

**ADOPTED REGULATION OF THE BOARD OF THE
PUBLIC EMPLOYEES' BENEFITS PROGRAM**

LCB File No. R154-03

§§1-9 and 11-37, effective March 22, 2004; §10, effective July 1, 2004

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

AUTHORITY: §§1-37, NRS 287.043.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Certifying agency” means:*

1. Except as otherwise provided in subsection 2, for officers and employees of the State and local governmental agencies, the Public Employees’ Retirement System.

2. For members of the professional staff of the University and Community College System of Nevada, a retirement program for professional employees offered by or through the University and Community College System of Nevada.

Sec. 3. *“Day” means a calendar day.*

Sec. 4. *“Participating local governmental agency” has the meaning ascribed to it in NRS 287.0405.*

Sec. 5. *“Participating state agency” has the meaning ascribed to it in NRS 287.04054.*

Sec. 6. *“Public employer” means the State or a local governmental agency.*

Sec. 7. *“Subsidy” means a portion of the cost of premiums or contributions for group insurance provided by the Program which is paid by:*

1. The State pursuant to subsection 1 or 2 of NRS 287.046; or

2. A local governmental agency pursuant to paragraph (b) of subsection 4 of NRS 287.023.

Sec. 8. 1. A subsidy received by a retired officer or employee on or before June 30, 2004, ceases on June 30, 2004. To reinstate such a subsidy, the retired officer or employee must comply with the requirements of section 9 of this regulation.

2. For a subsidy billed to a public employer for a retired officer or employee between October 1, 2003, and June 30, 2004, if the public employer or the retired officer or employee disputes the service credit of the retired officer or employee, the Program shall request verification of that information from the appropriate certifying agency. If the results of the verification of the service credit require an adjustment of the amount of the subsidy, the Program shall adjust the amount of the subsidy as of the first day of the month in which the retired officer or employee began receiving the subsidy.

Sec. 9. 1. To obtain or reinstate a subsidy on or after July 1, 2004, a retired officer or employee who has at least 5 years of service credit with at least one public employer and who joins or continues to participate in the Program upon retirement must report to the Program, on a form prescribed by the Program, each public employer with which he earned service credit and the period of service with each such public employer.

2. For the purpose of subsection 1, service credit:

(a) Must be computed in the manner set forth in NRS 286.495 or 286.501, as applicable;

(b) Must include any service credit that has been restored by the repayment of contributions that the retired officer or employee had withdrawn from the Public Employees' Retirement System pursuant to NRS 286.430; and

(c) Must not include any service credit that was purchased pursuant to NRS 1A.310 or 286.300.

3. Except as otherwise provided in subsection 9, a public employer shall commence payment of its subsidy for a retired officer or employee on the first day of the month immediately following the date on which the Program receives a completed form from the retired officer or employee pursuant to subsection 1. A retired officer or employee will not be reimbursed for any subsidy for the period before his subsidy commences pursuant to this subsection.

4. If a public employer disputes the service credit which is reported to the Program by a retired officer or employee pursuant to subsection 1, as indicated on the bill for the subsidy for that retired officer or employee sent by the Program, the public employer may file an appeal with the Executive Officer. Such an appeal must:

(a) Be submitted in writing within 3 months after the commencement of the billing for the subsidy;

(b) Set forth the basis of the dispute; and

(c) Be accompanied by any applicable supporting documentation relating to the requirements for computing credit for service set forth in NRS 286.495 or 286.501.

5. If an appeal is filed pursuant to subsection 4, the Executive Officer shall, within 14 days after receipt of the appeal, request an audit from the appropriate certifying agency to determine the years and months of service credit earned by the retired officer or employee with each public employer of the retired officer or employee.

6. If the total service credit reported to the Program by the retired officer or employee pursuant to subsection 1 does not correspond with the total service credit for that retired

officer or employee that is contained in the records of the Program, the Executive Officer shall, within 14 days after receipt of the form from the retired officer or employee pursuant to subsection 1, request an audit from the appropriate certifying agency to determine the years and months of service credit earned by the retired officer or employee with each public employer of the retired officer or employee.

7. If an audit is requested pursuant to subsection 5 or 6, the Executive Officer shall forward all relevant materials relating to the disputed service credit to the appropriate certifying agency.

8. Until an audit requested pursuant to subsection 5 is completed by the certifying agency and submitted to the Program, the public employer of the retired officer or employee shall continue to pay the subsidy at an amount that is based on the service credit reported to the Program by the retired officer or employee pursuant to subsection 1.

9. Until an audit requested pursuant to subsection 6 is completed by the certifying agency and submitted to the Program, the Program shall not bill the subsidy for the retired officer or employee to any public employer.

10. The results of an audit conducted by a certifying agency is the final determination of the service credit earned by the retired officer or employee with each public employer of the retired officer or employee.

11. If the results of an audit conducted by a certifying agency require an adjustment of the amount of a subsidy for a retired officer or employee:

(a) For an audit requested pursuant to subsection 5, except as otherwise provided in this paragraph, the Program shall adjust the amount of the subsidy as of the first day of the month for which the appeal was filed. If the audit is not completed within 6 months after the first day

of the month for which the appeal was filed, the Program shall adjust the amount of the subsidy as of the first day of the first month that is 6 months before the month in which the audit was completed.

