

SENATE BILL NO. 103—COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS

(ON BEHALF OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM)

PREFILED DECEMBER 15, 2008

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the Public Employees' Benefits Program. (BDR 23-422)

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

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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 the Public Employees' Benefits Program;
making various changes relating to the Program; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes certain requirements relating to the reinstatement by a retired public officer or employee, or surviving spouse thereof, of coverage under the health insurance plan of his last public employer. (NRS 287.0475) **Sections 2 and 16** of this bill bifurcate the reinstatement requirements such that **section 2** contains the requirements for retirees of local governments to reinstate coverage under the plans of their former local governmental employer and **section 16** contains the requirements for retirees of the State to reinstate coverage under the Public Employees' Benefits Program.

Under existing law, the former local governmental employer of a retiree who participates in the Public Employees' Benefits Program is required to pay a portion of the cost of coverage of the retiree under the Program, known as a subsidy, based on the number of years of service of the retiree with the local government. (NRS 287.023) **Section 4** of this bill authorizes the Executive Officer of the Program to terminate the coverage of such a retired member and his dependents if his former employer fails to pay any portion of the required subsidy. In addition, **section 4** revises the standard for determining the eligibility of a retiree of a local government to continue coverage upon retirement. **Section 18** of this bill deems officers and employees of local governments who continued coverage at the time of their retirement for the period beginning on October 1, 2003, and ending on June 30, 2009, to have satisfied this revised standard.

If a subsidy required to be paid by a local government to the Program for coverage of one of its retirees is delinquent by more than 90 days under existing law, the Program is authorized to request that an amount equal to the delinquent



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24 payment be withheld from the next distribution of the Local Government Tax
25 Distribution Account to which the local government is entitled. (NRS 354.671) In
26 addition to that remedy, **section 3** of this bill specifically authorizes the Program to
27 bring an action in court to recover such delinquent payments. **Section 17** of this bill
28 makes that authority applicable retroactively to allow the Program to bring actions
29 to recover payments that were delinquent for at least 90 days on or after October 1,
30 2003.

31 Under existing law, a local government has the option of entering into a
32 contract with the Program to obtain coverage for its officers and employees under
33 the Program. (NRS 287.025) **Section 5** of this bill clarifies that this option is
34 available to a local governmental employer only if the local governmental employer
35 agrees to obtain coverage under the Program for all of its officers and employees
36 and their dependents, except for certain employees who are excluded based on their
37 participation in certain other plans. **Sections 9 and 14** of this bill contain similar
38 conforming clarifications. (NRS 287.043, 287.045)

39 The Executive Officer of the Public Employees' Benefits Program is currently
40 authorized to appoint certain specified personnel, who are in the unclassified
41 service. (NRS 287.0426) **Section 8** of this bill eliminates the references to the
42 specific titles of those personnel and instead authorizes the Executive Officer to
43 appoint such officers in the unclassified service as are necessary for the
44 administration of the Program.

45 Under existing law, the coverage of a retiree under the Program terminates if
46 his former local governmental employer terminates its contract for coverage with
47 the Program. (NRS 287.043) Local governmental retirees who were enrolled in the
48 Program on November 30, 2008, received grandfather rights to retain coverage
49 under the Program despite the cancellation by their former employer of its contract
50 with the Program after that date. (Section 15 of Chapter 496, Statutes of Nevada
51 2007, p. 2882) **Section 9** of this bill clarifies the existing law relating to such a
52 termination of coverage to specifically exclude its applicability to retirees who hold
53 those grandfather rights. **Section 9** also clarifies the authority of the Board of the
54 Program to adopt regulations, including regulations relating to the coverage
55 provided by the Program to active and retired officers and employees of local
56 governments. **Section 19** of this bill ratifies any regulations adopted by the Board
57 on or after October 1, 2003, as conforming to the statutory authority of the Board
58 on the date of their adoption. In addition, **section 9** requires the Board to adopt
59 regulations relating to the procedures for: (1) payments by local governments of the
60 subsidies for coverage of their retirees under the Program; and (2) termination of
61 such coverage as a result of delinquent subsidy payments.

62 Effective July 1, 2010, **section 10** of this bill eliminates the requirement that the
63 Program offer a flexible benefit plan to participants in the Program who are
64 provided coverage under Medicare. (NRS 287.043)

65 **Section 11** of this bill clarifies that money received by the Program for the
66 purpose of offsetting the costs of providing coverage to current and future state
67 retirees is required to be deposited in the State Retirees' Health and Welfare
68 Benefits Fund instead of the Fund for the Public Employees' Benefits Program.
69 (NRS 287.0435, 287.04362)

70 Under existing law, a state agency is required to pay to the Program a certain
71 portion of the cost of coverage under the Program for each state officer or
72 employee of that state agency who participates in the Program. State officers and
73 employees are required to authorize deductions from their compensation for the
74 remaining portion of the costs of coverage. (NRS 287.046) In addition, existing law
75 authorizes the payment by state agencies, within the limits set biennially by law, of
76 a portion of the costs of coverage for their officers and employees under the
77 Program from authorized or appropriated money. (NRS 287.044) **Section 13** of this
78 bill gives the Board of the Program the authority to allocate money paid by



participating state agencies for the costs of coverage under the Program between officers and employees and their dependents. **Section 13** also consolidates the requirements relating to the payment of the costs of coverage for active state officers and employees under the Program. As a result of this consolidation, **section 15** only addresses the payment of costs of coverage for state retirees under the Program. For the purposes of calculating the amount of the subsidy for the coverage of a state retiree under the Program, **section 15** also expands the prohibition against the proration of any year of service from years of state service to years of service by the retiree with a local governmental employer.

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 and 3 of this act.

Sec. 2. 1. *A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:*

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Program, if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. *Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:*

(a) Giving written notice of his intent to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

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

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

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the



1 *public officer or employee or surviving spouse gives notice of his*
2 *intent to reinstate the insurance.*

3 *3. Reinstatement pursuant to paragraph (b) of subsection 1*
4 *must be requested pursuant to NRS 287.0475.*

5 *4. Reinstatement of insurance pursuant to subsection 1*
6 *excludes claims for expenses for any condition for which medical*
7 *advice, treatment or consultation was rendered within 12 months*
8 *before reinstatement unless the reinstated insurance has been in*
9 *effect more than 12 consecutive months.*

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

20 **Sec. 3.** *1. In addition to the procedure set forth in NRS*
21 *354.671, if a local governmental agency is delinquent by more*
22 *than 90 days on an amount due to the Program pursuant to*
23 *paragraph (b) of subsection 4 of NRS 287.023, the Program may*
24 *bring an action to recover that amount in a court of this State. The*
25 *action must be brought within 6 years after the date on which the*
26 *payment was delinquent for more than 90 days.*

27 *2. In such an action, a certificate issued by the Program*
28 *documenting the amount of the delinquent payment and the*
29 *length of its delinquency is prima facie evidence of:*

30 *(a) The amount of the delinquent payment;*

31 *(b) The period of the delinquency; and*

32 *(c) Compliance by the Program with all the procedures*
33 *required by law relating to the computation and determination of*
34 *the amount due.*

35 **Sec. 4.** NRS 287.023 is hereby amended to read as follows:

36 287.023 1. Whenever an officer or employee of the
37 governing body of any county, school district, municipal
38 corporation, political subdivision, public corporation or other local
39 governmental agency of the State of Nevada retires under the
40 conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or
41 286.620 and, ~~[at the time of his retirement,]~~ *during the period in*
42 *which he served as an officer or employee, was eligible to be*
43 *covered or had [his] dependents who were eligible to be covered by*
44 *any group insurance, plan of benefits or medical and hospital service*
45 *established pursuant to NRS 287.010, 287.015, 287.020 or*



1 paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under
2 the Public Employees' Benefits Program pursuant to paragraph (a)
3 of subsection 1 of NRS 287.025, the officer or employee has the
4 option upon retirement to cancel or continue any such coverage to
5 the extent that such coverage is not provided to him or a dependent
6 by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

7 2. A retired person who continues coverage under the Public
8 Employees' Benefits Program shall assume the portion of the
9 premium or contribution costs for the coverage which the governing
10 body or the State does not pay on behalf of retired officers or
11 employees. A dependent of such a retired person has the option,
12 which may be exercised to the same extent and in the same manner
13 as the retired person, to cancel or continue coverage in effect on the
14 date the retired person dies. The dependent is not required to
15 continue to receive retirement payments from the Public
16 Employees' Retirement System to continue coverage.

17 3. Notice of the selection of the option must be given in writing
18 to the last public employer of the officer or employee within 60 days
19 after the date of retirement or death, as the case may be. If no notice
20 is given by that date, the retired officer or employee and his
21 dependents shall be deemed to have selected the option to cancel the
22 coverage for the group insurance, plan of benefits or medical and
23 hospital service established pursuant to NRS 287.010, 287.015,
24 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025
25 or coverage under the Public Employees' Benefits Program pursuant
26 to paragraph (a) of subsection 1 of NRS 287.025.

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

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

36 (b) Shall pay the same portion of the cost of coverage under the
37 Public Employees' Benefits Program for retired persons who
38 continue coverage under the Public Employees' Benefits Program
39 pursuant to subsection 1 or who subsequently reinstate coverage
40 under the Public Employees' Benefits Program pursuant to NRS
41 287.0475, as the State pays pursuant to subsection ~~2~~ 1 of NRS
42 287.046 for persons retired from state service who have continued to
43 participate in the Public Employees' Benefits Program. *The*
44 *Executive Officer of the Public Employees' Benefits Program*
45 *may, in accordance with regulations adopted pursuant to*



NRS 287.043, terminate the coverage of any retired person, and his dependents, for whom any portion of the cost of coverage owed pursuant to this paragraph is not fully paid. Such a decision of the Executive Officer is effective upon notification and is a final decision, which may not be appealed to the Board of the Public Employees' Benefits Program and is not subject to judicial review.

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. 5. NRS 287.025 is hereby amended to read as follows:

287.025 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may, in addition to the other powers granted in NRS 287.010, 287.015 and 287.020:

(a) Negotiate and contract with the Board of the Public Employees' Benefits Program to secure *exclusive* group insurance for *all of* its officers and employees and their dependents, *except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043*, by participation in the Public Employees' Benefits Program.

(b) Negotiate and contract with another county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada to secure group insurance for its officers and employees and their dependents by participation in any group insurance plan established or to be established by the other local governmental agency.

(c) To secure group health, life or workers' compensation insurance for its officers and employees and their dependents, participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to secure such insurance for its members from an insurer licensed pursuant to the provisions of title 57 of NRS.

(d) In addition to the provisions of paragraph (c), participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to:



(1) Facilitate contractual arrangements for the provision of medical services to its members' officers and employees and their dependents and for related administrative services.

(2) Procure health-related information and disseminate that information to its members' officers and employees and their dependents.

2. Each contract negotiated pursuant to paragraph (a) or (b) of subsection 1:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner of Insurance.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

Sec. 6. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, *and section 2 of this act* 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, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, 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. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.0426 is hereby amended to read as follows:

287.0426 1. The Executive Officer may ~~appoint a Quality Control Officer, Operations Officer, Chief Financial Officer, Information Technology Systems Officer and Executive Assistant,~~ *within the limits of legislative appropriations and other available money, appoint such officers as are necessary for the administration of the Program*, who are in the unclassified service



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1 of the State and serve at the pleasure of the Executive Officer. The
2 appointment and dismissal of ~~[the Quality Control Officer]~~ *an*
3 *officer in charge of quality control* are subject to the approval of
4 the Board.

5 2. ~~[The Quality Control Officer, Operations Officer, Chief~~
6 ~~Financial Officer and Information Technology Systems Officer]~~
7 *Each officer appointed pursuant to subsection 1 who is placed in*
8 *charge of quality control, operations, finance or information*
9 *technology* must ~~[each]~~ be a graduate of a 4-year college or
10 university with a degree that is appropriate to their respective
11 responsibilities or possess equivalent experience as determined by
12 the Board.

13 3. ~~[The Quality Control Officer, Operations Officer, Chief~~
14 ~~Financial Officer, Information Technology Systems Officer and~~
15 ~~Executive Assistant]~~ *Officers appointed pursuant to subsection 1*
16 are entitled to annual salaries fixed by the Board. The salaries of
17 these employees are exempt from the limitations set forth in
18 NRS 281.123.

19 4. The Executive Officer may employ such staff in the
20 classified service of the State as are necessary for the performance
21 of his duties, within limits of legislative appropriations or other
22 available money.

23 **Sec. 9.** NRS 287.043 is hereby amended to read as follows:

24 287.043 1. The Board shall:

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

27 (1) Must include:

28 (I) A program relating to group life, accident or health
29 insurance, or any combination of these; and

30 (II) A plan that offers flexibility in benefits for
31 participants in the Program who are provided coverage by the
32 Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., and
33 for which the rates must be based only on the experience of the
34 participants in the plan and not in combination with the experience
35 of participants in any other plan offered under the Program; and

36 (2) May include:

37 (I) A plan that offers flexibility in benefits, and for which
38 the rates must be based only on the experience of the participants in
39 the plan and not in combination with the experience of participants
40 in any other plan offered under the Program; or

41 (II) A program to reduce taxable compensation or other
42 forms of compensation other than deferred compensation,

43 ➤ for the benefit of all state officers and employees and other
44 persons who participate in the Program.



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

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

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain *exclusive* group insurance for *all of* its active and retired officers and employees and their dependents, *except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2*, by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

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

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

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



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

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

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS ~~[287.0402 to 287.049,]~~ *287.010 to 287.245, inclusive, and sections 2 and 3 of this act,* including, without limitation, the establishment of:

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

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency *whose last continuous period of enrollment with the Program began after November 30, 2008,* terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

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

(4) Specific procedures for the determination of contested claims ~~[I];~~

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

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

(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 submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection 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) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are 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.

(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.

(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

(e) A discussion of activities of the Board concerning purchasing coalitions.



4. 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. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 10. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

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

(1) Must include ~~the~~

~~(I) A~~ a program relating to group life, accident or health insurance, or any combination of these; and

~~[(II) A plan that offers flexibility in benefits for participants in the Program who are provided coverage by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; and]~~

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation, for the benefit of all state officers and employees and other persons who participate in the Program.

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

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

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience



1 of such active and retired officers and employees and their
2 dependents for whom the Program provides primary health
3 insurance coverage into a single risk pool.

4 (b) Except as otherwise provided in this paragraph, negotiate
5 and contract pursuant to paragraph (a) of subsection 1 of NRS
6 287.025 with the governing body of any county, school district,
7 municipal corporation, political subdivision, public corporation or
8 other local governmental agency of the State of Nevada that wishes
9 to obtain exclusive group insurance for all of its active and retired
10 officers and employees and their dependents, except as otherwise
11 provided in sub-subparagraph (III) of subparagraph (2) of paragraph
12 (h) of subsection 2, by participation in the Program. The Board shall
13 establish separate rates and coverage for active and retired officers
14 and employees of those local governmental agencies and their
15 dependents based on actuarial reports that commingle the claims
16 experience of such active and retired officers and employees and
17 their dependents for whom the Program provides primary health
18 insurance coverage into a single risk pool.

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

24 (d) If a proposed change is a change in the premium or
25 contribution charged for, or coverage of, health insurance, provide
26 written notice of the proposed change to all participants in the
27 Program. The notice must be provided at least 30 days before the
28 date on which a participant in the Program is required to select or
29 change his policy of health insurance.

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

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

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

41 (h) Adopt such regulations and perform such other duties as are
42 necessary to carry out the provisions of NRS 287.010 to 287.245,
43 inclusive, *and sections 2 and 3 of this act*, including, without
44 limitation, the establishment of:



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

3 (2) Conditions for entry and reentry into and exit from the
4 Program by local governmental agencies pursuant to paragraph (a)
5 of subsection 1 of NRS 287.025, which:

6 (I) Must include a minimum period of 4 years of
7 participation for entry into the Program;

8 (II) Must include a requirement that participation of any
9 retired officers and employees of the local governmental agency
10 whose last continuous period of with the Program began after
11 November 30, 2008, terminates upon termination of the local
12 governmental agency's contract with the Program; and

13 (III) May allow for the exclusion of active and retired
14 officers and employees of the local governmental agency who are
15 eligible for health coverage from a health and welfare plan or trust
16 that arose out of collective bargaining under chapter 288 of NRS or
17 a trust established pursuant to 29 U.S.C. § 186;

18 (3) Procedures by which a group of participants in the
19 Program may leave the Program pursuant to NRS 287.0479 and
20 conditions and procedures for reentry into the Program by those
21 participants;

22 (4) Specific procedures for the determination of contested
23 claims;

24 (5) Procedures for review and notification of the termination
25 of coverage of persons pursuant to paragraph (b) of subsection 4 of
26 NRS 287.023; and

27 (6) Procedures for the payments that are required to be made
28 pursuant to paragraph (b) of subsection 4 of NRS 287.023.

29 (i) Appoint an independent certified public accountant. The
30 accountant shall:

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

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

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

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

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

43 3. The Board shall submit an annual report regarding the
44 administration and operation of the Program to the Director of the
45 Legislative Counsel Bureau for transmittal to the appropriate



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committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection 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) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are 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.

(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.

(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

(e) A discussion of activities of the Board concerning purchasing coalitions.

4. 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. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its



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

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

7 **Sec. 11.** NRS 287.0435 is hereby amended to read as follows:

8 287.0435 1. ~~[A]]~~ *Except as otherwise provided in*
9 *subsection 4 of NRS 287.04362, all* money received for the
10 Program, including, without limitation, premiums and contributions,
11 must be deposited in the State Treasury for credit to the Fund for the
12 Public Employees' Benefits Program which is hereby created as a
13 trust fund. The Program Fund must be accounted for as an internal
14 service fund. Payments into and disbursements from the Program
15 Fund must be so arranged as to keep the Program Fund solvent at all
16 times.

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

20 3. Disbursements from the Program Fund must be made as any
21 other claims against the State are paid and may only be made for the
22 benefit of the participants in the Program.

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

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

35 **Sec. 12.** NRS 287.0436 is hereby amended to read as follows:

36 287.0436 1. The State Retirees' Health and Welfare Benefits
37 Fund is hereby created as an irrevocable trust fund.

38 2. The purpose of the Retirees' Fund is to account for the
39 financial assets designated to offset the portion of the current and
40 future costs of health and welfare benefits paid pursuant to
41 subsection ~~[2]~~ 1 of NRS 287.046.

42 **Sec. 13.** NRS 287.044 is hereby amended to read as follows:

43 287.044 1. ~~[A part of the cost of the premiums or~~
44 ~~contributions for group insurance provide by the Program, not to~~
45 ~~exceed the amount specified by law, applied to both group life and~~



~~group accident or health coverage, for each state officer, except a Senator or Assemblyman, or employee electing to participate in the Program, may be paid by the participating state agency which employs the officer or employee in whose behalf that part is paid from money appropriated to or authorized for that participating state agency for that purpose. Participation by the State in the cost of premiums or contributions must not exceed the amounts specified by law.]~~ *Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.*

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

3. 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 such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid pursuant to subsection 1.

4. If a state officer or employee chooses to cover his dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, he must pay the difference between the amount of the premium or contribution for the coverage for himself and his dependents and the amount paid by the participating state agency that employs the officer or employee.

~~[2-]~~ *5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.*

6. The Board may allocate the money paid to the Program pursuant to this section between the cost of premiums and contributions for group insurance for each state officer or employee, except a Senator or Assemblyman, and their dependents.

Sec. 14. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.



2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. 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 his 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 90 days of full-time employment ~~§~~, *unless that officer or employee is excluded pursuant to subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.*

4. Every Senator and Assemblyman is eligible to participate in the Program on the first day of the month following the 90th day after his initial term of office begins.

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

Sec. 15. 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 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.}~~ 2, 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.}~~ 2. If the amount calculated pursuant to subsection ~~{2.}~~ 1 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.

~~{4.}~~ 3. For the purposes of subsection ~~{2.}~~ 1:

(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.}~~ 4. 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.



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

Sec. 16. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A *retired* public officer or employee ~~[who has retired pursuant]~~ *or the surviving spouse of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:*

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, *from a participating state agency or was enrolled in* a retirement program provided pursuant to NRS 286.802 ~~[- or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:~~

~~—(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or~~

~~—(b) Under the Program, if the last public employer of the retired officer or employee was the State of Nevada or if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.]~~
; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, *from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement.*

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice *to the Program* of his intent to reinstate the insurance ~~[to the last public employer of the public officer or employee]~~ not later than ~~[January 31]~~ *March 15* of an even-numbered year;

(b) Accepting the ~~[public employer's]~~ *Program's* current ~~[program or]~~ plan of insurance and any subsequent changes thereto; and

(c) Paying any portion of the premiums or contributions ~~[of the public employer's program or plan of insurance,]~~ *for coverage under the Program,* in the manner set forth in NRS 1A.470 or



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1 286.615, which are due from the date of reinstatement and not paid
2 by the public employer.

3 ~~{→ The last public employer shall give the insurer notice of the~~
4 ~~reinstatement no later than March 31 of the year in which the public~~
5 ~~officer or employee or surviving spouse gives notice of his intent to~~
6 ~~reinstate the insurance.}~~

7 3. Reinstatement of insurance excludes claims for expenses for
8 any condition for which medical advice, treatment or consultation
9 was rendered within 12 months before reinstatement unless the
10 reinstated insurance has been in effect more than 12 consecutive
11 months.

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

22 **Sec. 17.** Section 3 of this act applies retroactively to payments
23 owed pursuant to paragraph (b) of subsection 4 of NRS 287.023 that
24 were delinquent for at least 90 days on and after October 1, 2003.

25 **Sec. 18.** Officers and employees of local governments who
26 continued coverage pursuant to NRS 287.023 at the time of their
27 retirement for the period beginning on October 1, 2003, and ending
28 on June 30, 2009, are hereby deemed to have satisfied the
29 requirements for eligibility set forth in subsection 1 of NRS
30 287.023, as amended by section 4 of this act, and the provisions of
31 this act are retroactive to that extent.

32 **Sec. 19.** The Legislature hereby ratifies all regulations adopted
33 by the Board of the Public Employees' Benefits Program on and
34 after October 1, 2003, as conforming to the statutory authority of the
35 Board on the date of their adoption.

36 **Sec. 20.** 1. This section and sections 1 to 9, inclusive, and 11
37 to 19, inclusive, of this act become effective on July 1, 2009.

38 2. Section 10 of this act becomes effective on July 1, 2010.

