

**PROPOSED REGULATION OF  
THE COMMITTEE TO ADMINISTER THE PUBLIC  
EMPLOYEES' DEFERRED COMPENSATION PROGRAM**

**LCB File No. R066-13**

September 16, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-8, NRS 287.330.

A REGULATION relating to public employees; revising provisions concerning the Public Employees' Deferred Compensation Program; and providing other matters properly relating thereto.

**Section 1.** NAC 287.700 is hereby amended to read as follows:

287.700 As used in NAC 287.700 to 287.735, inclusive, unless the context otherwise requires:

1. ~~["Administrator" means a person who offers services which are necessary to the administration of the Program and to the proper investment of the money of the employees who are participants in the Program.~~

~~2.]~~ "Committee" means the Committee established to administer the Program.

2. *"Investment consultant" means a private person, corporation, institution or other entity that provides advice on investments and operations of the Program, including, without limitation, advice provided for purposes of paragraph (a) of subsection 3 of NRS 287.330 and NAC 289.735.*

3. “Program” means the Public Employees’ Deferred Compensation Program authorized by NRS 287.250 to 287.370, inclusive.

4. ~~“Provider” means a person who offers investment options to participants in the Program.~~ *“Recordkeeper” means a corporation, institution or other entity that offers investment options and other services which are necessary to the administration of the Program and to the proper investment of the money of the employees who are participants in the Program. The term does not include a private person.*

**Sec. 2.** NAC 287.705 is hereby amended to read as follows:

287.705 The purpose of NAC 287.705 to 287.735, inclusive, is to set forth the qualifications and the procedures for the selection of ~~administrators and providers~~ *investment consultants and recordkeepers* for the Program.

**Sec. 3.** NAC 287.710 is hereby amended to read as follows:

287.710 1. The Committee will select ~~administrators and providers~~ *recordkeepers* for the Program. ~~One person may be selected to serve in both capacities.~~ The Committee will contract with more than ~~two providers if it deems it necessary to offer the participants in the Program superior investment options.~~ *one recordkeeper if the Committee deems it necessary and in the best interests of the participants.*

2. The selection *of recordkeepers* will be made as often as the Committee deems necessary, but not less frequently than in September of every fifth year.

3. ~~Administrators and providers~~ *Recordkeepers* serve at the pleasure of the Committee and are subject to removal at any time by a majority vote of the Committee.

**Sec. 4.** NAC 287.715 is hereby amended to read as follows:

287.715 The Committee will base its selection, as applicable, of ~~administrators and providers~~ *recordkeepers and investment consultants* on:

1. The criteria set forth in NAC 287.720;
2. The answers to the questionnaire provided pursuant to NAC 287.725;
3. Any interviews conducted by the Committee;
4. The variety and quality of any investment options offered to participants; and
5. The projected costs submitted by each applicant.

↪ The Committee will not select an applicant who submits the least expensive proposal if another applicant ~~is better qualified.~~ *will better meet the overall needs of the Program, as determined by a majority vote of the Committee.*

**Sec. 5.** NAC 287.720 is hereby amended to read as follows:

287.720 In selecting an applicant ~~as a recordkeeper,~~ the Committee will consider:

1. The experience of the applicant in providing services to deferred compensation and similar programs ; ~~and the rate of return of any investments offered by the applicant;~~
2. The amount of money the applicant is currently managing and the general financial condition of the applicant;
3. Whether the applicant is qualified to do business in this State; and
4. Whether the applicant employs a sufficient number of employees and possesses sufficient equipment to offer timely and efficient communication and service to the participants in the Program.

**Sec. 6.** NAC 287.725 is hereby amended to read as follows:

287.725 1. The Committee will cause to be published a notice of the intended selection of *a recordkeeper* in one or more ~~newspapers in the State.~~ *publications or Internet websites frequented by entities which regularly engage in activities performed by recordkeepers.* The notice ~~will~~ *must* be published ~~three times~~ not more than ~~30~~ *60* days before the date by which applications must be returned.

2. The notice will set forth:

(a) The date on which the Committee will select ~~administrators and providers;~~ *a recordkeeper* and the date and time by which the Committee must receive the completed application;

(b) The qualifications required of ~~administrators and providers;~~ *a recordkeeper;* and

(c) The manner in which an applicant *for the position of recordkeeper* may obtain a questionnaire and a request for proposal.

3. The Chair *or his or her designee* may, if he or she deems it appropriate, send copies of the notice to state and national trade associations concerned with the business of deferred compensation or similar programs for inclusion in their publications or for dissemination among their members.

4. The Chair *or his or her designee* shall prepare a questionnaire and a request for proposal and make them available to each applicant *for the position of recordkeeper* at least ~~30~~ *60* days before the date on which they must be received by the Committee.

**Sec. 7.** NAC 287.730 is hereby amended to read as follows:

287.730 1. The Chair shall, if he or she deems it appropriate, appoint a subcommittee to review the proposals *from applicants for the position of recordkeeper or investment consultant* and make recommendations to the full Committee.

2. The Chair shall call a general meeting of the Committee to:

(a) Accept information from appropriate sources pertaining to any applicant.

(b) Conduct interviews of the applicants.

(c) Select ~~[two]~~ *one* or more of the applicants for appointment as ~~[administrators and providers.]~~ *a recordkeeper or an investment consultant, as applicable.*

3. Acceptance of an applicant's proposal does not preclude the Committee from negotiating specific changes to the proposal which are in the best interests of the State of Nevada.

**Sec. 8.** NAC 287.735 is hereby amended to read as follows:

287.735 1. The Committee will select such *investment* consultants as are necessary to provide services needed for the selection of ~~[administrators and providers]~~ *recordkeepers* and for the administration of the Program and the investment of the money of the participants.

2. Such ~~[a]~~ *an investment* consultant serves at the pleasure of the Committee and may be removed from the position at any time by a majority vote of the Committee.

## Digest for Proposed Regulation R\_066-13

Under existing law, the Public Employees' Deferred Compensation Program for employees of the State or the Nevada System of Higher Education is administered by a Committee appointed by the Governor. (NRS 287.325)

Under existing regulations, the Committee selects program administrators and providers. (NAC 287.700-287.735) **Section 1** of this regulation defines the terms “recordkeeper” and “investment consultant” as the terms relate to Program. **Sections 2-8** of this regulation revise certain provisions concerning the qualifications and the procedures for the selection of recordkeepers and investment consultants. **Section 3** authorizes the Committee to select more than one recordkeeper if the Committee deems it necessary and in the best interest of the participants to do so. **Section 4** revises provisions concerning the criteria upon which the Committee will make its selection of recordkeepers and investment consultants. **Section 5** revises provisions concerning what factors the Committee will consider when selecting a recordkeeper. **Section 6** revises provisions concerning the notice of the intended selection of a recordkeeper that must be published by requiring that the notice be published not more than 60 days before the date applications must be returned and that it be published in either a publication or an Internet website that is frequented by the recordkeeping community. **Section 7** authorizes the Chair of the Committee, if he or she deems it appropriate, to appoint a subcommittee to review proposals from applicant recordkeepers and investment consultants. **Section 8** revises provisions concerning the selection of investment consultants by providing that the Committee will select investment consultants when necessary for the selection of recordkeepers.