(b) For an audit requested pursuant to subsection 6, except as otherwise provided in this paragraph, the Program shall adjust the amount of the subsidy as of the first day of the month following the date on which the retired officer or employee submitted a form pursuant to subsection 1. If the audit is not completed within 3 months after submission of the form, the Program shall adjust the amount of the subsidy as of the first day of the first month that is 3 months before the month in which the audit was completed.

Sec. 10. 1. *On each bill for the subsidy for a retired officer or employee that the Program sends to a public employer, the Program shall include the service credit of the retired officer or employee with that public employer.*

2. Except as otherwise provided in subsection 3, the amount of the subsidy that must be paid by each public employer with which a retired officer or employee had at least 5 years of service is calculated in the manner set forth in NRS 287.046.

3. If a retired officer or employee had at least 5 years of service with more than one public employer during his years of service, each public employer with which the retired officer or employee had at least 5 years of service shall pay an amount of the total subsidy for the retired officer or employee equal to the proportion that the service credit earned by the retired officer or employee with that public employer bears to the total service credit earned by the retired officer or employee with all public employers with which the retired officer or employee had at least 5 years of service.

Sec. 11. NAC 287.005 is hereby amended to read as follows:

287.005 As used in NAC 287.005 to 287.690, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 287.006 to 287.145, inclusive, *and sections 2 to 7, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 12. NAC 287.095 is hereby amended to read as follows:

287.095 “Participant” includes the following persons who are eligible to participate in ~~the~~ *the* Program:

1. An officer or employee of ~~the State or~~ a *participating* public agency;
2. A retired officer or employee ; ~~of the State or a public agency;~~
3. A dependent of such an officer or employee or retired officer or employee;
4. A survivor of a deceased officer or employee of ~~the State or~~ a public ~~agency or~~ *employer if the deceased officer or employee had 10 years or more of service credit, as determined by the appropriate certifying agency, and is deemed to be retired pursuant to NRS 286.676;*
5. *A survivor of* a deceased retired officer or employee ~~of the State or a public agency;~~ ~~—5.];~~
6. A surviving spouse of a police officer, fireman or official member of a volunteer fire department who was killed in the line of duty;
- ~~6.]~~ 7. A surviving child of a police officer, fireman or official member of a volunteer fire department who was killed in the line of duty ~~[-~~ ~~—7.];~~
8. A state employee participating in a biennial plan that lasts not less than 4 months or more than 6 months who plans to return to the same or similar position in the next authorized biennial

employment period if the state employee has timely enrolled, reenrolled, opted to continue coverage or insurance, or opted to join the Program pursuant to this chapter and chapter 287 of NRS in any applicable group coverage or insurance offered by, through or in cooperation with the Program;

~~8.]~~ **9.** A former member of the board of trustees of a school district pursuant to NRS 287.024; and

~~9.]~~ **10.** A Legislator.

Sec. 13. NAC 287.115 is hereby amended to read as follows:

287.115 “Program coverage unit” means the family unit declared pursuant to NAC 287.312 that seeks ~~program~~ coverage or insurance *from the Program* for more persons than the sole eligible public officer, public employee or retired ~~public~~ officer or employee.

Sec. 14. NAC 287.125 is hereby amended to read as follows:

287.125 ~~“Public agency” includes any public agency enumerated in NRS 287.010.]~~
“Participating public agency” has the meaning ascribed to it in NRS 287.04052.

Sec. 15. NAC 287.135 is hereby amended to read as follows:

287.135 “Retired officer or employee” means :

1. An officer or employee of ~~the State or~~ a public ~~agency~~ *employer* who has met the requirements to receive, and is receiving any distribution of, benefits from:

(a) The Judges’ Retirement System;

(b) The Public Employees’ Retirement System (PERS);

(c) The Legislators’ Retirement System; or

(d) A long-term disability plan of the ~~State or a public agency.]~~ *public employer.*

2. An officer or employee of ~~the State or~~ a public ~~agency~~ *employer* who:

(a) Has met the requirements to receive, and is receiving any distribution of, benefits from a retirement program for professional employees offered by or through the University and Community College System of Nevada, including, without limitation, a retirement plan alternative provided pursuant to NRS 286.802, a tax sheltered annuity or a deferred compensation plan; and

(b) Has participated in the retirement program described in paragraph (a) for at least 5 years as a full-time employee or the equivalent of a full-time employee.

Sec. 16. NAC 287.145 is hereby amended to read as follows:

287.145 “Vendor” means an independent contractor pursuant to NRS 284.173 who provides products or services to ~~the~~ *the* Program or its participants, including, but not limited to, an insurance broker, a consultant, a claims administrator, an insurer, a health maintenance organization, a physical or mental health care provider, a case management or utilization management company, a dental or vision care provider, a hospital, a medical facility, a certified public accountant, an actuary, a health educator, a pharmacy or pharmacy benefit manager, a preferred provider organization, a publisher and a court reporter. The term does not include an opt-out plan.

Sec. 17. NAC 287.150 is hereby amended to read as follows:

287.150 1. ~~The~~ *As used in NRS 287.045, the* Board interprets “full-time employment” to mean the employment, election or appointment by ~~the State or~~ *a participating* public agency of a person who:

(a) In any calendar month, works as a public employee or officer at least ~~one-half of the hours of an employee who works 40 hours per week.~~ *80 hours*. The Board will consider such

full-time employment to commence at the beginning of the month ~~following the date of employment of~~ *in which* the public employee or officer ~~works 80 hours~~.

(b) Is elected or appointed as a public officer who receives any compensation regardless of the number of hours worked, or is a member of the board of trustees of a school district who is not an employee but receives any compensation for public service from a ~~public~~ *local governmental* agency. The Board will consider such full-time employment to commence at the beginning of the month ~~immediately following the month~~ in which his term of service or term of office begins.

(c) Is a state employee participating in the biennial plan in accordance with NAC 287.500. The Board will consider such full-time employment to commence at the beginning of the month immediately following the date of his employment, and at reemployment and reenrollment in the Program at each successive authorized biennial employment period.

2. Regardless of receipt of retirement distributions as set forth in NAC 287.530, the Board may consider any professional staff employed by the University of Nevada, Reno, or the University of Nevada, Las Vegas, to teach a course of study or training pursuant to chapter 261, Statutes of Nevada 1999, or any continuation by the Legislature of that teaching program beyond July 1, 2001, to whom the University will provide ~~an employee premium~~ a subsidy, as a state employee participant rather than a retired ~~public agency~~ *officer or* employee pursuant to NRS 287.023, until the voluntary or involuntary termination of the employee from the teaching program.

Sec. 18. NAC 287.310 is hereby amended to read as follows:

287.310 1. To participate in ~~the Public Employees' Benefits Program~~ group coverage or insurance ~~[- a nonstate]~~ *provided by the Program, a local governmental* agency, through its governing body, must provide to the Program:

(a) A nonrefundable application fee of:

- (1) For less than 50 participants\$250
plus the administrative fee
- (2) For not less than 50 participants or more than 200 participants\$450
plus the administrative fee
- (3) For over 200 participants\$2.25
per participant plus the administrative fee

↳ In addition to the application fees listed in subparagraphs (1), (2) and (3), a ~~nonstate~~ *local governmental* agency must include as part of its application fees a fee at a rate of \$1 per participant to cover the costs for loading eligibility and the initiation of billing services.

(b) Information, as determined by the actuary of the Program, sufficient to make an actuarial determination as to the appropriate rates for the ~~public~~ *local governmental* agency, including, without limitation, the 3 most recent years of claims history data of the ~~public~~ *local governmental* agency, if any exists, in an electronic format that is compatible with the actuarial services of the Program.

(c) The ~~names, addresses, phone numbers, social security numbers,~~ *residential zip code,* gender, age and current selection for coverage of:

(1) The eligible members, regardless of current enrollment, of ~~that public~~ *the local governmental* agency; and

(2) Those members that are currently enrolled in the group plan of the ~~public~~ *local governmental* agency and their respective number of enrolled dependents.

(d) An interlocal contract executed pursuant to NRS 287.043, on a form provided by the Program.

(e) A statement that all terminal fees and costs associated with the previous health plan will be paid by that ~~public~~ *local governmental* agency group.

2. The actuary for, and the members of the staff of, the Board shall review the request and establish the rates for the requesting ~~public~~ *local governmental* agency as follows:

(a) If, upon review of the claims experience of ~~other nonstate groups in the Program~~ *participating local governmental agency groups* or the past claims history of the requesting *local governmental* agency, the actuary for the Board determines the experience for the requesting *local governmental* agency does not exceed 105 percent of the appropriate rate for the same or similar ~~nonstate~~ *participating local governmental agency* groups, the requesting *local governmental* agency will not be rated separately from those same or similar ~~nonstate groups that participate in the Program.~~ *participating local governmental agency groups*.

(b) If the claims experience for the requesting *local governmental* agency exceeds 105 percent of the appropriate rate for the same or similar ~~nonstate~~ *participating local governmental agency* groups, the actuary for the Program and a member of the staff will submit a written report, with recommended rates, to the Board. The recommended rates must equal the difference of the premium *or contribution* for ~~nonstate~~ *participating local governmental agency* groups and the cost of the experience of the requesting *local governmental* agency.

(c) If the requesting *local governmental* agency has no claims experience, the rates will be equal to 105 percent of the standard rate for a ~~nonstate group participating under the plan~~ *participating local governmental agency* that has no separate rating applied.

↪ Rates established pursuant to paragraphs (b) and (c) apply until the end of the plan year immediately following the year in which the rates were established, at which time the actuary for, and the members of the staff of, the Board shall review the claims experience of the *requesting local governmental* group to determine an appropriate rate or whether the standard rate should be applied.

3. For a participating ~~public~~ *local governmental* agency, the Program shall provide, upon written request from the *participating local governmental* agency, the history of claims for that ~~public~~ *participating local governmental* agency. The Program shall charge for each report the actual cost of providing the report. The report will include:

(a) A summary of the medical, surgical and dental claims paid by the self-funded plan for each month covered by the report; and

(b) A summary of the monthly premiums *or contributions* paid during the period covered by the report.

↪ The Program shall provide the report within 90 days after receipt of the request.

