

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

LCB File No. R126-07

Effective January 30, 2008

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

AUTHORITY: §§1-10, 12, 13, 15 and 23-26, NRS 287.043; §§11, 21 and 22, NRS 287.043 and 287.045; §14, NRS 287.043 and 287.0439; §§16, 18 and 19, NRS 287.043 and 287.046; §17, NRS 287.043, 287.0439 and 287.0445; §20, NRS 287.043, 287.045 and 287.0467.

A REGULATION relating to programs for public officers and employees; revising provisions governing eligibility for enrollment and reenrollment in the Public Employees' Benefits Program for retired public officers and employees; requiring certification and training of public employees who prepare forms required by the Program on behalf of other employees; revising provisions governing fees and the establishment of rates for local governmental agencies applying to participate in the Program; requiring certain documentation for certain adult dependents of participants in the Program; revising provisions governing participation in the Program by local governmental agencies that begin participating in the Program after a certain date; and providing other matters properly relating thereto.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. 1. *A person who:*

(a) At the time of his retirement or total disability, was:

(1) Employed by a participating state agency; and

(2) A participant in the Program; and

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

(1) Notifies the participating state agency that employed him at the time of his retirement or total disability of his intent to continue coverage in the Program; and

(2) Reenrolls in the Program,

↪ will have uninterrupted benefits and is not subject to any waiting period.

2. Continued coverage provided to a person described in subsection 1 may be changed by the person at the time of reenrollment pursuant to subparagraph (2) of paragraph (b) of subsection 1.

Sec. 3. 1. A person who:

(a) Is a retired officer or employee on or before September 1, 2008;

(b) At the time of his retirement or total disability, was:

(1) Employed by a participating local governmental agency; and

(2) A participant in the Program; and

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

(1) Notifies the participating local governmental agency that employed him at the time of his retirement or total disability of his intent to continue coverage in the Program; and

(2) Reenrolls in the Program,

↪ will have uninterrupted benefits and is not subject to any waiting period.

2. Coverage provided to a person described in subsection 1:

(a) May be changed by the person at the time of reenrollment pursuant to subparagraph (2) of paragraph (c) of subsection 1.

(b) Continues until the person chooses to terminate or decline the coverage. If the person chooses to terminate or decline the coverage after November 30, 2008, the person may subsequently only reinstate in the Program pursuant to NRS 287.023 and 287.0475.

Sec. 4. 1. A person who:

(a) Is a retired officer or employee on or before September 1, 2008;

(b) At the time of his retirement or total disability:

(1) Was employed by a participating local governmental agency; and

(2) Was not a participant in the Program; and

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

(1) Notifies the participating local governmental agency that employed him at the time of his retirement or total disability of his intent to enroll in the Program; and

(2) Enrolls in the Program,

↳ is subject to a 60-day waiting period.

2. Coverage provided to a person described in subsection 1 continues until the person chooses to terminate or decline the coverage. If the person chooses to terminate or decline the coverage after November 30, 2008, the person may subsequently only reinstate in the Program pursuant to NRS 287.023 and 287.0475.

Sec. 5. 1. A person who:

(a) Becomes a retired officer or employee after September 1, 2008;

(b) At the time of his retirement or total disability, was:

(1) Employed by a participating local governmental agency; and

(2) A participant in the Program; and

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

(1) Notifies the participating local governmental agency that employed him at the time of his retirement or total disability of his intent to continue coverage in the Program; and

(2) Reenrolls in the Program,

↳ will have uninterrupted benefits and is not subject to any waiting period.

2. Continued coverage provided to a person described in subsection 1 may be changed by the person at the time of reenrollment pursuant to subparagraph (2) of paragraph (c) of subsection 1.

3. Coverage of a person pursuant to this section terminates on the date on which the participating local governmental agency that employed the person at the time of his retirement or total disability terminates its participation in the Program. If the participating local governmental agency subsequently reestablishes its participation in the Program pursuant to NAC 287.310, the person may subsequently reinstate in the Program pursuant to NRS 287.023 and 287.0475.

Sec. 6. 1. A person who:

(a) Becomes a retired officer or employee after September 1, 2008; and

(b) At the time of his retirement or total disability:

(1) Was employed by a participating local governmental agency; and

(2) Was not a participant in the Program,

↳ may only enroll or reenroll in the Program pursuant to the provisions of NRS 287.0475.

2. Coverage provided to a person pursuant to this section terminates on the date on which the participating local governmental agency that employed the person at the time of his retirement or total disability terminates its participation in the Program. If the participating local governmental agency subsequently reestablishes its participation in the Program pursuant to NAC 287.310, the person may subsequently reinstate in the Program pursuant to NRS 287.023 and 287.0475.

Sec. 7. 1. *An appointing authority of a participating public agency may appoint an employee of the participating public agency to be responsible for preparing and submitting forms to the Program on behalf of the employees of the participating public agency.*

2. The appointing authority or supervisor of an employee appointed pursuant to subsection 1 shall notify the Program, on a form prescribed by the Program, within 15 days after the initial appointment of the employee and the termination of the appointment.

3. An employee who is appointed pursuant to subsection 1 must successfully complete certification training provided by the Program:

(a) Within 60 days after appointment, unless the Executive Officer grants an extension for good cause shown; and

(b) At least once every 12 months thereafter for the duration of the appointment.

4. The appointing authority or supervisor of an employee who is appointed pursuant to subsection 1 shall ensure that the employee complies with the requirements of subsection 2.

5. As used in this section, “appointing authority” means an official, board or commission having the legal authority to make appointments to positions within the participating public agency, or a person to whom the authority has been delegated by the official, board or commission.

Sec. 8. 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 7, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 287.0056 to 287.145, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. NAC 287.135 is hereby amended to read as follows:

287.135 “Retired officer or employee” means:

1. An officer or employee of a public employer who ~~has~~ :

(a) *Has* met the requirements to receive, and is receiving any distribution of, benefits from:

~~(a)~~ (1) The Judges' Retirement System;

~~(b)~~ (2) The Public Employees' Retirement System (PERS);

~~(c)~~ (3) The Legislators' Retirement System; or

~~(d)~~ (4) A long-term disability plan of the public employer ~~;~~ ; *and*

(b) *Has a total of at least 5 years of service credit from all his public employers, excluding any service credit purchased pursuant to NRS 1A.310, 218.23831 or 286.300.*

2. An officer or employee of a public 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 Nevada System of Higher Education, 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. 10. NAC 287.141 is hereby amended to read as follows:

287.141 "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. 11. NAC 287.150 is hereby amended to read as follows:

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

(a) In any calendar month, works as a public employee or officer at least 80 hours. The Board will consider such full-time employment to commence at the beginning of the month 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 local governmental agency. The Board will consider such full-time employment to commence at the beginning of the month in which his term of service or term of office begins.

(c) Is a biennial employee pursuant to 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,]~~ *Nevada System of Higher Education* 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 Nevada System of Higher Education will provide a subsidy, as a state employee participant rather than a retired officer or employee pursuant to NRS 287.023, until the voluntary or involuntary termination of the employee from the teaching program.

Sec. 12. NAC 287.310 is hereby amended to read as follows:

287.310 1. To participate in group coverage or insurance 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 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.]~~
\$250, plus \$2.25 per participant for any application involving 100 or more participants.

(b) ~~[Information,]~~ *If the local governmental agency has 100 or more participants, information,* as determined by the actuary of the Program, sufficient to make an actuarial determination as to the appropriate rates for the local governmental agency, including, without limitation, the 3 most recent years of claims history data of the local governmental agency, if any exists, in an electronic format that is compatible with the actuarial services of the Program.

(c) The residential zip code, gender, age and current selection for coverage of:

- (1) The eligible members, regardless of current enrollment, of the local governmental agency; and
- (2) Those members that are currently enrolled in the group plan of the 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. *Effective November 30, 2008, such an interlocal contract must include a provision*

that requires the local governmental agency to participate in the Program for at least 4 years before the local governmental agency may withdraw from the Program in accordance with NAC 287.320.

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

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

(a) *For a local governmental agency with less than 100 participants, the requesting local governmental agency will not be rated separately from those same or similar participating local governmental agencies.*

(b) For a local governmental agency with 100 or more participants:

(1) If, upon review of the claims experience of 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 participating local governmental agency groups, the requesting local governmental agency will not be rated separately from those same or similar participating local governmental agency groups.

~~(b)~~ (2) If the claims experience for the requesting local governmental agency exceeds 105 percent of the appropriate rate for the same or similar 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 participating local governmental agency groups and the cost of the experience of the requesting local governmental agency.

~~[(e)]~~ (3) If the requesting local governmental agency has no claims experience, the rates will be equal to 105 percent of the standard rate for a participating local governmental agency that has no separate rating applied.

↪ Rates established pursuant to ~~[(paragraphs (b) and (c))]~~ *subparagraphs (2) and (3)* 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 local governmental agency, the ~~[(Program)]~~ *Executive Officer or his designee* shall provide, upon written request from the participating local governmental agency, the history of claims for that participating local governmental agency. The ~~[(Program)]~~ *Executive Officer of his designee* shall charge for each report the actual cost of providing the report. The report ~~[(will)]~~ *must* include:

(a) A summary of the medical, ~~[(surgical)]~~ *prescription* 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)]~~ *Executive Officer or his designee* shall provide the report within 90 days after receipt of the request.

Sec. 13. 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 retired officer or employee who desires to participate in 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 and addresses, 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~~

(2) On the 19th birthday of the child, the child is covered by the Program or has received continuous coverage since the child was 18 years of age as a dependent under another group health plan or credible coverage; and

(3) Within 30 days after the 19th birthday of the child, if the child is covered by the Program on the 19th birthday of the child or, if the child is initially enrolled in the Program on his 19th birthday, within 30 days after the effective date of the child's coverage under the Program, 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.]~~ :

(I) A written statement by a physician who provides care to the child that is prepared within 90 days before provision of the statement to the Program indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the declarant primarily for support; and

(II) Any other documentation required by the Program that demonstrates financial support of the child by the declarant.

(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 a program of secondary education or an independently accredited program of postsecondary 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 a program of secondary education or an independently accredited program of postsecondary 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. To determine whether the child of a declarant continues to be eligible for coverage pursuant to paragraph (c) of subsection 2, the Executive Officer or his designee may require:

(a) Submission of periodic updates to the documentation provided by the declarant pursuant to subparagraph (3) of paragraph (c) of subsection 2; and

(b) Submission of the child to a mental or physical examination conducted by a physician selected by and at the expense of the Program.

4. All declared members of a program coverage unit must continually reside in the same 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 residence of the declarant.

~~4.~~ 5. Children declared by the declarant for inclusion in a program coverage unit may include biological children, adopted children, children placed in the 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.~~ 6. 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. 14. NAC 287.317 is hereby amended to read as follows:

287.317 1. The ~~Program~~ *Executive Officer or his designee* shall conduct the orientation program required pursuant to NAC 287.314 each month at locations designated by the ~~Program~~ *Executive Officer or his designee*.

2. A participating public agency 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~~ *Executive Officer or his designee* 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 7 days after the employee's first day of employment with the participating public agency.

3. 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. 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 Nevada System of Higher Education 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 shall submit notification of the termination to the Program, on a form prescribed by the Program, not later than 15 days after the date on which the participating public agency receives notification that 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. 15. NAC 287.320 is hereby amended to read as follows:

287.320 1. A 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. *Effective November 30, 2008, if a participating local governmental agency withdraws from the Program:*

(a) Coverage provided for all active officers and employees of the local governmental agency terminates on the date on which the local governmental agency withdraws from the Program.

(b) Except for retired officers and employees who were enrolled in the Program on November 30, 2008, and continue their participation in the Program, coverage provided for all retired officers and employees of the local governmental agency terminates on the date on which the local governmental agency withdraws from the Program. If a retired officer or employee whose coverage by the Program terminates pursuant to this paragraph qualifies as a dependent of a participant, the termination of coverage pursuant to this paragraph is a qualifying status change for the retired officer or employee.

3. Unless waived by the Board, a 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.~~ 4. *If a group of officers and employees of a participating local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186 is excluded from participation in the Program on or after November 30, 2008:*

(a) Except for retired officers and employees who were enrolled in the Program on November 30, 2008, and continue their participation in the Program, all retired officers and employees who were members of the group will be excluded from participation in the Program;

(b) Active officers and employees in the group are not eligible to participate in the Program after retirement; and

(c) All active and retired officers and employees of the local governmental agency that are not members of the group are eligible to continue their participation in the Program until the date on which the participating local governmental agency terminates its participation in the Program. If the participating local governmental agency subsequently reestablishes its participation in the Program pursuant to NAC 287.310, such a retired officer or employee may subsequently reinstate in the Program pursuant to NRS 287.023 and 287.0475.

5. Except for retired ~~[persons who, at the time of withdrawal from the Program by the participating local governmental agency that employed the retired persons, opt to continue coverage or insurance in the Program pursuant to NRS 287.023,]~~ *officers and employees who were enrolled in the Program on November 30, 2008, and continue their participation in the Program*, the Program is not liable for any expenses or claims of an officer or employee or retired officer or employee, or any dependents thereof, of the withdrawing local governmental agency *or excluded group* incurred after the effective date of the withdrawal of the local governmental agency *or exclusion of the group* from the Program.

Sec. 16. NAC 287.450 is hereby amended to read as follows:

287.450 1. A participating public agency 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] a~~ combination of work actually performed and accrued annual leave or sick leave, ~~for 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.]~~ *continue coverage or insurance for himself and any of his eligible dependents:*

(1) If the amount of the paycheck of the employee is more than the cost of the premium or contribution, by having the cost of the premium or contribution deducted from his paycheck; or

(2) If the amount of the paycheck of the employee is less than the cost of the premium or contribution, by paying the cost of the premium or contribution directly to the Program.

(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) Within 1 year after 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. 17. NAC 287.460 is hereby amended to read as follows:

287.460 1. An officer or employee of 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 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.]~~ *by having the cost of the premium or contribution deducted from his paycheck if the amount of his paycheck is more than the cost of the premium or contribution or, if the amount of his paycheck is less than the cost of the premium or contribution, by paying the cost of the premium or contribution directly to the Program.* The officer or employee shall report his change of status to the participating public agency that employs him when he takes leave and when he returns to work. Within 15 days after notification of such a change of status by the officer or employee, the participating public agency shall report to the Program, on a form prescribed by the Program, 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 within 1 year after the last day of his coverage from the Program, his dependent may be covered.

Sec. 18. NAC 287.485 is hereby amended to read as follows:

287.485 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]~~ *participates* 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.]~~ *on which coverage of the person as a retired officer or employee becomes effective.*

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 unless an audit related to the same retired officer or employee has been requested and completed pursuant to subsection 6. 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. *The Executive Officer or his designee shall not bill the subsidy for the retired officer or employee to any public employer:*

(a) 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.]~~

(b) *For any period that is more than 3 months before the date on which the retired officer or employee submitted a form to the Program pursuant to subsection 1.*

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]~~ *Executive Officer or his designee* 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]~~ 3 months after the first day of the month for which the appeal was filed, the ~~[Program]~~ *Executive Officer or his designee* shall adjust the amount of the subsidy as of the first day of the first month that is ~~[6]~~ 3 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]~~ *Executive Officer or his designee* 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]~~ *Executive Officer or his designee* 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.

12. The Executive Officer or his designee shall determine the amount of the subsidy for a retired officer or employee who was eligible for but declined to receive health benefits from his last public employer in the same manner as for a retired officer or employee who was eligible for and received health benefits from his last public employer.

Sec. 19. NAC 287.490 is hereby amended to read as follows:

287.490 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,]~~ **2**, 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]~~ *was employed* 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]~~

2. *Each* public employer with which the retired officer or employee ~~[had at least 5 years of service]~~ *was employed* 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.~~ *was employed. The amount of the total subsidy must be based on the cumulative total years and months of service by the retired officer or employer for all public employers with which the retired officer or employee was employed.*

Sec. 20. 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~~ :

(a) If the first day after his completion of 90 days of full-time employment ~~is~~ is the first day of a month, on the first day after his completion of 90 days of full-time employment; or

(b) If the first day after his completion of 90 days of full-time employment is not the first day of a month, on the first day of the month immediately following his completion of 90 days of full-time employment.

4. A biennial employee who was working for a participating state agency is not subject to any waiting period upon reenrollment if the biennial employee:

(a) ~~[Plans to return, and does return,]~~ *Is returning* to the same or a similar position ~~[in the next authorized]~~ *as held during the previous* 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. 21. NAC 287.510 is hereby amended to read as follows:

287.510 If a person other than a retired officer or employee returns to work for a participating public agency with which the person was previously employed within 1 year after leaving employment:

1. The person may select any coverage and insurance offered to participants in the Program at the time that the person returns to work; and

2. Coverage and insurance for the person is effective ~~[on]~~ :

(a) *If* the effective date of his reemployment ~~[if that day]~~ is on the first day of ~~[the]~~ *a* month, *on the effective date of his reemployment;* or ~~[, if]~~

(b) *If* the effective date of reemployment is not on the first day of ~~[the]~~ *a* month, on the first day of the month *immediately* following the effective date of his reemployment. ~~[, as appropriate.]~~

Sec. 22. NAC 287.515 is hereby amended to read as follows:

287.515 1. Except as otherwise provided in ~~[subsection 2, if]~~ *this section*, a person who participates in the Program as a retired officer or employee *and who* returns to full-time employment with a participating public agency ~~[, the person]~~ is eligible to participate in the Program as an active officer or employee ~~[on]~~ :

(a) *If* the effective date of his reemployment ~~[if that day]~~ is on the first day of ~~[the]~~ *a* month, *on the effective date of his reemployment;* or ~~[, if]~~

(b) *If* the effective date of *his* reemployment is not on the first day of ~~the~~ a month, on the first day of the month *immediately* following the effective date of his reemployment . ~~as appropriate.~~

2. If a person who participates in the Program as a retired justice or judge accepts reemployment as a justice of the Supreme Court or district judge pursuant to NRS 1A.370, ~~for if the person returns to full-time employment with a participating public agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to NRS 286.523,~~ the person is eligible to participate in the Program as an active justice ~~judge, officer or employee,~~ *or judge*, as applicable ~~on~~ :

(a) *If* the first day ~~of the month immediately following~~ *after his completion of* 90 days of full-time employment ~~is on the first day of a month, on the first day after his completion of 90 days of full-time employment; or~~

(b) *If the first day after his completion of 90 days of full-time employment is not on the first day of a month, on the first day of the month immediately following his completion of 90 days of full-time employment.*

3. *Except as otherwise required by federal law, a retired officer or employee who returns to full-time employment with a participating public agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to NRS 286.523 and who continues to receive allowances under the retirement system of which he is a member is eligible to participate in the Program in the same manner as he participated before returning to full-time employment. Except for a retired officer or employee who was enrolled in the Program on November 30, 2008, and continues his participation in the Program, coverage of a retired officer or employee who returns to full-time employment with a*

participating local governmental agency pursuant to this subsection terminates on the date on which the participating local governmental agency terminates its participation in the Program. If the participating local governmental agency subsequently reestablishes its participation in the Program pursuant to NAC 287.310, such a retired officer or employee may subsequently reinstate in the Program pursuant to NRS 287.023 and 287.0475.

4. A retired officer or employee who returns to full-time employment with a participating state agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to NRS 286.523 and who discontinues receiving allowances under the retirement system of which he is a member is eligible to participate in the Program as an active officer or employee:

(a) If the effective date of his reemployment is on the first day of a month, on the effective date of his reemployment; or

(b) If the effective date of his reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of his reemployment.

5. A retired officer or employee who returns to full-time employment with a participating local governmental agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to NRS 286.523 and who discontinues receiving allowances under the retirement system of which he is a member is eligible to participate in the Program as an active officer or employee:

(a) If the effective date of his reemployment is on the first day of a month, on the effective date of his reemployment; or

(b) If the effective date of his reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of his reemployment.

↳ Except for a retired officer or employee who was enrolled in the Program on November 30, 2008, and continues his participation in the Program, coverage of a retired officer or employee pursuant to this subsection terminates on the date on which the participating local governmental agency with which the retired officer or employee returns to full-time employment terminates its participation in the Program.

Sec. 23. NAC 287.530 is hereby amended to read as follows:

287.530 1. If both spouses are retired officers or employees who 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 NAC 287.485 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 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 public employer of his intent to continue coverage in the Program; and~~
 - ~~——(2) Reenrolls in the Program;~~

~~→ 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.~~

~~—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 service with a public employer with at least 5 years of service before receiving retirement benefits; and~~
- ~~—(f) Within 60 days after his official date of retirement or total disability;~~
 - ~~——(1) Notifies his last public employer of his intent to enroll in the Program; and~~
 - ~~——(2) Enrolls in the Program;~~

~~→ is subject to a 60-day waiting period.~~

~~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, and who, at the time of his death, was a participant under the Program, may 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 such spouse or dependent pays the premium or contribution directly to the Program; and

(b) Within 60 days after the date of death of the participant, the surviving spouse or dependent:

(1) Notifies the last 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.

~~7.]~~ 5. 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.

~~8.]~~ 6. 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, or acquires a dependent by marriage, adoption or birth, the dependent is not eligible for coverage or insurance.

7. A retired officer or employee who wishes to enroll or reenroll in the Program more than 60 days after his official date of retirement or total disability must comply with the requirements of NRS 287.0475.

Sec. 24. 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~~ *Within 30 days after receiving the request for a review, advise* the participant in writing of ~~the~~ :

(1) The decision of the Claims Administrator ~~[within 30 days after receiving the request for a review.]; and~~

(2) The specific provision of the applicable plan of the Program used by the Claims Administrator as the basis for the decision.

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

Sec. 25. 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 *of the Program* issues his written decision on the review of the claim. *The supporting documentation must include, without limitation, a copy of the request for review of the claim submitted to the Claims Administrator pursuant to NAC 287.670, a copy of the decision of the Claim Administrator concerning the claim and any other information provided to the Claims Administrator by the participant.*

2. The Executive Officer or his designee shall review the material submitted by the participant to determine if the claim was adjudicated correctly.

3. The Executive Officer or his designee shall notify the participant in writing of the decision within 30 days after receipt of the participant’s appeal.

Sec. 26. 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 Executive Officer or his designee on the appeal made by the participant, the participant may file an appeal with the Board for a review by the Board of the claim. The appeal must be filed within 35 days after the date on which the 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, the Executive Officer or his designee shall *prepare a written report concerning the*

appeal and present ~~[a]~~ *the* 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 Executive Officer or his designee shall present the report to the Board at its next following meeting. The report 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 Executive Officer or his designee shall notify the participant in writing of the date, time and place of the meeting ~~[]~~ *and provide to the participant the written report concerning the appeal that was prepared by the Executive Officer or his designee pursuant to subsection 2.*

4. The participant may appear with an attorney or other representative of his choosing before the Board in a closed portion of an open meeting held 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. Except as otherwise provided in NRS 241.033, the Chairman may at any time before or during the closed portion of the open meeting determine which additional persons, if any, are allowed to attend the closed portion of the open meeting. The Board may allow the Claims Administrator of the Program to present an explanation of the decision that the Claims Administrator made pursuant to NAC 287.670 at the closed portion of the open meeting.

6. 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.

7. The Executive Officer or his designee shall mail to the participant by first-class mail notice of the decision of the Board within 15 days after the decision is rendered.

8. A decision of the Board is final.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R126-07**

The Board of the Public Employees' Benefits Program adopted regulations assigned LCB File No. R126-07 which pertain to chapter 287 of the Nevada Administrative Code.

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.

One workshop and an adoption hearing were held. Public comment was solicited by sending notices of the workshops and the adoption hearing to all state agencies, the Nevada State Library, all Nevada county libraries, and all persons who requested these notices.

A summary of public response may be obtained from Vicki Smerdon with the Public Employees' Benefits Program at 775-684-7020 or 800-326-5496.

2. The number of persons who:

- (a) Attended the September 13, 2007 workshop: 17**
- (b) Attended the December 6, 2007 adoption hearing: 87**
- (c) Testified at the September 13, 2007 workshop: 3**
- (d) Testified at the December 6, 2007 adoption hearing: 0**
- (e) 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.

See response to number 1 above.

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.

Although there was limited public comment, no changes were recommended and therefore none ever made.

5. The estimated economic effect of the adopted regulation on the business 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.**
- (a) No adverse or beneficial effects; and
- (b) No immediate or long term effects.

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

None.

7. A description of any regulations of the state or government 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 which are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

There are none.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating 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.