

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

**LCB File No. R028-16**

Effective September 9, 2016

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

AUTHORITY: §§1-3, NRS 287.043 and 287.045.

A REGULATION relating to the Public Employees' Benefits Program; revising the date that certain participants are eligible to participate in the Program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates a Public Employees' Benefits Program to provide group life, accident or health insurance to certain public employees, state officers and members of the Legislature in this State. (NRS 287.043) Existing law also provides that certain public employees, state officers and members of the Legislature become eligible to participate in the Program: (1) on the first day of full-time employment or first day of the initial term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) on the first day of the month immediately following the first day of full-time employment or first day of the initial term of office of the public employee, state officer or member of the Legislature if that date is not the first day of the month. (NRS 287.045) This regulation makes conforming changes to certain sections of the Nevada Administrative Code.

Existing regulations provide that certain public employees who are on leave without pay, elect not to pay their Program premiums while on leave and later return to work are not eligible to participate in the Program until after a 90-day waiting period. (NAC 287.450) **Section 1** of this regulation provides that such an employee is eligible to participate in the Program: (1) on the first day of full-time employment if that date is the first day of the month; or (2) on the first day of the month immediately following the first day of full-time employment if that date is not the first day of the month.

Existing regulations provide that a retired justice or judge who accepts reemployment as a justice of the Supreme Court or district judge is eligible to participate in the Program as an active justice or judge: (1) if the first day after the completion of 90 days of full-time employment is the first day of a month, on the first day after the completion of 90 days of full-time employment; or (2) if the first day after the 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 the completion of 90 days of full-time employment. (NAC 287.515) **Section 2** of this regulation provides that such a retired justice or judge is eligible to participate in the Program as an active

justice or judge: (1) on the effective date of reemployment if that date is on the first day of a month; or (2) on the first day of the month immediately following the effective date of reemployment if that date is not on the first day of a month.

**Section 3** of this regulation repeals certain obsolete regulations.

**Section 1.** 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 combination of work actually performed and accrued annual leave or sick leave, 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 continue coverage or insurance for himself or herself and any of his or her 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 or her 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 a participant.

(c) Is not eligible for coverage or insurance if the employee elects not to pay the premium or contribution for coverage or insurance.

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 or her 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}~~ :

*(a) If the first day of full-time employment is* the first day of the month ~~{following 90 days}~~ , *on the first day* of full-time employment.

*(b) If the first day of full-time employment is not the first day of the month, on the first day of the month immediately following the first day of full-time employment.*

4. An employee who is on approved leave without pay may, at the time he or she returns to ~~{work,}~~ *full-time employment*, obtain coverage and insurance for any dependent who was previously covered.

**Sec. 2.** 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}~~ *effective date of reemployment* is on the first day of a month, on the ~~{first day after the completion of 90 days of full-time employment;}~~ *effective date of reemployment;* or

(b) If the ~~{first day after the completion of 90 days of full-time employment}~~ *effective date of reemployment* 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.}~~ *effective date of reemployment.*

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.

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. 3.** NAC 287.3105 and 287.500 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**287.3105 Persons eligible to participate in Program. (NRS 287.043, 42 U.S.C. § 300gg-7)**

1. Except as otherwise provided in subsection 2 of NRS 287.045, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 60 days of full-time employment.

2. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 60 days of full-time employment, unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.

3. Every member of the Senate and Assembly is eligible to participate in the Program on the first day of the month following the 60th day after the member's initial term of office begins.

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

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 or her previous employment with the participating public agency.

2. A seasonal employee who was eligible to participate in the Program during his or her previous employment with a participating public agency and who returns to work within 1 year after the termination of employment is eligible to participate in the Program on the first day of the month following his or her return to work.

3. A seasonal employee who returns to work 1 year or more after the termination of his or her previous employment is eligible to participate in the Program:

(a) If the first day after the completion of 90 days of full-time employment is 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 the first day of a month, on the first day of the month immediately 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) Is returning to the same or a similar position as held during the previous biennial employment period; and

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

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**

**LCB File No. R028-16**

**1. A clear and concise explanation of the need for the adopted regulation.**

The Public Employees' Benefits Program (PEBP) established eligibility for participation with a reduced waiting period starting July 1, 2015. The original 90-day waiting period was in accordance with the Affordable Care Act (ACA), 42 U.S.C. § 300gg-7; however to meet all state agency eligibility requirements, PEBP needed to reduce the waiting period to the first day of the month if employment or reemployment was on the first day of the month or the first day of the month following the date of employment or reemployment if that date was after the first day of the month. Additionally, duplicative regulations will be repealed.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail to all State agencies, groups and individuals who had specifically requested such notice. The documents were electronically mailed to all known participating agency representatives with a request that they forward the documents within their agencies. These documents were also made available at the Public Employees' Benefits Program's website at <http://www.pebp.state.nv.us>, mailed to the Nevada State Library and Archives, all county libraries in Nevada, and posted at the following locations:

The Legislative Building  
401 South Carson Street  
Carson City, NV 89701

The Blasdel Building  
209 East Musser Street, Suite 6  
Carson City, NV 89701

The Richard H. Bryan Building  
901 South Stewart Street, Suite 1001  
Carson City, NV 89701

The Grant Sawyer State Office Building  
555 East Washington Avenue, Suite 1000  
Las Vegas, NV 89101

**3. The number of persons who:**

- (a) Attended each hearing:** February 16, 2016 – 19; June 17, 2016 - 43
- (b) Testified at each hearing:** February 16, 2016 – 2; June 17, 2016 - 1
- (c) Submitted written comments:** February 16, 2016 – 0; June 17, 2016 - 0

**4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

- (a) Name;**
- (b) Telephone number;**
- (c) Business address;**
- (d) Business telephone number;**
- (e) Electronic mail address; and**

**(f) Name of entity or organization represented.**

This information is provided in Exhibit A, attached to the Informational Statement.

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

PEBP does not believe any businesses are affected by this regulation change; however, businesses had the same opportunity as the public to provide comment at the posted workshop and hearing.

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

The regulation was ultimately adopted with revision by the PEBP Board.

**7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

**(a) Estimated economic effect on the businesses which they are to regulate.**

This regulation revises provisions governing the date on which certain public employees, judges and justices are eligible to participate in the Public Employees' Benefits Program, conforming the relevant provisions of the Nevada Administrative Code to those of statute. The regulation does not apply to any "small business" as defined in NRS 233B.0382 and consequently will not impose any economic burden on such a business, nor will it restrict the formation, operation or expansion of such a business.

**(b) Estimated economic effect on the public which they are to regulate.**

PEBP does not anticipate an economic effect on the public.

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

PEBP does not anticipate the need for any additional resources to administer the regulation.

**9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

PEBP does not believe any other regulation at the State or Federal level overlaps or duplicates this regulation.

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

The ACA, 42 U.S.C. § 300gg-7, requires a waiting period of no more than 90 days from the date of hire for employees to participate in employer sponsored group health insurance plans. This regulation is more stringent as it reduces the 90 days to effectively no more than 30 days (on a month with 31 days in it) and as few as 0 days of waiting for enrollment (for those hired or reemployed on the first day of the month).

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

This regulation does not provide for a new fee or an increase to an existing fee.

**Exhibit A**  
**Informational Statement - LCB File No. R028-16**

**4. Additional information regarding persons identified in paragraphs (b) and (c) of number 3 of the Legislative Review of Adopted Regulations Informational Statement.**

**(b) Persons who testified at each hearing are identified below:**

**February 16, 2016 Workshop – 2 people**

**Peggy Lear Bowen**

Retired PEBP Participant

(775) 826-2793

**Brad Truax**

Retired Public Employees of Nevada (RPEN)

(775) 453-1414

**June 17, 2016 Public Hearing – 1 person**

**Peggy Lear Bowen**

Retired PEBP Participant

(775) 826-2793

**(c) Persons who submitted written comments at each hearing are identified below:**

**February 16, 2016 Workshop – 0**

There were no written comments submitted at this workshop.

**June 17, 2016 Public Hearing – 0**

There were no written comments submitted at this hearing.