the time of your death.*

All members of the System should list one person as the survivor beneficiary (not a spouse, registered domestic partner, trust or charitable organization) to receive a lifetime benefit in the event of your death or you and your spouse or registered domestic partner's simultaneous death prior to retirement. Additional payees may also be designated to split the payment with the survivor beneficiary by a percentage you provide. Monthly payments to additional payees cease upon the death of the designated survivor beneficiary. If a monthly payment is not available and no spouse, registered domestic partner or dependent children exist, then the survivor beneficiary and additional

payees may be eligible to split, by the percentage provided, a one-time, lump-sum payment of any existing member contributions in the System.

### Amount of Survivor Benefits

The following monthly benefits are payable to a surviving spouse or registered domestic partner, survivor beneficiary and/or dependent children if your death occurs prior to retirement:

Service Credit	Spouse/Survivor	
	Reg. Domestic Part.	Each Child*
2+	\$450	\$400
10+	Option 3	\$400
(If member was under age for full eligibility)		
5+	Option 2	\$400
(If member was fully eligible to retire)		
15+	Option 2	\$400

\*Until age 18 or age 23 if a full-time, unmarried student. Incapacitated adult children may be eligible. Other restrictions may apply.

### Your PERS benefit and Social Security

Your PERS benefit will not be affected by a Social Security benefit. However, a Social Security benefit may be affected because you receive a PERS pension. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are the two Federal Government regulations that may reduce your Social Security benefit. We suggest you contact the Social Security Administration at 800-772-1213 or visit their website at [www.ssa.gov](http://www.ssa.gov) for more information.

### PERS' Counseling Services

PERS representatives are available to assist you Monday through Friday, 8:00 a.m. to 5:00 p.m. over the phone or in one of our three office locations. PERS counselors also travel to the rural areas in the Spring and Fall of each year. Rural counseling notices are sent through your public employer with a listing of dates, times and locations.

**Public Employees' Retirement System of Nevada**

**Carson City Office**

693 W. Nye Lane  
Carson City, NV 89703  
(775) 687-4200  
Fax: (775) 687-5131

**Las Vegas Summerlin Office**

7455 W. Washington Ave., Suite 150  
Las Vegas, NV 89128  
(702) 486-3900  
Fax: (702) 304-0697

**Las Vegas Eastern Office**

5820 S. Eastern Ave., Suite 220  
Las Vegas, NV 89119  
(702) 486-3900  
Fax: (702) 678-6934

*Toll free from anywhere in the USA:*

**1-866-473-7768**

Website: [www.nvpers.org](http://www.nvpers.org)

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**Public Employees' Retirement System Board**

George W. Stevens, *Chairman*, Las Vegas  
Mark R. Vincent, *Vice Chairman*, Las Vegas  
James Green, *Member*, Las Vegas  
Bart Mangino, *Member*, Las Vegas  
David Olsen, *Member*, Carson City  
Paul C. Page, *Member*, Las Vegas  
Charles A. Silvestri, *Member*, Las Vegas

**Executive Staff**

Dana K. Bilyeu, *Executive Officer*  
Tina Leiss, *Operations Officer*  
Ken Lambert, *Investment Officer*



# Fact Sheet

## COLLECTIVE BARGAINING

COMPILED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU

FEBRUARY 2010

The Local Government Employee-Management Relations Act was enacted in 1969 (and codified in Chapter 288 of the *Nevada Revised Statutes* [NRS]) to allow collective bargaining for local government employees and address strikes by public employees.

The Act created the three-member Local Government Employee-Management Relations Board (EMRB) which is appointed by the Governor.

Chapter 288 legislatively declares it to be the public policy of the State that strikes by State or local government employees are illegal (NRS 288.230).

Collective bargaining is defined by NRS 288.033 as “a method of determining conditions of employment by negotiation between representatives of the local government employer and employee organizations, entailing a mutual obligation . . . to meet at reasonable times and bargain in good faith . . . .”

Mandatory subjects of collective bargaining (NRS 288.150) include:

- Salaries/wages, sick leave, vacation, holidays, and leaves of absence;
- Insurance benefits;
- Hours of work required (by day or week) and safety of employees;
- Discharge and disciplinary procedures;
- Methodology for classification of employees in a bargaining unit;
- Deduction of employee organization dues and protection from discrimination due to participation in employee organizations;
- Grievance/arbitration procedures for resolution of disputes over agreements; and
- For teachers: preparation time, classroom materials/supplies, transfers/reassignments, and workforce reduction procedures.