Sec. 19. NAC 287.312 is hereby amended to read as follows:

287.312 1. Except as otherwise provided in this section, an eligible officer, employee or ~~retiree of the State of Nevada or a public agency~~ *retired officer or employee* who desires to participate in ~~a~~ *the* Program with one or more dependents in a family unit must declare the existence of a qualifying program coverage unit by executing a declaration of enrollment, under penalty of perjury and subject to the provisions of NRS 686A.290 and 686A.291.

2. The following eligible dependents must be declared, including names, addresses and social security numbers, by the declarant in a declaration of enrollment of a program coverage unit:

(a) A spouse of the declarant.

(b) Any unmarried child of the declarant who is under the age of 19 years.

(c) Any unmarried child of the declarant who is 19 years of age or older if:

(1) At the age of 19 years, the child is incapable of self-support because of a physical or mental disability; and

(2) The declarant provides supporting evidence to the Program within 30 days after the 19th birthday of the child that demonstrates that the child qualifies for coverage and insurance pursuant to this paragraph.

(d) Any unmarried child of the declarant who is 19 years of age or older but less than 24 years of age, if the child is enrolled in ~~[an-accredited]~~ *a program of secondary education or an independently accredited program of post-secondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school*, on a full-time basis.

(e) Any unmarried child of the declarant who is 24 years of age or older, if:

(1) The child was enrolled in ~~[an-accredited]~~ *a program of secondary education or an independently accredited program of post-secondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school*, on a full-time basis between his 19th birthday and his 24th birthday;

(2) At the age of 24 years, the child is incapable of self-support because of a physical or mental disability if the disability occurred while the child was a full-time student; and

(3) The declarant provides supporting evidence to the Program within 30 days after the 24th birthday of the child that demonstrates that the child qualifies for coverage and insurance pursuant to this paragraph.

3. All declared members of a program coverage unit must continually reside in the same ~~[single family dwelling]~~ *residence* with the declarant except for a dependent who is:

- (a) A child who is a full-time student;
- (b) A child or a spouse who is in a facility for the institutional care of a disability;
- (c) A child who is the subject of a child health insurance support agreement; or
- (d) A spouse who is working out of the area of the ~~[single family dwelling.]~~ *residence of the declarant.*

4. Children declared by the declarant for inclusion in a program coverage unit may include biological children, adopted children, children placed in the ~~[single family dwelling]~~ *residence* of the declarant for adoption, stepchildren and any other child who is related to the declarant, if the declarant is legally responsible for the child and the child is financially dependent on the declarant and the program coverage unit of the declarant for care and support. A foster child may not be included in a program coverage unit.

5. Other than a period for enrollment that is open for all participants, the right to change coverage or insurance on a declared dependent or to add or change dependents is governed by the terms and conditions of any applicable plan, insurance policy or law.

Sec. 20. NAC 287.314 is hereby amended to read as follows:

287.314 1. Except as otherwise provided in subsection 3, a *participating* public agency ~~[which participates in the Program]~~ shall, upon appointing to the *participating public* agency a person who will be eligible to participate in the Program pursuant to NRS 287.045, ensure that

the employee attends an orientation program conducted by the Program within 60 days after he begins his employment with the *participating public* agency or if the employee is unable to attend the orientation program, that the employee receives the packet of information in accordance with NAC 287.317. The Program shall provide to the employee at the orientation program information concerning the benefits provided.

2. A ~~[public]~~ *participating state* agency which is required to grant release time pursuant to NAC 284.484 shall grant release time to such an employee to attend the orientation program.

3. The provisions of this section do not apply to any person who is employed by the University and Community College System of Nevada.

Sec. 21. NAC 287.317 is hereby amended to read as follows:

287.317 1. The Program shall conduct the orientation program required pursuant to NAC 287.314 each month at locations designated by the Program.

2. A *participating* public agency ~~[which participates in the Program]~~ shall, upon appointing to the *participating public* agency a person who will be eligible to participate in the Program pursuant to NRS 287.045, request that the Program register the employee for the orientation program at the location which is nearest to the employee's place of employment. The request must be in a format prescribed by the Program and submitted to the Program not later than ~~[5]~~ 7 days after the employee's first day of employment with the *participating public* agency.

3. ~~[The format to register an employee for]~~ *The participating public agency shall notify the employee that he must return to the participating public agency or the Program the completed enrollment forms and any supporting documents within 7 days after attending* an orientation program prescribed by the Program pursuant to subsection 2. ~~[must include a portion to be completed by the employee and a portion to be completed by the public agency. The public~~

~~agency shall ensure that the employee completes the portion of the form which the employee is required to complete.]~~ *If the employee fails to submit an enrollment form and any supporting documents within 7 days after attending the orientation program, the employee only will be placed in the base plan of the self-funded plan.*

4. If an employee cannot attend the orientation program, a complete packet with enrollment information must be provided to the employee. An employee has 60 days from his first day of employment to submit an enrollment form with his selections. If an employee fails to submit an enrollment form within the 60-day period, the employee only will be placed in the *base plan of the* self-funded plan.

5. *If a member of the professional staff of the University and Community College System of Nevada fails to submit an enrollment form within 30 days after his date of hire, as set forth in his contract, the member only will be placed in the base plan of the self-funded plan.*

6. If an employee terminates his employment, the payroll center of the *participating* public agency which had employed the employee and the employee shall ensure that the Program is notified of the termination not later than ~~{30}~~ *15* days after the date on which the employment was terminated.

7. *As used in this section, “base plan” means the plan designated by the Board as the default plan for the plan year, as described in the plan documents.*

Sec. 22. NAC 287.320 is hereby amended to read as follows:

287.320 1. A ~~{public}~~ *participating local governmental* agency which intends to terminate its interlocal contract and withdraw from the Program must give a written notice to the Executive Officer of the Program at least 60 days before the date *on which* it intends to withdraw. The

effective date of withdrawal is the first day of the month following the month in which the 60-day period expires.

2. Unless waived by the Board, a ~~{public}~~ *participating local governmental* agency that withdraws from the Program may not reenter the Program for 3 years after the date *on which* it withdraws.

3. Except for retired persons who, at the time of withdrawal from the Program by the ~~{public}~~ *participating local governmental* agency that employed the retired persons, opt to continue coverage or insurance in the Program pursuant to NRS 287.023, the Program is not liable for any expenses or claims of an officer or employee or retired officer or employee, or any dependents ~~{of}~~ thereof, of the withdrawing ~~{public}~~ *local governmental* agency incurred after the effective date of the withdrawal of the *local governmental* agency from the Program.

Sec. 23. NAC 287.420 is hereby amended to read as follows:

287.420 1. The total of the premiums *or contributions* which is billed by the Program and is owed by a ~~{department, agency, commission or public agency}~~ *public employer* which:

- (a) Employs an officer or employee;
- (b) Is legally responsible for the surviving spouse or child of a police officer, fireman or volunteer fireman killed in the line of duty; or
- (c) ~~{Is providing a premium}~~ *Pays a* subsidy for any of its retired officers or employees, ↪ for the officer, employee, surviving spouse or child, or retired officer or employee who elects to participate in the Program and the respective *premium or* contribution, if any, which is deducted from his compensation must be received by the Program by the 25th of each month.

2. If a ~~{department, agency, commission or public agency}~~ *public employer* does not pay the amount billed by the Program, the Program shall determine if a penalty that is based on the

amount actually paid should be assessed. ~~[To determine the amount of the penalty, the Program shall determine a basis amount which is 80 percent of the amount billed the previous month. If the total payments made by the department, agency, commission or public agency were equal to or greater than the basis amount, the Program shall not assess a penalty.]~~ If the total payments made by the ~~[department, agency, commission or public agency]~~ *public employer* were less than the ~~[basis amount,]~~ *amount billed to the public employer*, the Program ~~[shall]~~ *may, for good cause shown*, assess a *monthly* penalty of 1.5 percent of the ~~[basis amount,]~~ *unpaid balance*.

3. For the purposes of this section, if the 25th day of the month is a Saturday, Sunday or legal holiday, the payment of a premium *or contribution* is timely if it is received on the next day which is not a Saturday, Sunday or legal holiday.

Sec. 24. NAC 287.430 is hereby amended to read as follows:

287.430 A person, other than a person who elects to continue coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272, Title 10 § 10001), who:

1. Enrolls, reenrolls, joins or is continuing coverage in the Program; and
 2. Is responsible for the payment of the premium *or contribution* for group insurance directly to the Program or an insurer,
- ↪ shall pay the premium *or contribution* to the Program or insurer, as appropriate, no later than the last day of the month of coverage. If the total amount of the premium *or contribution* is not received by the last day of the month, the coverage will be canceled effective on the last day of the month that the coverage was fully paid unless the particular contract of coverage or insurance for which payment is being made otherwise provides.

Sec. 25. NAC 287.440 is hereby amended to read as follows:

287.440 The following retired officers and employees may pay premiums *or contributions* for group coverage or insurance to the Program:

1. A retired officer or employee who is receiving retirement benefits, if the retirement benefit is less than the premium ~~[-]~~ *or contribution*.

2. A retired officer or employee who was 55 years of age or older in 1977 and was precluded from participation in the Public Employees' Retirement System until 1979, if the officer or employee:

(a) Has at least 5 years of service with the State or any other participating public agency;

(b) Would have received a vested interest in retirement benefits but for the amendatory provisions of chapter 594, Statutes of Nevada 1977; and

(c) Has reached the age when retirement benefits could have been received had he not been precluded from participation in the System.

Sec. 26. NAC 287.450 is hereby amended to read as follows:

287.450 1. ~~[-The State or a]~~ *A participating* public agency ~~[-participating in the Program]~~ that employs an employee who is on leave without pay shall not pay any amount of the cost of premiums or contributions that is due the Program for group insurance for that employee unless the employee is compensated for:

(a) Work actually performed;

(b) Accrued annual leave or sick leave, or both; or

(c) A combination of work actually performed and accrued annual leave or sick leave, or both, if the total is at least 80 hours per month for each month that coverage or insurance is provided.

2. An employee who is on approved leave without pay:

- (a) May pay the premiums *or contributions* for his coverage and insurance to the *participating public* agency that employs him.
 - (b) Is not eligible for coverage or insurance as a dependent of his spouse if his spouse is also covered under the Program.
3. If an employee who is on approved leave without pay elects not to pay the premium *or contribution* for coverage and insurance from the Program and returns to work:
- (a) ~~[Before]~~ *Within* 1 year after ~~[taking leave without pay,]~~ *the last day of his coverage from the Program*, the employee is not required to complete 90 days of full-time employment before being eligible to participate in the Program.
 - (b) One year or more after taking leave without pay, the employee is eligible to participate in the Program on the first day of the month following 90 days of full-time employment.
4. An employee who is on approved leave without pay may, at the time he returns to work, obtain coverage and insurance for any dependent who was previously covered.

