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Amended Notice of Workshop to Solicit Comments on Proposed Regulation Changes and Amendments

The Public Employees' Benefits Program, 901 S. Stewart Street, Suite 1001, Carson City Nevada 89701, (775) 684-7000 or (800) 326-5496, is proposing the adoption, repeal and amendment of regulations pertaining to Chapter 287 of the Nevada Administrative Code. A workshop has been set for 9:00 a.m., on **February 16, 2016**, at the Richard Bryan Building, 901 South Stewart Street, Suite 1002, Carson City, Nevada, and video-conferenced to the University of Nevada Las Vegas, Classroom Building Complex, Building B, Room 117, 4505 South Maryland Parkway, Las Vegas, Nevada. An agenda for the workshop will be posted no later than 9:00 a.m. on Wednesday, February 10, 2016. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

Implementation of legislation that was enacted during the 2015 Legislative Session, including, but not limited to

1. Definition of "eligible to participate in the Public Employees' Retirement System" as used in NRS 287.046(8) (as amended by SB513(2015))
2. Amend:
 - NAC 287.095 – "Participant" defined
 - NAC 287.135 – "Retired officer or employee" defined
 - NAC 287.450 - Employees on leave without pay: Payment of premiums or contributions; eligibility for coverage as dependent of participant; coverage upon return to work.
 - NAC 287.515 - Coverage of retired participants upon reemployment.
3. Repeal of obsolescent regulations as a result of eligibility changes in SB 472 (2015) (NAC 287.3105 & NRS 287.500); and
4. Other related matters.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Public Employees' Benefits Program, 901 South Stewart Street, Suite 1001, Carson City, Nevada 89701, (775) 684-7000 or (800) 326-5496. A reasonable fee for copying may be charged. You may also access the information at Public Employees' Benefits Program's web site at <http://www.pebp.state.nv.us>.

This notice of Workshop to Solicit Comments on Proposed Regulation Changes and Amendments has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

NEVADA STATE LIBRARY; LEGISLATIVE COUNSEL BUREAU, BLASDEL BUILDING, 209 East Musser Street, Carson City; PUBLIC EMPLOYEES' BENEFITS PROGRAM, 901 South Stewart Street, Suite 1001, Carson City, Nevada; THE GRANT SAWYER STATE OFFICE BUILDING, 555 E. Washington Ave., Las Vegas; THE LEGISLATIVE BUILDING, 401 South Carson Street, Carson City. In addition, the notice was mailed to all State agencies and to groups and individuals as requested and posted at <https://www.leg.state.nv.us/App/Notice/A/>.

Date: February 9, 2016

Proposed Regulation Changes and Amendments

SUMMARY

At the end of the 78th Legislative Session, multiple bills passed that affect PEBP and regulations will need to be adopted to ensure compliance with the new statutes. Additionally, housekeeping revisions are needed to accurately reflect current PEBP policy.

REGULATION NEEDED

Section 7 of Senate Bill (SB) 513 states: “Except as otherwise provided in subsection 8, no money may be paid by the Retirees’ Fund on behalf of a retired person who is initially hired by the State...” Section 8 of SB 513 describes the exception and utilizes participation in the Public Employees’ Retirement System (PERS) as a trigger. Currently PEBP has no regulation that defines the eligibility to participate in PERS before or during a break in service to meet this language. The following regulation is recommended:

“Eligible to participate in the Public Employees’ Retirement System” defined. As used in subsection 8 of section 287.046, “Eligible to participate in the Public Employees’ Retirement System” means to have vested according to subsection (1) of NRS 286.6793.

EXPLANATION

This version defines eligible to participate in PERS as meaning vested in PERS. As applied to subsection 8 of section 287.046, the person must have vested before or during his or her break in service from the State. To vest, of course, a person would have to be a PERS member, as stated in NRS 286.6793(1):

1. The retirement allowance for a **member** who:
 - a. Ceased being an active member before July 1, 1989, vested on the date that the employee completed 10 years of accredited contributing service; and
 - b. Is active on or after July 1, 1989, becomes vested on the date that the employee completes 5 years of accredited contributing service.

“Member” is defined in NRS 286.050 as “a person:

1. Who is employed by a participating public employer and who is contributing to the System; or
2. Who has previously been in the employ of a participating public employer and who has contributed to the System but who subsequently terminates such employment without withdrawing the person’s contributions.”

REGULATION CHANGES RECOMMENDED

NAC 287.095 “Participant” defined. (NRS 287.043) “Participant” includes the following persons who are eligible to participate in the Program:

1. An officer or employee of a participating public agency;
2. A retired officer or employee whose last employer is a participating public agency;
3. A retired officer or employee whose last employer is not a participating public agency who has been covered continuously by the Program as a retiree since November 30, 2008;
4. A surviving dependent of a deceased officer or employee of a participating public agency who was covered by the Program at the time of death of the deceased officer or employee if the deceased

officer or employee had 10 years or more of service credit, as determined by the appropriate certifying agency, and is deemed to be retired pursuant to [NRS 286.676](#);

5. A surviving dependent of a deceased retired officer or employee described in subsection 2 or 3 if the dependent was covered by the Program at the time of death of the retired officer or employee;

6. A surviving spouse of a deceased retired public officer or employee who chooses to reinstate insurance pursuant to [NRS 287.0475](#);

7. A surviving spouse of a police officer, firefighter [~~or official member of a volunteer fire department~~] who was killed in the line of duty;

8. A surviving child of a police officer, firefighter [~~or official member of a volunteer fire department~~] who was killed in the line of duty;

9. A biennial employee;

10. A Legislator whose term of office has not expired; and

11. A person who has elected to continue coverage pursuant to the Public Health Service Act, 42 U.S.C. § 300bb-1(a)

(Added to NAC by Com. on Benefits, eff. 5-4-92; A by Bd. of Pub. Employees' Benefits Prog. by R126-00, 12-22-2000, eff. 1-1-2001; R154-03, 3-22-2004; R089-05, 6-28-2006; R016-08, 8-26-2008, eff. 7-1-2009; R109-12, 12-20-2012)

EXPLANATION

In 2008, PEBP received information from PERS that members of volunteer fire departments do not accrue service credits in the same manner as other state and non-state PERS participants. This information meant that volunteer firefighters would not be eligible for PEBP plans. A letter was sent to all pay centers explaining the result and all volunteer firefighters were notified of the plan changes. This regulation change is recommended as a housekeeping item to align the regulation with current PEBP policy.

NAC 287.135 “Retired officer or employee” defined. ([NRS 287.043](#)) “Retired officer or employee” means [~~an~~] *a person who is a former* officer or employee of a public employer who:

1. Has met the requirements to receive, and is receiving any distribution of, benefits from:

(a) The Judges’ Retirement System;

(b) The Public Employees’ Retirement System (PERS);

(c) The Legislators’ Retirement System;

(d) A retirement program for professional employees offered by or through the Nevada System of Higher Education, including, without limitation, a retirement plan alternative provided pursuant to [NRS 286.802](#), a tax sheltered annuity or a deferred compensation plan; or

(e) A long-term disability plan of the public employer; and

2. Has a total of at least 5 years of full-time service credit from all his or her public employers as determined by the appropriate certifying agency, excluding any service credit purchased pursuant to [NRS 1A.310](#), [218C.370](#) or [286.300](#).

(Added to NAC by Com. on Benefits, eff. 5-4-92; A by Bd. of Pub. Employees’ Benefits Prog. by R126-00, 12-22-2000, eff. 1-1-2001; R062-03, 9-24-2003; R154-03, 3-22-2004; R089-05, 6-28-2006; R126-07, 1-30-2008; R109-12, 12-20-2012)

EXPLANATION

The inclusion of “a person who is a former” to the definition of retired officer or employee is a housekeeping addition to alleviate any confusion in the current regulation. This regulation change is recommended to simplify and reiterate that retired officers or employees are indeed former officers or employees of a public employer.

NAC 287.450 Employees on leave without pay: Payment of premiums or contributions; eligibility for coverage as dependent of participant; coverage upon return to work. ([NRS 287.043](#), [287.046](#))

1. A participating public agency that employs an employee who is on leave without pay shall not pay any amount of the cost of premiums or contributions that is due the Program for group insurance for that employee unless the employee is compensated for a combination of work actually performed and accrued annual leave or sick leave, if the total is at least 80 hours per month for each month that coverage or insurance is provided.

2. An employee who is on approved leave without pay:

(a) May continue coverage or insurance for himself or herself and any of his or her eligible dependents:

(1) If the amount of the paycheck of the employee is more than the cost of the premium or contribution, by having the cost of the premium or contribution deducted from his or her paycheck; or

(2) If the amount of the paycheck of the employee is less than the cost of the premium or contribution, by paying the cost of the premium or contribution directly to the Program.

(b) Is not eligible for coverage or insurance as a dependent of a participant.

(c) Is not eligible for coverage or insurance if the employee elects not to pay the premium or contribution for coverage or insurance.

3. If an employee who is on approved leave without pay elects not to pay the premium or contribution for coverage and insurance from the Program and returns to work:

(a) Within 1 year after the last day of his or her coverage from the Program, the employee is not required to complete [~~90 days of full-time employment~~] **the benefits waiting period** before being eligible to participate in the Program.

(b) One year or more after taking leave without pay, the employee is eligible to participate in the Program on the [~~first day of the month following 90 days of~~] **day he or she returns to** full-time employment.

4. An employee who is on approved leave without pay may, at the time he or she returns to work, obtain coverage and insurance for any dependent who was previously covered.

(Added to NAC by Com. on Benefits, eff. 5-4-92; A by Bd. of Pub. Employees' Benefits Prog. by R126-00, 12-22-2000, eff. 1-1-2001; R154-03, 3-22-2004; R126-07, 1-30-2008; R016-08, 8-26-2008, eff. 7-1-2009; R107-09, 4-20-2010)

EXPLANATION

SB 472 revises the date on which certain public employees, state officers and members of the Legislature become eligible to participate in PEBP to: (1) the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) the first day of the month immediately following the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature. The proposed deleted language revises the regulation accordingly. There is no 90 day waiting period allowed anymore.

NAC 287.515 Coverage of retired participants upon reemployment. ([NRS 287.043](#), [287.045](#))

1. Except as otherwise provided in this section, a person who participates in the Program as a retired officer or employee and who returns to full-time employment with a participating public agency is eligible to participate in the Program as an active officer or employee:

(a) If the effective date of reemployment is on the first day of a month, on the effective date of reemployment; or

(b) If the effective date of reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of reemployment.

2. If a person who participates in the Program as a retired justice or judge accepts reemployment as a justice of the Supreme Court or district judge pursuant to [NRS 1A.370](#), the person is eligible to participate in the Program as an active justice or judge, as applicable:

(a) ~~[If the first day after the completion of 90 days of full-time employment is on the first day of a month, on the first day after the completion of 90 days of full-time employment]~~ ***The first day of full-time employment, if that date is the first day of the month;*** or

(b) ~~[If the first day after the completion of 90 days of full-time employment is not on the first day of a month, on the first day of the month immediately following the completion of 90 days of full-time employment]~~ ***The first day of the month immediately following the first day of full-time employment if the first day of employment is on or after the second day of the month.***

3. Except as otherwise required by federal law, a retired officer or employee who returns to full-time employment with a participating public agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to [NRS 286.523](#) and who continues to receive allowances under the retirement system of which he or she is a member is eligible to participate in the Program in the same manner as he or she participated before returning to full-time employment. Except for a retired officer or employee who was enrolled in the Program on November 30, 2008, and continues his or her participation in the Program, coverage of a retired officer or employee who returns to full-time employment with a participating local governmental agency pursuant to this subsection terminates on the date on which the participating local governmental agency terminates its participation in the Program.

4. A retired officer or employee who returns to full-time employment with a participating state agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to [NRS 286.523](#) and who discontinues receiving allowances under the retirement system of which he or she is a member is eligible to participate in the Program as an active officer or employee:

(a) If the effective date of reemployment is on the first day of a month, on the effective date of reemployment; or

(b) If the effective date of reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of reemployment.

5. A retired officer or employee who returns to full-time employment with a participating local governmental agency to fill a position which has been designated as a position for which there is a critical labor shortage pursuant to [NRS 286.523](#) and who discontinues receiving allowances under the retirement system of which he or she is a member is eligible to participate in the Program as an active officer or employee:

(a) If the effective date of reemployment is on the first day of a month, on the effective date of reemployment; or

(b) If the effective date of reemployment is not on the first day of a month, on the first day of the month immediately following the effective date of reemployment.

Ê Except for a retired officer or employee who was enrolled in the Program on November 30, 2008, and continues his or her participation in the Program, coverage of a retired officer or employee pursuant to this subsection terminates on the date on which the participating local governmental agency with which the retired officer or employee returns to full-time employment terminates its participation in the Program.

(Added to NAC by Bd. of Pub. Employees' Benefits Prog. by R089-05, eff. 6-28-2006; A by R126-07, 1-30-2008; R108-12, 12-20-2012)

EXPLANATION

SB 472 revises the date on which certain public employees, state officers and members of the Legislature become eligible to participate in PEBP to: (1) the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) the first day of the month immediately following the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature. The proposed language revises the regulation accordingly.

REGULATIONS THAT CAN BE REMOVED

NAC 287.3105

This regulation defines persons eligible to participate in PEBP and can be removed as SB 472 has revised eligibility rules. SB 472 sets forth with sufficient completeness the date on which certain public employees, state officers and members of the Legislature become eligible to participate in PEBP to: (1) the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) the first day of the month immediately following the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature. There being no need to clarify these eligibility rules in regulation, it is recommended that NAC 287.3105 be repealed rather than amended.

NRS 287.500

This regulation defines eligibility for seasonal and biennial employees in PEBP and can be removed as general eligibility rules apply. SB 472 revises the date on which certain public employees, state officers and members of the Legislature become eligible to participate in PEBP to: (1) the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) the first day of the month immediately following the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature. There being no need to clarify these eligibility rules in regulation, it is recommended that NAC 287.500 be repealed rather than amended.