Subjects not subject to collective bargaining and reserved to the local government employer include:

- Transfer/reassignment—except as to teachers or as a form of discipline;
- Workforce reduction due to lack of work or money except as limited by bargained procedures;
- Safety of the public; and
- Determination of staffing levels, content of workday, quality/quantity of services to the public, and means/methods of offering services to the public.

Local government employers may take whatever action is necessary—including suspension of a collective bargaining agreement—in emergency situations such as riots, military actions, natural disasters, or civil disorder.

Chapter 288 spells out procedures for: (1) recognition of employee organizations; (2) determination of bargaining units; (3) submittal of disputes to mediation, fact finding, or arbitration; (4) timelines for such actions; and (5) the role of the EMRB in appeals and other matters.

Negotiations, mediations, arbitrations, fact finding, and EMRB deliberations are not required to be open to the public (NRS 288.220).

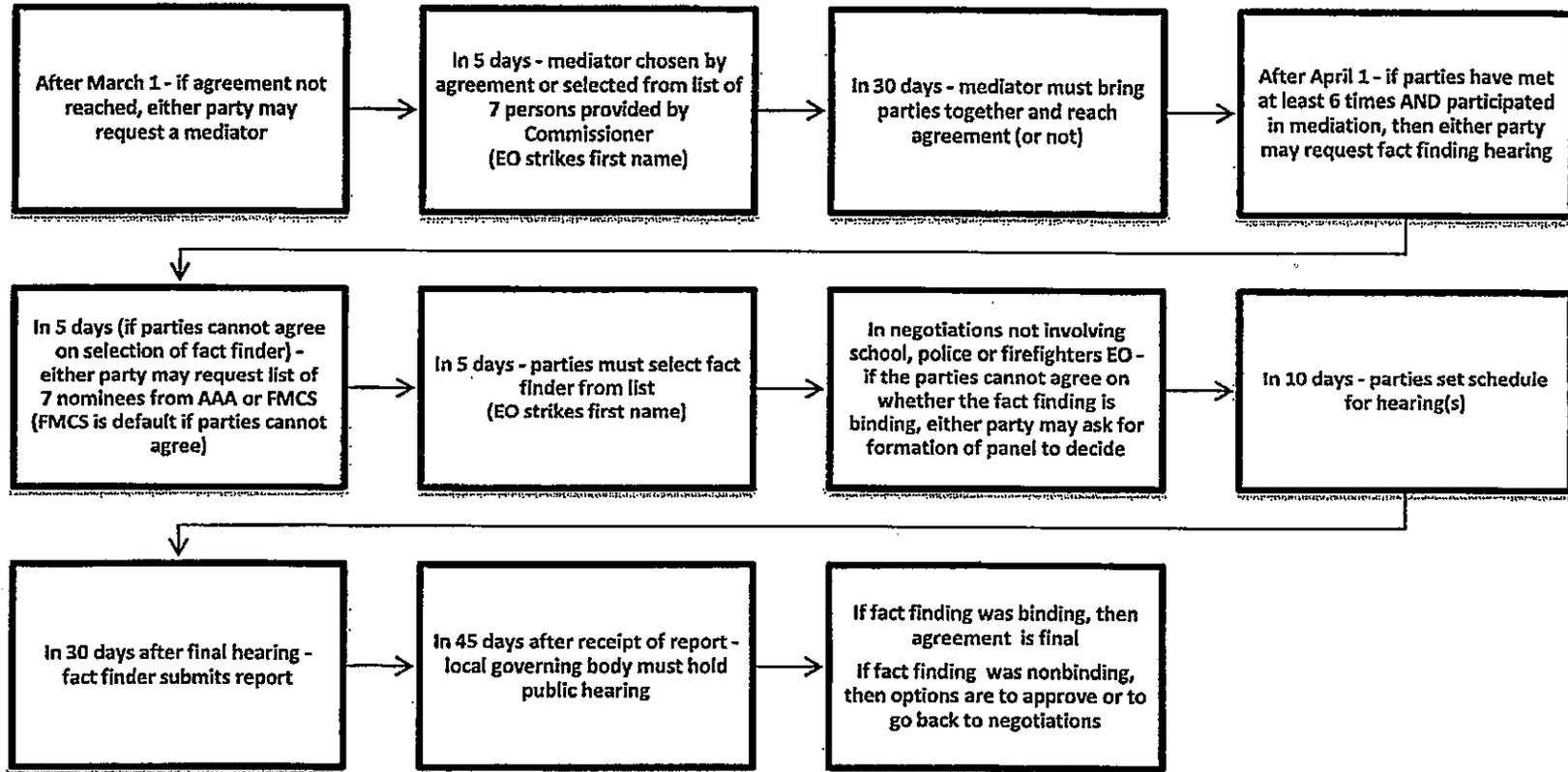
## **STATE EMPLOYEES**

The Legislature has considered bills extending collective bargaining to State employees beginning in the 1970s but only two such bills have passed:

- Assembly Bill 130 in 1991 was vetoed by Governor Robert J. Miller and the veto was sustained in 1993; and
- Assembly Bill 395 in 2009 was vetoed by Governor Jim Gibbons and will be returned to the 2011 Legislature for a vote to sustain or override the veto.

# DISPUTE RESOLUTION - COLLECTIVE BARGAINING

## Chapter 288 of Nevada Revised Statutes





# Nevada Legislature Pre-Session Issue Briefing: Public-Sector Collective Bargaining

November 2010

James W. Penrose  
Dyer Lawrence Law Firm  
Carson City, Nevada

**SCOPE  
AND  
TERMINOLOGY**

# Local Government Employer

- Any unit of local government in Nevada
- Counties, cities, school districts, fire protection districts, irrigation districts, charter schools, etc.
- No bargaining rights for state employees

# Employee Organization

- “An organization of any kind having as one of its purposes improvement of the terms and conditions of employment of local government employees.” NRS 288.040.
- Most are affiliated with state or national labor organizations

