

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-first Session
April 21, 2021**

The Senate Committee on Government Affairs was called to order by Chair Marilyn Dondero Loop at 3:37 p.m. on Wednesday, April 21, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Marilyn Dondero Loop, Chair
Senator James Ohrenschall, Vice Chair
Senator Dina Neal
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Heidi Chlarson, Counsel
Janae Johnson, Committee Secretary

OTHERS PRESENT:

Laura Rich, Executive Officer, Public Employees' Benefits Program
Priscilla Maloney, American Federation of State, County and Municipal Employees Retirees-Local 4041
Tom Wellman, National Strength and Conditioning Association Retired Program
Terri Laird, Executive Director, Retired Public Employees of Nevada
Kent Ervin, Nevada Faculty Alliance
Steven Horner, Nevada State Education Association Retired; Clark County Education Association
Jason Lewis, Chief, State Collection and Disbursement Unit, Division of Welfare and Supportive Services
Cathy Kaplan, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services

CHAIR DONDERO LOOP:

We will open the hearing with Assembly Bill (A.B.) 48.

ASSEMBLY BILL 48: Authorizes certain retired public officers and employees to reinstate insurance under the Public Employees' Benefits Program. (BDR 23-321)

LAURA RICH (Executive Officer, Public Employees' Benefits Program):

A little background on A.B. 48. Prior to November 30, 2008, the local government retirees were eligible to join the Public Employees' Benefits Program (PEBP) regardless of whether or not their former employer participated and paid into the Program. However, Senate Bill No. 544 of the 74th Session amended PEBPs eligibility provisions by disallowing the retirees of local governments to join PEBP if the local government employed a retiree who did not participate in the program. *Nevada Administrative Code* 287.095 defines who is eligible to participate in PEBP and incorporates those members who were grandfathered into the Program on November 30, 2008. We refer to this group as non-State employers.

Currently, PEBP has eight active non-State local government employees. These are active non-State employees and a little over 5,900 non-State retirees, primarily the non-State population grandfathered into the plan on November 30, 2008. As of 2011, PEBP requires, with some exceptions, Medicare-eligible retirees to participate in the Medicare exchange by enrolling in a plan directly through Via Benefits. This is the company PEBP contracts with for their Medicare exchange product. Retirees enrolled through Via Benefits receive a year of service subsidy which is provided in the form of a monthly health reimbursement account contribution. Retirees may be eligible for up to \$260 a month, which can be used to reimburse eligible medical expenses, Medicare plan and dental plan premiums.

If a retiree fails to enroll in a plan or disenrolls from a plan through Via Benefits, they are terminated from the Program. This is a non-State retirement disenrollment problem and the solution is A.B. 48. *Nevada Revised Statutes* (NRS) 287.0475 addresses the reinstatement of insurance by a retired public officer employee or surviving spouse. The statute allows retirees from a participating State agency or local government to reinstate coverage if they have no more than one period not covered under the Program. This essentially allows retirees from the State and participating local governments of those

eight non-State employees one opportunity to return to the Program as late enrollees during the open enrollment period, should they disenroll. It does not provide the same opportunity to non-State retirees since they do not fall under a participating local government agency. Since 2011, State and non-State Medicare exchange retirees have been affected by this rule. Many non-State retirees have permanently lost their benefits. Retirees enrolled through Via Benefits have the opportunity every year to change plans during open-enrollment. During this period, retirees mistakenly enroll directly through the carrier instead of through Via Benefits, which results in an agent of record change. Once the agent of record is altered, the retiree is no longer covered in the medical plan through Via Benefits.

In other cases, Medicare plans are discontinued and retirees are required to choose a new plan. In some cases, carriers are authorized to crosswalk members on a discontinued plan to a comparable plan should the member not actively choose one. However, in some cases there is no comparable plan available and the member is required to actively select and enroll in a new option. If the retiree fails to actively choose another plan, then they are disenrolled. In these cases, the retirees are no longer considered enrolled in a medical plan through Via Benefits and are subsequently disenrolled from the Program and terminated from PEBP. Because the statute requires participation in a plan, it is not until they start receiving termination notices from PEBP that they begin to realize the consequences of their actions.

Because PEBP anticipates this, every year we include language in all of our documents stressing the importance of making any plan changes through Via Benefits. We put this in the retiree guides with other resources and trainings. We send reminder notices prior to each Medicare open-enrollment period. We engage in aggressive communications to those who have been identified participating in a plan that is set to expire that needs some kind of action. Unfortunately, there are always retirees who disenroll and lose their Health Reimbursement Arrangement (HRA) subsidy. State retirees have the ability to mitigate the damage by using their one-time opportunity allowed in statute to reinstate during the PEBP open enrollment period. Non-State retirees lose their ability to participate in the Program and lose their HRA subsidies permanently. There is no way to reinstate them.

Based on enrollment data, PEBP estimates that over 1,100 non-State retirees have disenrolled from the plan in this manner and have lost their HRA subsidies

since 2011. We believe it is reasonable to provide non-State retirees the same opportunity that State retirees are offered to reinstate their Medicare exchange plan. This change does not have a budgetary impact to PEBP or the State since HRA subsidies are funded by local governments. Had these retirees not disenrolled, the local governments would have been required to provide funding regardless. While there is no impact to the State or PEBP, this would impact the local governments where those retirees came from. For example, the Clark County School District (CCSD) has a large number of retirees who used to participate under the plan. If they made this mistake, they would be allowed to use the one-time opportunity to come back. In this example, the CCSD would then have to start picking up the tab for those HRA benefits for their retirees. There are other non-State agencies that have retirees, and they would have already been paying these benefits. This bill is allowing those retirees to reinstate their benefits based on a mistake they made. Because of the way the statute is written, they cannot walk it back.

SENATOR GOICOECHEA:

I am trying to get this clear in my mind. There was a bill heard nine sessions ago, and it gave retirees the opportunity to go back to PEBP. If they chose not to do this in 2008, this will give them another bite at the apple. Is that correct?

Ms. RICH:

No. These are retirees who already opted to come back to PEBP. They have already been grandfathered back in to the Program. This would not be opening the flood gates to new retirees. This is the same bucket that was opened in 2008. Those retirees who were part of PEBP made a mistake and terminated out of the Program and lost their benefits as a result.

SENATOR GOICOECHEA:

When you say made a mistake, do you mean they dropped the Program and went to Medicare? This bill allows them to come back to PEBP?

Ms. RICH:

This is only relating to Medicare retirees. All of the retirees it affects fall into the Medicare bucket. These are folks who were already on the Medicare exchange as Medicare retirees. During the Medicare open enrollment period, they switched plans. Instead of switching plans through Via Benefits and staying in that marketplace, they went to a health fair or retiree fair of some sort. For example, an AARP representative offered another plan that could have been more

beneficial to the retiree. When those retirees enrolled directly through another carrier, they are disenrolled through Via Benefits. That is what I am referring to as disenrollment. The retiree was on a Medicare plan and went to a different plan directly through a carrier instead of through PEBP.

SENATOR NEAL:

What is not clear is why their coverage lapsed. It cannot be their fault. What is the reason the coverage lapsed. You said in your testimony, "There were 1,100 who have been disenrolled since 2011." We are now in 2021 and there have to be a series of events or a series of actions taken by the non-State retirees on why they did not continue their plan. Can you put some of those incidents in the record on why they failed to continue their insurance?

Ms. RICH:

The example I just provided is the prime example of what happens. There is a retiree who enrolls through the Medicare exchange through Via Benefits. The retiree will go to a health fair or retiree event and enroll directly through a carrier. When this happens, agent of record is changed. They are still on a Medicare plan, but they enrolled through a carrier away from the PEBP-sponsored Medicare exchange. Via Benefits tells PEBP this person is not participating in our Program, and we end up terminating them from the Program. The person still has Medicare but is unaware he or she should not enroll directly through a non-PEBP carrier instead of going through the Medicare exchange with PEBP.

SENATOR NEAL:

It sounds like an educational issue. If we have known about this since 2007 and grandfathered folks in, then there was a flare up in 2011, this was an educational moment for the retirees that could have been resolved with a mailer stating not to sign up for random plans because their PEBP benefits could be canceled.

Ms. RICH:

This is an educational issue; PEBP tries hard to drill this into our Medicare retirees because it is so important. It still happens over and over every year. A lot of retirees are aging well into their 80s and 90s. For example, at least a couple of times a week, I would receive exception requests stating they did not know. Because it is in statute, we cannot make an exception. For example, an elderly woman is in the non-State retiree category who are grandfathered in.

She had her family handling her affairs; her family are attorneys. The family did not know the consequences when they changed her plan. They fought tooth and nail on this because it had long-lasting and permanent consequences. Because it is in statute, there is no way PEBP could make an exception. It is not always the retiree and not always education. We are dealing with folks who are potentially aging into a place where they are not handling their own affairs. This bill is where this will be helpful. State retirees have one shot to come back.

SENATOR NEAL:

You mentioned the cost, for local governments. In the bill, there are counties, school districts, municipal corporations, political subdivisions, public corporations or other local government agencies of the State that are participating. I want to understand the cost of this because you drew us back to 2011. You did not discuss what the retroactive period is on the medical expenses that are being walked back. Is that correct? Is this one month prior for medical expenses to go back on? Is the local government to going pick up a prior month expenses? Will they pick up the year's prior expenses? What are the medical debts that may come into play? Typically, you could have a medical debt, and there is a window of time where you can submit or prove that you have insurance to cover the service. Because this is an aging population, I think this needs to break out the walk back period. What is the time frame? Are the medical expenses for State retirees capped off during the enrollment period? Does that make sense?

MS. RICH:

Yes, it does make sense. Just to clarify, are we talking about Medicare exchange folks and there are no medical expenses? This is all Medicare liability and not the State's liability. There are not any medical expenses. The expense we are talking about is the HRA contribution benefit. Today, it is up to \$260 per month per retiree if they are to max it out. It depends on their years of service. It tops out at \$260 today, and the PEBP budget will lower it to \$220 in the next biennium. The expense we are looking at is \$220 a month for the retiree if they were to max out their benefit.

About 1,100 of these folks have since dropped off the PEBP plan. We do not know what has happened to them since then. There is a high likelihood that a very small percentage of them would come back to the plan. Since this is an aging population, there is a good chance some of them have passed away and

many will not use the one-time opportunity to come back. The impact depends on the amount of retirees the local government entity would have.

I have a list that I can provide to the Committee. We looked at the potential of the retirees, and if every single retiree came back, the potential impact would be to that specific group or the local governments. Again, it is the worst case scenario, and it is highly unlikely that even 50 percent of them would come back at this point. The fiscal impact of retirees coming back can be provided to the Committee, so you are able to see the impact to each of the local governments.

These non-State retirees usually figure it out quickly upon receiving a termination notice from PEBP. They will call PEBP to plea and beg to come back and say it was a mistake. We are unable to provide them that opportunity because of the way it is written in statute. There is no exception made because of the statute. I think most of the members will be caught moving forward. However, this would be retroactive we would be able to catch those people who do want to come back by giving them the one-time opportunity to come back.

SENATOR GOICOECHEA:

I am not sure I understand. Section 1, subsection 1, paragraph (b) of A.B. 48 states, "Did not have more than one period during which the retired public officer or employee was not covered by insurance under the Program ..." It does not give a time frame for the program. Does it mean you could withdraw in 2011 and now ask to come back? Because that is only one period.

MS. RICH:

You are correct. It does provide a one-time opportunity for retirees to return to the Program after one period of not being a part of it. We call those the late retirees.

