

ASSEMBLY BILL NO. 342—ASSEMBLYMAN KIRNER

MARCH 18, 2013

Referred to Committee on Ways and Means

SUMMARY—Revises provisions governing public employees' retirement. (BDR 23-193)

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; providing for 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 provides for the establishment of a hybrid retirement  
2 program for new employees hired by certain public employers on or after July 1,  
3 2014. The program must include a defined benefit plan and a defined contribution  
4 plan, and must be part of the Public Employees' Retirement System.

5 **Section 3** of this bill sets forth the required provisions of the defined benefit  
6 plan, which include providing for: (1) a cap on annual benefits; (2) a prohibition on  
7 the purchase of additional service credit; (3) a maximum public employer  
8 contribution rate equal to 6 percent of a member's compensation; (4) an employee  
9 contribution rate equal to the contribution rate that is actuarially determined for the  
10 plan less the public employer contribution rate; (5) a monthly service retirement  
11 allowance that is determined by multiplying a member's average compensation by  
12 1 percent for each year of service earned by regular members, and by 1.5 percent  
13 for each year of service earned by police officers and firefighters; and (6) a  
14 minimum retirement age to receive an unreduced benefit that is tied to the full  
15 retirement age of the member under the Social Security Act.

16 **Section 4** of this bill sets forth the required provisions of the defined  
17 contribution plan, which include providing for: (1) the accumulation by a member  
18 of retirement savings in an individual trust account; (2) compliance with federal



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19 law to be recognized as a qualified government retirement plan; (3) compliance  
20 with federal law concerning limitations on benefits, distributions and maximum  
21 compensation; (4) the selection of a third-party administrator; (5) a lifetime annuity  
22 option for the payment of benefits during retirement; (6) the prohibition of loans to  
23 members; (7) equal contributions by employees and public employers; (8)  
24 supplemental contributions by employees; and (9) the vesting of amounts in  
25 members' accounts. **Section 5** of this bill requires the Public Employees'  
26 Retirement Board annually to report, distribute and post on the Internet certain  
27 information concerning the defined contribution plan.

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

31 **Section 7** of this bill provides that any new employee hired by a public  
32 employer on or after July 1, 2014, as a condition of his or her employment, shall be  
33 deemed to have consented to the revision or termination of the provisions of the  
34 hybrid retirement program at any time.

35 **Section 8** of this bill requires the Board annually to determine the amount of  
36 the estimated unfunded liability of the System that is attributable to members who  
37 are employed by the State and by each public employer that is a local government,  
38 respectively, and report the results of its determination to the Governor and the  
39 governing body of each such local government.

40 **Section 9** of this bill provides that certain provisions in collective bargaining  
41 agreements entered into or renewed on or after July 1, 2014, which are inconsistent  
42 with the provisions of the hybrid retirement program are void.

43 **Section 10** of this bill provides for the appointment of an advisory committee to  
44 study and make recommendations concerning the possible effects that the hybrid  
45 retirement program may have on the actuarial assumptions currently used by the  
46 actuary of the System.

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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, 2014, 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  
10 program consisting of a defined benefit plan and a defined  
11 contribution plan.***

12 **2. *The hybrid retirement program must:***

13 **(a) *Apply only to new employees hired by a public employer on  
14 or after July 1, 2014.***

15 **(b) *Be structured in a manner which ensures that members are  
16 not subject to the payment of contributions under the Social  
17 Security Act.***



1 (c) Provide a procedure pursuant to which a person who is a  
2 member of the System on June 30, 2014, may elect to transfer into  
3 the program.

4 3. Any provision of this chapter that is inconsistent with the  
5 provisions of the hybrid retirement program does not apply to the  
6 program to the extent of the inconsistency. All other provisions of  
7 this chapter that are not inconsistent with the provisions of the  
8 program apply to the program, unless specifically excluded by the  
9 terms of the program.

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

12 (a) Include a cap on annual benefits that must not exceed 133  
13 percent of the average Social Security wage base during the  
14 member's 36 consecutive months of highest compensation.

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

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

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

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

24 (1) For regular members, 1 percent for each year of service  
25 earned.

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

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

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

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

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

38 2. As used in this section:

39 (a) "Average compensation" has the meaning ascribed to it in  
40 subsection 3 of NRS 286.551.

41 (b) "Full retirement age" means the age at which a person  
42 may first become entitled to full or unreduced retirement benefits  
43 under the Social Security Act.



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

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

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

9       3. **Comply with all applicable requirements of federal law**  
10 **concerning limitations on benefits, distributions and maximum**  
11 **compensation.**

12       4. **Provide for the selection by the Board of a third-party**  
13 **administrator for the defined contribution plan. The selection**  
14 **must be based on, without limitation:**

15       (a) **The financial stability of the third-party administrator.**

16       (b) **The cost of investment, administrative and other services**  
17 **provided by the third-party administrator.**

18       (c) **The experience of the third-party administrator in**  
19 **providing defined contribution retirement plans.**

20       (d) **The experience of the third-party administrator in**  
21 **providing education, counseling and advice to participants of**  
22 **defined contribution retirement plans.**

23       (e) **Any criminal convictions of, securities or antitrust**  
24 **violations committed by, material civil or regulatory fines imposed**  
25 **on or judgments entered against, the third-party administrator.**

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

29       6. **Prohibit loans to members.**

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

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

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

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

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

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

42       9. **Authorize a member to make supplemental contributions to**  
43 **his or her defined contribution account subject to any limitations**  
44 **provided by federal law.**



1       10. *Specify the investment and distribution options available*  
2 *under the defined contribution plan.*

3       11. *Provide for rollover contributions into, and rollover*  
4 *distributions out of, the defined contribution plan, subject to any*  
5 *requirements and limitations provided by federal law.*

6       12. *Provide that all contributions made by an employee, and*  
7 *the earnings thereon, become vested immediately.*

8       13. *Provide that 20 percent of the contributions made by a*  
9 *public employer, and the earnings thereon, become vested upon*  
10 *the completion of each year of service by the employee, and that,*  
11 *after the completion of 5 years of service, all additional*  
12 *contributions by the public employer, and the earnings thereon,*  
13 *become vested immediately.*

14       14. *Provide that any amounts credited to a member's account*  
15 *that are not vested on the date of the termination of the*  
16 *employment of the member are forfeited and must be used only to*  
17 *reduce the public employer's required contributions.*

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

21       16. *Include such other provisions as determined necessary by*  
22 *the Board, with the advice of the Interim Retirement and Benefits*  
23 *Committee of the Legislature created pursuant to NRS 218E.420.*

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

29       **2. The Board shall:**

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

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

35       **Sec. 6.** *1. In addition to the contributions required under*  
36 *the defined benefit plan and the defined contribution plan*  
37 *established pursuant to section 2 of this act, each public employer*  
38 *that is a local government shall contribute to the System an*  
39 *additional 6 percent of the compensation of its employees to*  
40 *reduce the unfunded liability of the System.*

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



1       **Sec. 7.** *Any new employee hired by a public employer on or*  
2 *after July 1, 2014, as a condition of his or her employment shall*  
3 *be deemed to have consented to the revision or termination of the*  
4 *provisions of the hybrid retirement program established pursuant*  
5 *to section 2 of this act at any time, except that no such revision*  
6 *may reduce any accrued retirement benefits earned by the*  
7 *employee before the effective date of the revision.*

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

14       **Sec. 9.** *Any provision in a collective bargaining agreement*  
15 *entered into or renewed on or after July 1, 2014, that provides for*  
16 *a greater public employer contribution rate to either the defined*  
17 *benefit plan or the defined contribution plan established pursuant*  
18 *to section 2 of this act than the public employer contribution rates*  
19 *specified in sections 2 and 3 of this act, respectively, is void.*

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

23       (a) Independent actuaries;

24       (b) Certified public accountants or attorneys with actuarial  
25 expertise; or

26       (c) Recognized experts in the field of actuarial science.

27       2. No member of the advisory committee may be a member of  
28 the Public Employees' Retirement System or a contractor with the  
29 System.

30       3. The members of the advisory committee shall elect one of  
31 the members to serve as the chair of the advisory committee, and the  
32 advisory committee shall meet at the call of the chair.

33       4. The advisory committee shall conduct a study concerning  
34 the possible effects that the hybrid retirement program established  
35 pursuant to section 2 of this act may have on the actuarial  
36 assumptions currently used by the actuary of the System and  
37 recommend any changes to those assumptions that the advisory  
38 committee believes are necessary.

39       5. The Board shall provide administrative support to the  
40 advisory committee.

41       6. While engaged in the business of the advisory committee,  
42 the members of the advisory committee are entitled to receive the  
43 per diem allowance and travel expenses provided for state officers  
44 and employees generally.



- 1       7. The advisory committee shall, on or before January 1, 2014,
- 2 submit a report concerning the study and the recommendations of
- 3 the advisory committee to the Interim Retirement and Benefits
- 4 Committee of the Legislature created pursuant to NRS 218E.420.
- 5       **Sec. 11.** This act becomes effective:
- 6       1. Upon passage and approval for the purpose of establishing
- 7 the hybrid retirement program and performing any other preparatory
- 8 administrative tasks that are necessary to carry out the provisions of
- 9 this act; and
- 10      2. On July 1, 2014, for all other purposes.



