

**LCB File No. R126-07**

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

**NOTICE OF INTENT TO ACT UPON  
A PROPOSED PERMANENT REGULATION**

**Notice of Hearing for the Adoption, Amendment, and Repeal of Regulations  
of the Public Employees' Benefits Program**

The Board of the Public Employees' Benefits Program will hold a public hearing at 9:15 a.m., on December 6, 2007, at the Legislative Building, 401 South Carson Street, Room 1214, Carson City, Nevada, videoconference to the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, and repeal of regulations that pertain to chapter 287 of the Nevada Administrative Code. This regulation is identified as LCB File No. R126-07.

The following information is provided pursuant to the requirements of NRS 233B.0603:

- 1. The need for and the purpose of the proposed regulation.**
  - (a) Implementation of legislation that was enacted during the 2007 Legislative Session
  - (b) Topics included on the attached document; and
  - (c) Other related matters.
  
- 2. Either the terms or the substance of the regulations to be adopted or a description of the subjects and issues involved.**

See attached proposed regulation.
  
- 3. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.**

Proposed regulation changes only affect PEBP participants and do not impact small business.
  
- 4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
  - (a) Both adverse and beneficial effects; and**
    - Adverse effects:** None known at this time
    - Beneficial effects:** None known at this time
  - (b) Both immediate and long term effects:**

None.

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

None.

**6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

None.

**7. If the regulation is required pursuant to federal law, a citation and description of the federal law.**

Not applicable.

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

Not applicable.

**9. Whether the proposed regulation establishes a new fee or increases an existing fee.**

No.

Persons wishing to comment upon the proposed action of Public Employees' Benefits Program may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Public Employees' Benefits Program, Attention: Vicki Smerdon, 901 South Stewart Street, Suite 1001, Carson City, Nevada 89701. Written submissions must be received by the Public Employees' Benefits Program on or before Wednesday, December 5, 2007. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Public Employees' Benefits Program may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted, amended and repealed will be available at the Public Employees' Benefits Program, 901 South Stewart Street, Suite 1001, Carson City, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This information is also available at Public Employees' Benefits Program's web site at <http://www.pebp.state.nv.us>.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against adoption.

This notice of hearing has been posted at the following locations:

NEVADA STATE LIBRARY, LEGISLATIVE COUNSEL BUREAU, BLASDEL BUILDING, 209 East Musser Street, Carson City; PUBLIC EMPLOYEES' BENEFITS PROGRAM, 901 South Stewart Street, Carson City; MOTOR VEHICLES & PUBLIC SAFETY BLDG., 305 Galetti Way, Reno; GOVERNOR'S OFFICE-LAS VEGAS, 555 E. Washington Ave. Suite 5100, Las Vegas; MOTOR VEHICLES & PUBLIC SAFETY, 2701 E. Sahara Ave., Las Vegas; UNLV - HUMAN RESOURCES OFFICE, 4505 Maryland Parkway, Las Vegas; UNR – ARTEMESIA BUILDING, 70 Artemesia Way, Reno. In addition, the notice was mailed to all State agencies and to groups and individuals as requested.

**LCB File No. R126-07**

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

The Public Employees' Benefits Program (PEBP) conducted a workshop on September 13, 2007 to solicit comments on proposed regulation changes to Chapter 287 of the Nevada Administrative Code (NAC). The proposed changes are presented in the following order:

1. Those resulting from passage of Senate Bill (SB) 544 (2007).
2. Those resulting from passage of SB 547 (2007).
3. Other changes recommend for administrative purposes.

PEBP has tentatively planned its Adoption Hearing on December 7, 1007.

**1. SB544 Proposed Amendments**

- 1.1** NAC 287.320 provides the requirements and procedures for a local government to withdraw from participation in the program. New requirements of SB 544 are proposed for amendment. Those new requirements include duration of participation and the impact on retirees of the jurisdiction that joined the Program after November 30, 2008.

Proposed Change:

**NAC 287.320 Withdrawal from Program: Procedure; limitation on reentry; liability of Program. (NRS 287.043)**

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. 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. 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, 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 incurred after the effective date of the withdrawal of the local governmental agency from the Program.

***4. For any local governmental agency that begins participation in the program after November 30, 2008, the following conditions apply:***

***(a) the local governmental agency may not withdraw from the Program unless they have participated for a minimum of four years;***

***(b) Program coverage for all active employees of that local governmental agency will be terminated on the date of withdrawal;***

*(c) Program coverage for all retirees from that local governmental agency who joined the Program after November 30, 2008 will be terminated on the date of withdrawal. If the retiree terminated pursuant to this subsection subsequently qualifies as a dependent of a PEBP participant, such termination is a qualifying status change for the continuing PEBP participant.*

*(d) If a collectively-bargained group of employees, who are eligible for health insurance 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:*

*(i) All retirees who were members of that collectively-bargained group must be excluded from participation in the Program,*

*(ii) Employees of the collectively-bargained group may not elect to participate in the program upon or after their retirement,*

*(iii) All other employees of the entity and all retirees of the entity who elect to be covered, who are not part of the collectively bargained group, must be allowed to participate in the Program.*

- 1.2 NAC 287.530 addresses the eligibility of State and non-State retirees to join PEBP. It is recommended that this section be segregated into three separate section. One section (NAC 287.530) would be amended to address only general provisions that apply to all retirees. A new section (NAC 287.540) is recommended that includes provisions which apply only to state retirees. Another new section (NAC 287.550) is recommended that would apply only to non-state retirees.

Proposed Change:

**NAC 287.530 Coverage of retired or totally disabled persons or surviving spouse or dependents – *General Provisions*.** (NRS 287.043)

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 that 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 that 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 person who worked for state or local governmental agency and desires to enroll or reenroll in the Program more than 60 days after his official date of retirement or total disability is subject to reenrollment provisions in NRS 287.0475.*

***NEW SECTION: NAC 287.540 Coverage of retired or totally disabled persons or surviving spouse or dependents –State Agency as last employer.***

***A person who:***

- (1) meets the definition of “retired officer or employee” in NAC 287.135; and***
- (2) was working for a State agency at the time of his retirement or disability;***  
***and***
- (3) Within 60 days after his official date of retirement or total disability;***
  - (a) Notifies his last public employer of his intent to continue coverage in the Program; and***
  - (b) 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.***

***NEW SECTION: NAC 287.550 Coverage of retired or totally disabled persons or surviving spouse or dependents –Local Governmental Agency as last employer.***

***(1) A person who:***

- (a) meets the definition of “retired officer or employee” in NAC 287.135 on or before September 1, 2008; and***
- (b) was working for a Local Governmental agency at the time of his retirement or disability; and***
- (c) was not covered by the Program at the time of his retirement or disability; and***
- (d) Within 60 days after his official date of retirement or total disability;***
  - (i) Notifies his last public employer of his intent to enroll in the Program; and***
  - (ii) Enrolls in the Program, is subject to a 60-day waiting period;***

***(2) A person who:***

- (a) meets the definition of “retired officer or employee” in NAC 287.135 on or before September 1, 2008; and***
- (b) was working for a Local Governmental agency at the time of his retirement or disability; and***
- (c) was covered by the Program at the time of his retirement or disability;***  
***and***
- (d) Within 60 days after his official date of retirement or total disability;***
  - (i) Notifies his last public employer of his intent to continue coverage in the Program; and***
  - (ii) 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.***

***(3) A person who:***

- (a) meets the definition of “retired officer or employee” in NAC 287.135 after September 1, 2008; and***
- (b) was working for a Local Governmental agency at the time of his retirement or disability; and***

*(c) was covered by the Program at the time of his retirement through his participating local governmental agency;*

*(d) Within 60 days after his official date of retirement or total disability;*

*(i) Notifies his last public employer of his intent to continue coverage in the Program; and*

*(ii) 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.*

*(e) Coverage by the Program is terminated in the event that his participating local governmental agency terminates its participation in the Program.*

*(4) A person who:*

*(a) meets the definition of “retired officer or employee” in NAC 287.135 after September 1, 2008; and*

*(b) was working for a Local Governmental agency at the time of his retirement or disability; and*

*(c) was not covered by the Program at the time of his retirement through his participating local governmental agency;*

*(d) may only enroll or reenroll in the Program subject to provisions contained in NRS 287.0475 and such coverage by the Program is terminated in the event that his participating local governmental agency terminates its participation in the Program.*

*(5) Program coverage for all retirees from a local governmental agency who joined the Program on or before November 30, 2008 will continue their coverage unless they choose to terminate or decline coverage. If they choose to terminate or decline coverage after November 30, 2008 and later desire to enroll in the Program, they will have the same rights as other retirees of that local governmental agency pursuant to NRS 287.023 and this section.*

- 1.3** Section 15 of SB 544 provided grandfather rights for non-state retirees “enrolled” in the program as of November 30, 2008. Clarifying language is proposed in a new NAC section to indicate that “enrolled” refers to actively receiving benefits from the Program. Non-state retirees who are in a “declined coverage” status with PEBP would not be eligible for the grandfather rights.

Proposed Change:

*NEW SECTION: NAC 287.560 The provisions of NRS 287.023 do not apply to, and must not be construed to terminate coverage under the Program for, retired officers and employees of local governments who are enrolled and receiving benefits through the Program on November 30, 2008.*

**2. SB 547 Proposed Amendments**

- 2.1** NAC 287.135 defines a “retired officer or employee”. With the passage of SB 547, there is no longer a minimum of five years of service required with a single employer for that time to be credited in the retiree subsidy. Therefore, it would be appropriate to expand the



definition of retiree and simply reference the definition in several other sections (as noted in this report) of the NAC Chapter 287.

Proposed Change:

**NAC 287.135 “Retired officer or employee” defined.** (NRS 287.043) “Retired officer or employee” means:

1. An officer or employee of a public 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 public employer~~[-];~~ *and*

*(e) has a total of at least five years of service credit from all public employers, excluding service purchased pursuant to NRS 1A.310 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.

- 2.2** NAC 287.485(1) references years of service counted toward a Post-1994 retiree subsidy. This language is proposed for update pursuant to changes approved in SB 547. Effective July 1, 2007, the definition of a retired officer or employee in section NAC 287.135 no longer needs to be expanded upon in NAC 287.485 in order to calculate the subsidy.

Proposed Change:

**NAC 287.485 Subsidy for retired officer or employee: Report required to obtain or reinstate subsidy; date for commencement of payment; appeal and audit of service credit and adjustment of amount of subsidy.** (NRS 287.043, 287.046)

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.

- 2.3** NAC 287.490 references a public employer’s responsibility to pay a subsidy for any retiree with at least five years of service with that employer. This language is proposed for update pursuant to changes approved in SB 547. Effective July 1, 2007, there is no longer a five year requirement with any one employer as long as the person meets the definition of a retired officer or employee in section NAC 287.135 (as recommended for amendment). It is also recommended that the years of service be removed from the employer billings due to the fact that, in many cases, there will be a percentage proration of total years of service used to calculate the subsidy billed that will not necessarily tie to a full year of service amount for individual employers.

Proposed Change:

**NAC 287.490 Subsidy for retired officer or employee: ~~[Inclusion of service credit in bill to public employer;]~~ calculation of amount of payment. (NRS 287.043, 287.046)**

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 *worked* ~~[had at least 5 years of service]~~ is calculated in the manner set forth in NRS 287.046.

~~[3]2. [If a retired officer or employee had at least 5 years of service with more than one public employer during his years of service,] [e]E~~Each public employer with which the retired officer or employee *worked* ~~[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 *worked* ~~[had at least 5 years of service]~~. *The total subsidy shall be based upon the cumulative total of years and months of service from all public employers. The requirement for no proration of partial years of service specified in NRS 287.046 shall be applied to the total service.*

- 2.4 NAC 287.530(4) and (5) defines the waiting period for those retirees who are, and those retirees who are not, participating in PEBP at the time of their retirement. With the passage of SB 547, it is not necessary for these two subsections to reference the 5 year of service requirement with a single public employer.

Proposed Change:

**NAC 287.530 Coverage of retired or totally disabled persons or surviving spouse or dependents. (NRS 287.043)**

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; *and*
- (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; *and*
  - (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.

### **3. Administrative Clarifications**

- 3.1** In 2006, PEBP established a certification program for agency representatives. This certification program provides specialized training to agency representatives who are assigned to complete program forms on behalf of employees. Maintenance of the “certified” status is required by PEBP in order to maximize the quality of enrollment and eligibility transactions submitted by participating agencies. A new section is proposed to describe these requirements.

Proposed Addition:

***NEW SECTION: NAC 287.3135 Certification of participating State or local governmental agency employees who prepare forms for the Program.***

- 1. The appointing authority or supervisor of an employee of a participating agency must notify the Program on a form prescribed by the Program within 15 days of the initial appointment or termination of appointment of an employee who is responsible for the preparation of forms for the Program.***
- 2. Newly appointed employees responsible for preparation of forms for the Program must successfully complete certification training provided by the Program within 60 days of appointment.***
- 3. All employees responsible for preparation of forms for the Program must successfully complete a certification training class offered by the Program at least every 12 months.***
- 4. The appointing authority or the supervisor of the employee as described in subsection 1 are responsible for ensuring the employee complies with subsections 2 and 3.***

- 3.2** NAC 287.141 defines “subsidy”. It is recommended that the definition refer to the entire NRS 287.046 section and not limit to specific subsections.

Proposed Change:

**NAC 287.141 “Subsidy” defined.** (NRS 287.043) “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.

- 3.3 NAC 287.150 interprets full-time employment. It is also recommended that the subsection 2 be amended to use the system name of “Nevada System of Higher Education”.

Proposed Change:

**NAC 287.150 “Full-time employment” interpreted; certain ~~[University]~~ Nevada System of Higher Education employees considered to be state employee participants.** (NRS 287.043, 287.045)

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.

- 3.4 NAC 287.310 specifies the amount of a nonrefundable application fee that must be paid to PEBP by any local governmental entity applying for participation in the Program. It is recommended that this fee structure be simplified to better reflect the level of effort in considering all applications. In addition, it is recommended that actuarial review of claims not be completed for application involving 100 or fewer participants. Staff believes that this is not a cost effective effort due to the small group size. Those groups would be assessed 100% of the normal non-state rate.

Proposed Change:

**NAC 287.310 Prerequisites to participation; fees; establishment of rates; provision to agency of report on history of claims.** (NRS 287.043)

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) \$2.25 per participant for any application involving 100 or more participants ~~[.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.]~~

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

(a) *Local governmental agencies with 100 or fewer participants:*

- (i) no actuarial review of claims history will be conducted*
- (ii) the requesting local governmental agency will not be rated separately from those same or similar participating local governmental agency groups.*

~~(a)~~ ***Local governmental agencies with greater than 100 participants:***

*(i)* 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)~~ *(i)* 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.

~~(c)~~ *(i)* 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) 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.

- 3.5** NAC 287.310(3)(a) indicates the detail required by local governmental entities in submitting claim history when applying for participation in the Program. It is recommended that surgical claims need not be segregated and that this data can be included in the medical claim history. It is also recommended that prescription claims be added as a separate category of claim detail (some plans include this in medical but others do not).

Proposed Change:

3. For a participating local governmental agency, the Program shall provide, upon written request from the participating local governmental agency, the history of claims for that 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~~ **prescription** and dental claims paid by the self-funded plan for each month covered by the report; and

- 3.6** NAC 287.312(c) describes the conditions under which an unmarried child who is 19 years or older is an eligible dependent. It is recommended that language be added regarding a requirement for continuous coverage from another group health plan in the event that the individual did not have continuous coverage from the age of 19 from PEBP. Requirements for supporting documentation of the child's disability are also proposed.

Proposed Change:

**NAC 287.312 Qualifying program coverage unit: Declaration of enrollment; eligible dependents. (NRS 287.043)**

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:

(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 child was covered by the Program on his 19th birthday or has received continuous coverage as a dependent under another group health plan; and*

~~[(2)] (3) The declarant provides supporting evidence to the Program *as follows: [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 current written statement from the child's physician indicating the child's diagnosis formed from the physician's assessment that the child has a mental or physical impairment causing incapability of self-sustaining employment and depending chiefly on the declarant for support and maintenance; and*

*(ii) other supporting documentation to demonstrate financial support and maintenance of the child by the declarant as may be required by the Program.*

*(4) The declarant must provide the supporting evidence described in paragraph (3) of this subsection within:*

*(i) 30 days of the child's 19th birthday if the child is covered by the Program on his 19th birthday; or*

*(ii) 30 days of the qualifying effective date of coverage if the child is enrolled in the Program subsequent to his 19th birthday.*

*(5) The Program reserves the right to require periodic updates to the supporting documentation described in paragraph (3) of this subsection to determine that the child continues to meet the definition of a dependent child with a disability.*

*(6) The Program reserves the right to have the child examined by a physician of the Program's choice and at the Program's expense to determine that the child meets the definition of a dependent child with a disability.*

- 3.7 NAC 287.450(1) and (2) address the obligation for premium payments on behalf of participants on leave without pay. Clarifying language is recommended along with a change as to the employee duty to pay their premiums in full and how that is to be accomplished.

Proposed Change:

**NAC 287.450 Employees on leave without pay: Payment of premiums or contributions; eligibility for coverage as dependent of spouse; coverage upon return to work. (NRS 287.043, 287.046)**

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 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]~~ **Must** pay the premiums or contributions for his coverage and insurance ~~[to the participating public agency that employs him]~~ **directly to the Program if the employee's paycheck is not sufficient for the premium or contribution to be deducted and paid 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.

- 3.8** NAC 287.460(1) addresses the obligation for premium payments on behalf of participants on leave due to workers' compensation. Clarifying language is recommended as to the employee duty to pay their premiums in full and how that is to be accomplished.

Proposed Change:

**NAC 287.460 Officers and employees on leave because of injuries in course of employment: Payment of premiums or contributions; reports of change in status; coverage of dependents upon return to work. (NRS 287.043, 287.0439, 287.0445)**

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]~~ **directly to the Program if the employee's paycheck is not sufficient for the premium or contribution to be deducted and paid 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.

- 3.9** NAC 287.485 describes the process of verifying and auditing years of service for retirees. Currently, a retiree does not receive credit for their years of service until they have submitted their form to PEBP. It is recommended that the Program consistently allow retroactive subsidy adjustments up to three months. This will positively impact those retirees that turn in their years of service information after their enrollment selection and

those retirees for whom an audit is necessary. Retroactive adjustments will not be allowed beyond the three month period.

Another recommended change for NAC 287.485 is to clarify PEBP's interpretation that all retirees who are eligible to participate in the plan are also eligible to receive an employer subsidy. A new subsection is recommended to formalize this interpretation.

Proposed Change:

**NAC 287.485 Subsidy for retired officer or employee: Report required to obtain or reinstate subsidy; date for commencement of payment; appeal and audit of service credit and adjustment of amount of subsidy. (NRS 287.043, 287.046)**

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 *upon which coverage as a retired officer or employee becomes effective* ~~[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 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.

9. *The Program shall not bill the subsidy for the retired officer or employee to any public employer under the following conditions:*

(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.]; or~~

*(b) For any period prior to 3 months from the date of submission of the form to the Program.*

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]~~3 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]~~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 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.

*12. The Program shall bill the subsidy for all eligible retired officers or employees in the same manner, regardless of whether the eligible retired officer or employee was receiving health benefits from their last employer at the time of retirement.*

- 3.10** NAC 287.500 provides for the eligibility of seasonal and biennial employees to receive benefits from the Program. Clarification is recommended in subsection (3) regarding the effective date of coverage when a seasonal employee returns to employment after more than one year absence. Clarification is also recommended in subsection (4)(a) regarding conditions under which a biennial employee is not subject to a waiting period.

Proposed Change:

**NAC 287.500 Coverage of seasonal employees and biennial employees. (NRS 287.043, 287.045, 287.0467)**

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 *concurrent with or* following ~~the 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 *as held in the previous* ~~in the next authorized~~ biennial employment period; and

- 3.11** NAC 287.510 describes eligibility of employees who return to work for the same employer after less than one year of absence. Clarifying language as to the effective date of the eligibility is recommended.

Proposed Change:

**NAC 287.510 Coverage of persons returning to work with previous employer within 1 year after leaving employment. (NRS 287.043, 287.045)** 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 the first day of the month *concurrent with or following his 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~~.

- 3.12** NAC 287.515 describes eligibility of retirees who return to work. Clarifying language as to the effective date of the eligibility is recommended. Subsection (1) is recommended for

clarification as to the effective date of coverage as an active employee. Subsection (2) is recommended to change the effective date for a returning judge to be the same as provided for in subsection (1). In addition, references in subsection (2) to positions of critical labor shortage is recommended to be moved to its own new subsection (3).

Proposed Change:

**NAC 287.515 Coverage of retired participants upon reemployment. (NRS 287.043, 287.045)**

1. Except as otherwise provided in subsection 2, if a person who participates in the Program as a retired officer or employee 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 the *first day of the month concurrent with or following his effective date of reemployment* ~~[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].~~

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, ~~[or 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~~[,] or judge, [officer or employee,]~~ as applicable, on the first day of the month *concurrent with or following his effective date of reemployment* ~~[immediately following 90 days of full-time employment].~~

*3. If a 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 and the person discontinues receipt of retiree benefits provided for in NAC 287.135, the person is eligible to participate in the Program as an active officer or employee on the first day of the month concurrent with or following his effective date of employment. If the person continues receipt of retiree benefits provided for in NAC 287.135, the person is eligible to participate in the same manner as prior to returning to full-time employment pursuant to NRS 286.523, subject to any benefit determination due to Federal statute or regulation.*

- 3.13** NAC 287.670(2) describes the process for a participant to appeal the status of a claim to the plan administrator and the administrator's responsibility in response. It is recommended that the regulation expand the plan administrator's responsibility in explain a claim appeal decision.

Proposed Change:

**NAC 287.670 Request for review: Requirements; action by Claims Administrator. (NRS 287.043)**

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 30 days after receiving the request for a review. *The written document must include the specific plan provisions used as a 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.

- 3.14** NAC 287.680 describes the process for a participant to appeal the status of a claim to the Program and the Program’s responsibility in response. It is recommended that the regulation expand the participant’s obligation in providing the Program with supporting documentation for their appeal request.

Proposed Change:

**NAC 287.680 Initial appeal of review: Requirements; action by Executive Officer or his designee. (NRS 287.043)**

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. *The supporting documentation must include a copy of the denial from the Claims Administrator, a copy of the original appeal and any information provided by the participant to the Claims Administrator.*

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.

- 3.15** NAC 287.690 describes the process for a participant to appeal the status of a claim to the PEBP Board. It is recommended that the report provided by staff to the Board also be provided to the participant.

Proposed Change:

**NAC 287.690 Appeal to and decision of Board. (NRS 287.043)**

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 present a report to the Board at its next meeting. *The report shall also be provided to the participant.* 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.