SENATOR GOICOECHEA:

That means if you bailed out, you have one chance to come back.

CHAIR DONDERO LOOP:

This is a hard bill and a hard process to understand. I retired as a teacher. Teachers generally have to get another job to qualify for Medicare or they do not have insurance. Would teachers fall under this bill?

Ms. RICH:

Yes. If they were a part of the grandfathered group. The Carson City School District had 15 retirees who dropped off or were terminated, 20 retirees in Churchill County and the CCSD had 391. Some teachers fall into this category, but they have to have been a part of the group grandfathered in 2008.

CHAIR DONDERO LOOP:

If you know there are 15 people in Carson City, have those 15 people received a letter or a phone call or something to alert them? Does a person just know what needs to be done? How are they being notified?

Ms. RICH:

We can actively reach out to these members or not. Once the bill passes, then we would find out if PEBP has the ability to reach out to these members. We can actively engage these members and let them know this option is available, and we can work with the advocacy groups. For example, we work with the Retired Public Employees of Nevada (RPEN), and they have been supportive of A.B. 48. There are ways to engage this group and notify them of this opportunity should the bill pass.

SENATOR NEAL:

You said it is based on their time of service, right? They were grandfathered in 2008 and lapsed in 2011. How are we calculating the length of service? Is the length of service up to 2008 or up to 2011? Do you use any actuaries?

Ms. RICH:

The Public Employees Retirement System (PERS) determines years of service and PEBP coordinates with PERS to get years of service information. This is the information PEBP uses to determine years of service when a person retires. In this situation, years of service determinations were made back in the day, and it is in PEBPs system. We know how many years of service these folks have. This is what is used for the HRA benefit.

SENATOR NEAL:

Whether or not you use an actuary, is this on the PERS side?

Ms. RICH:

Because this is a Medicare plan, we do not use actuaries for that determination, and PEBP is not paying medical claims. Medicare is paying those claims. The

only benefit retirees receive from PEBP is the HRA benefit as the contribution from the employer. Medicare is picking up the claims and the claims are irrelevant to PEBP under these circumstances. Does that make sense?

SENATOR NEAL:

It does. I am asking if the cost of medical debt and claims apply. Is there any federal conflict when Medicare is now receiving a claim that is a year old? How is Medicare handling a non-State retiree in terms of will they pay the claim? The State is saying you can get back in the game and get covered. Does that mean the federal government Medicare plan wants to walk backwards a year on these medical expenses?

MS. RICH:

These folks have likely been on a Medicare plan the entire time; it is just where they enrolled in that plan. The federal government is agnostic to the fact of where they enrolled for a Medicare plan and how they enrolled in it. A Medicare plan is through the federal government. For PEBP purposes, the retiree has to enroll in a Medicare plan through our vendor to be considered participating in our Program. That is the only way PEBP is able to provide an HRA contribution to these folks who are on the Medicare exchange. These retirees have most likely continued their Medicare plans off the PEBP Medicare exchange. The only thing they lost is the \$260 a month benefit that PEBP is providing them. They continue their Medicare plan through their employer who is not providing them the \$260 a month benefit they were eligible for.

PRISCILLA MALONEY (American Federation of State, County and Municipal Employees Retirees-Local 4041):

We support A.B. 48. We thank the agency for closing the loophole for some of our public retirees. For Senator Neal's question, the bottom line is this is an existing option already in State statute for State retirees. This gives the same safety net for local governments. A few years ago, the American Federation of State, County and Municipal Employees amended our constitution pursuant to an agreement and now accept members as local government retirees. This will affect some of our members. People do not realize during open enrollment, someone can come along and say "I can get you a better deal than you are getting from PEBP." Then it turns out to not be such a great deal. They lose the contribution from their former employer through PEBP's Medicare exchange and lose the \$260 per month. They do not realize what they have done. Prior to this bill, there was no relief for a retired worker in that situation in local government.

TOM WELLMAN (National Strength and Conditioning Association Retired Program): I support A.B. 48. One of the major expenses that our members face in retirement is the continuing escalating cost to health care. Any measure that can be put in place to help curve this runaway train is greatly appreciated. This bill would not directly impact me, but would allow our members were qualify for this Program to save precious healthcare dollars each year and every month by allowing them access to the exchange. I urge you to support this bill and help our senior citizens across the State to gain access to affordable health care. However, please keep in mind many of our retired members who would benefit from this Program will not have access because they will not qualify for social security or Medicare. Please consider, as you move forward, the act of educators and support professionals to access quality and affordable health care when they retire. Working together, you can help solve this problem for employees with life-changing issues on a daily basis.

TERRI LAIRD (Executive Director, Retired Public Employees of Nevada): The Retired Public Employees of Nevada was established in 1976 to protect pensions and benefits earned by all public employees. We are a nonprofit organization with nearly 8,000 paying members. We support A.B. 48 because it creates parity between the State and non-State Medicare participants in the Medicare exchange with PEBP. Since 2011, RPEN has received many panicked phone calls from those non-State members, and we have taken their concerns to PEPB on their behalf. The case scenario Laura Rich referenced was an RPEN member whose family reached out to us to assist them with this issue.

The Public Employees Benefit Program and RPEN send quarterly newsletters to all members reminding Medicare participants of this risk during open enrollment. Unfortunately, many retirees are living on fixed incomes and are always looking for ways to save money. Therefore, they are more susceptible to the solicitations promising lower premiums. Many are not aware that selecting what may appear to be a better and more affordable offer, is forfeiting their HRA and other benefits. For this reason, we hope you can support A.B. 48.

KENT ERVIN (Nevada Faculty Alliance): We support A.B. 48. It does not affect our members who are State employees, but in solidarity with the non-State retirees we support this extension of this benefit. However, instead of just adding this State benefit to non-State retirees, it eliminated the once per lifetime reinstatement altogether. Assembly Bill No. 76 of the 76th Session added this statute, and we believe it is unnecessary

for retirees. It should be removed for all State and non-State retirees. State hires after 2011 will have no health benefits once they retire due to other actions taken around that time. We do support A.B. 48 as written because it fixes this problem with just the non-State retirees.

STEVEN HORNER (Nevada State Education Association Retired; Clark County Retired Education Association):
We support A.B. 48.

Ms. RICH:

There is a lot of support for this bill. I have several people reaching out to me for making this mistake. This bill allows them one chance to fix it.

CHAIR DONDERO LOOP:

I will close the hearing on A.B. 48 and open the hearing on A.B. 70.

ASSEMBLY BILL 70: Revises provisions governing the deposit of child support payments collected by the Division of Welfare and Supportive Services of the Department of Health and Human Services. (BDR 31-299)

JASON LEWIS (Chief, State Collection and Disbursement Unit, Division of Welfare and Supportive Services):

The State Collection and Disbursement Unit (SCaDU) receives and processes all child support payments for Nevada. Per federal regulation, the State agency must establish and operate a unit for the collection and disbursement of payments under support orders. The State Collection and Disbursement Unit has a payment processing system through our vendor to process child support payments and receives over \$220 million per year. Child support payments are received via electronic funds transfer, credit cards and cash. The State Collection and Disbursement Unit receives approximately 22,000 mailed in payments per month, averaging more than \$10,000 per day. Due to the dollar amount, State law requires us to deposit all payments by the close of the next business day.

Payments with accurate child support information and financial instrument information pass directly through the system without staff intervention. Payments lacking information are researched by staff and could include contacting the individual or employer who sent the payment. This cannot always be done within the established statutory timeframe. Also, almost daily,

payments cannot be properly identified because the payment was never meant for Nevada. Depositing these payments requires SCaDU to issue a refund check back to the payer instead of returning the payment with an explanation letter.