# Bargaining Agent

- The EO serving as collective bargaining representative
- “Recognized” by LGE
- Status is “exclusive” until recognition is relinquished or withdrawn
- One EO may act as bargaining agent for multiple bargaining units

# Bargaining Unit

- Group of employees who engage in collective bargaining through their bargaining agent
- Determined by LGE in consultation with EO(s)
- Preference for “wall-to-wall” or large units in Nevada

# Recognition

- Process by which EO becomes bargaining agent for a bargaining unit
- May be challenged by rival EO and withdrawn by LGE
  - Limitation: “contract bar” doctrine

# Duty of Fair Representation

- BA's obligation fairly to represent all the members of the bargaining unit, in good faith and without discrimination
- Violations litigated before the EMRB
- Broad latitude generally given

# Mandatory Subject of Bargaining

- Set forth in statute (NRS 288.150)
- Evolution of statutory language
  - “Wages, hours and conditions of employment”
  - 1975: adoption of “laundry list”
- Bargaining is required, not agreement (Truckee Meadows, 1993)

# Collective Bargaining Agreement

- Agreement negotiated between the LGE and the EO/BA
- Scope
  - Wages and benefits
  - Sick leave, vacation leave, etc.
  - Grounds for discipline
  - Reductions in force
  - Grievance (dispute resolution) process
  - Other mandatory or permissive subjects of bargaining

# “Right to Work”

- Public and private sectors
- Employment cannot be conditioned upon membership in a union or financial support of a union
- Membership in EO entirely voluntary
- Individual employee may resolve grievance or discuss conditions of employment, consistently with CBA

**LOCAL GOVERNMENT  
EMPLOYEE-MANAGEMENT  
RELATIONS BOARD**

# Membership of the EMRB

- Appointed by the Governor
- Three members serving 4-year terms
- Not more than two members from the same political party
- Cannot be “closely allied” with any EO or LGE
- Part time / \$80 per day salary plus per diem

# Authority of the EMRB

- Employs a staff of two, including the Commissioner
- 2009: Assessments for the support of the Board authorized by Legislature. Status?
- Adopts regulations / Chapter 288 of NAC
- Hears and decides complaints and petitions by EOs, LGEs, and employees

