

ASSEMBLY BILL NO. 80—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM)

DECEMBER 15, 2010

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-496)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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:

1 Under existing law, the Board of the Public Employees' Benefits Program is
2 required to submit various reports concerning the administration and operation of
3 the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the
4 Executive Officer of the Program, rather than the Board, responsible for submitting
5 such reports.

6 Under existing law, if a retired public officer or employee of the State or a local
7 governmental agency, or the surviving spouse of such a retired officer or employee,
8 who was formerly covered by health insurance provided under the Program, or
9 under a plan offered by the local governmental employer, reinstates such insurance,
10 the reinstated insurance excludes coverage for certain preexisting conditions during
11 the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections**
12 **4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as
13 called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148,
14 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired
15 from a local governmental agency, or his or her surviving spouse or domestic
16 partner, from reinstating health insurance under the Program if the Board has
17 adopted regulations that exclude such persons from participation in the Program
18 because they are eligible for health coverage from a health and welfare plan or trust
19 that arose out of certain collective bargaining agreements or under certain federal
20 laws.

21 Under existing law, a state agency is required to pay to the Program a certain
22 amount to pay a portion of the cost of coverage under the Program for each state
23 officer or employee of that state agency who participates in the Program. State



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24 officers and employees are required to pay the remaining portion of the costs of
25 their coverage as well as the full amount of covering their dependents under the
26 Program. The Board is authorized to allocate the money paid by the state agency
27 between the costs of coverage for such officers and employees and for their
28 dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the
29 Board may perform the allocation.

30 Existing law provides for the payment of a subsidy to cover a portion of the
31 costs of coverage under the Program for certain retired state officers and
32 employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are
33 initially hired by the State on or after January 1, 2010, are not entitled to the
34 subsidy for coverage under the Program if they retire with less than 15 years of
35 service, which must include state service and may include local governmental
36 service, with the exception of disabled retirees, or if they fail to maintain
37 continuous coverage under the Program during retirement. **Section 6** of this bill
38 clarifies the application of this provision to persons who retire from employment
39 with local governmental agencies.

40 Existing law provides that if a state officer or employee or a dependent of a
41 state officer or employee incurs medical costs that are payable under the Program,
42 but for which a third person has the legal liability to pay, the Board is subrogated to
43 the rights of the officer, employee or dependent and may commence, join or
44 intervene in any legal action against the third person to enforce that legal liability.
45 (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any
46 person who participates in the Program, including retired, as well as active, officers
47 and employees of the State and their dependents and to active and retired officers
48 and employees of local governments and their dependents who are covered under
49 the Program.

50 Existing law provides that the surviving spouse and any surviving child of a
51 police officer or firefighter who was killed in the line of duty are eligible to obtain
52 or continue coverage under the Program or a benefits plan established by his or her
53 local governmental employer under certain circumstances. The public employer of the
54 police officer or firefighter, or the State of Nevada in the case of a volunteer
55 firefighter, is required to pay the entire cost of the coverage for the surviving
56 spouse for life and the entire cost of the coverage for any surviving child at least
57 until the child reaches 18 years of age and until the child reaches 23 years of age so
58 long as the child is a full-time student. (NRS 287.0477) **Sections 5 and 13** of this
59 bill provide that neither the public employer nor the State is required to pay the cost
60 of the coverage for the surviving domestic partner of such a police officer or
61 firefighter.

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

1 **Section 1.** Chapter 287 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Domestic partner” has the meaning ascribed to it*
4 *NRS 122A.030.*

5 **Sec. 3. 1.** *The Executive Officer shall, submit a report*
6 *regarding the administration and operation of the Program to the*
7 *Board of the Public Employees’ Benefits Program, Director of the*
8 *Department of Administration, and to the Director of the*
9 *Legislative Counsel Bureau for transmittal to the appropriate*



1 *committees of the Legislature or, if the Legislature is not in*
2 *regular session, to the Legislative Commission and the Interim*
3 *Retirement and Benefits Committee of the Legislature created by*
4 *NRS 218E.420. The report must include, without limitation:*

5 *(a) An audited financial statement of the Program Fund for*
6 *the immediately preceding fiscal year. The statement must be*
7 *prepared by an independent certified public accountant.*

8 *(b) An audited financial statement of the Retirees' Fund for*
9 *the immediately preceding fiscal year. The statement must be*
10 *prepared by an independent certified public accountant.*

11 *(c) A report of the utilization of the Program by participants*
12 *during the immediately preceding plan year, segregated by benefit,*
13 *administrative cost, active employees and retirees, including,*
14 *without limitation, an assessment of the actuarial accuracy of*
15 *reserves.*

16 *(d) Material provided generally to participants or prospective*
17 *participants in connection with enrollment in the Program for the*
18 *current plan year, including, without limitation:*

19 *(1) Information regarding rates and the costs for*
20 *participation in the Program paid by participants on a monthly*
21 *basis; and*

22 *(2) A summary of the changes in the plan design for the*
23 *current plan year from the plan design for the immediately*
24 *preceding plan year.*

25 *2. The Executive Officer shall submit a biennial report to the*
26 *Board of the Public Employees' Benefits Program, Director of*
27 *the Department of Administration, and to the Director of the*
28 *Legislative Counsel Bureau for transmittal to the appropriate*
29 *committee or committees of the Legislature. The report must*
30 *include, without limitation:*

31 *(a) An independent biennial certified actuarial valuation and*
32 *report of the State's health and welfare benefits for current and*
33 *future state retirees, which are provided for the purpose of*
34 *developing the annual required contribution pursuant to the*
35 *statements issued by the Governmental Accounting Standards*
36 *Board.*

37 *(b) A biennial review of the Program to determine whether the*
38 *Program complies with federal and state laws relating to taxes and*
39 *employee benefits. The review must be conducted by an attorney*
40 *who specializes in employee benefits.*

41 **Sec. 4.** NRS 287.0205 is hereby amended to read as follows:

42 287.0205 1. A public officer or employee of any county,
43 school district, municipal corporation, political subdivision, public
44 corporation or other local governmental agency of the State of
45 Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or



1 286.510 or 286.620, or is enrolled in a retirement program provided
2 pursuant to NRS 286.802, or the surviving spouse of such a retired
3 public officer or employee who is deceased, may, in any even-
4 numbered year, reinstate any insurance, except life insurance, that,
5 at the time of reinstatement, is provided by the last public employer
6 of the retired public officer or employee to the active officers and
7 employees and their dependents of that public employer:

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

10 (b) Under the Public Employees' Benefits Program, if the last
11 public employer of the retired officer or employee participates in the
12 Public Employees' Benefits Program pursuant to paragraph (a) of
13 subsection 1 of NRS 287.025.

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

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

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

22 (c) Except as otherwise provided in ~~subparagraph (2) of~~
23 paragraph (b) of subsection 4 of NRS 287.023, paying any portion
24 of the premiums or contributions of the public employer's program
25 or plan of insurance, in the manner set forth in NRS 1A.470 or
26 286.615, which is due from the date of reinstatement and not paid
27 by the public employer.

28 ↪ The last public employer shall give the insurer notice of the
29 reinstatement not later than March 31 of the year in which the public
30 officer or employee or surviving spouse gives notice of the intent to
31 reinstate the insurance.

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

34 4. ~~Reinstatement~~ *If a plan is considered grandfathered*
35 *under the Patient Protection and Affordable Care Act, Public Law*
36 *111-148, reinstatement of insurance pursuant to subsection 1*
37 ~~excludes~~ *may exclude* claims for expenses for any condition for
38 which medical advice, treatment or consultation was rendered
39 within 12 months before reinstatement unless the reinstated
40 insurance has been in effect more than 12 consecutive months.

41 5. The last public employer of a retired officer or employee
42 who reinstates insurance, except life insurance, which was provided
43 to the retired officer or employee and the retired officer's or
44 employee's dependents at the time of retirement pursuant to NRS
45 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection



1 1 of NRS 287.025 shall, for the purpose of establishing actuarial
2 data to determine rates and coverage for such persons, commingle
3 the claims experience of such persons with the claims experience of
4 active and retired officers and employees and their dependents who
5 participate in that group insurance, plan of benefits or medical and
6 hospital service.

7 **Sec. 4.5.** NRS 287.0205 is hereby amended to read as follows:

8 287.0205 1. A public officer or employee of any county,
9 school district, municipal corporation, political subdivision, public
10 corporation or other local governmental agency of the State of
11 Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or
12 286.510 or 286.620, or is enrolled in a retirement program provided
13 pursuant to NRS 286.802, or the surviving spouse of such a retired
14 public officer or employee who is deceased, may, in any even-
15 numbered year, reinstate any insurance, except life insurance, that,
16 at the time of reinstatement, is provided by the last public employer
17 of the retired public officer or employee to the active officers and
18 employees and their dependents of that public employer:

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

21 (b) Under the Public Employees' Benefits Program, if the last
22 public employer of the retired officer or employee participates in the
23 Public Employees' Benefits Program pursuant to paragraph (a) of
24 subsection 1 of NRS 287.025.

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

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

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

33 (c) Except as otherwise provided in paragraph (b) of subsection
34 4 of NRS 287.023, paying any portion of the premiums or
35 contributions of the public employer's program or plan of insurance,
36 in the manner set forth in NRS 1A.470 or 286.615, which is due
37 from the date of reinstatement and not paid by the public employer.

38 ➤ The last public employer shall give the insurer notice of the
39 reinstatement not later than March 31 of the year in which the public
40 officer or employee or surviving spouse gives notice of the intent to
41 reinstate the insurance.

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

44 4. ~~If a plan is considered grandfathered under the Patient~~
45 ~~Protection and Affordable Care Act, Public Law 111-148,~~



~~reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

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

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse, *surviving domestic partner* and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

↳ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse, *surviving domestic partner* or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, *domestic partner*, child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~[The]~~ *Except as otherwise provided in this section and NRS 287.023, the* local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical



1 and hospital service for the surviving spouse or child who meets the
2 requirements set forth in subsection 1.

3 3. A surviving spouse *or surviving domestic partner* is eligible
4 to receive coverage pursuant to this section for the duration of the
5 life of the surviving spouse ~~[]~~ *or surviving domestic partner*. A
6 surviving child is eligible to receive coverage pursuant to this
7 section until the child reaches ~~f~~

8 ~~—(a) The] the~~ age of ~~[18] 26~~ years ~~[- or~~

9 ~~—(b) The age of 23 years, if the child is enrolled as a full-time~~
10 ~~student in an accredited university, college or trade school.]~~, *unless*
11 *the plan is grandfathered pursuant to the provisions of the Patient*
12 *Protection and Affordable Care Act, Public Law 111-148.*

13 4. *A local governmental agency is not required to pay the*
14 *entire cost of the premiums or contributions pursuant to*
15 *subsection 2 for a surviving domestic partner who meets the*
16 *requirements set forth in subsection 1.*

17 5. As used in this section “police officer” has the meaning
18 ascribed to it in NRS 617.135.

19 **Sec. 6.** NRS 287.023 is hereby amended to read as follows:

20 287.023 1. Whenever an officer or employee of the
21 governing body of any county, school district, municipal
22 corporation, political subdivision, public corporation or other local
23 governmental agency of the State of Nevada retires under the
24 conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or
25 286.620 and, during the period in which the person served as an
26 officer or employee, was eligible to be covered or had dependents
27 who were eligible to be covered by any group insurance, plan of
28 benefits or medical and hospital service established pursuant to NRS
29 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection
30 1 of NRS 287.025 or under the Public Employees’ Benefits Program
31 pursuant to paragraph (a) of subsection 1 of NRS 287.025, the
32 officer or employee has the option upon retirement to cancel or
33 continue any such coverage to the extent that such coverage is not
34 provided to the officer or employee or a dependent by the Health
35 Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

36 2. A retired person who continues coverage under the Public
37 Employees’ Benefits Program shall assume the portion of the
38 premium or contribution costs for the coverage which the governing
39 body or the State does not pay on behalf of retired officers or
40 employees. A dependent of such a retired person has the option,
41 which may be exercised to the same extent and in the same manner
42 as the retired person, to cancel or continue coverage in effect on the
43 date the retired person dies. The dependent is not required to
44 continue to receive retirement payments from the Public
45 Employees’ Retirement System to continue coverage.



1 3. Notice of the selection of the option must be given in writing
2 to the last public employer of the officer or employee within 60 days
3 after the date of retirement or death, as the case may be. If no notice
4 is given by that date, the retired officer or employee and any
5 dependents shall be deemed to have selected the option to cancel the
6 coverage for the group insurance, plan of benefits or medical and
7 hospital service established pursuant to NRS 287.010, 287.015,
8 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025
9 or coverage under the Public Employees' Benefits Program pursuant
10 to paragraph (a) of subsection 1 of NRS 287.025.

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

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

20 (b) Shall pay the same portion of the cost of coverage under the
21 Public Employees' Benefits Program for *retired* persons who ~~[-~~

22 ~~----- (1) Were initially hired before January 1, 2010, and who~~
23 ~~retire and] are covered under the Program [pursuant to subsection 1~~
24 ~~or who subsequently reinstate coverage under the Program pursuant~~
25 ~~to NRS 287.0205; or~~

26 ~~----- (2) Are initially hired on or after January 1, 2010, and who~~
27 ~~retire with:-~~

28 ~~----- (I) At least 15 years of service credit, which must include~~
29 ~~local governmental service and may include state service, and who~~
30 ~~have participated in the Program on a continuous basis since their~~
31 ~~retirement from such employment; or~~

32 ~~----- (II) At least 5 years of service credit, which must include~~
33 ~~local governmental service and may include state service, who do~~
34 ~~not have at least 15 years of service credit to qualify under sub-~~
35 ~~paragraph (I) as a result of a disability for which disability~~
36 ~~benefits are received under the Public Employees' Retirement~~
37 ~~System or a retirement program for professional employees offered~~
38 ~~by or through the Nevada System of Higher Education.~~

39 ~~↪] as the State pays pursuant to [subsection 1 of] NRS 287.046 for~~
40 ~~persons retired with state service who participate in the [Public~~
41 ~~Employees' Benefits] Program.~~

42 5. The governing body of any county, school district,
43 municipal corporation, political subdivision, public corporation or
44 other local governmental agency of this State shall, for the purpose
45 of establishing actuarial data to determine rates and coverage for



1 persons who continue coverage for group insurance, a plan of
2 benefits or medical and hospital service with the governing body
3 pursuant to subsection 1, commingle the claims experience of those
4 persons with the claims experience of active officers and employees
5 and their dependents who participate in the group insurance, a plan
6 of benefits or medical and hospital service.

7 **Sec. 7.** NRS 287.0402 is hereby amended to read as follows:

8 287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and*
9 *sections 2 and 3 of this act*, unless the context otherwise requires,
10 the words and terms defined in NRS 287.0404 to 287.04064,
11 inclusive, *and section 2 of this act* have the meanings ascribed to
12 them in those sections.

13 **Sec. 8.** NRS 287.043 is hereby amended to read as follows:

14 287.043 1. The Board shall:

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

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

19 (2) May include:

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

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

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

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

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

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



1 provided in sub-subparagraph (III) of subparagraph (2) of paragraph
2 (h), by participation in the Program. The Board shall establish
3 separate rates and coverage for active and retired officers and
4 employees of those local governmental agencies and their
5 dependents based on actuarial reports that commingle the claims
6 experience of such active and retired officers and employees and
7 their dependents for whom the Program provides primary health
8 insurance coverage into a single risk pool.

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

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

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

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

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

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

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

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

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

42 (II) Must include a requirement that participation of any
43 retired officers and employees of the local governmental agency
44 whose last continuous period of enrollment with the Program began



1 after November 30, 2008, terminates upon termination of the local
2 governmental agency's contract with the Program; and

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

8 (3) Procedures by which a group of participants in the
9 Program may leave the Program pursuant to NRS 287.0479 and
10 conditions and procedures for reentry into the Program by those
11 participants;

12 (4) Specific procedures for the determination of contested
13 claims;

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

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

19 ~~[(i) Appoint an independent certified public accountant. The~~
20 ~~accountant shall:~~

21 ~~—— (1) Provide an annual audit of the Program; and~~

22 ~~—— (2) Report to the Board and the Interim Retirement and~~
23 ~~Benefits Committee of the Legislature created pursuant to~~
24 ~~NRS 218E.420.~~

25 ~~—(j) Appoint an attorney who specializes in employee benefits.~~
26 ~~The attorney shall:~~

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

30 ~~—— (2) Report to the Board and the Interim Retirement and~~
31 ~~Benefits Committee of the Legislature created pursuant to~~
32 ~~NRS 218E.420.]~~

