

## MINUTES OF THE

## LEGISLATIVE INTERIM RETIREMENT COMMITTEE

## LEGISLATIVE COUNSEL BUREAU

### Carson City, Nevada

A regular meeting of the Legislative Interim Retirement Committee was called to order by Chairman Morse Arberry, Jr., on Wednesday, June 24, 1998, at 3 p.m. in Room 3138 of the Legislative Building, in Carson City, Nevada.

#### COMMITTEE MEMBERS PRESENT:

Assemblyman  
Morse  
Arberry, Jr.,  
Chairman

Senator William J. Raggio, Vice Chairman

Assemblyman Douglas A. Bache

Assemblyman John Marvel

#### COMMITTEE MEMBERS ABSENT:

Senator Raymond D. Rawson

Senator Bob Coffin

#### LEGISLATIVE COUNSEL BUREAU STAFF:

Brenda Erdoes, Legislative Counsel

Mark W. Stevens, Assembly Fiscal Analyst

Daniel G. Miles, Senate Fiscal Analyst

Mary Matheus, Program Analyst

Yhvona Martin, Secretary to Committee

#### A. ROLL CALL.

Chairman Arberry asked the secretary to make note that Senator Rawson and Senator Coffin were excused. Since Senator Raggio was attending another meeting in the Legislative Building and would be arriving later, Chairman Arberry said it was his intention to start with item D on the agenda.

#### B. Approval of November 24, 1997, Interim Retirement Committee Meeting Minutes.

**SENATOR RAGGIO MOVED TO APPROVE THE NOVEMBER 27, 1997, INTERIM RETIREMENT COMMITTEE MEETING MINUTES. SECONDED BY MR. MARVEL AND MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

#### C. Senate Bill 36 - Study of Funding Judges' Retirement Plan on an Actuarial Reserve Basis.

Mr. Pyne apprised the committee that Senate Bill 36 (1997 Legislature) authorized a study for funding the Judges' Retirement System (JRS) on an actuarial reserve basis. The study included an actuarial valuation, an analysis of funding and cash flow, a review of governmental compliance issues and issues relating to prior service and transfer of service, an examination of transferring responsibility for administration of the plan to PERS, and finally an analysis of including Justices of the Peace and Municipal Court Judges in the JRS. Mr. Pyne added that Ms. Leslie Thompson, an enrolled actuary with The Segal Company, which conducted the study, would address the

financial condition of the JRS and review the actuarial valuation report and that he would address other areas that were included in the study after Ms. Thompson completes her review.

After directing the committee's attention to the study conducted by The Segal Company, which is included under tab C in the meeting packet, Ms. Thompson provided a handout entitled "Judges' Retirement Plan of the State of Nevada - Study," a copy of which is included in the meeting minutes as Exhibit A. Ms. Thompson noted that the handout provides an outline that she would follow through her discussion of the valuation results.

Page 1 of Exhibit A shows that the Judges' Plan is currently funded on a "pay-as-you-go" basis; S.B. 36 authorized a study for the funding of the Judges' Plan on an actuarial reserve basis; and that valuation has been completed.

Page 2 of Exhibit A indicates that payments are derived from General Fund expenditures for benefits and expenses. The payments tend to be lower in the earlier years of the Judges' Plan than actuarial reserve funding and payments will increase with, what she termed, the "baby-boom bubble," which is the large cohort of members who are attaining retirement age. Actuarial funding provides for payments that are higher in earlier years, but the payments are designed to remain level as a percentage of payroll. Interest earned in the trust will pay a significant portion of benefits.

On page 3 of Exhibit A, the valuation was based on present statutes for benefit provisions for the judges. There are 52 active judges and 32 retirees and beneficiaries included in the valuation. No assets are in trust at this point in time. The Segal Company used actuarial assumptions which were consistent with experience and best practices within the industry.

Page 4 of Exhibit A displays the funding scenarios that were examined. There were two key scenarios: i.e., whether or not to include retirees in the actuarial valuation or whether to pay the unfunded actuarial accrued liability over 39 years, which is the maximum amount allowable under the Government Accounting Standards Board (GASB); or over 26 years, the same number used in PERS.

Page 5 of Exhibit A displays the results in three categories, which are: Normal Cost, which is the cost for benefits accruing for service earned in the current year, Expenses, and Unfunded Accrued Liability (UAL) Payment, which is the past service liability; i.e., benefits which have been accruing for a period of time for which no assets have been set aside in trust.

Under column one, assuming a 39-year amortization of UAL and leaving retirees out of the plan, creates a total funding cost of 41.9 percent of payroll. The second column shows that if all members were to be included in the plan, a 39-year amortization of UAL creates a funding cost of 50.6 percent of payroll. The third column shows that if retirees were to be backed out, and the UAL amortized over 26 years, that cost would drop to 45.3 percent. The fourth column depicts that if all members were to be included in the plan, and the UAL amortized over 26 years, the funding cost would be 56 percent of payroll.

Page 6 of Exhibit A shows what would happen if the UAL were to be "pre-paid," which means the total amount of those benefits earned to date were influxed into the plan. The total normal costs under all scenarios would be 27.2 percent of payroll.

