

ASSEMBLY BILL NO. 71—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE CONTROLLER)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public employees’
retirement. (BDR 23-429)

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

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

AN ACT relating to public employees’ retirement; requiring the establishment of a hybrid retirement program for certain public employees; requiring the program to include a defined benefit plan and a defined contribution plan; setting forth the required provisions of each plan; requiring certain public employers under certain circumstances to make additional contributions to the Public Employees’ Retirement System to reduce the unfunded liability of the System; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 2** of this bill requires the Board of the Public Employees’ Retirement
2 System to establish as part of the system a hybrid retirement program for new
3 employees who become members of the Public Employees’ Retirement System on
4 or after July 1, 2018. The program must include a defined benefit plan and a
5 defined contribution plan, and provide a procedure for members of the system with
6 an effecting date of membership before July 1, 2018, to elect to transfer into the
7 program.

8 **Section 3** of this bill sets forth the required provisions of the defined benefit
9 plan, which include providing for: (1) a cap on annual retirement benefits; (2) a
10 prohibition on the purchase of additional service credit; (3) a maximum public
11 employer contribution rate equal to 6 percent of an employee’s compensation; (4)
12 an employee contribution rate equal to the contribution rate that is actuarially
13 determined for the plan, less the public employer contribution rate; (5) a monthly
14 service retirement allowance that is determined by multiplying a member’s average



15 compensation by 1 percent for each year of service earned by regular members, and
16 by 1.5 percent for each year of service earned by police officers and firefighters; (6)
17 a minimum retirement age to receive an unreduced benefit that is tied to the full
18 retirement age of the member under the Social Security Act; (7) survivor and
19 disability benefits; (8) cost-of-living adjustments; and (9) a determination of
20 eligibility for early retirement with a reduced benefit. **Section 3** also sets forth the
21 method the Public Employees' Retirement Board must use to determine the
22 contribution rate for each public employer.

23 **Section 4** of this bill sets forth the required provisions of the defined
24 contribution plan, which include providing for: (1) the accumulation by a member
25 of retirement savings in an individual trust account; (2) compliance with federal
26 law to be recognized as a qualified governmental retirement plan; (3) compliance
27 with federal law concerning limitations on benefits, distributions and maximum
28 compensation; (4) administration of the plan by the System or the selection of a
29 third-party administrator; (5) a lifetime annuity option for the payment of benefits
30 during retirement; (6) the prohibition of loans to members; (7) equal contributions
31 by employees and public employers; (8) supplemental contributions by employees;
32 and (9) the vesting of amounts in members' accounts.

33 **Section 5** of this bill requires the Board annually to report, distribute and post
34 on the Internet certain information concerning the defined contribution plan.

35 **Section 6** of this bill requires public employers that are local governments to
36 make additional contributions to the System under certain circumstances to reduce
37 the unfunded liability of the System.

38 **Section 7** of this bill provides that, except in certain circumstances, any new
39 employee who becomes a member of the System on or after July 1, 2018, as a
40 condition of his or her employment, shall be deemed to have consented to the
41 revision or termination of the provisions of the hybrid retirement program at any
42 time.

43 **Section 8** of this bill requires the Board annually to determine the amount of
44 the estimated unfunded liability of the System that is attributable to members who
45 are or were employed by the State and by each public employer that is a local
46 government, respectively, and report the results of its determination to the
47 Governor and the governing body of each such local government.

48 **Section 9** of this bill provides that provisions relating to certain contribution
49 rates in collective bargaining agreements entered into or renewed on or after July 1,
50 2018, which are inconsistent with the provisions of the hybrid retirement program
51 are void.

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
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

4 **Sec. 2. 1. *Notwithstanding any provision of this chapter to
5 the contrary, the Board shall, on or before July 1, 2018, to the
6 extent not inconsistent with federal law or the Nevada
7 Constitution, with the advice of the Interim Retirement and
8 Benefits Committee of the Legislature created pursuant to NRS
9 218E.420, establish as part of the System a hybrid retirement***



1 program consisting of a defined benefit plan and a defined
2 contribution plan.

3 2. The hybrid retirement program must:

4 (a) Except as otherwise provided in paragraph (c), apply only
5 to members who have an effective date of membership on or after
6 July 1, 2018.

7 (b) Be structured in a manner which ensures that members are
8 not subject to the payment of contributions under the Social
9 Security Act.

10 (c) Provide a procedure pursuant to which a member who has
11 an effective date of membership before July 1, 2018, may elect to
12 transfer into the program. The procedure must include:

13 (1) Provisions prohibiting the transfer on behalf of a
14 member who elects to transfer into the program of any money
15 deposited with the System for credit to the member before July 1,
16 2018, for credit under the defined benefit plan or the defined
17 contribution plan of the program.

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

23 (3) A requirement that a member acknowledge in writing
24 that the member understands the differences between the
25 calculation of the benefit available to the member if he or she does
26 not elect to transfer into the program and the calculation of the
27 benefit available to the member if he or she elects to transfer into
28 the program.

29 (4) A requirement that a member acknowledge in writing
30 that the member understands the risks of transferring into the
31 program and that the member understands that the election to
32 transfer into the program may not be revoked.

33 3. Any provision of this chapter that is inconsistent with the
34 provisions of the hybrid retirement program does not apply to the
35 program to the extent of the inconsistency. All other provisions of
36 this chapter that are not inconsistent with the provisions of the
37 program apply to the program, unless specifically excluded by the
38 terms of the program.

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

41 (a) Include a cap on annual retirement benefits that must not
42 exceed 133 percent of the average base pay earned by the member
43 during the member's 36 consecutive months of highest
44 compensation.

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



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

3 (d) Provide that the employee contribution rate is an amount
4 equal to the contribution rate that is actuarially determined for the
5 defined benefit plan, less the public employer contribution rate.

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

9 (1) For regular members, 1 percent for each year of service
10 earned.

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

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

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

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

20 (g) Provide for survivor and disability benefits for a member in
21 the same manner, subject to the same eligibility requirements and
22 providing the same payment options available to persons who are
23 members of the System on June 30, 2018, except that, for the
24 purposes of calculating such benefits, the calculation of the
25 service retirement allowance for a person who has an effective
26 date of membership in the System on or after July 1, 2018, must be
27 determined as provided in paragraph (e).

28 (h) Provide for cost-of-living adjustments for a member in the
29 same manner as such cost-of-living adjustments are provided for a
30 person who is a member of the System on June 30, 2018.

31 (i) Provide that the determination of whether a member is
32 eligible for early retirement with a reduced benefit must be based
33 on the same actuarial factors and determined in the same manner
34 as provided for a person who is a member of the System on
35 June 30, 2018.

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

39 2. For the purposes of determining the contribution rate for
40 each public employer, the Board must:

41 (a) Include in the contribution rate the amount necessary to
42 cover the costs of providing benefits to the employees of the public
43 employer and the amount determined by the Board necessary to
44 reduce the public employer's share of the unfunded liability of the
45 System; and



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

4 ***3. As used in this section:***

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

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

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

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

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

18 ***3. Comply with all applicable requirements of federal law***
19 ***concerning limitations on benefits, distributions and maximum***
20 ***compensation.***

21 ***4. Provide for the administration of the defined contribution***
22 ***plan by:***

23 ***(a) The System, if the Board determines that administration of***
24 ***the defined contribution plan by the System can be fully***
25 ***implemented on July 1, 2018, and that the cost to the System to***
26 ***administer the defined contribution plan is lower than the costs***
27 ***that would be incurred by the System if the defined contribution***
28 ***plan is administered by a third-party administrator; or***

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

31 ***(1) The financial stability of the third-party administrator.***

32 ***(2) The cost of investment, administrative and other***
33 ***services provided by the third-party administrator.***

34 ***(3) The experience of the third-party administrator in***
35 ***providing defined contribution plans.***

36 ***(4) The experience of the third-party administrator in***
37 ***providing education, counseling and advice to participants of***
38 ***defined contribution plans.***

39 ***(5) Any criminal convictions of, securities or antitrust***
40 ***violations committed by, material civil or regulatory fines imposed***
41 ***on or judgments entered against, the third-party administrator.***

42 ***5. Provide an option to a member to elect to have his or her***
43 ***benefits under the defined contribution plan paid as a lifetime***
44 ***annuity during retirement.***

45 ***6. Prohibit loans to members.***



1 7. *Require an employee to contribute to his or her defined*
2 *contribution account through pretax payroll deductions:*

3 (a) *For regular members, 6 percent of the employee's*
4 *compensation each payroll period.*

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

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

9 (a) *For regular members, 6 percent of the employee's*
10 *compensation each payroll period.*

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

13 9. *Authorize a member to make supplemental contributions to*
14 *his or her defined contribution account, subject to any limitations*
15 *provided by federal law.*

16 10. *Provide for rollover contributions into, and rollover*
17 *distributions out of, the defined contribution plan, subject to any*
18 *requirements and limitations provided by federal law.*

19 11. *Provide that all contributions made by an employee, and*
20 *the earnings thereon, become vested immediately.*

21 12. *Provide that 20 percent of the contributions made by a*
22 *public employer, and the earnings thereon, become vested upon*
23 *completion of each year of service by the employee, and that, after*
24 *completion of 5 years of service, all additional contributions by the*
25 *public employer, and the earnings thereon, become vested*
26 *immediately.*

27 13. *Provide that any amounts credited to a member's account*
28 *that are not vested on the date of the termination of the*
29 *employment of the member are forfeited and must be used only to*
30 *reduce the public employer's share of the unfunded liability of the*
31 *System arising from the obligations of the System to persons who*
32 *are members of the System on June 30, 2018.*

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

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

39 **Sec. 5. 1.** *The Board shall, on or before December 1 of*
40 *each year, submit to the Governor, the State Treasurer, the Senate*
41 *Majority Leader and the Speaker of the Assembly an annual*
42 *report and financial statement for the immediately preceding fiscal*
43 *year concerning the defined contribution plan.*

44 **2.** *The Board shall:*



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

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

6 **Sec. 6. 1.** Except as otherwise provided in subsection 2,
7 each public employer that is a local government shall, in addition
8 to the contributions required under the defined benefit plan and
9 the defined contribution plan established pursuant to section 2 of
10 this act, contribute to the System an additional 6 percent of the
11 compensation of each of its employees who is a participant in the
12 hybrid retirement program established pursuant to section 2 of
13 this act, including each employee who is a member of the System
14 on June 30, 2018, and who elects to transfer into the hybrid
15 retirement program, to reduce the unfunded liability of the System
16 arising from the obligations of the System to persons who are
17 members of the System on June 30, 2018.

18 2. The additional contributions required by subsection 1 are
19 not required at any time during which the respective unfunded
20 liability of the System is determined by the actuary of the System to
21 be 15 percent or less.

22 **Sec. 7.** Any new employee who becomes a member of the
23 System on or after July 1, 2018, as a condition of his or her
24 employment shall be deemed to have consented to the revision or
25 termination of the provisions of the hybrid retirement program
26 established pursuant to section 2 of this act at any time, except
27 that no such revision may reduce any accrued retirement benefits
28 earned by the employee before the effective date of the revision.

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

35 2. In determining the amount of the estimated unfunded
36 liability of the System that is attributable to the State and to each
37 public employer that is a local government, respectively, and the
38 schedule of amortization payments which a public employer is
39 required to contribute to reduce the public employer's share of the
40 unfunded liability of the System, the Board:

41 (a) Must use actuarial assumptions that are consistent with the
42 actuarial assumptions otherwise used by the Board;

43 (b) Must use a System-wide payroll growth assumption
44 consistent with the assumption used pursuant to subsection 2 of
45 section 3 of this act, calculated separately for regular members



1 *and for members who are police officers and firefighters, and*
2 *must calculate the amount of the amortization payments due by*
3 *multiplying the percentage obtained from the payroll growth*
4 *assumption by the amount of the entire payroll of the System; and*

5 *(c) Must, to the maximum extent possible, ensure that in*
6 *determining the amount of the amortization payments due*
7 *pursuant to paragraph (b), the calculation does not result in a*
8 *public employer being required to contribute to the System to*
9 *reduce the unfunded liability of the System an amount which is*
10 *substantially different from the amount which the public employer*
11 *was required to contribute to the System to reduce the unfunded*
12 *liability of the System before July 1, 2018.*

13 **Sec. 9.** 1. *Any provision in a collective bargaining*
14 *agreement entered into or renewed on or after July 1, 2018, that*
15 *provides for a greater public employer contribution rate to either*
16 *the defined benefit plan or the defined contribution plan*
17 *established pursuant to section 2 of this act than the public*
18 *employer contribution rates specified in sections 3 and 4 of this*
19 *act, respectively, is void.*

20 2. *Any provision in a collective bargaining agreement entered*
21 *into or renewed on or after July 1, 2018, that provides for a lesser*
22 *employee contribution rate to either the defined benefit plan or the*
23 *defined contribution plan established pursuant to section 2 of this*
24 *act than the employee contribution rates specified in sections 3*
25 *and 4 of this act, respectively, is void.*

26 **Sec. 10.** The provisions of subsection 1 of NRS 218D.380 do
27 not apply to any provision of this act which adds a requirement to
28 submit a report to the Legislature.

29 **Sec. 11.** 1. This section becomes effective upon passage and
30 approval.

31 2. Sections 1 to 10, inclusive of this act become effective:

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

36 (b) On January 1, 2018, for all other purposes.

