

MOCK-UP

PROPOSED AMENDMENT 6110 TO
ASSEMBLY BILL NO. 190

PREPARED FOR ASSEMBLYMAN KIRNER
APRIL 3, 2015

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

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

- 1 **Section 1.** Chapter 286 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 9, inclusive, of this act.
3 **Sec. 2. 1.** *Notwithstanding any provision of this chapter to the*
4 *contrary, the Board shall, on or before July 1, 2016, to the extent not*
5 *inconsistent with federal law or the Nevada Constitution, with the advice*
6 *of the Interim Retirement and Benefits Committee of the Legislature*
7 *created pursuant to NRS 218E.420, establish as part of the System a*
8 *hybrid retirement program consisting of a defined benefit plan and a*
9 *defined contribution plan.*
10 2. *The hybrid retirement program must:*
11 (a) *Except as otherwise provided in paragraph (c), apply only to*
12 *members who have an effective date of membership on or after July 1,*
13 *2016.*
14 (b) *Be structured in a manner which ensures that members are not*
15 *subject to the payment of contributions under the Social Security Act.*
16 (c) *Provide a procedure pursuant to which a member who has an*
17 *effective date of membership before July 1, 2016, may elect to transfer*
18 *into the program. The procedure must include ~~fee~~ :*

1 (1) Provisions prohibiting the transfer on behalf of a member who
2 elects to transfer into the program of any money deposited with the
3 System for credit to the member before July 1, 2016, for credit under the
4 defined benefit plan or the defined contribution plan of the program.

5 (2) Provisions specifying that the amount of service credit earned
6 by a member who elects to transfer into the program must be calculated
7 in the same manner as the service credit was calculated for the member
8 before he or she elected to transfer into the program.

9 (3) A requirement that a member acknowledge in writing that the
10 member understands the differences between the calculation of the
11 benefit available to the member if he or she does not elect to transfer into
12 the program and the calculation of the benefit available to the member if
13 he or she elects to transfer into the program.

14 (4) A requirement that a member acknowledge in writing that the
15 member understands the risks of transferring into the program and that
16 the member understands that the election to transfer into the program
17 may not be revoked.

18 3. Any provision of this chapter that is inconsistent with the
19 provisions of the hybrid retirement program does not apply to the
20 program to the extent of the inconsistency. All other provisions of this
21 chapter that are not inconsistent with the provisions of the program
22 apply to the program, unless specifically excluded by the terms of the
23 program.

24 **Sec. 3. 1. The defined benefit plan of the hybrid retirement**
25 **program established pursuant to section 2 of this act must:**

26 (a) Include a cap on annual retirement benefits that must not exceed
27 133 percent of the average ~~social security wage~~ base pay earned by the
28 member during the member's 36 consecutive months of highest
29 compensation.

30 (b) Prohibit the purchase of additional service credit.

31 (c) Provide that the public employer contribution rate must not
32 exceed 6 percent of an employee's compensation.

33 (d) Provide that the employee contribution rate is an amount equal to
34 the contribution rate that is actuarially determined for the defined
35 benefit plan less the public employer contribution rate.

36 (e) Provide that a monthly service retirement allowance must be
37 determined by multiplying a member's average compensation by:

38 (1) For regular members, 1 percent for each year of service
39 earned.

40 (2) For police officers and firefighters, 1.5 percent for each year
41 of service earned.

42 (f) Establish a minimum retirement age to receive an unreduced
43 benefit which is equal to:

44 (1) For regular members, the full retirement age of the member
45 under the Social Security Act.

1 (2) *For police officers and firefighters, 10 years less than the full*
2 *retirement age of the member under the Social Security Act.*

3 (g) *Provide for survivor and disability benefits for a member in the*
4 *same manner, subject to the same eligibility requirements and providing*
5 *the same payment options available to persons who are members of the*
6 *System on June 30, 2016, except that, for the purposes of calculating*
7 *such benefits, the calculation of the service retirement allowance for a*
8 *person who has an effective date of membership in the System on or*
9 *after July 1, 2016, must be determined as provided in paragraph (e).*

10 (h) *Provide for cost of living adjustments for a member in the same*
11 *manner as such cost of living adjustments are provided for a person who*
12 *is a member of the System on June 30, 2016.*

13 (i) *Provide that the determination of whether a member is eligible for*
14 *early retirement with a reduced benefit must be based on the same*
15 *actuarial factors and determined in the same manner as provided for a*
16 *person who is a member of the System on June 30, 2016.*

17 (j) *Include such other provisions as determined necessary by the*
18 *Board, with the advice of the Interim Retirement and Benefits Committee*
19 *of the Legislature created pursuant to NRS 218E.420.*

20 2. *For the purposes of determining the contribution rate for each*
21 *public employer, the Board must:*

22 (a) *Include in the contribution rate the amount necessary to cover*
23 *the costs of providing benefits to the employees of the public employer*
24 *and the amount determined by the Board necessary to reduce the public*
25 *employer's share of the unfunded liability of the System; and*

26 (b) *Use a System-wide payroll growth assumption calculated*
27 *separately for regular members and for members who are police officers*
28 *and firefighters.*

29 3. *As used in this section:*

30 (a) *"Average compensation" has the meaning ascribed to it in*
31 *subsection 3 of NRS 286.551.*

32 (b) *"Full retirement age" means the age at which a person may first*
33 *become entitled to full or unreduced retirement benefits under the Social*
34 *Security Act.*

35 Sec. 4. *The defined contribution plan of the hybrid retirement*
36 *program established pursuant to section 2 of this act must:*

37 1. *Provide for the accumulation by a member of retirement savings*
38 *in an individual trust account held for the exclusive benefit of the*
39 *member and his or her beneficiaries.*

40 2. *Comply with all requirements of federal law to be recognized as a*
41 *qualified governmental retirement plan.*

42 3. *Comply with all applicable requirements of federal law*
43 *concerning limitations on benefits, distributions and maximum*
44 *compensation.*

1 4. Provide for the ~~selection by the Board of a third party~~
2 ~~administrator for the~~ administration of the defined contribution plan ~~f~~
3 ~~The selection~~ by:

4 (a) The System, if the Board determines that administration of the
5 defined contribution plan by the System can be fully implemented on
6 July 1, 2016, and that the cost to the System to administer the defined
7 contribution plan is lower than the costs that would be incurred by the
8 System if the defined contribution plan is administered by a third-party
9 administrator; or

10 (b) A third-party administrator selected by the Board, the selection of
11 which must be based on, without limitation:

12 ~~(a)~~ (1) The financial stability of the third-party administrator.

13 ~~(b)~~ (2) The cost of investment, administrative and other services
14 provided by the third-party administrator.

15 ~~(c)~~ (3) The experience of the third-party administrator in
16 providing defined contribution plans.

17 ~~(d)~~ (4) The experience of the third-party administrator in
18 providing education, counseling and advice to participants of defined
19 contribution plans.

20 ~~(e)~~ (5) Any criminal convictions of, securities or antitrust
21 violations committed by, material civil or regulatory fines imposed on or
22 judgments entered against, the third-party administrator.

23 5. Provide an option to a member to elect to have his or her benefits
24 under the defined contribution plan paid as a lifetime annuity during
25 retirement.

26 6. Prohibit loans to members.

27 7. Require an employee to contribute to his or her defined
28 contribution account through pretax payroll deductions:

29 (a) For regular members, 6 percent of the employee's compensation
30 each payroll period.

31 (b) For police officers and firefighters, 9 percent of the employee's
32 compensation each payroll period.

33 8. Require a public employer to contribute to the defined
34 contribution account of an employee:

35 (a) For regular members, 6 percent of the employee's compensation
36 each payroll period.

37 (b) For police officers and firefighters, 9 percent of the employee's
38 compensation each payroll period.

39 9. Authorize a member to make supplemental contributions to his or
40 her defined contribution account subject to any limitations provided by
41 federal law.

42 10. Provide for rollover contributions into, and rollover
43 distributions out of, the defined contribution plan, subject to any
44 requirements and limitations provided by federal law.

1 11. Provide that all contributions made by an employee, and the
2 earnings thereon, become vested immediately.

3 12. Provide that 20 percent of the contributions made by a public
4 employer, and the earnings thereon, become vested upon completion of
5 each year of service by the employee, and that, after completion of 5
6 years of service, all additional contributions by the public employer, and
7 the earnings thereon, become vested immediately.

8 13. Provide that any amounts credited to a member's account that
9 are not vested on the date of the termination of the employment of the
10 member are forfeited and must be used only to reduce the public
11 employer's ~~required contributions,~~ share of the unfunded liability of
12 the System arising from the obligations of the System to persons who are
13 members of the System on June 30, 2016.

14 14. Provide that upon termination of the defined contribution plan,
15 all amounts credited to a member's account become fully and
16 immediately vested.

17 15. Include such other provisions as determined necessary by the
18 Board, with the advice of the Interim Retirement and Benefits Committee
19 of the Legislature created pursuant to NRS 218E.420.

20 Sec. 5. 1. The Board shall, on or before December 1 of each year,
21 submit to the Governor, the State Treasurer, the Senate Majority Leader
22 and the Speaker of the Assembly an annual report and financial
23 statement for the immediately preceding fiscal year concerning the
24 defined contribution plan.

25 2. The Board shall:

26 (a) Cause a copy of the financial statement to be distributed to each
27 participant in the hybrid retirement program established pursuant to
28 section 2 of this act; and

29 (b) Post a copy of the annual report and financial statement on an
30 Internet website maintained by the Board.

31 Sec. 6. 1. Except as otherwise provided in subsection 2, each
32 public employer that is a local government shall, in addition to the
33 contributions required under the defined benefit plan and the defined
34 contribution plan established pursuant to section 2 of this act, contribute
35 to the System an additional 6 percent of the compensation of each of its
36 employees who is a participant in the hybrid retirement program
37 established pursuant to section 2 of this act, including each employee
38 who is a member of the System on June 30, 2016, and who elects to
39 transfer into the hybrid retirement program, to reduce the unfunded
40 liability of the System arising from the obligations of the System to
41 persons who are members of the System on June 30, 2016.

42 2. The additional contributions required by subsection 1 are not
43 required at any time during which the respective unfunded liability of the
44 System is determined by the actuary of the System to be 15 percent or
45 less.

1 *Sec. 7. Any new employee who becomes a member of the System on*
2 *or after July 1, 2016, as a condition of his or her employment shall be*
3 *deemed to have consented to the revision or termination of the provisions*
4 *of the hybrid retirement program established pursuant to section 2 of this*
5 *act at any time, except that no such revision may reduce any accrued*
6 *retirement benefits earned by the employee before the effective date of*
7 *the revision.*

8 *Sec. 8. 1. The Board shall annually determine the amount of the*
9 *estimated unfunded liability of the System that is attributable to members*
10 *who are or were employed by the State and by each public employer that*
11 *is a local government, respectively, and report the results of its*
12 *determination to the Governor and the governing body of each such*
13 *local government.*

14 *2. In determining the amount of the estimated unfunded liability of*
15 *the System that is attributable to the State and to each public employer*
16 *that is a local government, respectively, and the schedule of amortization*
17 *payments which a public employer is required to contribute to reduce the*
18 *public employer's share of the unfunded liability of the System, the*
19 *Board:*

20 *(a) Must use actuarial assumptions that are consistent with the*
21 *actuarial assumptions otherwise used by the Board;*

22 *(b) Must use a System-wide payroll growth assumption consistent*
23 *with the assumption used pursuant to subsection 2 of section 3 of this*
24 *act, calculated separately for regular members and for members who are*
25 *police officers and firefighters, and must calculate the amount of the*
26 *amortization payments due by multiplying the percentage obtained from*
27 *the payroll growth assumption by the amount of the entire payroll of the*
28 *System; and*

29 *(c) Must, to the maximum extent possible, ensure that in determining*
30 *the amount of the amortization payments due pursuant to paragraph (a),*
31 *the calculation does not result in a public employer being required to*
32 *contribute to the System to reduce the unfunded liability of the System an*
33 *amount which is substantially different from the amount which the*
34 *public employer was required to contribute to the System to reduce the*
35 *unfunded liability of the System before July 1, 2016.*

36 *Sec. 9. 1. Any provision in a collective bargaining agreement*
37 *entered into or renewed on or after July 1, 2016, that provides for a*
38 *greater public employer contribution rate to either the defined benefit*
39 *plan or the defined contribution plan established pursuant to section 2 of*
40 *this act than the public employer contribution rates specified in sections*
41 *3 and 4 of this act, respectively, is void.*

42 *2. Any provision in a collective bargaining agreement entered into*
43 *or renewed on or after July 1, 2016, that provides for a lesser employee*
44 *contribution rate to either the defined benefit plan or the defined*
45 *contribution plan established pursuant to section 2 of this act than the*

1 *employee contribution rates specified in sections 3 and 4 of this act,*
2 *respectively, is void.*

3 **Sec. 10.** ~~1. The Public Employees' Retirement Board shall appoint~~
4 ~~an advisory committee consisting of not fewer than five persons who are:~~

- 5 ~~— (a) Independent actuaries;~~
- 6 ~~— (b) Certified public accountants or attorneys with actuarial expertise;~~
- 7 ~~or~~
- 8 ~~— (c) Recognized experts in the field of actuarial science.~~

9 ~~2. No member of the advisory committee may be a member of the~~
10 ~~Public Employees' Retirement System or a contractor with the System.~~

11 ~~3. The members of the advisory committee shall elect one of the~~
12 ~~members to serve as the chair of the advisory committee, and the advisory~~
13 ~~committee shall meet at the call of the chair.~~

14 ~~4. The advisory committee shall conduct a study concerning the~~
15 ~~possible effects that the hybrid retirement program established pursuant to~~
16 ~~section 2 of this act may have on the actuarial assumptions currently used~~
17 ~~by the actuary of the System and recommend any changes to those~~
18 ~~assumptions that the advisory committee believes are necessary.~~

19 ~~5. The Board shall provide administrative support to the advisory~~
20 ~~committee.~~

21 ~~6. While engaged in the business of the advisory committee, the~~
22 ~~members of the advisory committee are entitled to receive the per diem~~
23 ~~allowance and travel expenses provided for state officers and employees~~
24 ~~generally.~~

25 ~~7. The advisory committee shall, on or before January 1, 2016, submit~~
26 ~~a report concerning the study and the recommendations of the advisory~~
27 ~~committee to the Interim Retirement and Benefits Committee of the~~
28 ~~Legislature created pursuant to NRS 218E.420.] **(Deleted by**~~
29 ~~**amendment.)**~~

30 **Sec. 11.** 1. This section and section 10 of this act become effective
31 upon passage and approval.

32 2. Sections 1 to 9, inclusive of this act become effective:

33 (a) Upon passage and approval for the purpose of establishing the
34 hybrid retirement program and performing any other preparatory
35 administrative tasks that are necessary to carry out the provisions of this
36 act; and

37 (b) On July 1, 2016, for all other purposes.