

## **NEVADA SUPREME COURT HEARS ORAL ARGUMENTS IN THE CASE OF NPRI (NEVADA POLICY RESEARCH INSTITUTE) VERSUS THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)**

For the second time since 2011, Nevada's Public Employees' Retirement System (PERS) has been subjected to a hearing before the Nevada Supreme Court.

The first go around was with Reno Newspapers (aka Reno Gazette Journal) that was won by RGJ. The hearing March 7 was against the Nevada Policy Research Institute (NPRI) who has long fought for information as well as change at PERS, preferring a Defined Contribution Pension Plan (401K) over the existing Defined Benefit Pension plan. NPRI has been seeking five things from PERS as it relates to retired public employees: names, years of service credit, gross pension benefit amount, year of retirement and last employer. Following the RGJ suit, PERS and its actuary altered the information collection process and told the District Court when the issue first arose the Nevada Public Records Act, a Manual for State Agencies in 2014, stated in part "an agency is not required to organize data to create a record that doesn't exist at the time of the request" but during the court hearing this week, one of the Justices hearing the case said that NV PERS failed to include a part of that sentence that included the following: "but may do so at the discretion of the agency if doing so is reasonable". He said that PERS' failure to include the rest of the statement during the District Court hearing was a bit "deceptive". PERS' attorney Adam Hosmer-Henner disagreed with that assessment citing that PERS does not have a duty to create a separate document adding that the actuarial report data changes yearly.

NPRI's attorney Joseph Becker countered citing other court cases and reiterated the five items they were seeking access to: names, years of credit, gross pension benefit amounts, year of retirement and last employer. He said they did not want birthdates or social security numbers. He also maintained that any information maintained on a public computer is a matter of public record. NPRI also contends that the state's taxpayers have a right to know this information since they are funding their salaries and retirements. RPEN has always contended that public employees pay taxes too and that the release of this information could lead to cybercrimes being committed against an already vulnerable population.

Essentially it all boils down to the difference between a report and a document, and what is confidential and what is not. The High Court could take anywhere from three months to one year to decide the case. This latest case involving PERS led to RPEN asking Northern Nevada State Senator Julia Ratti to carry a bill to spell out what is confidential and what is not as it relates to public employees. Senate Bill 384 was passed out of both houses during the 2017 Legislative Session only to be vetoed by Governor Sandoval. Senator Ratti announced during RPEN's Annual Convention held last year in Summerlin that she would be willing to bring the bill back again. However, any such decision would most certainly depend on the outcome of

this Supreme Court decision as well as the outcome at the polls in November, as Nevada looks to elect a new Governor.