# Disputes Heard by the EMRB

- Unfair labor practice (ULP) complaints
- DFR actions against EOs (Rosequist, 2002)
- LGE determinations of negotiability
- 6-month limitations period
- Declaratory-order petitions
- Bargaining unit determinations
- LGE denials of recognition
- Requests to withdraw / challenges to recognition

# EMRB Hearings and Decisions

- Detailed procedural rules
- Limited injunctive authority (Kilgore, 2006)
- Rules of evidence “relaxed”
- Timeliness and speed of hearings
- Deliberations exempt from the OML
- Court orders for enforcement
- Administrative review of final decisions

# Challenges Facing the EMRB

- Part-time status, lack of staff support
- Poorly written and reasoned decisions
  - Decisions or decrees?
  - Unexplained departures from precedent
- Inefficiencies and delays in the hearing process
- Hope for the future with new members

# RECOGNITION OF EMPLOYEE ORGANIZATIONS

# Significance of Recognition

- Exclusive bargaining agent
- LGE precluded from negotiating or dealing with rival organization(s)
- Role of rival organization
  - Free to recruit members, work toward majority status
  - Cannot “represent” employees in unit

# Recognition Process

- Application to LGE for recognition
  - No-strike pledge, membership cards
- Representation election ordered by Board
  - Requirement of “good faith doubt”
  - Simple majority vs. outright majority
  - Objections and challenges to election before Board and through judicial review
  - Must winner still comply with recognition requirements?

# Obligations of Bargaining Agent

- Duty of fair representation
  - Avoidance of discrimination, bad faith
  - Timely processing of grievances
- Obligations to non-member employees
  - BA must represent non-members in grievance proceedings, etc., but may charge them a “service fee” (Cone, 2000)

# Withdrawal of Recognition

- Withdrawal by employer vs. “withdrawal” by EMRB
- Grounds for withdrawal
  - Loss of majority support among employees
    - Minority membership equal minority support?
  - Disavowal of no-strike pledge by EO
  - Failure to notify employer of changes in officers or governing documents
  - Failure to negotiate in good faith
- Prior approval of EMRB required
- “Contract bar” limitation

# Challenges to Recognition

- Petition to EMRB by rival EO
  - Based on alleged loss of majority support
  - Where CBA in effect, must be filed during a window period (the “contract bar” again)
    - Notice and commencement of negotiations
    - 30-day period approximately 8 months before expiration of CBA
- Remedy?

# **DETERMINATION OF BARGAINING UNITS**

# Determination Process

- Recognition of BA precedes or occurs concurrently with determination of unit
- Determination by LGE “in consultation” with BA(s) among its employees
- “Community of interest” is governing criterion
- Preference for large units
- EO may appeal to EMRB to challenge

# Limitations on Membership in Unit

- No “confidential” employees
  - Management decisions re: collective bargaining
- Department heads / administrative / supervisory employees
  - Not in same unit as subordinates
  - But one EO may represent both units
- School administrators and teachers
- Law enforcement officers

# **DISPUTE RESOLUTION: MEDIATION , FACT FINDING, AND ARBITRATION**

**Dan Tarwater**  
**Director of Human Resources, City of Las Vegas**  
**November 30, 2010**

## **NRS 288.190 –**

### **Mediation: Selection and duties of mediator**

- Anytime before March 1, the dispute may be submitted to a mediator

## NRS 288.200 –

### **Submission of dispute to fact finder: Selection, compensation and duties of fact finder; effect of findings and recommendations; criteria for recommendations and awards**

- Parties have failed to reach an agreement after at least six meetings
  - Parties have participated in mediation by April 1
  - Mediator of dispute may also be chosen by the parties

## NRS 288.200 – Continued

- Panel of neutral arbitrators within 5 days
- Local Government Employer and Employee Organization each shall pay ½ the cost of fact-finding
- Schedule of dates and times for the hearing must be established within 10 days
- Parties to the dispute may agree before the submission of the dispute to fact-finding, to make the findings and recommendations binding on the parties
- If parties do not agree on whether to make the findings and recommendations final and binding, then either party may request formation of a panel to decide
- Any fact finder, whether the fact finder's recommendation are to be binding or not, shall base such recommendations or award on the following criteria:
  - Preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer within the limitations
  - There is a current financial ability to grant monetary benefits, and subject to the provisions, the fact finder shall consider, to the extent appropriate compensation of other government employees
  - A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, then must consider the ability to pay over the life of the contract.