33 3. ~~[The Board shall submit an annual report regarding the~~
34 ~~administration and operation of the Program to the Director of the~~
35 ~~Legislative Counsel Bureau for transmittal to the appropriate~~
36 ~~committees of the Legislature, or to the Legislative Commission~~
37 ~~when the Legislature is not in regular session, for acceptance or~~
38 ~~rejection not more than 6 months before the Board establishes rates~~
39 ~~and coverage for participants for the following plan year. The report~~
40 ~~must include, without limitation:~~

41 ~~—(a) Detailed financial results for the Program for the preceding~~
42 ~~plan year, including, without limitation, identification of the sources~~
43 ~~of revenue for the Program and a detailed accounting of expenses~~
44 ~~which are segregated by each type of benefit offered by the~~



1 ~~Program, and administrative costs. The results must be provided~~
2 ~~separately concerning:~~

3 ~~— (1) Participants who are active and retired state officers and~~
4 ~~employees and their dependents;~~

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

7 ~~— (3) Within the groups described in subparagraphs (1) and (2),~~
8 ~~active participants, retired participants for which the Program~~
9 ~~provides primary health insurance coverage and retired participants~~
10 ~~in the Program who are provided coverage for medical or hospital~~
11 ~~service, or both, by the Health Insurance for the Aged Act, 42~~
12 ~~U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

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

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

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

26 ~~— (e) A discussion of activities of the Board concerning~~
27 ~~purchasing coalitions.~~

28 ~~4.]~~ The Board may use any services provided to state agencies
29 and shall use the services of the Purchasing Division of the
30 Department of Administration to establish and carry out the
31 Program.

32 ~~[5.]~~ 4. The Board may make recommendations to the
33 Legislature concerning legislation that it deems necessary and
34 appropriate regarding the Program.

35 ~~[6.]~~ 5. A participating public agency is not liable for any
36 obligation of the Program other than indemnification of the Board
37 and its employees against liability relating to the administration of
38 the Program, subject to the limitations specified in NRS 41.0349.

39 ~~[7.]~~ 6. As used in this section, "employee benefits" includes
40 any form of compensation provided to a public employee except
41 federal benefits, wages earned, legal holidays, deferred
42 compensation and benefits available pursuant to chapter 286 of
43 NRS.



1 **Sec. 9.** NRS 287.044 is hereby amended to read as follows:

2 287.044 1. Except as otherwise provided in subsection 2,
3 each participating state agency shall pay to the Program an amount
4 specified by law for every state officer or employee who
5 is employed by a participating public agency on a permanent and
6 full-time basis and elects to participate in the Program.

7 2. A member of the Senate or Assembly who elects to
8 participate in the Program shall pay the entire premium or
9 contribution for the member's insurance.

10 3. State officers and employees who elect to participate in the
11 Program must authorize deductions from their compensation for the
12 payment of premiums or contributions for the Program. Any
13 deduction from the compensation of a state officer or employee for
14 the payment of such a premium or contribution must be based on the
15 actual amount of the premium or contribution after deducting any
16 amount ~~[of the premium or contribution which is paid]~~ *allocated by*
17 *the Board* pursuant to subsection ~~[1.]~~ *6.*

18 4. If a state officer or employee chooses to cover any
19 dependents, whenever this option is made available by the Board,
20 except as otherwise provided in NRS 287.021 and 287.0477, the
21 state officer or employee must pay the difference between the
22 amount of the premium or contribution for the coverage for the state
23 officer or employee and such dependents and ~~[the]~~ *any* amount
24 ~~[paid by the participating state agency that employs the officer or~~
25 ~~employee.]~~ *allocated by the Board pursuant to subsection 6.*

26 5. A participating state agency shall not pay any part of those
27 premiums or contributions if the group life insurance or group
28 accident or health insurance is not approved by the Board.

29 6. The Board may allocate the money paid to the Program
30 pursuant to ~~[this section]~~ *subsection 1* between the cost of premiums
31 and contributions for group insurance for each state officer or
32 employee, except a member of the Senate or Assembly, and the
33 dependents of each state officer or employee.

34 **Sec. 10.** NRS 287.046 is hereby amended to read as follows:

35 287.046 1. The Department of Administration shall establish
36 an assessment that is to be used to pay for a portion of the cost of
37 premiums or contributions for the Program for persons who have
38 retired with state service . ~~[before January 1, 1994, or under the~~
39 ~~circumstances set forth in paragraph (a), (b) or (c) of subsection 3.]~~

40 2. The money assessed pursuant to subsection 1 must be
41 deposited into the Retirees' Fund and must be based upon ~~[an]~~ *a*
42 *base* amount approved by the Legislature each session to pay for a
43 portion of the current and future health and welfare benefits for
44 ~~[such retirees.]~~ *persons who retired before January 1, 1994, or for*
45 *persons who retire on or after January 1, 1994, as adjusted by*



1 *subsection 3.* Except as otherwise provided in subsection ~~[4.]~~ 5, the
2 portion to be paid to the Program from the Retirees' Fund on behalf
3 of such persons must be equal to a portion of the cost for each
4 retiree and the retiree's dependents who are enrolled in the plan, as
5 defined for each year of the plan by the Program.

6 3. ~~[Adjustments]~~ *Except as otherwise provided in subsection*
7 *4, adjustments* to the portion *of the amount approved by the*
8 *Legislature pursuant to subsection 2 to be* paid by the Retirees'
9 Fund ~~[must be as follows:~~

10 ~~—(a) For]~~ *for* persons who retire on or after January 1, 1994, with
11 state service ~~;~~

12 ~~—(1)]~~ *must be as follows:*

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

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

25 ~~[(b) For persons who are]~~

26 4. *No money may be paid by the Retirees' Fund on behalf of*
27 *a retired person who is* initially hired by the State on or after
28 January 1, 2010, and who ~~[retire with at least 15 years of service~~
29 ~~credit, which must include state service and may include local~~
30 ~~governmental service, and who have] :~~

31 (a) *Has not* participated in the Program on a continuous basis
32 since ~~[their]~~ retirement from such employment ~~[, for each year of~~
33 ~~service greater than 15 years, excluding service purchased pursuant~~
34 ~~to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund~~
35 ~~must be increased by an amount equal to 7.5 percent of the base~~
36 ~~funding level defined by the Legislature. In no event may the~~
37 ~~adjustment exceed 37.5 percent of the base funding level defined by~~
38 ~~the Legislature.~~

39 ~~—(c) For persons who are initially hired by the State on or after~~
40 ~~January 1, 2010, and who retire with at least 5 years of service~~
41 ~~credit, which must include state service and may include local~~
42 ~~governmental service, who do] ; or~~

43 (b) *Does* not have at least 15 years of service ~~[credit to qualify~~
44 ~~under paragraph (b) as]~~, *which must include state service and may*
45 *include local governmental service, unless the retired person does*



1 *not have at least 15 years of service as* a result of a disability for
2 which disability benefits are received under the Public Employees'
3 Retirement System or a retirement program for professional
4 employees offered by or through the Nevada System of Higher
5 Education, and ~~[who have]~~ *has* participated in the Program on a
6 continuous basis since ~~[their]~~ retirement from such employment. ~~[-~~

7 ~~—— (1) For each year of service less than 15 years, excluding~~
8 ~~service purchased pursuant to NRS 1A.310 or 286.300, the portion~~
9 ~~paid by the Retirees' Fund must be reduced by an amount equal to~~
10 ~~7.5 percent of the base funding level defined by the Legislature. In~~
11 ~~no event may the adjustment exceed 75 percent of the base funding~~
12 ~~level defined by the Legislature.~~

13 ~~—— (2) For each year of service greater than 15 years, excluding~~
14 ~~service purchased pursuant to NRS 1A.310 or 286.300, the portion~~
15 ~~paid by the Retirees' Fund must be increased by an amount equal to~~
16 ~~7.5 percent of the base funding level defined by the Legislature. In~~
17 ~~no event may the adjustment exceed 37.5 percent of the base~~
18 ~~funding level defined by the Legislature.~~

19 ~~—4.] 5.~~ If the amount calculated pursuant to subsection 3 exceeds
20 the actual premium or contribution for the plan of the Program that
21 the retired participant selects, the balance must be credited to the
22 Program Fund.

23 ~~[5.] 6.~~ For the purposes of subsection ~~[1:] 3:~~

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

26 (b) No proration may be made for a partial year of ~~[state]~~
27 service.

28 ~~[6.] 7.~~ The Department shall agree through the Board with the
29 insurer for billing of remaining premiums or contributions for
30 the retired participant and the retired participant's dependents to the
31 retired participant and to the retired participant's dependents who
32 elect to continue coverage under the Program after the retired
33 participant's death.

34 **Sec. 11.** NRS 287.0465 is hereby amended to read as follows:

35 287.0465 1. If ~~[an officer or employee of the State or a~~
36 ~~dependent of such an officer or employee]~~ *a member* incurs an
37 illness or injury for which medical services are payable under the
38 plan for self-insurance established by the Board and the illness or
39 injury is incurred under circumstances creating a legal liability in
40 some person, other than the ~~[officer, employee or dependent,]~~
41 *member*, to pay all or part of the cost of those services, the Board is
42 subrogated to the right of the ~~[officer, employee or dependent]~~
43 *member* to the extent of all such costs, and may join or intervene in
44 any action by the ~~[officer, employee or dependent]~~ *member* or any
45 ~~[successors]~~ *successor* in interest, to enforce that legal liability.



1 2. If ~~[an officer, employee or dependent]~~ *a member* or any
2 ~~[successors]~~ *successor* in interest fail or refuse to commence an
3 action to enforce that legal liability, the Board may commence an
4 independent action, after notice to the ~~[officer, employee or~~
5 ~~dependent]~~ *member* or any ~~[successors]~~ *successor* in interest, to
6 recover all costs to which it is entitled. In any such action by the
7 Board, the ~~[officer, employee or dependent]~~ *member* may be joined
8 as a third party defendant.

9 3. If the Board is subrogated to the rights of the ~~[officer,~~
10 ~~employee or dependent]~~ *member* or any ~~[successors]~~ *successor* in
11 interest as provided in subsection 1, the Board has a lien upon the
12 total proceeds of any recovery from the persons liable, whether the
13 proceeds of the recovery are by way of a judgment or settlement or
14 otherwise. Within 15 days after recovery by receipt of the proceeds
15 of the judgment, settlement or other recovery, the ~~[officer, employee~~
16 ~~or dependent]~~ *member* or any successors in interest shall notify the
17 Board of the recovery and pay the Board the amount due to it
18 pursuant to this section. The ~~[officer, employee or dependent]~~
19 *member* or any successors in interest are not entitled to double
20 recovery for the same injury.

21 4. The ~~[officer, employee or dependent]~~ *member* or any
22 successors in interest shall notify the Board in writing before
23 entering any settlement or agreement or commencing any action to
24 enforce the legal liability referred to in subsection 1.

25 5. *As used in this section, "member" means:*

26 (a) *An active or retired officer or employee of the State or a*
27 *dependent of such an officer or employee who is covered under*
28 *the Program; and*

29 (b) *An active or retired officer or employee of a local*
30 *governmental agency or a dependent of such an officer or*
31 *employee who is covered under the Program.*

32 **Sec. 12.** NRS 287.0475 is hereby amended to read as follows:

33 287.0475 1. A retired public officer or employee or the
34 surviving spouse *or surviving domestic partner* of a retired public
35 officer or employee who is deceased may, in any even-numbered
36 year, reinstate any insurance under the Program, except life
37 insurance, that, at the time of reinstatement, is provided by the
38 Program if the retired public officer or employee retired:

39 (a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620,
40 from a participating state agency or was enrolled in a retirement
41 program provided pursuant to NRS 286.802; or

42 (b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620,
43 from employment with a county, school district, municipal
44 corporation, political subdivision, public corporation or other local
45 governmental agency of the State which is a participating local



1 governmental agency at the time of the request for reinstatement ~~[]~~,
2 *unless the retired public officer or employee is excluded from*
3 *participation in the Program pursuant to sub-subparagraph (III)*
4 *of subparagraph (2) of paragraph (h) of subsection 2 of*
5 *NRS 287.043.*

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

8 (a) Giving written notice to the Program of the intent of the
9 public officer or employee or surviving spouse *or surviving*
10 *domestic partner* to reinstate the insurance not later than March 15
11 of an even-numbered year;

12 (b) Accepting the Program's current plan of insurance and any
13 subsequent changes thereto; and

14 (c) Except as otherwise provided in NRS 287.046, paying any
15 portion of the premiums or contributions for coverage under the
16 Program, in the manner set forth in NRS 1A.470 or 286.615, which
17 are due from the date of reinstatement and not paid by the public
18 employer.

