

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

LCB File No. R108-12

Effective December 20, 2012

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

AUTHORITY: §§1-9, NRS 287.043.

A REGULATION relating to public employees; revising provisions concerning information about the Public Employees' Benefits Program required to be provided and made available to certain persons; revising provisions governing reenrollment and reinstatement in the Program; revising provisions concerning the coordination of benefits under Medicare for certain retired participants; and providing other matters properly relating thereto.

Section 1. NAC 287.314 is hereby amended to read as follows:

287.314 1. ~~{Except as otherwise provided in subsection 4, the}~~ *The* Executive Officer or a designee ~~{of the Executive Officer}~~ *thereof* shall provide ~~{to each person eligible to participate in the Program pursuant to NRS 287.045}~~ information about the Program ~~{}~~ *to participants, representatives of participating public agencies and employees of the Program.*

2. The information required to be provided pursuant to subsection 1 ~~{}~~

~~—(a) Must be sent to the person electronically or by first class mail within 30 days after the appointment of the person to a participating public agency; and~~

~~—(b) Must}~~ *must* include, without limitation:

~~{(1) Enrollment}~~

(a) Procedures, forms ~~{}~~ and instructions relating to enrollment and participation in the Program;

(b) Forms and instructions relating to enrollment through the Internet website of the Program; and

~~[(2)]~~ *(c) A summary of the benefits available through the Program.*

3. The Executive Officer or a designee ~~[of the Executive Officer]~~ *thereof* shall make the information about the Program described in ~~[paragraph (b) of]~~ subsection 2 available on ~~[an]~~ :

(a) An Internet website established and maintained by the Program ~~[]~~ for participants and representatives of participating public agencies; and

(b) An Intranet site relating to the internal management of the Program for employees of the Program.

4. ~~[The provisions of this section do not apply to any person who is employed by the Nevada System of Higher Education.]~~ *A notice that explains how to access the information on the Internet website of the Program and how to request a written copy of the information required to be provided pursuant to subsection 2 must be provided electronically or by first-class mail, to the last electronic mail or mailing address provided by a participant, to:*

(a) A new participant within 7 days after the Program is notified of the employment of the participant with a participating public agency; and

(b) All participants annually, at least 75 days before the first day of the following plan year.

Sec. 2. 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~~ *last* 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.

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 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. 3. NAC 287.485 is hereby amended to read as follows:

287.485 1. To obtain a subsidy, a retired officer or employee who participates in the Program must report to the Program, on a form prescribed by the Program, each public employer with which he or she earned service credit and the period of service with each such public employer.

2. The Executive Officer or a designee ~~[of the Executive Officer]~~ *thereof* shall request an audit from the appropriate certifying agency to determine the initial date of hire of a retired officer or employee and the years and months of service credit earned by the retired officer or

employee with each public employer of the retired officer or employee during the period of that employment. Such a request must be made within 14 days after the later of:

- (a) The receipt of the report made to the Program pursuant to subsection 1; or
- (b) The date of the retirement of the retired officer or employee.

3. For the purposes of subsections 1 and 2, 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.

4. Except as otherwise provided in subsection 5, the Executive Officer or a designee ~~of the Executive Officer~~ thereof shall not submit a bill to a public employer for a subsidy for a retired officer or employee until an audit requested pursuant to subsection 2 for the retired officer or employee is received by the Program.

5. If an audit requested pursuant to subsection 2 is received after the date on which coverage of the retired officer or employee becomes effective, the Executive Officer or a designee ~~of the Executive Officer~~ thereof shall submit to the previous public employer of the retired officer or employee a bill for the subsidy incurred between the date on which coverage of the retired officer or employee became effective and the date on which the audit was received.

6. A public employer shall commence payment of its subsidy for a retired officer or employee upon receipt of the bill for the subsidy.

7. If, after receiving an audit requested pursuant to subsection 2, the Program receives any additional audit for the retired officer or employee for whom the original audit was conducted:

(a) The Program shall adjust the amount to be billed to the retired officer or employee and to the previous public employer of the retired officer or employee according to the years and months of service credit reported in the most recent audit; and

(b) Any such adjustment will be effective on the first day of the month after the receipt by the Program of the most recent audit.

8. A public employer or other entity may assume from a public employer the liability for the years and months of service credit earned by a retired officer or employee if the public employer assuming the liability submits a written certification to the Program containing:

(a) The name and social security number of the retired officer or employee;

(b) The dates during which the service credit for which the public employer or other entity is assuming liability was earned by the retired officer or employee;

(c) A statement acknowledging that the public employer or other entity is assuming the liability associated with the dates listed pursuant to paragraph (b);

(d) A signature of the director or chief executive officer of the public employer or other entity assuming liability, or a designee of the director or chief executive officer of the public employer or other entity assuming liability; and

(e) The name, title and contact information of the person who signed the certification.

9. If a public employer with which a retired officer or employee earned service credit ceases to exist as a public employer, the public employer that has the most direct jurisdictional association with the public employer that ceases to exist, as determined by the Executive Officer,

shall assume liability for the years and months of service credit earned by the retired officer or employee with the public employer that ceases to exist.

10. The results reported in an audit received by the Program pursuant to the provisions of this section may not be appealed.

Sec. 4. NAC 287.515 is hereby amended to read as follows:

287.515 1. Except as otherwise provided in 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 is eligible to participate in the Program as an active officer or employee:

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

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

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, the person is eligible to participate in the Program as an active justice or judge, as applicable:

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

(b) If the first day after the 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 the 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 or she is a member is eligible to participate in the Program in the same manner as he or she 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 or her 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 or she is a member is eligible to participate in the Program as an active officer or employee:

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

(b) If the effective date of reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of 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 or she is a member is eligible to participate in the Program as an active officer or employee:

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

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

↳ Except for a retired officer or employee who was enrolled in the Program on November 30, 2008, and continues his or her 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. 5. NAC 287.540 is hereby amended to read as follows:

287.540 1. A person who:

(a) At the time of 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 the official date of retirement or total disability ~~is~~:

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

~~— (2) Reenrolls]~~ *reenrolls* in the Program,

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

2. ~~Continued coverage provided to a~~ A person described in subsection 1 may ~~be changed by the person~~ *select any coverage and insurance offered to participants in the Program* at the time of reenrollment pursuant to ~~subparagraph (2) of~~ paragraph (b) of subsection 1.

3. *A person who, at the time of retirement or total disability, was:*

(a) *Employed by a participating state agency; and*

(b) *Not a participant in the Program,*

↳ *may only reinstate in the Program pursuant to the provisions of NRS 287.0475.*

4. *Coverage provided to a person described in subsection 1 or 3 will continue until he or she chooses to terminate or decline the coverage. If the person chooses to terminate or decline the coverage, he or she may subsequently only reinstate in the Program pursuant to the provisions of NRS 287.0475.*

Sec. 6. NAC 287.546 is hereby amended to read as follows:

287.546 1. A person who:

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

(b) At the time of 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 the official date of retirement or total disability ~~;~~

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

~~—— (2) Reenrolls~~ *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 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. NAC 287.548 is hereby amended to read as follows:

287.548 1. A person who:

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

(b) At the time of 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]~~ *reinstate* 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 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. 8. NAC 287.620 is hereby amended to read as follows:

287.620 1. If a medical claim is made by a retired participant who is 65 years of age or older, the Claims Administrator shall assume that benefits are available to the participant pursuant to Medicare Part B.

~~[2.]~~ To coordinate benefits under Medicare ~~[.]~~ *for the purposes of this subsection*, the Claims Administrator shall use the first day of the month in which the birthday of the retired participant occurs.

2. If the Claims Administrator receives notification that a retired participant who is less than 65 years of age is eligible for benefits pursuant to Medicare Part B, the Claims Administrator shall coordinate benefits under Medicare using the first day of the month in which he or she receives notification that the retired participant is eligible for such benefits.

Sec. 9. NAC 287.165 is hereby repealed.

TEXT OF REPEALED SECTION

287.165 Notification of procedures and forms. (NRS 287.043) The Program shall notify:

1. Representatives of participating public agencies of the procedures and forms relating to participation in the Program through classes offered by the Program.
2. Participants of the procedures and forms relating to participation in the Program through the orientation program required pursuant to NAC 287.314, the written materials sent to the

participants during the period of open enrollment and any orientation program offered to or written materials sent to retired officers or employees.

3. Employees of the Program of all procedures and forms relating to the internal management of the Program by posting such procedures and forms on the Intranet site of the Program. If any procedure or form relating to the internal management of the Program is amended, all employees of the Program will be notified of such amendment in writing or by electronic mail.

**INFORMATIONAL STATEMENT
FOR
PROPOSED REGULATION FOR THE
PUBLIC EMPLOYEES' BENEFITS PROGRAM**

LCB File No. R108-12

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 287.

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.

No public comment was submitted, written or oral.

2. The number of persons who:

- (a) Attended September 13, 2012 workshop: 45**
- (b) Attended the November 1, 2012 adoption hearing: 30**
- (c) Testified at the September 13,, 2012 workshop: 0**
- (d) Testified at the November 1, 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.

No public comment, adopted without change.

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.