Sec. 27. NAC 287.460 is hereby amended to read as follows:

287.460 1. An officer or employee of ~~[the State or]~~ a *participating* public agency who:

- (a) Is on leave because he was injured in the course of his employment;
- (b) Receives compensation for a temporary total disability pursuant to NRS 616C.475; and
- (c) Was a ~~[member of]~~ *participant in* the Program at the time of the injury,

↪ may continue coverage or insurance for himself and any of his eligible dependents if he pays the premium *or contribution* due for coverage or insurance to the *participating public* agency that employs him. The officer or employee shall report his change of status to ~~[his employer]~~ *the participating public agency that employs him* when he takes leave and when he returns to work. ~~[The employer]~~ *Within 15 days after notification of such a change of status by the officer or*

employee, the participating public agency shall notify the Program of the change of status of the officer or employee.

2. If the officer or employee does not pay for coverage or insurance for his dependent while he is on leave and returns to work ~~[-~~

~~—(a) Less than]~~ *within* 1 year after ~~[taking leave,]~~ *the last day of his coverage from the Program,* his dependent may be covered.

~~[(b) One year or more after taking leave, but did not continue coverage or insurance after the 9-month period provided by NRS 287.0445, the dependent is eligible to participate in the Program on the first day of the month following the completion of full-time employment by the officer or employee if the dependent was previously covered.]~~

Sec. 28. NAC 287.470 is hereby amended to read as follows:

287.470 1. The provisions of this section apply if an overpayment or underpayment of a premium *or contribution* occurs because of:

- (a) A clerical error by ~~[the State]~~ *the Program* or a participating public agency;
- (b) A change of coverage or a change in the working status of a participating officer or employee; or
- (c) The failure of a participant to give timely notice that his dependent is ineligible for coverage because of his age or because of a change in his status as a student.

2. If ~~[the State or]~~ a participating public agency makes an overpayment of premiums ~~[-]~~ *or contributions,* it may deduct the amount of the overpayment from the payment of premiums *or contributions* otherwise due for the following month. Any such deduction for a period greater than 1 month must:

- (a) Be approved in advance by the Program; and

(b) Equal the amount of the overpayment without provision for interest.

3. The ~~{State or a}~~ participating public agency shall pay any money due to a participant because of an overpayment of premiums ~~{~~

~~—4. If the State or} or contributions.~~

4. *If* a participating public agency ~~{, or the Program,}~~ makes an underpayment of premiums ~~{}~~ *or contributions*, it must add the amount of the underpayment to the payment of premiums *or contributions* otherwise due for the following month. Any such additions for a period greater than 1 month must:

(a) Be approved in advance by the Program; and

(b) Equal the amount of the underpayment without provision for interest.

5. Any money owed by a participant because of an underpayment of premiums *or contributions* must be collected from the participant and paid by the ~~{State or}~~ participating public agency.

6. As used in this section, “overpayment of ~~{premiums”}~~ *premiums or contributions*” does not include the payment of premiums *or contributions* for the month in which the employment of a participant terminated, regardless of the date on which the termination occurs.

Sec. 29. NAC 287.500 is hereby amended to read as follows:

287.500 1. If a seasonal employee returns to work with a participating public agency, the *participating public* agency shall determine if the employee participated in the Program or was eligible to participate during his previous employment with the *participating public* agency.

2. A seasonal employee who was eligible to participate in the Program during his previous employment with a participating public agency and who returns to work within 1 year after the

termination of his employment is eligible to participate in the Program on the first day of the month following his return to work.

3. A seasonal employee who returns to work 1 year or more after the termination of his previous employment is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

4. An employee on a 4- to 6-month biennial plan who was working for a participating state agency is not subject to any waiting period upon reenrollment if the employee:

(a) Plans to return, and does return, to the same or a similar position in the next authorized biennial employment period; and

(b) Continues to pay his full premium *or contribution* and allowable administrative fees as required by NRS 287.0467 for the enrolled coverage between biennial employment periods.

Sec. 30. NAC 287.510 is hereby amended to read as follows:

287.510 If a person ~~[is rehired from a reemployment list maintained by the State or]~~ *returns to work for* a participating public agency *with which the person was previously employed* within 1 year after leaving employment:

1. The person must resume the coverage and insurance chosen before he left employment, unless he is otherwise entitled to make a change because of a qualifying event, until the next open enrollment period for all participants ~~[]~~ or, if the employee is a seasonal employee and not eligible to make changes during the next open enrollment period, the next open enrollment period in which he is eligible to make changes; and

2. Coverage and insurance for the ~~[rehired]~~ person is effective on the effective date of his reemployment if that day is on the first day of the month or, if the effective date of

reemployment is not on the first day of the month, on the first day of the month following the effective date of his reemployment, as appropriate.

Sec. 31. NAC 287.530 is hereby amended to read as follows:

287.530 1. If both spouses are retired *officers or* employees who ~~participated~~ *retired before July 1, 2004, and elect to participate* in the Program, one may elect to be the dependent of the other. *A spouse who elected to be the dependent pursuant to this subsection may elect to become a primary insured during open enrollment.* If the retired *officer or* employee designated as the *primary* insured dies, the spouse who elected to be the dependent becomes the *primary* insured.

2. *A person who retires on or after July 1, 2004, and who is eligible to participate in the Program as a primary insured may not elect to be a dependent of his spouse who is a primary insured in the Program.*

3. *A surviving spouse who:*

(a) *Retired before July 1, 2004;*

(b) *Is enrolled in the Program as a survivor; and*

(c) *Is eligible to participate in the Program as a primary insured,*

↪ may elect to change his status to retiree status during open enrollment. A person who chooses such an election pursuant to this subsection must meet the requirements of section 9 of this regulation to be eligible for a subsidy.

4. A person who, at the time of his retirement or disability, is a current participant in the Program and who:

(a) Is vested in a retirement system as a retiree;

(b) Has attained the age of eligibility or is totally disabled;

- (c) Receives a retirement benefit or disability benefit from such a system;
- (d) Wishes to continue participation in the Program;
- (e) Has retired or was disabled directly from **[government]** service *with a public employer*

with at least 5 years of service; and

- (f) Within 60 days after his official date of retirement or total disability:

- (1) Notifies his last **[government]** *public* employer of his intent to continue coverage in the Program; and

- (2) Reenrolls in the Program , ~~[within 60 days after his official date of retirement or total disability,]~~

↪ will have uninterrupted benefits and is not subject to any waiting period. *Continued coverage provided to a person who reenrolls pursuant to this subsection may be changed by the person at the time of reenrollment.*

~~[3.]~~ 5. A person who, on the official date of his retirement or total disability, is not a participant in the Program and who:

- (a) Is vested in a retirement system as a retiree;
- (b) Attains the age of eligibility or is totally disabled;
- (c) Receives a retirement or disability benefit from such a system;
- (d) Wishes to join the Program;
- (e) Has retired or was disabled directly from **[government]** service *with a public employer*

with at least 5 years of **[government]** service before receiving retirement benefits; and

- (f) Within 60 days after his official date of retirement or total disability:

- (1) Notifies his last **[government]** *public* employer of his intent to enroll in the Program;

and

(2) Enrolls in the Program,

↳ is subject to a 60-day waiting period.

~~[4.]~~ 6. A person who is the surviving spouse or a surviving dependent of a deceased officer or employee ~~[.]~~ *of a participating public agency*, or a deceased retired officer or employee, ~~[of the State or a public agency]~~ *and* who, at the time of this death, was a participant under the Program, may ~~[join the Program or]~~ maintain the coverage or insurance from the Program if:

(a) The spouse or dependent receives retirement benefits from which premiums *or contributions* can be deducted or ~~[the]~~ *such* spouse or dependent pays the premium *or contribution* directly to the Program; *and*

(b) ~~[For a surviving dependent, the dependent would have qualified to participate in the Program as a dependent if the participant had not died; and~~

~~—(e)]~~ Within 60 days after the date of death of the participant, the surviving spouse or dependent:

(1) Notifies the last ~~[government]~~ *public* employer of the deceased participant that the surviving spouse or dependent intends to enroll in or continue coverage by reenrolling in the Program; and

(2) Enrolls or reenrolls, as appropriate, in the Program.

~~[5.]~~ 7. Continued coverage provided to a surviving spouse or dependent who reenrolls in the Program in accordance with this section may not be changed until the next enrollment period that is open to all participants of the Program.

~~[6.]~~ 8. If the surviving spouse has a dependent who is not covered under the Program at the time of death of the officer or employee ~~[.]~~ *of a participating public agency*, or retired officer or

employee, ~~[of the State or a public agency,]~~ or acquires a dependent by marriage, adoption or birth, the dependent is not eligible for coverage or insurance.

Sec. 32. NAC 287.610 is hereby amended to read as follows:

287.610 *1.* A claim made to the Program *before the effective date of this regulation* must be submitted to the Claims Administrator of the Program no later than 15 months after the date on which the expense reported in the claim is incurred. A claim submitted after that time will not be paid.

2. A claim made to the Program after the effective date of this regulation must be submitted to the Claims Administrator of the Program no later than 1 year after the date on which the expense reported in the claim is incurred. A claim submitted after that time will not be paid.

Sec. 33. NAC 287.670 is hereby amended to read as follows:

287.670 *1.* To initiate a review of a claim, a participant in the Program must submit a written request to the Claims Administrator of the Program within 60 days after the date on which the claim was adjudicated or to the insurer in accordance with the terms and conditions of the contract between the participant and the vendor. A request for a review of a claim must include:

- (a) The name of the participant;
- (b) The social security number *or member identification number* of the participant;
- (c) The identifying number of the claim for benefits;
- (d) A statement indicating whether the claim is for a public officer or employee, or a retired officer or employee, or a surviving spouse or dependent of such an officer or employee; and
- (e) A statement setting forth the reasons the claim is being contested.

2. The Claims Administrator shall:

(a) Review a request for the review of a claim with the vendors and consultants of the Board to determine if the claim was adjudicated pursuant to the current terms and conditions of the Program under the contract between the Program and applicable vendor; and

(b) Advise the participant in writing of the decision of the Claims Administrator within ~~[20 working]~~ 30 days after receiving the request for a review.

3. *As used in this section, “member identification number” means the number assigned to a participant in the Program by the Program.*

Sec. 34. NAC 287.680 is hereby amended to read as follows:

287.680 1. If a participant in the Program is unsatisfied with the results of an initial review of a claim, he may file an appeal with the Executive Officer ~~[]~~ *or his designee*. The appeal must be in writing, include all supporting documentation and be filed within 35 days after the Claims Administrator issues his written decision on the review of the claim.

2. The Executive Officer *or his designee* shall ~~[appoint a committee of members of the staff of the Board to]~~ review the material submitted by the participant ~~[and the Claims Administrator]~~ to determine if the claim was adjudicated correctly.

3. The Executive Officer *or his designee* shall notify the participant in writing of the decision ~~[of the committee within 20 working]~~ *within 30* days after receipt of the participant’s appeal.

Sec. 35. NAC 287.690 is hereby amended to read as follows:

287.690 1. If a participant in the Program is not satisfied with the decision of the ~~[committee of the staff of the Program appointed to hear]~~ *Executive Officer or his designee on* the appeal made by the participant, the participant may file an appeal with the Board for ~~[its]~~ *a*

review *by the Board* of the claim. The appeal must be filed within 35 days after the date on which the ~~[committee issues its]~~ *Executive Officer or his designee issues the* written decision concerning the review.

2. Except as otherwise provided in this subsection, after the receipt of an appeal pursuant to this section, ~~[members of the staff]~~ *the Executive Officer or his designee* shall present a report to the Board at its next meeting. If an appeal is received after the deadline for placing items on the agenda for the next meeting of the Board, the ~~[members of the staff]~~ *Executive Officer or his designee* shall present the report to the Board at its next following meeting. The report ~~[by the members of the staff]~~ *presented to the Board* must include the grounds for the appeal, supporting documentation, information concerning the claim and recommendations for action by the Board.

3. Not later than 10 days before the date of the meeting in which an appeal that was made by a participant pursuant to this section will be heard by the Board, the ~~[staff]~~ *Executive Officer or his designee* shall notify the participant in writing of the date, time and place of the meeting.

4. The participant may appear with counsel before the Board in a closed portion of an open meeting pursuant to NRS 241.030 to review orally his claim and the reasons why he is not satisfied with the adjudication of the claim.

5. The Board may render a decision on the claim at that time during its open meeting or defer action to a future meeting if additional information is required for review.

6. The ~~[staff]~~ *Executive Officer or his designee* shall mail to the participant by first-class mail notice of the decision of the Board within ~~[10 working]~~ *15* days after the decision is rendered.

7. A decision of the Board is final.

Sec. 36. NAC 287.075 and 287.410 are hereby repealed.

Sec. 37. 1. This section, sections 1 to 9, inclusive, and sections 11 to 36, inclusive, of this regulation become effective on March 22, 2004.

2. Section 10 of this regulation becomes effective on July 1, 2004.

TEXT OF REPEALED SECTIONS

287.075 “Member” defined. “Member” means an enrolled participant in the Program or a public agency group plan.

287.410 Payment of premiums by surviving spouse or dependent; cancellation for failure to reenroll.

1. If a surviving spouse or dependent is eligible to continue coverage or insurance in the Program but is not eligible to receive benefits as the insured, the surviving spouse or dependent must pay the premium for group insurance directly to the Program.

2. If a surviving spouse or dependent who is eligible to reenroll in the Program fails to reenroll in the Program within 60 days after the date of death of the insured, the Program may, at any time after the 60-day period, cancel coverage or insurance for the surviving spouse or dependent.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R154-03

The Board of the Public Employees' Benefits Program adopted regulations assigned LCB File No. R154-03 which pertain to chapter 287 of the Nevada Administrative Code on March 4, 2004.

Notice date: 9/26/2003; 12/31/2003; 1/13/2004
Hearing date: 10/22/2003; 2/5/2004; 3/4/2004

Date of adoption by agency: 3/4/2004
Filing date: 3/22/2004

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.
 - a) "Notices of Workshops to Solicit Comments on Proposed Regulation" were posted on September 26, 2003 and January 13, 2004. The "Notice of Intent to Act Upon a Regulation" was posted on December 31, 2003.
 - b) Attached is a summary of public response.
 - c) A copy of the summary may be obtained by calling Vicki Smerdon at the Public Employees' Benefits Program at 800-326-5496 or 775-684-7000, or by writing to the Public Employees' Benefits Program at 400 West King Street, Suite 300, Carson City, Nevada 89703.

2. The number of persons who:
 - a) Attended the hearings: 10/22/03 17 attended; 2/5/04 65 attended; 3/4/04 60 attended
 - b) Testified at each hearing: 10/22/03 6 testified; 2/5/04 5 testified; 3/4/04 1 testified
 - c) Submitted to the agency written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.

Comments were not solicited from any particular business because there is no direct or significant impact on any business.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Regulations were changed as a result of public comments.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:
 - a. Both adverse and beneficial effects; and
 - b. Both immediate and long-term effects.

There are no other estimated economic effects on the public, either adverse or beneficial, nor immediate or long term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

None.

7. A description of any regulations of other state or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are none.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are none.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee.