



MAJOR POLICY SHIFTS

2009

S.B. 427

For PERS new hires, the Nevada Legislature (1) reduced the retirement benefits multiplier from 2.67% to 2.5%; (2) reduced the COLA cap from 5% to 4%, making it effective following the 12th rather than the 14th year of retirement; (3) increased the retirement age from 60 to 62 (excluding police officers and firefighters); and (4) increased the retirement eligibility requirement for police officers and firefighters from 25 to 30 years of service.

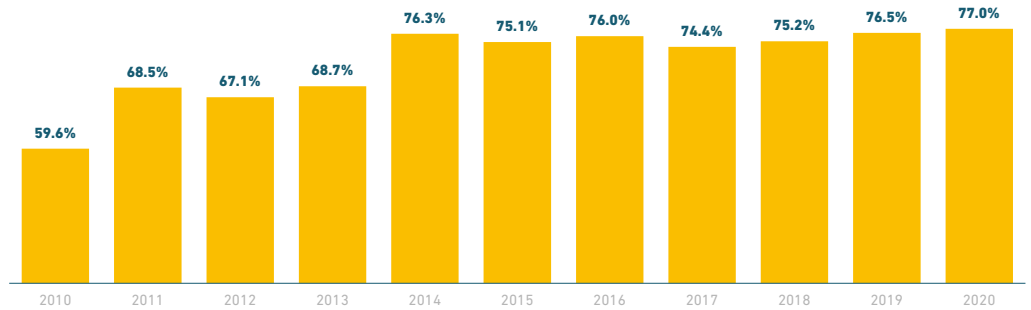
2015

S.B. 406

For PERS new hires, the Nevada Legislature (1) reduced the retirement benefits multiplier from 2.5% to 2.25%; (2) reduced the COLA cap from 4% to 2% effective following the third year of retirement, 2.5% following the sixth year, and the lesser of 3% or the preceding year's CPI change following the ninth year; and (3) increased the retirement eligibility requirement in two ways: (a) by adding an age requirement to retire with 30 years of service (excluding police officers and firefighters); and (b) by increasing the years of service from 30 to 33.33 years for retirement at any age (excluding police officers and firefighters).

FUNDED RATIO

The graphic below covers the Nevada Public Employees' Retirement System (PERS), which consists of two plans: one covers the university system, public school, and most political subdivision employees; the other covers police officers and firefighters.



LEGAL ENVIRONMENT FOR FUTURE POLICY EFFORTS

Legislative efforts confined to new hires are excluded from analysis because they rarely face significant legal challenges.

What are some policy options?	Were there relevant policy shifts for active employees or retirees?	Have there been legal challenges?	What are the legal prospects for future changes?*
INCREASE EMPLOYEE CONTRIBUTIONS	NO	NO	<ul style="list-style-type: none"> UNFAVORABLE as to active employees unless there is an offsetting benefit N/A as to retirees
DECREASE OR ELIMINATE COST-OF-LIVING ADJUSTMENTS	NO	NO	<ul style="list-style-type: none"> UNFAVORABLE as to active employees unless there is an offsetting benefit UNFAVORABLE as to retirees
CHANGE VESTING PERIOD	NO	NO	<ul style="list-style-type: none"> UNFAVORABLE as to active employees unless there is an offsetting benefit N/A as to retirees
CHANGE BENEFIT CALCULATION	NO	YES <small>Did not survive legal challenge by retirees in <i>Nicholas v. State</i> (2000)</small>	<ul style="list-style-type: none"> UNFAVORABLE as to active employees unless there is an offsetting benefit UNFAVORABLE as to retirees

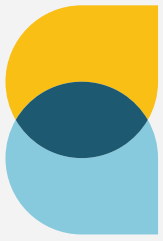
* FAVORABLE indicates that the issue survived litigation in the past and/or there is a permissive legal environment for the change. * UNFAVORABLE indicates that the issue did not survive litigation in the past and/or there is a non-permissive legal environment the change. * UNDEVELOPED indicates that the issue has not been litigated and/or the current legal environment is unclear as to what the outcome would be.



NEVADA

LEGAL ENVIRONMENT FOR PENSION POLICIES

As of August 2021



NEVADA STATE LAW CONTEXT

State Provisions

NEVADA CONSTITUTION ARTICLE 1, SECTION 15: "No bill of attainder, ex-post-facto law, or law impairing the obligation of contracts shall ever be passed."

U.S. CONSTITUTION ARTICLE I, SECTION 10: "No State shall . . . pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contract . . ."

Key Opinions

PUBLIC EMPLOYEES' RETIREMENT BOARD V. WASHOE COUNTY, 615 P.2D 972, 974 (NEV. 1980)

Active county employees sued a county for violation of the Contract Clauses of the Nevada Constitution (Article I, Section 15) and the U.S. Constitution (Article I, Section 10) based on the county's removal of their eligibility for early retirement. The Supreme Court of Nevada held that the county had impaired the employees' contract rights by taking away the benefit of early retirement and that the modification was unreasonable. *Public Employees' Retirement Board v. Washoe County*, 615 P.2d 972, 974 at 975. Applying the "California Rule," the court held that plan modifications must be related to successful operation of the system and "any disadvantage to employees must be accompanied by comparable new advantages." *Id.* at 975. The county had not demonstrated that the change was necessary, and even if it had been necessary, a 0.5% reduction in the employees' contributions did not make up for losing the benefit of early retirement. *Id.*

STATE OF NEVADA EMPLOYEES ASSOCIATION V. KEATING, 903 F.2D 1223 (9TH CIR.)

Active PERS employees sued PERS under the Contracts Clause of the U.S. Constitution (Article I, Section 10) for elimination of the right to withdraw employee-contributed pension fund payments without penalty prior to retirement. The U.S. Court of Appeals for the 9th Circuit held the change to be an unconstitutional impairment of the state's contractual obligations. *Nevada Employees Association v. Keating*, 903 F.2d 1223 at 1227. The state argued that the change was needed to offset the costs of an increase in retirement benefits. The court held that the change would impair the contracts of employees who would never receive those benefits because, as a factual matter, most state employees in Nevada did not stay long enough for their benefits to vest. Even assuming that increasing benefits was an important public purpose, the state had not shown that this specific method of covering the costs was necessary, and there appeared to be several other policy options available that would not impair employee contracts. *Id.* at 1228.

NICHOLAS V. STATE, 992 P.2D 262 (2000)

Retired state legislators sued PERS for violation of the contract clause of the Nevada Constitution (Article I, Section 15) when their retirement benefits were reduced after the legislature repealed a benefits increase that had been in effect at the time they retired. The Supreme Court of Nevada held that the retirees' benefits could not be reduced because "[a]n employee's rights become absolutely vested when he retires and all conditions for his retirement benefits have been met." *Nicholas v. State*, 992 P.2d 262, at 265. The legislature could not unilaterally alter benefits in any way once they had vested absolutely. *Id.*

FOR MORE INFORMATION

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