

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R039-15

Effective October 27, 2015

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

AUTHORITY: §1, NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, and NRS 284.065, 284.155, 284.290 and 284.345; §2, NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, and NRS 284.155 and 284.345.

A REGULATION relating to public personnel; revising provisions governing military leave with pay for certain public officers and employees of the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, public officers and employees who are active members of the National Guard or a reserve component of the Armed Forces of the United States are required to be relieved from their duties as a public officer or employee to serve under orders without loss of their regular compensation for a period of not more than 15 working days in a 12-month period. In addition to these 15 working days of leave, such public officers and employees who are employed by the State of Nevada and whose work schedules include Saturday or Sunday are required to be relieved from their duties as a public officer or employee to serve under orders for training that is scheduled on a Saturday or Sunday without loss of their regular compensation for an additional 24 working days in a 12-month period. Existing law requires the Personnel Commission within the Division of Human Resource Management of the Department of Administration to adopt regulations prescribing for each state agency this 12-month period during which a state officer or employee is eligible to take the number of working days of military leave with pay set forth in existing law. (NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, p. 1914) **Section 2** of this regulation prescribes that 12-month period for state agencies, and **section 1** of this regulation makes a conforming change.

Section 2 of this regulation also eliminates certain rules for calculating military leave with pay and interpretations of terms relating to military leave with pay in existing regulations that have been revised in existing law by Assembly Bill No. 388 of the 78th Regular Session of the Nevada Legislature. (NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, p. 1914; NAC 284.5875)

Section 1. NAC 284.448 is hereby amended to read as follows:

284.448 The following types of leave or temporary status do not count toward the completion of any probationary period:

1. Authorized military leave for active service, as set forth in subsection 8 of NAC 284.444.
2. Authorized military leave for training beyond the 15 paid working days ~~in any 1 calendar year, as set forth in subsection 8 of NAC 284.444.~~ *authorized by NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, during a 12-month period, as prescribed in NAC 284.5875.*

3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his or her regular work schedule exceeds 80 hours biweekly. As used in this subsection, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

4. Time which is served in a temporary position pursuant to NAC 284.414.

5. Any hours worked which exceed 40 in a week.

Sec. 2. NAC 284.5875 is hereby amended to read as follows:

- 284.5875 1. ~~In accordance with NRS 281.145 and subsections 2 and 3:~~
- ~~—(a) If a public officer or employee has a work schedule that does not include any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 15 working days of military leave with pay in a calendar year to serve under orders; and~~

~~—(b) If a public officer or employee has a work schedule that includes any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 39 working days of military leave with pay in a calendar year to serve under orders.~~

~~—2. If the work schedule of a public officer or employee is changed in a calendar year from including any portion of Saturday or Sunday to not including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 15 working days of military leave with pay after the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year.~~

~~—3. If the work schedule of a public officer or employee is changed in a calendar year from not including any portion of Saturday or Sunday to including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 39 working days of military leave with pay for the calendar year from the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year or more than 15 working days of military leave with pay before the effective date of the change. If the public officer or employee took more than 15 working days of military leave to serve under orders before the effective date of the change to the work schedule, military leave with pay must not be granted retroactively for those working days.~~

~~—4. As used in this section and NRS 281.145, the Commission will interpret:~~

~~—(a) “To serve under orders” to mean to perform military service pursuant to orders issued by the appropriate military authority, including, without limitation, orders for deployment and any orders to complete training.~~

~~—(b) “Work schedule” to mean a public officer’s or employee’s regularly assigned schedule of work. The term does not include any short term changes to a schedule, overtime, standby status~~

~~or instances where the public officer or employee is called back to work during his or her scheduled time off, unless the change becomes part of his or her regularly assigned schedule.~~

~~—(c) “Working day” to mean a period of work consisting of the number of hours a public officer or employee is regularly scheduled to work. The term does not include overtime, standby status or instances where the public officer or employee is called back to work during his or her scheduled time off.]~~ *Except as otherwise provided in subsection 2, the 12-month period during which a public officer or employee of an agency of the State is eligible to take the number of working days of leave set forth in subsection 1 or 2 of NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, is a calendar year.*

2. The 12-month period during which a public officer or employee of the Office of the Military is eligible to take the number of working days of leave set forth in subsection 1 or 2 of NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, is a federal fiscal year.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R039-15

1. A clear and concise explanation of the need for the adopted regulation.

The emergency regulations adopted to implement the amendments to NRS 281.145 in A.B. 388 of the 2015 Legislative Session are set to expire. These permanent regulations mirror the emergency regulations, and are necessary to replace them.

Effective July 1, 2015, NRS 281.145 requires the Personnel Commission to prescribe the 12-month period that State agencies will use to determine the eligibility of employees who are Reservists or members of the National Guard to receive paid leave due to training and/or deployment or an adjustment to their pay to participate in training drills if their normal shift occurs on a Saturday or Sunday. The amendment to NAC 284.5875 stipulates that State agencies, with the exception of the Office of the Military, continue to use a calendar year for this purpose. The Office of the Military will use the federal fiscal year for this purpose due to the funding source of some affected positions. Additionally, all of the existing language in NAC 284.5875 is removed as it is obsolete due to the amendment to NRS 281.145.

The amendment to NAC 284.448 references the change to the 12-month period used for calculating employees' military leave in NRS 281.145.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

On September 8, 2015, copies of the proposed regulation amendments were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice via Listserv. These documents were also made available on the Division of Human Resource Management's website, the Nevada Public Notice website, the Legislative Counsel Bureau's website, e-mailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building
209 E. Musser Street
Carson City, NV
Nevada State Library and Archives
100 N. Stewart Street
Carson City, NV

Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV
