

**ADOPTED REGULATION OF THE COMMITTEE TO
ADMINISTER THE PUBLIC EMPLOYEES’
DEFERRED COMPENSATION PROGRAM**

LCB File No. R128-15

Effective April 4, 2016

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

AUTHORITY: §§1 and 2, NRS 287.330.

A REGULATION relating to public employees; revising provisions concerning the Public Employees’ Deferred Compensation Program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes state employees and employees of the Nevada System of Higher Education to participate in a program of deferred compensation. (NRS 287.250-287.370) The program is administered by a committee established pursuant to statute which is commonly known as the Committee to Administer the Public Employees’ Deferred Compensation Program. (NRS 287.325) Existing law also authorizes employees of political subdivisions of the State to participate in such programs established by their employers. (NRS 287.381-287.480) Under existing law, public agencies, which include state agencies and agencies of political subdivisions, have the authority to enter into interlocal contracts to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract are authorized by law to perform. (NRS 277.180)

This regulation provides that the Committee will enter into an interlocal contract with a political subdivision to enable any employee of the political subdivision to participate in the program of deferred compensation administered by the Committee if the Committee determines that entering into the contract is in the best interest of the Program. This regulation also requires that any such interlocal contract provide that the contract continues in effect until terminated by: (1) the mutual consent of the parties; (2) one of the parties giving 60 days’ written notice to the other party; or (3) the withdrawal, limitation or impairment of any money provided to the Committee by the State or the Federal Government for the administration of the Program. This regulation also requires that the contract provide that employees of the political subdivision participate in the Program subject to the same terms and conditions that apply to state employees and employees of the Nevada System of Higher Education unless the terms of the contract expressly provide otherwise.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Committee will, pursuant to NRS 277.180, enter into an interlocal contract with a political subdivision to enable any employee of the political subdivision to participate in the Program if the Committee determines, by a majority vote of all its members, that entering into the contract is in the best interest of the Program.

2. In addition to the requirements of NRS 277.180, an interlocal contract entered into pursuant to subsection 1 must provide that:

(a) The contract continues in effect until terminated by:

(1) The mutual consent of the parties;

(2) One of the parties giving 60 days' written notice to the other party; or

(3) The withdrawal, limitation or impairment of any money provided to the Committee by the State or the Federal Government for the administration of the Program.

(b) Except as otherwise provided by the terms of the contract, an employee of the political subdivision participates in the Program subject to the same terms and conditions that apply to state employees and employees of the Nevada System of Higher Education.

3. As used in this section, "political subdivision" includes, without limitation, a county, city, town, school district or special district.

Sec. 2. NAC 287.700 is hereby amended to read as follows:

287.700 As used in NAC 287.700 to 287.735, inclusive, *and section 1 of this regulation*, 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.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R128-15

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

The amendments included in this LCB file are based on the Nevada Public Employees' Deferred Compensation Program ("NDC") Committee ("NDC Committee" or "Committee") attempting to clarify its authority to approve and allow political sub-divisions to participate in both the NDC Voluntary 457(b) Deferred Compensation Program and the State of Nevada's adopted FICA Alternative Program.

2. A 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.

On October 1, 2015, copies of the proposed regulation amendments were sent by email and mail to persons who were known to have an interest in the subject of the proposed regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the NDC's website, the Nevada Public Notice website, the Legislative Counsel Bureau's website, e-mailed to all county libraries in Nevada, and posted at the following locations:

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|-----------------------------------|------------------------------|
| Blasdel Building | Legislative Counsel Bureau |
| 209 E. Musser Street | 401 S. Carson Street |
| Carson City, NV | Carson City, NV |
| Nevada State Library and Archives | Grant Sawyer Office Building |
| 100 N. Stewart Street | 555 E. Washington Avenue |
| Carson City, NV | Las Vegas, NV |
| Nevada State Capitol Building | |
| 101 N. Carson Street | |
| Carson City, NV | |

A regulation workshop was conducted by the NDC Administration on October 27, 2015, and a public hearing was held by the NDC Committee on January 14, 2016.

During the workshop, comment was received in support of the proposed changes, specifically because the NDC Programs are such a benefit to political sub-divisions that would not be able to qualify for the benefits of being part of the NDC Program if they were to adopt a standalone plan within their entity. There were no comments related to these regulation amendments at the public hearing.

Written minutes from the regulation workshop and public hearing can be obtained from the NDC Administrative office by contacting Micah Salerno at deferredcomp@defcomp.nv.gov or calling (775) 684-3398.

3. **The number of persons who:**
 - (a) **Attended each hearing:** January 14, 2016 – 14
 - (b) **Testified at each hearing:** January 14, 2016 – 2
 - (c) **Submitted written comments:** 0

4. **Following is a list of names and contact information, including agency or company represented, and telephone number, for each person identified above in #3(b):**

(See Attached: Regulation Hearing Attendance Roster)

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.**

Comments were not solicited from businesses, as the regulation does not affect small businesses. Comments were solicited from effected parties including employees and employee associations. Written minutes from the workshop and public hearing can be obtained as instructed in the response to question #2. No written comments were received.

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 permanent regulation was adopted on January 14, 2016, and included all changes suggested at the Workshop held on October 27, 2015 and those proposed by LCB.

7. **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 each case must include:**
 - (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

This regulation does not have a direct economic effect on either a regulated business or the public.

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

There is no additional cost to the agency for enforcement of these regulations.

9. **A description of any regulations of other State or governmental agencies which the proposed 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.**

The regulations do not overlap or duplicate any State or federal regulations.

- 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 regulations do not include any provisions that are covered by any federal regulations.

- 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.**

No fees are associated with these regulations.