

Senate Bill No. 547–Committee on Legislative
Operations and Elections

CHAPTER.....

AN ACT relating to programs for public employees; making various changes regarding the management of the Public Employees' Benefits Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Governmental Accounting Standards Board is an independent body which establishes standards of financial accounting and reporting for state and local governmental agencies. The Board has issued Statements 43 and 45, which require governmental employers to report as liabilities those postemployment benefits, other than pensions, that have not yet been funded.

This bill creates the State Retirees' Health and Welfare Benefits Fund, an irrevocable trust fund to be administered by the Board of the Public Employees' Benefits Program. **Section 4** of this bill creates the Retirees' Fund and specifies its purpose. **Sections 5 and 6** of this bill specify how money is to be paid into the Retirees' Fund, invested and paid out of the Retirees' Fund.

Section 10.3 of this bill clarifies that a local government is required to pay the subsidy for the cost of coverage under the Public Employees' Benefits Program for its retirees who join the Program subsequent to retirement, such as by reinstatement. (NRS 287.023) **Section 18** of this bill makes this requirement apply retroactively to October 1, 2003, which was the date on which the requirement to pay such subsidies became effective.

Sections 11.5 and 13 of this bill prohibit members of the Board of the Public Employees' Benefits Program and the Executive Officer of the Program from participating in certain business enterprises or investments. (NRS 287.041, 287.0424) **Section 13** also requires gubernatorial approval of the employment of the Executive Officer. **Section 12** of this bill authorizes the Board of the Program to meet in closed session with its legal counsel in certain circumstances. (NRS 287.0415) **Section 14** of this bill changes the title of the Accounting Officer to Chief Financial Officer. (NRS 287.0426)

Section 17 of this bill changes the manner in which the subsidies to be paid in connection with the Program are calculated. (NRS 287.046)

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 the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *“Program Fund” means the Fund for the Public Employees' Benefits Program created pursuant to NRS 287.0435.*

Sec. 3. *“Retirees' Fund” means the State Retirees' Health and Welfare Benefits Fund created pursuant to section 4 of this act.*



Sec. 4. 1. The State Retirees' Health and Welfare Benefits Fund is hereby created as an irrevocable trust fund.

2. The purpose of the Retirees' Fund is to account for the financial assets designated to offset the portion of the current and future costs of health and welfare benefits paid pursuant to subsection 2 of NRS 287.046.

Sec. 5. 1. The money in the Retirees' Fund must not be used or appropriated for any purpose incompatible with the policies of the Program, as expressed in NRS 287.0402 to 287.049, inclusive, and sections 2 to 10, inclusive, of this act.

2. The Retirees' Fund must be invested and administered to ensure the highest return consistent with safety in accordance with accepted investment practices and the laws of this State which may include, without limitation, investment in the Retirement Benefits Investment Fund established pursuant to section 5 of Senate Bill No. 457 of this session.

3. The Board has the exclusive control of the administration and investment of the Retirees' Fund.

4. The following money must be deposited in the Retirees' Fund:

(a) All money appropriated by the Legislature to the Retirees' Fund;

(b) All money provided for the purpose of offsetting the portion of the costs of the health and welfare benefits for current and future state retirees pursuant to NRS 287.046;

(c) All money accruing to the Retirees' Fund from all other sources; and

(d) Any other money provided to the Program for the payment of other health and welfare benefits for current and future state retirees pursuant to NRS 287.046.

5. The interest and income earned on the money in the Retirees' Fund, after deducting any applicable charges, must be credited to the Retirees' Fund.

6. Any money remaining in the Retirees' Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Retirees' Fund must be carried forward.

Sec. 6. 1. The money in the Retirees' Fund must be expended by the Board for the purpose of:

(a) Offsetting a portion of the costs of the health and welfare benefits for current and future state retirees pursuant to NRS 287.046; and

(b) Paying such other expenses as by law may be paid from the Retirees' Fund.



2. Money designated for the purposes set forth in subsection 1 must be withdrawn from the Retirees' Fund and deposited in the Program Fund as necessary.

3. The money in the Retirees' Fund belongs to the officers, employees and retirees of this State in aggregate and is to be held in trust by the Board. Neither the State nor the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State, nor any single officer, employee or retiree of any such entity has any right to the money in the Retirees' Fund.

Sec. 7. No officer, employee or retiree of this State has any inherent right to benefits provided pursuant to NRS 287.0402 to 287.049, inclusive.

Sec. 8. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218.5373:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Secs. 9 and 10. (Deleted by amendment.)

Sec. 10.3. 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 continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the 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 or not to join the Public Employees' Benefits Program, as the case may be.

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

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

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~join~~ *participate in* the Program ~~[upon retirement]~~ pursuant to subsection 1, *subsection 5 of NRS 287.045 or subsection 1 of NRS 287.0475* as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those



persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 10.7. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 *or subsection 4 of NRS 287.023* or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, or *for coverage under the Public Employees' Benefits Program, or* upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his wages or salary in payment of premiums or contributions therefor.

Sec. 11. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and sections 2 to 10, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.0406, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 11.5. NRS 287.041 is hereby amended to read as follows:

287.041 1. There is hereby created the Board of the Public Employees' Benefits Program. The Board consists of nine members appointed as follows:

(a) One member who is a professional employee of the Nevada System of Higher Education, appointed by the Governor upon consideration of any recommendations of organizations that represent employees of the Nevada System of Higher Education.

(b) One member who is retired from public employment, appointed by the Governor upon consideration of any recommendations of organizations that represent retired public employees.

(c) Two members who are employees of the State, appointed by the Governor upon consideration of any recommendations of organizations that represent state employees.



(d) One member appointed by the Governor upon consideration of any recommendations of organizations that represent employees of local governments that participate in the program.

(e) One member who is employed by this State in a managerial capacity and has substantial and demonstrated experience in risk management, portfolio investment strategies or employee benefits programs appointed by the Governor. The Governor may appoint the Executive Officer of the Public Employees' Retirement System to fill this position.

(f) Two members who have substantial and demonstrated experience in risk management, portfolio investment strategies or employee benefits programs appointed by the Governor.

(g) The Director of the Department of Administration or his designee.

2. Of the six persons appointed to the Board pursuant to paragraphs (a) to (e), inclusive, of subsection 1, at least one member must have an advanced degree in business administration, economics, accounting, insurance, risk management or health care administration, and at least two members must have education or proven experience in the management of employees' benefits, insurance, risk management, health care administration or business administration.

3. Each person appointed as a member of the Board must:

(a) Except for a member appointed pursuant to paragraph (f) of subsection 1, have been a participant in the Program for at least 1 year before his appointment;

(b) Except for a member appointed pursuant to paragraph (f) of subsection 1, be a current employee of the State of Nevada or another public employer that participates in the Program or a retired public employee who is a participant in the Program; ~~and~~

(c) Not be an elected officer of the State of Nevada or any of its political subdivisions ~~or~~; *and*

(d) Not participate in any business enterprise or investment:

(1) With any vendor or provider to the Program; or

(2) In real or personal property if the Program owns or has a direct financial interest in that enterprise or property.

4. Except as otherwise provided in this subsection, after the initial terms, the term of an appointed member of the Board is 4 years and until his successor is appointed and takes office unless the member no longer possesses the qualifications for appointment set forth in this section or is removed by the Governor. If a member loses the requisite qualifications within the last 12 months of his term, the member may serve the remainder of his term. Members are



eligible for reappointment. A vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment.

5. The appointed members of the Board serve at the pleasure of the Governor. If the Governor wishes to remove a member from the Board for any reason other than malfeasance or misdemeanor, the Governor shall provide the member with written notice which states the reason for and the effective date of the removal.

Sec. 12. NRS 287.0415 is hereby amended to read as follows:

287.0415 1. A majority of the members of the Board constitutes a quorum for the transaction of business.

2. The Governor shall designate one of the members of the Board to serve as the Chairman.

3. The Board shall meet at least once every calendar quarter and at other times upon the call of the Chairman.

4. The Board may meet in closed session:

(a) To discuss matters relating to personnel;

(b) *With investment counsel to plan future investments or establish investment objectives and policies;*

(c) *With legal counsel to receive advice upon claims or suits by or against the Program;*

(d) To prepare a request for a proposal or other solicitation for bids to be released by the Board for competitive bidding; or

~~[(e)]~~ (e) As otherwise provided pursuant to chapter 241 of NRS.

5. Except as otherwise provided in this subsection, if the Board causes a meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS, the Board shall post a transcript of the meeting on its Internet website not later than 30 days after the meeting. The Board shall post a transcript of a closed session of the Board on its Internet website when the Board determines that the matters discussed no longer require confidentiality and, if applicable, the person whose character, conduct, competence or health was discussed in the closed session has consented to the posting.

6. As used in this section, "request for a proposal" has the meaning ascribed to it in subsection 8 of NRS 333.020.

Sec. 13. NRS 287.0424 is hereby amended to read as follows:

287.0424 1. The Board shall employ an Executive Officer ~~[who]~~, *subject to the approval of the Governor. The Executive Officer* is in the unclassified service of the State and serves at the pleasure of the Board. The Board may delegate to the Executive Officer the exercise or discharge of any power, duty or function vested in or imposed upon the Board.



2. The Executive Officer must:

(a) Be a graduate of a 4-year college or university with a degree in business administration or public administration or an equivalent degree, as determined by the Board; and

(b) Possess at least 5 years' experience in a high-level administrative or executive capacity in the field of insurance, management of employees' benefits or risk management, including, without limitation, responsibility for a variety of administrative functions such as personnel, accounting, data processing or the structuring of insurance programs.

3. Except as otherwise provided in NRS 284.143, the Executive Officer shall not pursue any other business or occupation or perform the duties of any other office of profit during normal office hours unless on leave approved in advance. The Executive Officer shall not participate in any business enterprise or investment ~~[with]~~ :

(a) *With* any vendor or provider to the Program ~~[]~~ ; or

(b) *In real or personal property if the Program owns or has a direct financial interest in that enterprise or property.*

4. The Executive Officer is entitled to an annual salary fixed by the Board. The salary of the Executive Officer is exempt from the limitations set forth in NRS 281.123.

Sec. 14. NRS 287.0426 is hereby amended to read as follows:

287.0426 1. The Executive Officer may appoint a Quality Control Officer, Operations Officer, ~~[Accounting]~~ *Chief Financial* Officer, Information Technology Systems Officer and Executive Assistant, who are in the unclassified service of the State and serve at the pleasure of the Executive Officer. The appointment and dismissal of the Quality Control Officer are subject to the approval of the Board.

2. The Quality Control Officer, Operations Officer, ~~[Accounting]~~ *Chief Financial* Officer and Information Technology Systems Officer must each be a graduate of a 4-year college or university with a degree that is appropriate to their respective responsibilities or possess equivalent experience as determined by the Board.

3. The Quality Control Officer, Operations Officer, ~~[Accounting]~~ *Chief Financial* Officer, Information Technology Systems Officer and Executive Assistant are entitled to annual salaries fixed by the Board. The salaries of these employees are exempt from the limitations set forth in NRS 281.123.

4. The Executive Officer may employ such staff in the classified service of the State as are necessary for the performance



of his duties, within limits of legislative appropriations or other available money.

Sec. 15. NRS 287.0433 is hereby amended to read as follows:

287.0433 The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the **Program** Fund, ~~[for the Public Employees' Benefits Program established pursuant to NRS 287.0435.]~~ a schedule of benefits and the disbursement of benefits from the **Program** Fund. The Board may reinsure any risk or any part of such a risk.

Sec. 16. NRS 287.0435 is hereby amended to read as follows:

287.0435 1. All money received for the Program, including, without limitation, premiums and contributions, must be deposited in the State Treasury for credit to the Fund for the Public Employees' Benefits Program which is hereby created as a trust fund. The **Program** Fund must be accounted for as an internal service fund. Payments into and disbursements from the **Program** Fund must be so arranged as to keep the **Program** Fund solvent at all times.

2. The money in the **Program** Fund must be invested as other money of the State is invested and any income from investments paid into the **Program** Fund for the benefit of the **Program** Fund.

3. Disbursements from the **Program** Fund must be made as any other claims against the State are paid.

4. The State Treasurer may charge a reasonable fee for his services in administering the **Program** Fund, but the State, the State General Fund and the State Treasurer are not liable to the **Program** Fund for any loss sustained by the **Program** Fund as a result of any investment made on behalf of the **Program** Fund or any loss sustained in the operation of the Program.

5. The Board shall deposit any disbursement received from the **Program** Fund into an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. Claims that have been submitted to the Program and approved must be paid from the account, and any refund of such a claim must be deposited into the account.

Sec. 17. NRS 287.046 is hereby amended to read as follows:

287.046 1. Except as otherwise provided in subsection 6, any active state officer or employee who elects to participate in the Program may participate, and the participating state agency that employs the officer or employee shall pay the State's share of the cost of the premiums or contributions for the Program from money appropriated or authorized as provided in NRS 287.044. State officers and employees who elect to participate in the Program must



authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of a premium or contribution for health insurance must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid by the participating state agency that employs the employee.

2. The Department of ~~[Personnel shall pay a percentage of the base amount provided by law for that fiscal year toward the cost of the premiums or contributions for the Program for persons who have retired with state service and who elect to participate in the Program. Except as otherwise provided in subsection 3, the percentage to be paid must be calculated as follows:~~

~~—(a) For those persons who retire before January 1, 1994, 100 percent of the base amount provided by law for that fiscal year.~~

~~—(b) For those persons who retire on or after January 1, 1994, with at least 5 years of state service, 25 percent plus an additional 7.5 percent for each year of state service in excess of 5 years to a maximum of 137.5 percent, excluding service purchased pursuant to NRS 1A.310 or 286.300, of the base amount provided by law for that fiscal year.]~~

Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service and who elect to participate in the Program. The money so assessed must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for state retirees. Except as otherwise provided in subsection 3, the portion to be paid to the Program from the Retirees' Fund on behalf of persons who have retired with state service and who elect to participate in the Program must be equal to a portion of the cost for each retiree and his dependents who are enrolled in the plan, as defined for each year of the plan by the Program. For persons who retire from the State on or after January 1, 1994, adjustments to the portion paid by the Retirees' Fund must be as follows:

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.



(b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

3. If the amount calculated pursuant to subsection 2 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the **Program** Fund . ~~[for the Public Employees' Benefits Program created pursuant to NRS 287.0435.]~~

4. For the purposes of subsection 2:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of state service.

5. The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and his dependents to the retired participant and to his dependents who elect to continue coverage under the Program after his death.

6. A Senator or Assemblyman who elects to participate in the Program shall pay the entire premium or contribution for his insurance.

Sec. 18. 1. This section and sections 1 to 10, inclusive, and 11 to 17, inclusive, of this act become effective on July 1, 2007.

2. Sections 10.3 and 10.7 of this act become effective on July 1, 2007, and apply retroactively to October 1, 2003.