**NRS 288.180 -****Notice by Employee Organization of Desire to Negotiate; request for information; commencement of negotiations; exemption**

- Whenever an employee organization desires to negotiate, it shall give written notice
  - If negotiation requires the budgeting of money by the local government employer, the employee organization shall give notice on or before February 1
- Employer may request reasonable information concerning any subject matter – without unnecessary delay
- Parties shall promptly commence negotiations and discuss the procedures

**NRS 288.200 –  
Continued**

- Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with chapter 241 to discuss:
  - The issues of the parties
  - The report of findings and recommendations of the fact finder
  - The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report

## NRS 288.200 – Continued

- The CEO of the local government shall report to the local government on the fiscal impact of the findings and recommendations
- Not to be considered or used is -- any sum of money which is maintained in a fund whose balance is required by law to be:
  - Used only for a specific purpose other than the payment of compensation to the bargaining unit affected
  - Carried forward to the succeeding fiscal year

## NRS 288.201 -

### **Request for formation of panel to determine whether findings and recommendations of fact finder are final and binding**

- Request must include:
  - List of unresolved issues and each party's position
  - Requester's assessment of fiscal effect of its position
  - Outline of previous fact finding actions
  - Statement of whether parties attempted mediation
  - Any other information deemed necessary by Commissioner

## **NRS 288.202 –**

### **Formation of panel to determine whether findings and recommendations of fact finder are final and binding**

- State Bar and State Board of Accountancy each submit 5 names of persons not closely allied with either side for parties to choose from (by alternately striking names)
- Attorney and accountant then select third member (must be State resident and not closely allied)
- Commissioner serves as nonvoting member and chair of panel

## **NRS 288.203 –**

### **Compensation of Members of panel; claims**

- Except for Commissioner, panel member entitled to \$150 per day while engaged in panel business and per diem allowance and travel expenses permitted for state officers/employees generally.

## **NRS 288.205 –**

### **Submission of dispute between certain employees and local government employer to fact finder: Time limited for certain matters**

- Applies to police, firefighters and teachers: if no agreement by April 10 – either party may submit to fact finder
- In regular (odd-numbered) legislative years, fact finding hearings must be stayed up to 20 days after adjournment of the Legislature
- Parties may extend time limits by agreement

## **NRS 288.210 –**

### **Subpoenas of fact finder; powers of district court**

## **NRS 288.215 –**

**Submission of dispute between firefighters or police officers and local government employer to arbitrator; hearing; determination of financial ability of local government employer; negotiations and final offer; effect of decision of arbitrator; content of decision**

## **NRS 288.220 -**

**Certain proceedings not required to be open or public**

- Negotiation or informal discussions
- Meetings with mediator
- Meetings or investigations by fact finder; and
- Meetings of local employer's governing body with its management representative(s)

## **NRS 288.153 -**

### **Agreement must be approved at public hearing**

- Report of fiscal impact of agreement
- CEO must report the fiscal impacts

## **NRS 288.230 – 288.250**

### **288.230 Legislative declaration; illegality of strikes**

### **288.240 Injunctive relief against strike or threatened strike**

### **288.250 Punishment of employee organization, officer or employee by court for commencement or continuation of strike in violation of order**

## Prohibited Practices

### **NRS 288.270 Employer or representative; employee or employee organization**

It is a prohibited practice for a local government employer or its designated representative willfully to:

- Interfere, restrain or coerce any employee in the exercise of any right granted under this chapter
- Dominate, interfere or assist in the formation or administration of an employee organization
- Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership
- Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint
- Refuse to bargain collectively in good faith with the exclusive representative as required
- Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations
- Fail to provide the information required

It is a prohibited practice for a local government employee or an employee organization or its designated agent willfully to:

- Interfere with, restrain or coerce any employee in the exercise of any right granted under this chapter
- Refuse to bargain collectively in good faith with the local government employer
- Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations
- Fail to provide the information required

### **NRS 288.280 Controversies concerning prohibited practices to be submitted to Board.**

- Any controversy concerning prohibited practices may be submitted to the Board