19 ~~[3. Reinstatement of insurance excludes claims for expenses~~
20 ~~for any condition for which medical advice, treatment or~~
21 ~~consultation was rendered within 12 months before reinstatement~~
22 ~~unless the reinstated insurance has been in effect more than 12~~
23 ~~consecutive months.]~~

24 **Sec. 13.** NRS 287.0477 is hereby amended to read as follows:

25 287.0477 1. Except as otherwise provided in subsection 4,
26 the surviving spouse, *surviving domestic partner* and any surviving
27 child of a police officer or firefighter who was employed by a
28 participating public agency and who was killed in the line of duty
29 may join or continue coverage under the Public Employees'
30 Benefits Program or another insurer or employee benefit plan
31 approved by the Board pursuant to NRS 287.0479 if the police
32 officer or firefighter was a participant or would have been eligible to
33 participate on the date of the death of the police officer or
34 firefighter. If the surviving spouse, *surviving domestic partner* or
35 child elects to join or discontinue coverage under the Public
36 Employees' Benefits Program pursuant to this subsection, the
37 spouse, *domestic partner*, child or legal guardian of the child must
38 notify in writing the participating public agency that employed the
39 police officer or firefighter within 60 days after the date of death of
40 the police officer or firefighter.

41 2. Except as otherwise provided in subsection 4, the surviving
42 spouse, *surviving domestic partner* and any surviving child of a
43 volunteer firefighter who was killed in the line of duty and who was
44 officially a member of a volunteer fire department in this State is
45 eligible to join the Public Employees' Benefits Program. If such a



1 spouse , *domestic partner* or child elects to join the Public
2 Employees' Benefits Program, the spouse, *domestic partner*, child
3 or legal guardian of the child must notify in writing the Board
4 within 60 days after the date of death of the volunteer firefighter.

5 3. ~~[The]~~ *Except as otherwise provided in this section, the*
6 participating public agency that employed the police officer or
7 firefighter shall pay the entire cost of the premiums or contributions
8 for the Public Employees' Benefits Program or another insurer or
9 employee benefit plan approved by the Board pursuant to NRS
10 287.0479 for the surviving spouse or child who meets the
11 requirements set forth in subsection 1. The State of Nevada shall
12 pay the entire cost of the premiums or contributions for the Public
13 Employees' Benefits Program for the surviving spouse or child who
14 elects to join the Public Employees' Benefits Program pursuant to
15 subsection 2.

16 4. A surviving spouse *or surviving domestic partner* is eligible
17 to receive coverage pursuant to this section for the duration of the
18 life of the surviving spouse ~~[:]~~ *or surviving domestic partner*. A
19 surviving child is eligible to receive coverage pursuant to this
20 section until the child reaches ~~[:]~~

21 ~~—(a) The] the~~ age of ~~[18] 26~~ years . ~~[:] or~~

22 ~~—(b) The age of 23 years, if the child is enrolled as a full-time~~
23 ~~student in an accredited university, college or trade school.]~~

24 5. *A participating public agency and the State of Nevada are*
25 *not required to pay the entire cost of the premiums or*
26 *contributions pursuant to subsection 3 for a surviving domestic*
27 *partner who elects to join the Public Employees' Benefits Program*
28 *pursuant to subsection 2.*

29 6. As used in this section "police officer" has the meaning
30 ascribed to it in NRS 617.135.

31 **Sec. 14.** NRS 287.04366 is hereby repealed.

32 **Sec. 15.** 1. This section and sections 4 and 12 of this act
33 become effective on July 1, 2011.

34 2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act
35 become effective on October 1, 2011.

36 3. Section 4 of this act expires by limitation on the date on
37 which the provisions of the Patient Protection and Affordable Care
38 Act, Public Law 111-148, cease to allow a grandfathered health plan
39 to exclude claims for preexisting medical conditions.

40 4. Section 4.5 of this act becomes effective on the date on
41 which the provisions of the Patient Protection and Affordable Care
42 Act, Public Law 111-148, cease to allow a grandfathered health plan
43 to exclude claims for preexisting medical conditions.



TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

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.

③

