

**PROPOSED REGULATION OF THE
COMMITTEE TO ADMINISTER THE PUBLIC EMPLOYEES'
DEFERRED COMPENSATION PROGRAM**

LCB FILE NO. R195-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 08/06/2018**

DEFERRED COMPENSATION

NAC 287.700 Definitions. ([NRS 287.330](#)) As used in [NAC 287.700](#) to [287.735](#), inclusive, unless the context otherwise requires:

1. "Committee" means the Committee established to administer the Program.
2. "Investment consultant" means a private person, corporation, institution or other entity that provides advice on investments and operations of the Program, including, without limitation, advice provided for the purposes of paragraph (a) of subsection 3 of [NRS 287.330](#) and [NAC 287.735](#).
3. "Program" means the Public Employees' Deferred Compensation Program authorized by [NRS 287.250](#) to [287.370](#), inclusive.
4. "Recordkeeper" means a corporation, institution or other entity that offers investment options and other services which are necessary to the administration of the Program and to the proper investment of the money of the employees who are participants in the Program. The term does not include a private person.

(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R066-13, 12-23-2013)

NAC 287.705 Purpose. ([NRS 287.330](#)) The purpose of [NAC 287.705](#) to [287.735](#), inclusive, is to set forth the procedures for the selection of investment consultants and recordkeepers for the Program.

(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R015-98, 5-29-98; R066-13, 12-23-2013)

NAC 287.710 Recordkeepers: Selection and removal. ([NRS 287.330](#))

1. The Committee will select recordkeepers for the Program. The Committee will contract with more than one recordkeeper if the Committee deems it necessary and in the best interests of the participants.
2. The selection of recordkeepers will be made as often as the Committee deems necessary, but not less frequently than every fifth year.
3. Recordkeepers serve at the pleasure of the Committee and under the day-to-day oversight and management of the Program's Executive Officer who serves as the primary contact and support for the Committee, but is appointed by and serves at the pleasure of the Director of the State of Nevada Department of Administration. and—A contracted Recordkeeper ~~are~~ is subject to removal at any time by a majority vote of the Committee.

(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R015-98, 5-29-98; R066-13, 12-23-2013)

NAC 287.715 Recordkeepers: Procedures for selection. ([NRS 287.330](#)) In selecting a recordkeeper, the Committee will follow the procedures set forth in [chapter 333](#) of NRS, the applicable regulations and the State Administrative Manual.

(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R015-98, 5-29-98; R066-13, 12-23-2013)

NAC 287.730 Appointment of subcommittee-evaluation committee to review proposals for position of recordkeeper pursuant to NRS 333.335 and make recommendations; general meeting ~~closed~~ meeting of Committee regarding applicant's results of evaluation of proposal

for contract; negotiation of changes to accepted proposals. (NRS 287.330)

1. The Committee shall act as the chief of the using agency for the purposes of NRS 333.335 and may delegate that authority to the Program's appointed Executive Officer. Chair shall, if he or she deems it

~~appropriate, appoint a subcommittee to review the proposals from applicants for the position of recordkeeper and make recommendations to the full Committee.~~

~~2. The chief of the using agency, in accordance with the regulations adopted pursuant to NRS 333.135, or The Administrator of the Purchasing Division, or a committee appointed by the Administrator in accordance with the regulations adopted pursuant to NRS 333.135, if the Administrator is responsible for administering the proposal. The Chair shall call a general meeting of the Committee to:~~

~~—(a) Accept information from appropriate sources pertaining to any applicant.~~

~~—(b) Conduct interviews of the applicants.~~

~~—(c) Select one or more of the applicants for appointment as a recordkeeper.~~

~~3. ***If a committee to evaluate proposals for a contract for the Program is established pursuant to NRS 333.335, any number of members of the Committee may be appointed to the evaluation committee as long as members selected for the evaluation committee doesn't violate the parameters established in NAC.333.162. If one or more members of the Committee are appointed to an evaluation committee: a) No action or deliberation regarding any business of the Committee other than the confidential review of the proposals pursuant to NRS 333.335 may be taken or conducted by the evaluation committee.***~~

~~***b) Except as otherwise provided in paragraph (a), a meeting of the evaluation committee is not subject to chapter 241 of NRS.***~~

~~4. ***The Committee shall review the results of any evaluation of proposal for a contract for the Program pursuant to NRS 333.335 in a closed meeting.***~~

~~5. ***The Committee shall take the following actions only in an open meeting: a. Award the contract pursuant to NRS 333.335;***~~

~~***b. Cancel the request for proposals; or***~~

~~***c. Modify and reissue the request for proposals.***~~

~~6. Acceptance of an applicant's proposal does not preclude the Committee from negotiating specific changes to the proposal which are in the best interests of the State of Nevada.~~

~~(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R015-98, 5-29-98; R066-13, 12-23-2013)~~

NAC 287.735 Investment consultants: Selection and removal. (NRS 287.330)

1. The Committee will select such investment consultants as are necessary to provide services needed for the selection of recordkeepers and for the administration of the Program and the investment of the money of the participants.

2. Such an investment consultant serves at the pleasure of the Committee and may be removed from the position at any time by a majority vote of the Committee.

(Added to NAC by Com. to Admin. Pub. Employees' Deferred Comp. Prog., eff. 9-13-91; A by R015-98, 5-29-98; R066-13, 12-23-2013)

DEFERRED COMPENSATION Proposed conceptual amendments to NAC 287 to align with SB502 (2017), redlined vs. NAC 287.700-735 as revised in 2013.

- **NAC 287.700 - Definitions. (NRS 287.330) As used in ~~NAC 287.700 to 287.735~~ NAC 287.700 to 287.730, inclusive, unless the context otherwise requires:**
 1. ~~1.~~ “Committee” means the Committee established to administer the Program.
 2. *“Executive Officer” means the administrative manager of the Program appointed as provided by NRS 232.215, 232.2165, and {SB502, 2017}.*
 - **2. “Investment consultant” means a private person, corporation, institution or other entity that provides advice on investments, *plan policies and design*, and operations of the Program, including, without limitation, advice provided for the purposes of paragraph (a) of subsection 3 of NRS 287.330 ~~and NAC 287.735~~.**
 - 3. “Program” means the Public Employees’ Deferred Compensation Program authorized by NRS 287.250 to 287.370, inclusive.
 - 4. “Recordkeeper” means a corporation, institution or other entity that offers investment options and other services which are necessary to the administration of the Program and to the proper investment of the money of the employees who are participants in the Program. The term does not include a private person.
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- **NAC 287.xxx. Appointment, Duties, and Removal of the Executive Officer (SB502, 2017; NRS 232.215, 2165)**
 1. *The Executive Officer of the Program is appointed by the Director of the Department of Administration with the concurrence of the Governor. The appointment becomes effective upon the concurrence of the Committee.*
 2. *At a meeting following the recommended appointment of the Executive Officer by the Director of the Department of Administration, the Committee shall vote to concur or not to concur with the appointment. Concurrence requires a majority vote of the Committee members present and voting.*
 3. *The Executive Officer is in the unclassified service of the State and serves at the pleasure of the Director of the Department of Administration.*
 4. *The Executive Officer may be removed by a majority of the full membership of the Committee at an open meeting under an agenda item for that purpose. The Committee may hold a closed meeting prior to the vote for the purpose of receiving or reviewing confidential personnel information, pursuant to NRS 241.030.*
 5. *The Committee may delegate administrative duties for the Program to the Executive Officer, who may in turn delegate duties to administrative staff members. The delegation of duties shall be incorporated in written documents approved by the Committee or as directed by Committee.*
 6. *In the case of a vacancy of the Executive Officer position by resignation, removal, or other reason, the Director of the Department of Administration shall recommend the appointment of a new Executive Director within 60 days or as soon as administratively feasible.*

~~NAC 287.705 - Purpose. (NRS 287.330) The purpose of NAC 287.705 to 287.735~~ The purpose of NAC 287.705 to 287.730, inclusive, is to set forth the

procedures for the selection of investment

~~consultants and recordkeepers for the Program~~ *Investment Consultants, Recordkeepers, and other contracted service providers for the Program.*

NAC 287.710 Recordkeepers and Investment Consultants: Selection and removal. (NRS 287.330)

- 1. The Committee will select ~~recordkeepers~~ *Recordkeeper(s) and Investment Consultant(s)* for the Program. The Committee will contract with more than one ~~recordkeeper~~ *Recordkeeper or more than one Investment Consultant* if the Committee deems it necessary and in the best interests of the participants.
- 2. The selection of ~~recordkeepers~~ *Recordkeeper(s)* will be made as often as the Committee deems necessary, but not less frequently than ~~once every fifth year~~ *five years*.
- 3. Recordkeepers *and Investment Consultants* serve at the pleasure of the Committee ~~and are subject to removal. A contracted Recordkeeper or Investment Consultant may be removed~~ at any time by a majority vote of the Committee., *subject to contractual notice requirements.*

- ~~NAC -287.715 Recordkeepers and Investment Consultants: Procedures for-~~ selection. (NRS 287.330), *SB502, 2017*) In selecting a ~~recordkeeper~~ *Recordkeeper or Investment Consultant*, the Committee will follow the procedures set forth in chapter 333 of NRS, *NRS 287.xxx {SB502, 2017}*, the applicable regulations, and the State Administrative Manual.

- ~~NAC -287.730 Appointment of subcommittee~~ *an evaluation committee* to review proposals for ~~position of recordkeeper and make recommendations; general meeting of Committee regarding~~
 - ~~1. The Chair shall, if he or she deems it appropriate, appoint a subcommittee to review the proposals~~
 - ~~2. The Chair shall call a general meeting of the Committee to:~~
 - ~~(a) Accept information from appropriate sources pertaining to any applicant.~~
 - ~~(b) Conduct interviews of the applicants.~~
 - ~~(c) Select one or more of the applicants for appointment as a recordkeeper.~~
 - 1. ~~3.~~ *The Committee acts as the chief of the using agency for the purposes of NRS 333. The Committee may delegate the administrative responsibilities for managing, on behalf of the Committee, the requests for proposals process and the contracting process to the Executive Officer.*
 - 2. *Except as provided in paragraph (3) of this section, the entire membership of the Committee shall serve on any evaluation committee established under NRS 333.135 for the purpose of evaluating proposals for contracts for a Recordkeeper or for an Investment Consultant. Additional members of the evaluation committee may be appointed, including at least one member outside the Department of Administration pursuant to NAC 333.162.*
 - 3. *Any member of the Committee may choose not to serve on an evaluation committee.*
 - 4. *A committee established under NRS 333.135 for the purpose of evaluating proposals for contracts for a Recordkeeper may utilize the services of an Investment Consultant to assist in the confidential evaluation of proposals;*
 - 5. *If one or more members of the Committee are appointed to a committee to evaluate*

proposals for contracts pursuant to NRS 333.135 :

a) No action or deliberation regarding any business of the Committee other than the confidential review of the proposals pursuant to NRS 333.335 may be taken or conducted by the evaluation

committee.

b) Except as otherwise provided in subparagraph (a), a meeting of the evaluation committee is not subject to chapter 241 of NRS.

6. The Committee shall review the results of any evaluation of proposal for a contract for the Program pursuant to NRS 333.335 in a closed meeting. If the entire membership of the Committee has served on the evaluation committee, then the only purpose of this closed Committee meeting is the announcement of the of the numerical evaluation ratings. Otherwise, representative(s) of the evaluation committee may provide information about the confidential proposals. No deliberation or action may be taken during this closed meeting.

7. Following the confidential review provided in paragraph (6) of this section, the Committee shall, in an open meeting, take one the following three permitted actions:

a) Award the contract pursuant to NRS 333.335 and NAC 333.170.

b) Cancel the request for proposals; or

c) Modify and reissue the request for proposals.

8. Acceptance of an applicant's proposal and intent to award the contract does not preclude the Committee, the Executive Officer, the Administrator of the Purchasing Division, or their designees, from negotiating specific changes to the proposal ~~which~~ that are in the best interests of the State of Nevada pursuant to NAC 333.170. If the negotiation to agree to a contract fails, the award of the contract to the proposal with the next highest ranking by the evaluation committee follows paragraphs (6) and (7) of this section.

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~~NAC 287.735 Investment consultants: Selection and removal. (NRS 287.330)~~

~~1. The Committee will select such investment consultants as are necessary to provide services needed~~

~~2. Such an investment consultant serves at the pleasure of the Committee and may be removed from~~