

SENATE BILL NO. 384—SENATOR RATTI

MARCH 20, 2017

Referred to Committee on Government Affairs

SUMMARY—Provides for the confidentiality of certain information in the records and files of public employers and public employee retirement systems. (BDR 19-506)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to public records; providing for the confidentiality of certain records and files of public employers and public employee retirement systems; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a record of a governmental entity is public and open to
2 inspection unless the confidentiality of the record or the information in the record is
3 specifically provided for by law. (NRS 239.010) This bill provides that the name,
4 employer, position and amount of annual salary and benefit of a public employee is
5 a public record and that all other information about a public employee which is
6 contained in a record or file in the possession of a public employer is confidential,
7 regardless of the form, location and manner of creation or storage of the record or
8 file containing the information. This bill also provides that the name, last public
9 employer and amount of annual benefit of a member, retired employee, retired
10 justice or judge, retired Legislator or beneficiary of a public employee retirement
11 system, including the Public Employees’ Retirement System, Judicial Retirement
12 System, Legislators’ Retirement System and a retirement program provided by the
13 Board of Regents of the University of Nevada, is a public record and that all other
14 information regarding or affecting a member, retired employee, retired justice or
15 judge, retired Legislator or beneficiary which is contained in a record or file in the
16 possession of a public employee retirement system is confidential, regardless of
17 the form, location and manner of creation or storage of the record or file containing
18 the information. A person who possesses, controls or has custody of any
19 information that is confidential pursuant to this bill may not disclose the
20 information or be required to disclose the information, and may not produce or be
21 required to produce the record for inspection unless the confidential information in
22 the record can be redacted, deleted, concealed or separated.



* S B 3 8 4 *

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

1 **Section 1.** Chapter 239 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *The name, public employer, position and amount of*
4 *annual salary and benefits of an employee of a public employer is*
5 *a public record. All other information about an employee of a*
6 *public employer which is contained in a record or file in the*
7 *possession, control or custody of a public employer is confidential,*
8 *regardless of the form, location and manner of creation or storage*
9 *of the record or file containing the information.*

10 2. *The name, last public employer and amount of annual*
11 *benefit of a member, retired employee, retired justice or judge,*
12 *retired Legislator or beneficiary of a public retirement system is a*
13 *public record. All other information about a member, retired*
14 *employee, retired justice or judge, retired Legislator or beneficiary*
15 *of a public retirement system which is contained in a record or file*
16 *in the possession, control or custody of a public retirement system*
17 *is confidential, regardless of the form, location and manner of*
18 *creation or storage of a record or file containing the information.*

19 3. *A person or governmental entity that possesses or has legal*
20 *custody or control of a record with any information that is*
21 *confidential pursuant to this section shall not disclose the*
22 *information or produce the record for inspection, and must not be*
23 *required to disclose the information or produce the record for*
24 *inspection, to or by any other person or governmental entity or for*
25 *use in any judicial action or proceeding.*

26 4. *As used in this section:*

27 (a) *“Employee” has the meaning ascribed to it in*
28 *NRS 286.040.*

29 (b) *“Public employer” has the meaning ascribed to it in*
30 *NRS 286.070.*

31 (c) *“Public retirement system” includes the Public Employees’*
32 *Retirement System established by NRS 286.110, the*
33 *Judicial Retirement System established by NRS 1A.100, the*
34 *Legislators’ Retirement System established by NRS 218C.100 and*
35 *a retirement program provided by the Board of Regents of the*
36 *University of Nevada pursuant to NRS 286.802.*

37 **Sec. 2.** NRS 239.010 is hereby amended to read as follows:

38 239.010 1. Except as otherwise provided in this section and
39 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
40 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
41 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
42 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,



1 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
2 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
3 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
4 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
5 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
6 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
7 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
8 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
9 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
10 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
11 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
12 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
13 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
14 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
15 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
16 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
17 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
18 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
19 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
20 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
21 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
22 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
23 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
24 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
25 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
26 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
27 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
28 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
29 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
30 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
31 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
32 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
33 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
34 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
35 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
36 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
37 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
38 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
39 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
40 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
41 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
42 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
43 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
44 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
45 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,



1 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
2 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
3 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
4 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
5 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
6 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
7 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
8 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
9 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
10 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
11 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
12 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
13 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
14 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
15 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
16 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
17 710.159, 711.600, *section 1 of this act*, sections 35, 38 and 41 of
18 chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
19 Statutes of Nevada 2013 and unless otherwise declared by law to be
20 confidential, all public books and public records of a governmental
21 entity must be open at all times during office hours to inspection by
22 any person, and may be fully copied or an abstract or memorandum
23 may be prepared from those public books and public records. Any
24 such copies, abstracts or memoranda may be used to supply the
25 general public with copies, abstracts or memoranda of the records or
26 may be used in any other way to the advantage of the governmental
27 entity or of the general public. This section does not supersede or in
28 any manner affect the federal laws governing copyrights or enlarge,
29 diminish or affect in any other manner the rights of a person in any
30 written book or record which is copyrighted pursuant to federal law.

31 2. A governmental entity may not reject a book or record
32 which is copyrighted solely because it is copyrighted.

33 3. A governmental entity that has legal custody or control of a
34 public book or record shall not deny a request made pursuant to
35 subsection 1 to inspect or copy or receive a copy of a public book or
36 record on the basis that the requested public book or record contains
37 information that is confidential if the governmental entity can
38 redact, delete, conceal or separate the confidential information from
39 the information included in the public book or record that is not
40 otherwise confidential.

41 4. A person may request a copy of a public record in any
42 medium in which the public record is readily available. An officer,
43 employee or agent of a governmental entity who has legal custody
44 or control of a public record:



1 (a) Shall not refuse to provide a copy of that public record in a
2 readily available medium because the officer, employee or agent has
3 already prepared or would prefer to provide the copy in a different
4 medium.

5 (b) Except as otherwise provided in NRS 239.030, shall, upon
6 request, prepare the copy of the public record and shall not require
7 the person who has requested the copy to prepare the copy himself
8 or herself.

9 **Sec. 3.** NRS 1A.100 is hereby amended to read as follows:

10 1A.100 1. A system of retirement providing benefits for the
11 retirement, disability or death of all justices of the Supreme Court,
12 judges of the Court of Appeals and district judges, and certain
13 justices of the peace and municipal judges, and funded on an
14 actuarial reserve basis is hereby established and must be known as
15 the Judicial Retirement System.

16 2. The System consists of the Judicial Retirement Plan and the
17 provisions set forth in NRS 2.060 to 2.083, inclusive, 2A.100 to
18 2A.150, inclusive, and 3.090 to 3.099, inclusive, for providing
19 benefits to justices of the Supreme Court, judges of the Court of
20 Appeals or district judges who served either as a justice of the
21 Supreme Court or district judge before November 5, 2002. Each
22 justice of the Supreme Court, judge of the Court of Appeals or
23 district judge who is not a member of the Public Employees'
24 Retirement System is a member of the Judicial Retirement System.

25 3. ~~The~~ *Except as otherwise provided in section 1 of this act,*
26 *the* official correspondence and records ~~[, other than the files of~~
27 ~~individual members of the System or retired justices or judges,]~~ and,
28 except as otherwise provided in NRS 241.035, the minutes, audio
29 recordings, transcripts and books of the System are public records
30 and are available for public inspection. A copy of the minutes or
31 audio recordings must be made available to a member of the public
32 upon request at no charge pursuant to NRS 241.035.

33 4. The System must be administered exclusively by the Board,
34 which shall make all necessary rules and regulations for the
35 administration of the System. The rules must include, without
36 limitation, rules relating to the administration of the retirement plans
37 in accordance with federal law. The Legislature shall regularly
38 review the System.

39 **Sec. 4.** NRS 286.110 is hereby amended to read as follows:

40 286.110 1. A system of retirement providing benefits for the
41 retirement, disability or death of employees of public employers and
42 funded on an actuarial reserve basis is hereby established and must
43 be known as the Public Employees' Retirement System. The System
44 is a public agency supported by administrative fees transferred from



1 the retirement funds. The Executive and Legislative Departments of
2 the State Government shall regularly review the System.

3 2. The System is entitled to use any services provided to state
4 agencies and shall use the services of the Purchasing Division of the
5 Department of Administration, but is not required to use any other
6 service. The purpose of this subsection is to provide to the Board the
7 necessary autonomy for an efficient and economic administration of
8 the System and its program.

9 3. ~~The~~ *Except as otherwise provided in section 1 of this act,*
10 *the* official correspondence and records ~~[, other than the files of~~
11 ~~individual members or retired employees,]~~ and, except as otherwise
12 provided in NRS 241.035, the minutes, audio recordings, transcripts
13 and books of the System are public records and are available for
14 public inspection. A copy of the minutes or audio recordings must
15 be made available to a member of the public upon request at no
16 charge pursuant to NRS 241.035.

17 4. The respective participating public employers are not liable
18 for any obligation of the System.

19 **Sec. 5.** NRS 286.117 is hereby amended to read as follows:

20 286.117 ~~[A]]~~ *Except as otherwise provided in section 1 of*
21 *this act, all records and files* maintained for a member, retired
22 employee or beneficiary may be reviewed and copied only by the
23 System, the member, the member's public employer or spouse, or
24 the retired employee or the retired employee's spouse, or pursuant to
25 a court order, or by a beneficiary after the death of the employee on
26 whose account benefits are received. Any member, retired employee
27 or beneficiary may submit a written waiver to the System
28 authorizing the representative of the member, retired employee or
29 beneficiary to review or copy all such records.

30 **Sec. 6.** This act becomes effective on July 1, 2017.