Assembly Bill 70 will allow SCaDU one additional business day to deposit identified payments which will align with the federal requirements for disbursing payments to families. For unidentified payments, A.B. 70 will allow a total of five business days to identify and deposit the payment or return to the payer. This will expedite both the time for payments made in error and to return payments into the hands of families it was intended for in a timely manner.

SENATOR NEAL:

I understand the money is accumulating. Do you subtract the welfare benefits from the child support that is received? I wonder if the accumulation of dollars you have in this account is coming from the subtraction of welfare benefits. I understand when a person gets child support and also receives a welfare benefit, you subtract the welfare benefit. I think it is subtracted from the child support. I want to know if that is playing into this at all. I know there is a reduction, and the recipient cannot have both.

CATHY KAPLAN (Chief, Child Support Enforcement, Division of Welfare and Supportive Services):

What Mr. Lewis presented has nothing to do with the benefits of welfare recipients. What you are referring to is when someone is on cash Temporary Assistance for Needy Families benefits, they assign their rights to child support, but that is done separately from depositing money intended for child support.

SENATOR NEAL:

Since you receive the payments, how do you coordinate with the district attorney (DA) to make sure the payment has been made? If a person fails to pay their child support, their driver's license can be placed on suspension. You are documenting what is going into the account. How do you interact and coordinate with the DA?

MS. KAPLAN:

We have a system that is linked. It is a Statewide system for deposits coming in from the SCaDU side and shows in our accounting system. Any DAs who have a contract with us can see those payments.

SENATOR GOICOECHEA:

During the height of unemployment, there were unemployment checks with deductions for child support that were sent to DAs on behalf of child support. These were fraudulent claims. In my district, people reached out to me who received \$1,200 of child support and had not filed for unemployment. How do you deal with that and identifying the obligee?

MS. KAPLAN:

We have been working with the Department of Employment, Training and Rehabilitation (DETR) to identify unemployment claims that are fraudulent. When we flag them and catch them in a timely manner, that money is refunded to DETR. The collection for any fraudulent claim where somebody has been awarded a benefit will be on the DETR side, and they will have a plan to collect it.

SENATOR GOICOECHEA:

It was good luck on those people's part that someone filed a fraudulent claim. I know a number of constituents who have contacted me, and they did benefit from this fraud. They had child support payments paid to them out of a fraudulent unemployment claim. I was trying to figure out how you are going to fix that, because this is part A.B. 70.

MS. KAPLAN:

I do not know if this is part of A.B. 70. What Mr. Lewis is presenting is when they get a payment they cannot identify, they are asking for additional days to research the payment to find out if it was truly meant for Nevada or if it should be refunded back to the payer. The unemployment side of it comes from electronic funds from DETR directly to us. It does not take any intervention to process those payments.

CHAIR DONDERO LOOP:

Are you going to take an additional two days? Is it five days or two days? What is the timeline?

MR. LEWIS:

If we receive the payment and we are able to identify it, it will be two days. Sometimes, we receive payments without identifying information or what family to send it to. This will allow five days to contact the payer and clear up the situation.

CHAIR DONDERO LOOP:

Can you estimate what percentage of payments that come in need to be identified? Out of 100 payments, is it 10 or 50?

MR. LEWIS:

It is approximately 20 percent it could be a little more. We have to send them into research to follow up.

CHAIR DONDERO LOOP:

Out of that 20 percent, are some of them Nevada people and research finds the identifying information?

MR. LEWIS:

This will not affect families any differently than it does now. When we are unable to identify a payment, we still have to do the research and contact the person who sent it, who is either the employer or noncustodial parent. Once we contact them, we can identify the proper child support case and send it through. This will have no impact on the families whatsoever. If you have any questions, I am available to answer.

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CHAIR DONDERO LOOP:

Seeing no further business, I adjourn this meeting at 4:38 p.m.

RESPECTFULLY SUBMITTED:

Janae Johnson,
Committee Secretary

APPROVED BY:

Senator Marilyn Dondero Loop, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda