
SENATE BILL NO. 479—COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS

(ON BEHALF OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM)

MARCH 29, 2005

Referred to Committee on Finance

SUMMARY—Makes various changes to provisions governing health insurance coverage for public personnel. (BDR 23-609)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to public personnel; creating a special account in the Fund to Stabilize the Operation of the State Government for certain excess money of the Public Employees' Benefits Program; providing requirements concerning the rates of coverage for certain retired public officers and employees under the Public Employees' Benefits Program or under the group insurance, a plan of benefits or medical and hospital service of a local government; requiring the Public Employees' Benefits Program to comply with certain provisions governing insurers if health insurance is provided through a plan of self-insurance; revising the date after employment or taking office on which the eligibility of certain state officers and employees to participate in the Public Employees' Benefits Program commences; revising the provisions governing the reinstatement of insurance by a retired public officer or employee or his spouse; revising provisions governing groups that leave the Program; and providing other matters properly relating thereto.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

1. The Public Officers' and Employees' Benefits Account is hereby created as a special account in the Fund to Stabilize the Operation of the State Government. The Interim Finance Committee shall administer the Account.

2. Except money required to be returned to the Federal Government, any money in excess of the amount that the Program is required to retain as reserves must be deposited at least quarterly in the Account. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

3. The money in the Account:

(a) Does not revert to the State General Fund at the end of any fiscal year; and

(b) Must be carried forward to the next fiscal year.

4. Money in the Account must be used only for programs that provide benefits for active or retired public officers and employees, or both, other than the Public Employees' Retirement System.

Sec. 2. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage or join the Public Employees' Benefits Program to the extent that such coverage is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who joins the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or



1 continue coverage in effect on the date the retired person dies. The
2 dependent is not required to continue to receive retirement payments
3 from the Public Employees' Retirement System to continue
4 coverage.

5 3. Notice of the selection of the option must be given in writing
6 to the last public employer of the officer or employee within 60 days
7 after the date of retirement or death, as the case may be. If no notice
8 is given by that date, the retired officer or employee and his
9 dependents shall be deemed to have selected the option to cancel the
10 coverage for the group insurance, plan of benefits or medical and
11 hospital service established pursuant to NRS 287.010, 287.015,
12 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025
13 or not to join the Public Employees' Benefits Program, as the case
14 may be.

15 4. The governing body of any county, school district,
16 municipal corporation, political subdivision, public corporation or
17 other local governmental agency of this State:

18 (a) May pay the cost, or any part of the cost, of coverage
19 established pursuant to NRS 287.010, 287.015 or 287.020 or
20 paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons
21 who continue that coverage pursuant to subsection 1, but it must not
22 pay a greater portion than it does for its current officers and
23 employees.

24 (b) Shall pay the same portion of the cost of coverage under the
25 Public Employees' Benefits Program for persons who join the
26 Program upon retirement pursuant to subsection 1 as the State pays
27 pursuant to subsection 2 of NRS 287.046 for persons retired from
28 state service who have continued to participate in the Program.

29 5. The governing body of any county, school district,
30 municipal corporation, political subdivision, public corporation or
31 other local governmental agency of this State shall, for the purpose
32 of establishing actuarial data to determine rates and coverage for
33 persons who continue coverage for group insurance, a plan of
34 benefits or medical and hospital service with the governing body
35 pursuant to subsection 1, commingle the claims experience of those
36 persons with the claims experience of active officers and employees
37 and their dependents who participate in the group insurance, a plan
38 of benefits or medical and hospital service.

39 *6. The governing body of any county, school district,*
40 *municipal corporation, political subdivision, public corporation or*
41 *other local governmental agency of this State shall ensure that the*
42 *rates for coverage established for persons who continue coverage*
43 *for group insurance, a plan of benefits or medical and hospital*
44 *service with the governing body pursuant to subsection 1 and for*
45 *whom their primary health insurance coverage is provided by the*



1 *Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., are*
2 *less than the rates for persons for whom primary health insurance*
3 *coverage is provided under the group insurance, plan of benefits*
4 *or medical and hospital service by an amount which approximates*
5 *the difference between:*

6 (a) *The average percentage of a claim that is paid by the*
7 *governing body for persons for whom primary health insurance*
8 *coverage is provided by the group insurance, plan of benefits or*
9 *medical and hospital service of the governing body; and*

10 (b) *The average percentage of a claim that is paid by the*
11 *governing body for persons for whom secondary health insurance*
12 *coverage is provided by the group insurance, plan of benefits or*
13 *medical and hospital service of the governing body.*

14 **Sec. 3.** NRS 287.0402 is hereby amended to read as follows:

15 287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and*
16 *section 1 of this act*, unless the context otherwise requires, the
17 words and terms defined in NRS 287.0404 to 287.0406, inclusive,
18 have the meanings ascribed to them in those sections.

19 **Sec. 4.** NRS 287.043 is hereby amended to read as follows:

20 287.043 1. The Board shall:

21 (a) Establish and carry out a program to be known as the Public
22 Employees' Benefits Program which:

23 (1) Must include a program relating to group life, accident or
24 health insurance, or any combination of these; and

25 (2) May include a program to reduce taxable compensation
26 or other forms of compensation other than deferred compensation,
27 ➔ for the benefit of all state officers and employees and other
28 persons who participate in the Program.

29 (b) Ensure that the Program is funded on an actuarially sound
30 basis and operated in accordance with sound insurance and business
31 practices.

32 2. In establishing and carrying out the Program, the Board
33 shall:

34 (a) For the purpose of establishing actuarial data to determine
35 rates and coverage for active and retired state officers and
36 employees and their dependents, commingle the claims experience
37 of such active and retired officers and employees and their
38 dependents.

39 (b) Except as otherwise provided in this paragraph, negotiate
40 and contract pursuant to paragraph (a) of subsection 1 of NRS
41 287.025 with the governing body of any county, school district,
42 municipal corporation, political subdivision, public corporation or
43 other local governmental agency of the State of Nevada that wishes
44 to obtain group insurance for its active and retired officers and
45 employees and their dependents by participation in the Program.



1 The Board shall establish separate rates and coverage for active and
2 retired officers and employees of those local governmental agencies
3 and their dependents based on actuarial reports that commingle the
4 claims experience of such active and retired officers and employees
5 and their dependents.

6 (c) Except as otherwise provided in paragraph (d), provide
7 public notice in writing of any proposed changes in rates or
8 coverage to each participating public agency that may be affected by
9 the changes. Notice must be provided at least 30 days before the
10 effective date of the changes.

11 (d) If a proposed change is a change in the premium or
12 contribution charged for, or coverage of, health insurance, provide
13 written notice of the proposed change to all participants in the
14 Program. The notice must be provided at least 30 days before the
15 date on which a participant in the Program is required to select or
16 change his policy of health insurance.

17 (e) Purchase policies of life, accident or health insurance, or any
18 combination of these, or, if applicable, a program to reduce the
19 amount of taxable compensation pursuant to 26 U.S.C. § 125, from
20 any company qualified to do business in this State or provide similar
21 coverage through a plan of self-insurance established pursuant to
22 NRS 287.0433 for the benefit of all eligible participants in the
23 Program.

24 (f) Except as otherwise provided in this title, develop and
25 establish other employee benefits as necessary.

26 (g) Investigate and approve or disapprove any contract proposed
27 pursuant to NRS 287.0479.

28 (h) Adopt such regulations and perform such other duties as are
29 necessary to carry out the provisions of NRS 287.0402 to 287.049,
30 inclusive, including, without limitation, the establishment of:

31 (1) Fees for applications for participation in the Program and
32 for the late payment of premiums or contributions;

33 (2) Conditions for entry and reentry into the Program by
34 local governmental agencies that wish to enter or reenter the
35 Program pursuant to paragraph (a) of subsection 1 of NRS 287.025;
36 *and*

37 (3) ~~Procedures by which a group of participants in the~~
38 ~~Program may leave the Program pursuant to NRS 287.0479 and~~
39 ~~conditions and procedures for reentry into the Program by those~~
40 ~~participants;~~

41 ~~(4)~~ Specific procedures for the determination of contested
42 claims.

43 (i) Appoint an independent certified public accountant. The
44 accountant shall:

45 (1) Provide an annual audit of the Program; and



(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

(j) Appoint an attorney who specializes in employee benefits. The attorney shall:

(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

3. *The Board shall ensure that the rates for coverage established for participants in the Program for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., are less than the rate for persons for whom primary health insurance coverage is provided under the Program by an amount which approximates the difference between:*

(a) *The average percentage of a claim that is paid by the Program for persons for whom primary health insurance coverage is provided by the Program; and*

(b) *The average percentage of a claim that is paid by the Program for persons for whom secondary health insurance coverage is provided by the Program.*

4. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:

(a) The amount paid by the Program in the preceding plan year for the claims of active and retired participants in the Program; and

(b) The amount paid by the Program in the preceding plan year for the claims of retired participants in the Program who were provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

~~[4-]~~ 5. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~[5-]~~ 6. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~[6-]~~ 7. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board



1 and its employees against liability relating to the administration of
2 the Program, subject to the limitations specified in NRS 41.0349.

3 ~~[7-]~~ 8. As used in this section, "employee benefits" includes
4 any form of compensation provided to a public employee except
5 federal benefits, wages earned, legal holidays, deferred
6 compensation and benefits available pursuant to chapter 286 of
7 NRS.

8 **Sec. 5.** NRS 287.04335 is hereby amended to read as follows:

9 287.04335 If the Board provides health insurance through a
10 plan of self-insurance, it shall comply with the provisions of *title 57*
11 *of NRS* ~~[689B.255, 695G.150, 695G.160, 695G.164, 695G.170,
12 ~~695G.173, 695G.200 to 695G.230, inclusive, and 695G.241 to~~
13 ~~695G.310, inclusive.]~~ , *except the provisions of chapter 680B of*
14 *NRS*, in the same manner as an insurer that is licensed pursuant to
15 title 57 of NRS is required to comply with those provisions.~~

16 **Sec. 6.** NRS 287.045 is hereby amended to read as follows:

17 287.045 1. Except as otherwise provided in this section,
18 every state officer or employee is eligible to participate in the
19 Program on the first day of the month following the completion of
20 ~~[90 days]~~ *3 months* of full-time employment.

21 2. Professional employees of the University and Community
22 College System of Nevada who have annual employment contracts
23 are eligible to participate in the Program on:

24 (a) The effective dates of their respective employment contracts
25 ~~[]~~ if those dates are on the first day of a month; or

26 (b) The first day of the month following the effective dates of
27 their respective employment contracts ~~[]~~ if those dates are not on
28 the first day of a month.

29 3. Every officer or employee who is employed by a
30 participating local governmental agency on a permanent and full-
31 time basis on the date on which the participating local governmental
32 agency enters into an agreement to participate in the Program
33 pursuant to paragraph (a) of subsection 1 of NRS 287.025, and
34 every officer or employee who commences his employment with
35 that participating local governmental agency after that date, is
36 eligible to participate in the Program on the first day of the month
37 following the completion of ~~[90 days]~~ *3 months* of full-time
38 employment.

39 4. Every Senator and Assemblyman is eligible to participate in
40 the Program on the first day of the month following the ~~[90th day]~~
41 *third month* after his initial term of office begins.

42 5. An officer or employee of the governing body of any
43 county, school district, municipal corporation, political subdivision,
44 public corporation or other local governmental agency of the State
45 of Nevada who retires under the conditions set forth in NRS 1A.350



1 or 1A.480, or 286.510 or 286.620 and was not participating in the
2 Program at the time of his retirement is eligible to participate in the
3 Program 60 days after notice of the selection to participate is given
4 pursuant to NRS 287.023.

5 6. Notwithstanding the provisions of subsections 1, 3 and 4, if
6 the Board does not, pursuant to NRS 689B.580, elect to exclude the
7 Program from compliance with NRS 689B.340 to 689B.590,
8 inclusive, and if the coverage under the Program is provided by a
9 health maintenance organization authorized to transact insurance in
10 this State pursuant to chapter 695C of NRS, any affiliation period
11 imposed by the Program may not exceed the statutory limit for an
12 affiliation period set forth in NRS 689B.500.

13 **Sec. 7.** NRS 287.0475 is hereby amended to read as follows:

14 287.0475 1. A public officer or employee who has retired
15 pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or a
16 retirement program provided pursuant to NRS 286.802, or the
17 surviving spouse of such a retired public officer or employee who is
18 deceased may, in any even-numbered year, reinstate any insurance,
19 except life insurance, which was provided to him and his dependents
20 at the time of his retirement pursuant to NRS 287.010, 287.015,
21 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025
22 or the Program as a public officer or employee by:

23 (a) Giving written notice of his intent to reinstate the insurance
24 *not later than January 31 of an even-numbered year:*

25 *(1) If the public officer or employee retired from the service*
26 *of the State, to the Program; or*

27 *(2) If the public officer or employee did not retire from the*
28 *service of the State, to the last public employer of the public officer*
29 *or employee ; ~~[not later than January 31 of an even-numbered year:]~~*

30 (b) Accepting the public employer's current program or plan of
31 insurance and any subsequent changes thereto; and

32 (c) Paying any portion of the premiums or contributions of the
33 public employer's program or plan of insurance, in the manner set
34 forth in NRS 1A.470 or 286.615, which are due from the date of
35 reinstatement and not paid by the public employer.

36 ➤ The last public employer shall ~~[give the insurer notice of the~~
37 ~~reinstatement—no]~~ *make such coverage effective not* later than
38 March ~~[31]~~ *1* of the year in which the public officer or employee or
39 surviving spouse gives notice of his intent to reinstate the insurance.

40 2. Reinstatement of insurance excludes claims for expenses for
41 any condition for which medical advice, treatment or consultation
42 was rendered within 12 months before reinstatement unless the
43 reinstated insurance has been in effect more than 12 consecutive
44 months.



3. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 8. NRS 287.0479 is hereby amended to read as follows:

287.0479 1. If approved by the Board pursuant to this section, a group of not less than 300 active state officers or employees ~~for~~ *and all* retired state officers and employees ~~[or any combination thereof.]~~ *who served in the same positions as the active state officers and employees who are members of the group* that participate in the Program may leave the Program and secure life, accident or health insurance, or any combination thereof, for the group from an:

(a) Insurer that is authorized by the Commissioner of Insurance to provide such insurance; or

(b) Employee benefit plan, as defined in 29 U.S.C. § 1002(3), that has been approved by the Board. The Board ~~may~~ *shall* approve an employee benefit plan unless the Board finds that the plan is not operated pursuant to such sound accounting and financial management practices as to ensure that the group will continue to receive adequate benefits.

2. Before entering into a contract with the insurer or approved employee benefit plan, the group shall submit the proposed contract to the Board for approval. The Board ~~may~~ *shall* approve the contract unless the departure of the group from the Program would cause an increase of more than 5 percent in the costs of premiums or contributions for the remaining participants in the Program. In determining whether to approve a proposed contract, the Board shall follow the criteria set forth in the regulations adopted by the Board pursuant to subsection ~~[4]~~ *5* and may consider the cumulative impact of groups that have left or are proposing to leave the Program. ~~[Except as otherwise provided in this section, the Board has discretion in determining whether to approve a contract.]~~ If the Board approves a proposed contract pursuant to this subsection, the group that submitted the proposed contract is not authorized to leave the Program until 120 days after the date on which the Board approves the proposed contract.

3. The Board shall disburse periodically to the insurer or employee benefit plan with which a group contracts pursuant to this



1 section the total amount set forth in the contract for premiums or
2 contributions for the members of the group for that period but not to
3 exceed the amount appropriated to or authorized for the
4 participating state agency that employs the members of the group
5 for premiums or contributions for the members of the group for that
6 period, after deducting any administrative costs related to the group.

7 4. *If a group leaves the Program pursuant to this section:*

8 (a) *The group is eligible to reinstate coverage with the*
9 *Program if the insurer or employee benefit plan with which the*
10 *group contracted becomes insolvent or can no longer provide*
11 *coverage based on other unforeseen circumstances.*

12 (b) *A member of the group is eligible to reinstate coverage with*
13 *the Program if, as a result of a change in employment, the*
14 *member is no longer eligible to participate in the insurance*
15 *provided by the insurer or employee benefit plan with which the*
16 *group contracted.*

17 5. *A decision by the Board on the approval or disapproval of*
18 *a proposed contract pursuant to this section is a final decision for*
19 *the purpose of judicial review.*

20 6. The Board shall adopt regulations establishing the ~~criteria~~ :

21 (a) *Procedures by which a group of participants in the*
22 *Program may leave the Program; and*

23 (b) *Criteria* pursuant to which the Board will approve proposed
24 contracts pursuant to subsection 2.

25 **Sec. 9.** NRS 679A.100 is hereby amended to read as follows:

26 679A.100 "Insurer" includes ~~every~~ :

27 1. *Every* person engaged as principal and as indemnitor, surety
28 or contractor in the business of entering into contracts of insurance.

29 2. *Except as otherwise provided in NRS 287.04335, the Board*
30 *of the Public Employees' Benefits Program if the Board provides*
31 *health insurance through a plan of self-insurance.*

32 **Sec. 10.** NRS 679B.130 is hereby amended to read as follows:

33 679B.130 1. The Commissioner may adopt reasonable
34 regulations:

35 (a) For the administration of any provision of this Code ~~[NRS~~
36 ~~287.04335]~~ or chapters 616A to 617, inclusive, of NRS; or

37 (b) As required to ensure compliance by the Commissioner with
38 any federal law or regulation relating to insurance.

39 2. A person who willfully violates any regulation of the
40 Commissioner is subject to such suspension or revocation of a
41 certificate of authority or license, or administrative fine in lieu of
42 such suspension or revocation, as may be applicable under this Code
43 or chapter 616A, 616B, 616C, 616D or 617 of NRS for violation of
44 the provision to which the regulation relates. No penalty applies to
45 any act done or omitted in good faith in conformity with any such



1 regulation, notwithstanding that the regulation may, after the act or
2 omission, be amended, rescinded or determined by a judicial or
3 other authority to be invalid for any reason.

4 **Sec. 11.** 1. This section becomes effective upon passage and
5 approval.

6 2. Section 6 of this act becomes effective upon passage and
7 approval and applies retroactively to January 1, 2005.

8 3. Sections 1 to 5, inclusive, and 7 to 10, inclusive, of this act
9 become effective on July 1, 2005.