Page 7 of Exhibit A describes several transition plans. To answer the question of how much should be put into the plan initially to cover benefit payments, because there are currently people in retirement status, The Segal Company looked at professionals in the benefit payment industry who recommend one to three years worth of benefit payments. For purposes of this illustration, Ms. Thompson said she used the most conservative approach, which is a three-year cash outlay, and looked at the four scenarios that were previously identified on page 6. The totals listed under each of the four scenarios represent the three years of benefit payments that are anticipated to be required for current retirees and for those projected to retire within the next three years.

Page 8 of Exhibit A lists three bullets that illustrate the benefits of actuarial funding; namely: contribution levels are predictable as a percent of payroll over time, this can create "intergenerational equity" in the funding so that current costs are not pushed into future generations by using actuarial funding, and over time the investment income will help pay for benefits, which creates a lower pressure for contributions.

Page 9 of Exhibit A - Ms. Thompson noted that the cash flow exhibits that are included in the meeting packet under tab C compare funding methods for the current group of judges. Ms. Thompson said she did not anticipate new judges into the plan. The exhibits were intended to show the difference between actuarial reserve funding and pay-

as-you-go funding. Experience, when it differs from that assumed, will create dollar differences year to year. The exhibits also show how much investment income can serve to pay for benefits and reduce the pressure for contributions.

Page 10 of Exhibit A - Ms. Thompson indicated that if the Municipal Court judges were to be transferred from PERS into the JRS, low-cost pressure would occur in the JRS for two key reasons: (1) past service would not be brought into the JRS, so no UAL would be created; and (2) the demographic characteristics, primarily average age, are very similar to that currently exhibited in the JRS; thus, keeping the normal cost rates relatively stable.

Ms. Thompson said she had concluded her report and would be happy to respond to any questions the committee might have.

Chairing in Chairman Arberry's absence, Vice Chairman Raggio recognized Mr. Mark Stevens, Assembly Fiscal Analyst, who had a question on page 10 of Exhibit A. Since service credit is accelerated in the current JRS when compared to PERS, Mr. Stevens wanted to know whether Municipal Court judges transferring into the JRS would receive credit for past service as a Municipal Court judge based on the PERS rate or the JRS rate. Mr. Pyne apprised the committee that a Municipal Court judge who was a member of PERS at the time they were elected to the Supreme Court or the District Court, would have the option to continue to remain in PERS and accrue benefits at 2.5 percent for each year of service. On the other hand, if the Municipal Court judge has only brief service time in PERS, they may choose to transfer to the JRS and start accruing benefits at the higher 4.166 percent rate for each year of service. Mr. Pyne said there would be no transfer of service or assets from PERS into the JRS.

Mr. Stevens questioned whether a judge could receive a retirement benefit from PERS as well as the JRS if the judge were vested in PERS and then transferred over to the JRS. Mr. Pyne indicated that NRS 286.305 prohibits an individual from receiving a benefit from PERS and the JRS. To complicate the issue, Mr. Pyne pointed out that a judge who was a member of PERS at the time of his election to a District Court can choose to move into the JRS, or continue to remain in PERS right up until retirement, and then choose to transfer into the JRS and receive a benefit from Chapter 2 or Chapter 3 of Nevada Revised Statutes (NRS) versus PERS. In essence, the state has funded the benefit twice; once on a pay-as-you-go basis from the JRS and funding from PERS. Mr. Pyne pointed out that a recent Attorney General's opinion had dealt with a particular individual who had already retired with PERS and was receiving a benefit from PERS who then entered the JRS. The opinion ruled that because the individual was no longer a member of PERS, they could accrue benefits and retire out of the JRS and receive a benefit from both retirement plans.

After directing attention to page 37 in the meeting packet, Mr. Stevens said it would appear that one option might be available to the legislature, once the study has been reviewed, to pay \$866,664 for 39 years as the cash contribution for the UAL to date. Mr. Pyne said the \$866,664 would change over time because it was based on the level percent of payroll; thus, as the payroll increases the dollar amount would increase. Mr. Pyne referred the committee to page 39 in the meeting packet which illustrates how the amounts would change relative to normal payroll costs.

Mr. Stevens said he would assume the legislature would have an option of either rolling the cost of the UAL into the contribution rate or to pay for it in cash, depending on where the rate was set for the JRS. To respond to Mr. Stevens' statement, Ms. Thompson directed attention to page 22 in the meeting packet, which depicts the initial amount of the total UAL would be \$17,692,717.

It was Vice Chairman Raggio's understanding that if the legislature were going to address the UAL and adopt scenario 1 (page 22), it would require the total expenditure of \$17,692,717 to fund the JRS over a period of 39 years and if the amortization period were to be lowered to 26 years it would increase the yearly payments. Looking at scenario 1 on page 39, Vice Chairman Raggio wondered whether the \$866,700 reflects an increased cost over and above current contribution rates and whether it would require several million dollars each biennium increasing to approximately \$3 million. Mr. Stevens said it was his understanding that the funding would cover the years of service that judges currently have in the system that the state has not been paid for to date. Mr. Stevens thought the question the legislature would need to answer is whether it wants to roll that funding into the contribution rate or pay cash for it on an annual basis and lower the contribution rate to 27.2 percent.

Vice Chairman Raggio apologized for not having the opportunity to read The Segal Company study prior to the meeting and he asked the PERS staff to bear with him if his questions had been addressed in the information contained in the meeting packet. Vice Chairman Raggio wanted to know whether column (2) in the schedule on page 39 was the actual amount that would need to be funded or would some of the funding be returned through

investments. Ms. Thompson referred the committee to page 40 in the meeting packet which reflects the amounts that will be returned through investments versus contribution. The actuarial funding column is the sum of the normal costs, the UAL payment, and expenses over time. After 20 years, the actuarial funding is fairly similar to pay-as-you-go funding. She said, however, there was a larger difference between the two scenarios after 40 years. Since the same benefits need to be paid to the retirees, Ms. Thompson indicated that the difference between the \$93,304,800 (actuarial funding) and the \$145,924,500 (pay-as-you-go funding) was the investment earnings.

Mr. Pyne told the committee that The Segal Company had been asked to review the major federal law compliance issues related to funding the JRS on an actuarial reserve basis and a conclusion was reached that the JRS should be established as a qualified trust under Section 401(a) of the Internal Revenue Code (IRC). PERS is currently under IRC Section 401(a). This would maintain the continuity of tax treatment of benefits currently being paid to existing retirees and beneficiaries. Certain compliance amendments should be added to the law as shown on page 52 of the meeting packet. Mr. Pyne indicated that the actuarial firm had advised PERS it would need to put in the same types of references to the IRC in the JRS in order to maintain the same qualified tax status that PERS has.

In addition, issues of prior service and transfer of service which pertain to the JRS were studied. Beginning in 1960, Mr. Pyne noted that the Supreme Court justices and District Court judges were included with other elected officials that had an option to join PERS. Each elected official could join PERS by giving written notice of participation within 30 days of taking office. If a judge did not make an election within that 30-day period, his service was credited in the non-contributory judges' plan. However, a judge who did not originally elect PERS membership could later do so and transfer that prior service from the JRS to PERS.

The terms for electing retroactive PERS participation stated that if a judge, or any elected official for that matter, did not choose membership when first elected to office, he would not have another opportunity to do so until the start of another term in office, or the expiration of 4 years or more, whichever occurred first. The judge and his public employer were required to make the appropriate payments of past contributions with interest. As he mentioned earlier, Mr. Pyne noted that NRS 286.305 specifically prohibits Supreme Court justices or District Court judges from receiving benefits under both PERS and JRS.

Legislation was passed in the 1970's which removed the language that allowed elected officials to contribute to PERS for prior service. Rather, elected officials could choose to purchase the prior service by paying the full actuarial cost as determined by the system's actuary. This was one of numerous provisions passed during that decade to protect the fiscal integrity of PERS. These provisions remain in effect in the Public Employees' Retirement Act today and should not be modified.

According to Mr. Pyne, an inequity exists today for Supreme Court justices and District judges who are members of PERS at the time they are elected to office. These judges have an ongoing choice to participate in PERS or the JRS throughout their judicial career. They may choose to remain in PERS until such time as they feel that moving to the non-contributory JRS is more advantageous; therefore, the State of Nevada could conceivably pay contributions into PERS on behalf of a judge for most of his career, yet the judge could choose to retire under Chapter 2 or Chapter 3 of the NRS. Because of his choice to receive benefits under the JRS, no benefits would be payable from PERS; however, in essence, the state would pay twice for this benefit. Supreme Court justices and District Court judges are the only PERS members that have this choice. The ongoing option to choose membership in either plan needs to be removed, especially if the legislature decides to fund the JRS on an actuarial reserve basis. If this revision is not made, Mr. Pyne said it would be difficult, at best, for the actuary to predict future plan costs because the actuary would have no way of knowing who would be moving from one plan to the other and at what point in time in their career.

The next area that was studied was the feasibility of transferring administration of the JRS to PERS. Mr. Pyne advised the committee that PERS would be able to assume administration of the JRS with minimal staffing impact due to the plan's relatively small size, PERS' experience with the LRS, and input received from the Administrative Office of the Courts (AOC), which indicates that the impact on AOC would be minimal as well. There would be some initial start-up costs and ongoing costs associated with plan administration. The initial start-up cost would be \$50,000 for computer programming related to establishment of such things as a new fund to include the different rules of the JRS and the addition of a new chart of accounts for the JRS. Ongoing administrative costs are estimated to begin at \$36,605 in the first year of the upcoming biennium. A detailed schedule of the estimated costs for FY 2000 is shown on page 56 of the meeting packet. Also included in the schedule are costs for an annual actuarial valuation (\$20,000), financial audit (\$7,410), and investment fees (\$3,000). The estimate for investment fees would be contingent upon how much money is initially placed in the JRS.

If the legislature decides to fund the JRS on an actuarial reserve basis, but continues to pay present retirees on a pay-as-you-go basis, as it has in the past, Mr. Pyne stated that PERS recommends that administration of the JRS remain with the AOC because of the likelihood these individuals have become financially dependent on receiving their benefits biweekly through the state's payroll system. Since PERS pays its retirees and beneficiaries on a monthly basis, it would not be cost effective to change PERS' payment process to accommodate such a small number of retirees.

PERS is also recommending the establishment of a separate JRS, as opposed to a separate Judges' Retirement Fund within PERS, for the following reasons:

1. Incorporating the JRS into PERS would disrupt the uniformity of PERS' plan design. Presently, all PERS members accrue benefits at a rate of 2.5 percent for each year of service. This includes police, fire, as well as regular members. By contrast, members of the JRS accrue benefits at a rate of 4.166 percent for each year of service.
2. There are other plan design differences as well. The chart on pages 58 and 59 in the meeting packet displays a comparison of the JRS and PERS. The existing fundamental plan design differences should continue to be segregated under the two separate systems.
3. Although PERS has no current federal regulation or IRC problems, if the JRS were to be blended into the PERS fund, this might not continue to be the case because the higher benefit accrual rate for judges would be a cause of concern if federal non-discrimination legislation were to surface again.

Mr. Marvel wondered why PERS members accrue benefits at a rate of 2.5 percent for each year of service when members of the JRS accrue benefits at a rate of 4.166 percent for each year of service. Although he had not reviewed the original legislation, Mr. Pyne said he would assume the difference in the benefit accrual rate between the two systems was because the average entry age into JRS of a District Court judge or a Supreme Court justice was 45; whereas, the average entry age into PERS was age 35. Because of the 10-year difference in entry age, Mr. Pyne said it was his belief that the benefit accrual rate was set at an accelerated rate in order to allow the judges to reach 75 percent of pay by a particular age.

Mr. Marvel wanted to know whether there was a formula to determine the percentages. Mr. Pyne said he did know the basis for setting the 4.166 percent rate, but he thought it was because the judges on average have a later entry age into JRS.

Mr. Pyne noted that an analysis was done to include Justices of the Peace and Municipal Court Judges in JRS. According to Mr. Pyne, Justices of the Peace and Municipal Court Judges presently participate in PERS and accrue benefits at the rate of 2.5 percent for each year of service, however, they contend that they should be able to accrue benefits at the higher judges' plan rate (4.166 percent) due to their higher average entry age into PERS (age 45 versus age 35 for regular PERS members). If these judges were to be included in the JRS under the same terms and conditions as is presently the case for justices of the Supreme Court and District Court judges, Mr. Pyne indicated that there would be little cost impact because they have similar membership characteristics and no past service would be transferred from PERS into the JRS. He said, however, contribution rates would likely need to be increased from the present rate of 18.75 percent, which would translate into additional costs for local government employers. Mr. Pyne directed the committee's attention to the recommendations listed on page 62 in the meeting packet. Mr. Pyne said he would be happy to recite each of the 10 recommendations if the committee so desires.

Senator Raggio said he wanted to clarify how the benefits would be computed if, for example, a Justice of the Peace with 10 years vested in PERS were to decide to switch over to the JRS and then retires after 10 years or 15 years with JRS. Mr. Pyne apprised the committee that the Justice of the Peace would receive one benefit from JRS. It was Mr. Pyne's belief that a Justice of the Peace with 10 years in PERS would probably choose to stay in PERS.

Since legislators are currently allowed to have retirement benefits in the Legislative Retirement System (LRS) as well as in PERS, Senator Raggio wondered what would be wrong in allowing the Justices of the Peace and the Municipal Clerk Judges who had vested in PERS and JRS to collect retirement benefits from both systems. Mr. Pyne suggested that legislation could be crafted to accomplish that. It was Mr. Pyne's belief that the framers of this particular piece of legislation did not want to take anything away from anybody; thus, those that were already in PERS could stay there and continue to accrue benefits throughout their judicial career. Mr. Pyne also thought the framers wanted to ensure that the judges did not receive two benefits for the same service.

Senator Raggio said it was his understanding that the Justices of the Peace and the Municipal Court Judges could opt to remain in PERS and not lose service credit; or, they could opt to select JRS and lose their prior service credit in PERS. Mr. Pyne said Senator Raggio's understanding was correct.

Senator Raggio pointed out that recommendation 1 (page 62 in the meeting packet) would require a decision on whether to fund the JRS on an actuarial reserve basis and he was not sure the committee was prepared to vote on this today.

Chairman Arberry suggested that the committee be given the opportunity to digest the recommendations and action be deferred until the next meeting.

Mr. Stevens suggested having another meeting some time in the fall when the Interim Finance Committee next meets.

Senator Raggio also pointed out that BDR's are required to be in early because of the likelihood of a compacted legislative session.

Ms. Brenda Erdoes, Legislative Counsel, agreed with Senator Raggio, adding that bill drafting would start in the month of June.

Senator Raggio wanted to know how much funding was going to be required for the state to address the UAL during the next biennium either through a direct appropriation or by increasing the contribution rate. Mr. Stevens said he would provide a written analysis to the committee so it would clearly understand cash-wise how much farther behind or ahead the state would be in the short term based on the two systems.

Mr. Marvel asked Mr. Pyne to explain recommendation 5 (page 62 in the meeting packet). Mr. Pyne indicated that the Retirement Board currently has the exclusive investment authority of PERS as well as LRS. Since JRS currently has no trust fund, no investment authority is necessary. He said, however, if a decision were to be made that the Retirement Board administer JRS, the Retirement Board should have the exclusive authority to make investment decisions for JRS as it currently does for PERS and LRS.

Mr. Marvel inquired about recommendation 7 (page 62 in the meeting packet). Mr. Pyne said the Supreme Court justices or the District Court judges would be allowed a certain number of days, say 30 to 90, either to remain in PERS or switch over to JRS.

Senator Raggio suggested that the committee accept the report, consider the recommendations, and defer action until the next meeting. Prior to the next meeting, Senator Raggio said it was his understanding that the committee would be provided with specific information on cash flow requirements from the legislative Fiscal Analysis Division staff who would work in conjunction with the PERS staff. Mr. Pyne said he and his staff would be pleased to work with the Fiscal Analysis Division staff to provide the committee the information it needs to make an informed decision.

#### **D. Comparative Analysis of Benefits Provided by the Legislators' Retirement System with Other States.**

Chairman Arberry recognized Mr. George Pyne, Executive Officer, Public Employees' Retirement System (PERS). Mr. Pyne introduced Ms. Laura Wallace, Investment Officer, Mr. Ken Lambert, Administrative Analyst, Ms. Dana Bilyeu, Operations Officer, Ms. Holly Zimmerman, Management Analyst, Ms. Patty Beck, Administrative Assistant, Ms. Ann Schleich, Chief Accountant, and Ms. Paula Darragh, Chief Information Systems. In addition, Mr. Pyne introduced Ms. Leslie Thompson, an enrolled actuary with The Segal Company, who he said would be testifying on S.B. 36 (item C on the agenda).

In providing background information, Mr. Pyne noted that the Legislators' Retirement System (LRS) was established in 1967 to provide retirement and survivor benefits to members of the Nevada Legislature. Legislators vested, that is, earned the right to receive a benefit from LRS, with 8 years of service at age 60. For each year of service a legislator receives \$20 towards his monthly benefit amount. Therefore, a legislator retiring with 8 years of service could expect to receive a \$160 monthly pension at age 60. In 1975, the current formula of \$25 for each year of legislative service was passed into law and in 1985 the vesting requirement was increased from 8 years to 10.

After directing the committee's attention to Exhibit 1 and Exhibit 2 beginning on page 86 and page 87 in the

meeting packet, Mr. Pyne noted that Exhibit 1 depicts that 10 years of legislative service is currently required to vest in the LRS; legislators are eligible for retirement benefits after 10 years of legislative service at age 60; and the service retirement benefit is \$25 per month for each year of legislative service. In addition, legislators have three benefit options; i.e., (Option 1) unmodified, (Option 2) 100 percent joint and survivor, and (Option 3) 50 percent joint and survivor. In providing an example, Mr. Pyne said that a legislator retiring at age 60 with 10 years of legislative service could retire with a \$250 per month benefit for his lifetime under the unmodified plan, or Option 1. However, if the legislator wanted to provide income protection to a beneficiary after death they could select Option 2, a 100 percent joint and survivor benefit, which would provide a reduced monthly benefit to a beneficiary or Option 3, 50 percent joint and survivor, which would provide the beneficiary with one-half of that monthly benefit. These three options are very similar to the options offered in PERS.

Mr. Pyne directed attention to Exhibit 2 on page 87 in the meeting packet which indicates that there is a 6 percent per year penalty for early retirement. As an example, if a legislator with 10 years of legislative service were to retire at age 59, that \$250 monthly benefit would be reduced by 6 percent. Survivor benefits are similar to those in PERS. There are no disability benefits in LRS. Legislators may purchase up to 5 years of prior out-of-state or military service. Post-retirement increases are the same as PERS.

Exhibit 3 on page 88 of the meeting packet provides a comparison between PERS and LRS. According to Mr. Pyne, several of the differences can be attributed to legislation that was repealed in 1989 and mirrored PERS legislation that same year.

Chairman Arberry wondered if it would be appropriate to reduce the legislators vesting time from 10 years to 5 as it was his understanding that 5 years was the normal vesting time across the country. Mr. Pyne agreed with Chairman Arberry that 5 years was the standard in the industry as well as in the private sector.

Mr. Pyne noted that the fixed dollar amount for each year of service was the primary difference in the benefit formula between the PERS plan and the LRS plan. In addition, the penalty for early retirement in PERS is 4 percent versus 6 percent for LRS. Members of PERS have seven optional plans from which to select versus three for LRS. He said he would estimate, however, that 90 percent of PERS retirees had selected from the first three options, which are the same three options available to legislators. Members of PERS can purchase 5 years of service without regard to any prior out-of-state or military time; however, members must pay the full actuarial cost associated with that purchase, which is fairly expensive. Members of LRS are required to have 5 years of out-of-state or military time in order to purchase additional time.

Continuing, Mr. Pyne told the committee that PERS staff had begun its study by first comparing the salaries of legislators in Nevada with those elsewhere. Nevada is one of six states (Arkansas, Kentucky, Montana, Nevada, Oregon, and Texas) with biennial legislative sessions. Nevada legislators receive a salary of \$130 per day for 60 days, or \$7,800. Legislative salaries in other states range from \$10 per day for up to 100 days each year in Alabama, to \$72,000 annually in California. The salary range was just as diverse in those six states that have biennial sessions. Arkansas, Oregon, and Texas legislators are paid annual salaries and the remainder are paid on a per diem basis.

It was Chairman Arberry's understanding that California legislators were currently receiving \$105,000 annually. Mr. Pyne indicated that the annual salary for legislators in California could very well have increased to \$105,000 since his reference sources were 1996-97 surveys from the Council of State Governments (CSG) and the National Council of State Legislators (NCSL).

According to Mr. Pyne, the average salary of legislators in the 38 states surveyed was \$24,000 per year. In the vast majority of those states, the legislature participates directly in the method to establish legislative compensation. Mr. Pyne said that PERS staff found it difficult to make true comparisons of compensation because they were unable to determine whether legislators in the various states were considered part time or full time, given the frequency and the length of legislative sessions, and allowances and reimbursements in addition to base salary.

Mr. Pyne directed the committee's attention to Exhibit 4 on page 89 in the meeting packet. There are nine states, Alabama, California, Louisiana, Nebraska, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming, that do not have a pension program. It was Mr. Pyne's assumption that the legislators in those states participate in Social Security. Approximately one-half of the remaining 41 states either have mandatory or voluntary participation in a retirement program. Some states have legislator benefits that are similar to employees, while other states have a separate program.

Exhibit 5 on page 90 in the meeting packet shows that retirement vesting and benefit formulas are not uniform from one state to the next. In most states, age and service eligibility for an unreduced benefit falls between ages 55 and 62, with 5 to 10 years of service. In most states benefits are tied to a formula based on a percentage of pay; however, in other states, including Nevada, benefits are based on a formula which uses a specific dollar amount per year of service. Of the 41 states surveyed, 11 have a vesting requirement with 4 years or less; 18 states, including Nevada, have a vesting requirement greater than 4 years; and the vesting requirement was not clearly indicated for the remaining 12 states.

Exhibit 6 on page 91 in the meeting packet shows that on balance in those states with pension programs it would appear that Nevada's legislator retirement benefits are less than the average.

Chairman Arberry wanted to know how the industry defines part time. Mr. Pyne said it had been difficult to define part time and full time because of the various pay structures in the states. He said he had even read the "1995 Blue Ribbon Commission Study on Pay for Elected Officers in Nevada to Include Members of the Legislature" in an attempt to gain additional insight.

Mr. Marvel wanted to know whether a pension from LRS would impact Social Security benefits. Mr. Pyne suggested that since a pension either from LRS or PERS would be viewed as a governmental pension, they would be subject to an offset. Mr. Pyne said it was a standard rule of thumb that if an individual receives a pension from PERS, their Social Security pension would probably be cut in half.

#### **E. Report on Resolution in Opposition to Mandatory Social Security Coverage of State and Local Government Employees.**

At its April 1998 meeting, Mr. Pyne noted that the Retirement Board had passed two motions in opposition to mandatory Social Security coverage of state and local government employees. The Retirement Board also passed a motion requesting the 1999 Legislature adopt a resolution urging Congress not to mandate Nevada's public employees under Social Security. Mr. Pyne thought the committee would recall that this important pension issue had surfaced from time to time over the last 20 years. Now, more than ever, it appears that Congress is ready to deal with it once and for all.

Several commissions have also been studying proposals to "fix" Social Security's economic woes. Virtually all of these commissions have included mandatory coverage for all newly hired public employees as one revenue source to help cure the funding problems of Social Security. A General Accounting Office (GAO) study projected that mandatory coverage would reduce the long-term funding shortfall of Social Security by about 10 percent. Mr. Pyne thought it was important to point out that this projection does not take into account when these employees become eligible for benefits. The GAO acknowledges that mandatory coverage will resolve only a small part of Social Security's problems and many legal and administrative issues would need to be resolved before mandatory coverage could be imposed.

Mr. Pyne told the committee that PERS remains firmly opposed to mandatory coverage. The impact to Nevada, should it be forced to overlay Social Security on the PERS' benefit structure, is estimated to be \$27 million in the first year, rising to \$157 million after only 5 years. Such a cost is clearly an unfunded mandate, which could cause serious disruption to Nevada's well-funded retirement program. Mr. Pyne said it was PERS' recommendation that the Interim Retirement Committee pass a motion in support of the Retirement Board's request that the 1999 Legislature pass a resolution urging Congress not to mandate state and local government employees under Social Security.

Mr. Marvel asked Mr. Robert Gagnier, Executive Director, State of Nevada Employees' Association (SNEA), who was sitting in the audience, if SNEA had taken a formal stand on this issue. Mr. Gagnier stated that SNEA had adopted a formal resolution many years ago in opposition to mandatory coverage for Nevada's public employees under Social Security. The American Federation of State, County, and Municipal Employees (AFSCME) also supports SNEA's resolution and is currently lobbying Congress against mandatory coverage for public employees under Social Security. It was Mr. Gagnier's belief that SNEA was not alone in its pursuit because every major public employee organization in the State of Nevada has taken the exact same position. Mr. Gagnier also said he was not aware of any public employee organization or union in the State of Nevada that favors the imposition of mandatory coverage under Social Security. Mr. Gagnier also indicated that he had worked with sister organizations in several states, for example, Ohio, who support Nevada's position.



Mr. Marvel thought Nevada had a great retirement system and it would be a shame to have it destroyed because of a Congressional mandate.

Mr. Pyne noted that there were approximately 5 million to 7 million public employees and approximately eight statewide systems across the nation that were not presently under the Social Security System. It was Mr. Pyne's belief that there had been a concerted effort by these groups and the public pension industry to stay out of Social Security, but it remains a real threat. Mr. Pyne said he, along with several of his peers within the industry, had the opportunity to testify before the House of Representatives Ways and Means subcommittee on May 21, 1998. While he thought their testimony was very well received, Mr. Pyne said there appears to be a considerable amount of momentum in the other direction and he hoped the legislative resolution would further Nevada's cause.

Chairman Arberry said he would entertain a motion to support the Retirement Board's resolution.

**MR. MARVEL MOVED TO SUPPORT THE RETIREMENT BOARD'S REQUEST FOR THE 1999 LEGISLATURE TO PASS A RESOLUTION URGING CONGRESS NOT TO MANDATE STATE AND LOCAL GOVERNMENT EMPLOYEES UNDER SOCIAL SECURITY. SECONDED BY MR. BACHE AND MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

#### **F. Preliminary Report on A.C.R. 15 - Study of Public Employees' Retirement Service Credit and Average Compensation.**

Mr. Pyne noted that the primary purpose of the A.C.R. 15 study was to address any inequities and plan comprehension issues dealing with public employees who work non-traditional work days and part-time work weeks. The study also reviewed the timing of service credit and of reporting contributions for school district employees who begin work under a new contract prior to expiration of the old contract. PERS' study procedure included participation by interested Nevada public employers and employee associations with two meetings being held to date. The first meeting, on January 7, 1998, addressed the scope of the study and draft survey questionnaires. The second meeting, held on April 28, 1998, reviewed preliminary survey results.

In addition, Mr. Pyne stated that two surveys were conducted, one to gather information on the practices of other states in each of the study areas, and the second to identify present employer reporting practices in Nevada. PERS' preliminary findings show a need to address the issue of certain "full-time public employees" that are not receiving full-time service credit in PERS. For the most part, these are employees who work 12-hour shifts, or perhaps 36 hours one week and 48 hours the next, as can be seen in Appendix E on page 133 in the meeting packet. Reduced hours are reported to PERS even though these employees work equivalent to or greater than 80 hours on a biweekly basis. Less than full-time hours reported to PERS is either due to the fact that 8 hours of each 40-hour full-time work week exceeds the employers' 40-hour full-time work week certification, or because the hours worked over 40 in a week are paid at the overtime rate and not subject to retirement contribution.

PERS also found that a better effort is needed on PERS' part to educate part-time employees about the special rules that apply to them for determining retirement eligibility and benefits. Many respondents to PERS' in-state survey suggested that more on-site visits, videos, and other instructional information be directed specifically to part-time employees. Funds for these materials will likely be requested in PERS' upcoming budget. The timing of service credit and contributions for overlapping school contracts varies greatly from state to state. A technical change in the statutes is required to recognize that while service credit for school employees should be calculated according to the school year, school years may begin on dates other than September 1.

Chairman Arberry asked Mr. Pyne when the report would be finalized. Mr. Pyne responded that the work was almost completed, but he intended to have one more meeting with the Nevada Rural Hospitals Alliance, the organization with the 12-hour shift employees who might suffer a fiscal impact from recommendations resulting from the study.

#### **G. Update on Development of New Automation System - Computer Automated Retirement System of Nevada - (CARSON).**

Ms. Dana Bilyeu, Operations Officer, PERS, said she wished to give a brief update on the new automation system called CARSON. As of today, Ms. Bilyeu advised the committee that the project was on schedule and budget for completion in FY 2002. In reviewing the history of the project thus far, Ms. Bilyeu explained that during the 1997 Legislative Session, PERS was involved in a due diligence review process with the vendor, Claremont Technologies Group, who is also working with about four other public retirement systems; i.e., Mississippi PERS,

New Hampshire PERS, Ohio Teachers' Retirement System, and California PERS. PERS has successfully negotiated a contract with Claremont Technologies for the 4-1/2 year project.

Ms. Bilyeu directed the committee's attention to page 143 in the meeting packet, which outlines the contract requirements. Since PERS was apprehensive about entering into a major contract with a vendor, Ms. Bilyeu said that various restrictions were placed into the contract as protection for PERS. The contract calls for a five-phase project, which is cancelable at any phase. The vendor was required to secure a performance bond in the amount of \$1 million, which must remain in effect during the entire project. The \$1 million performance bond is reflective of the maximum cost of a deliverable within any of the five phases. PERS is also requiring a 15 percent hold back on all deliverables. With the exception of hard travel costs, which were included in a fixed bid, all costs in the \$14-million project are subject to the 15 percent hold back. The hold-back funds will be retained until the contract has been satisfactorily fulfilled.

Page 144 in the meeting packet describes the five phases of the project, which are: start-up, requirements definition, financial accounting, membership and benefits. Ms. Bilyeu noted that the startup phase had consisted of putting the ramp up for the project. In addition, the vendor, Claremont Technologies, opened an office in Carson City and relocated staff to the Carson City area as well as to the Sacramento area to support this project. A project protocol document was drafted, which governs PERS' behavior as well as the vendor's behavior in their working relationship so that staff works from the same set of documents. The project tracking process was developed, which is basically a spreadsheet listing all deliverables. This allows PERS staff to look at the draft deliverable, review the deliverable with the vendor, provide comments on the deliverable, re-review the deliverable, until acceptance is made of that particular deliverable. The second phase, or requirements definition phase, will allow the vendor to review the basic business rules of PERS. This phase is scheduled to be completed by the end of June of 1998. The financial accounting system is scheduled to be converted to the new system on July 1, 1998. PERS is currently in the acceptance testing process.

After directing attention to page 145 in the meeting packet, Ms. Bilyeu noted that there was a five-tiered approach to project monitoring. The first level is the user group, which ensures members of Claremont Technologies and PERS' production people are speaking the same language. Ms. Bilyeu noted that the Project Management Committee meets on a weekly basis and consists of Claremont Technologies Project Manager, PERS Project Manager, all of the PERS division managers, quality assurance consultant, and herself. The committee reviews on a weekly basis how the deliverables are tracking against time lines, making sure the resources from the Claremont side as well as the PERS side are being allocated properly to problem areas and time lines. The Project Steering Committee meets on a monthly basis and consists of herself, the PERS Executive Officer and the executive staff member from Claremont Technologies to ensure that the project is in compliance with various contract responsibilities. Quality Assurance is delivered by L.R. Wechsler, Limited, a consulting firm that has been on board since prior to the drafting of the Request for Proposal (RFP). The contractor is responsible for signing off on each deliverable that PERS receives from Claremont Technologies to ensure that it is in accordance with the RFP.

After directing the committee's attention to page 146 in the meeting packet, Ms. Bilyeu explained that the start-up phase has been completed, the requirements definition for membership and benefits will be completed by the end of the month, and the CODA financial accounting system will become operational on July 1, 1998. The Local Area Network (LAN), which is the internal network of computers at PERS, is currently in place and is being fine tuned for a complete roll out on July 1, 1998. The analysis and prototype phase, which is the next level down in detail for the business rules on the membership system, has been started. The benefits system will start the same process some time in mid-August.

Page 147 in the meeting packet continues the progress to date. Ms. Bilyeu indicated that the quality assurance consultant was very involved in the acceptance testing for CODA. Ms. Bilyeu said she wished to point out that PERS had been able to move forward time lines for several of the project phases. For example, the CODA accounting system has been moved forward to a July 1, 1998, implementation date so that PERS will be able to have a full year of fiscal data on one accounting system, rather than trying to piece it together from two separate accounting systems. The time line for the benefit system has also been moved forward as well as the time line for the membership system implementation, again to correspond to the fiscal year date. The membership system implementation time line had originally been scheduled for September of 1999. She said, however, after reevaluating workloads at PERS, September is considered to be PERS busiest month because of teacher retirements; thus, implementation was moved away from that heavy workload period. Although she acknowledged that there had been set backs, Ms. Bilyeu reiterated that the overall project was on time and on budget.

Chairman Arberry wanted to know who would be the specific users of the new system at PERS. Ms. Bilyeu

indicated that the new system would be used by all PERS staff and was intended specifically to improve the functionality in the membership system, the benefits system, and the financial accounting system, which were PERS' core business functions. In addition, the new system is expected to assist management in tracking workflow. According to Ms. Bilyeu, it was key to PERS to make sure the Information System Division will be able to maintain and support the new system; thus, training was included in the RFP. As PERS moves toward total implementation, Ms. Bilyeu indicated that more of the maintenance and support will be provided by PERS staff, with less coming from the vendor, with eventual total support being provided by PERS staff.

Mr. Pyne noted that while all of the PERS staff would have access to the new system, staff's access would be subject to appropriate internal controls and segregation of duties.

Chairman Arberry wanted to know whether a Help Desk would be available to assist PERS staff with the new system. Ms. Bilyeu recalled that when she testified before the money committees during the 1997 Legislative Session, she had indicated seven staff would be required in the Information System Division, but one position to operate the Help Desk would not be filled until needed. Ms. Bilyeu said a request to fill the Help Desk position had recently been presented to the Retirement Board. If the Retirement Board approves the request, it would be submitted to the 1999 Legislative Session. Ms. Bilyeu assured Chairman Arberry that there would be a Help Desk function within the Information Systems Division to provide front line help for PERS users, which would allow the operations, programming, and network staff to concentrate on the maintenance and support of the system.

Chairman Arberry asked Ms. Bilyeu if the Help Desk position would have access to the vendor when questions arise on the new system and Ms. Bilyeu responded affirmatively. Ms. Bilyeu also indicated that PERS considers the Claremont Technologies Group as a resource going forward. While PERS will have control of the new system and PERS programming staff will have the ability to modify and amend the system internally, Ms. Bilyeu said she did not believe the time would ever come when PERS programming staff would not want to communicate with the vendor regarding various aspects of the system.

Chairman Arberry questioned whether the system would be obsolete once it becomes operational and require additional money for the vendor to bring the system up to date. Ms. Bilyeu said it was difficult to respond to Chairman Arberry's question because as business moves forward and technology changes it creates a constant state of flux in the industry. Although it would be impossible for her to state with any degree of certainty that the industry would not move in a different direction in the future from where the new system currently is, Ms. Bilyeu said she thought the new system would be a very useful and long-term benefit to PERS and she would not anticipate PERS having to make significant changes to the system from a business rule standpoint.

With the difficulties the state has experienced with the Nevada Operations Multi Automated Data Systems (NOMADS) in mind, Chairman Arberry said it was difficult

not to be dubious about a new computing system being on time and within budget. Ms. Bilyeu suggested that the experience the state had gained over the years in developing computing systems had assisted PERS in developing a project monitoring process that allows PERS to stay on track with project time lines.

Chairman Arberry told Ms. Bilyeu to advise the committee if problems should arise in the future.

#### **H. Status of Investments for the Public Employees' Retirement System and Legislators' Retirement System.**

Chairman Arberry requested that this item be deferred until the next meeting.

#### **I. Public Testimony.**

There was no public testimony.

#### **J. Adjournment.**

There being no further business to come before the committee, Chairman Arberry adjourned the meeting at 4:40 p.m.

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Assemblyman Morse Arberry, Jr., Chairman

Interim Retirement Committee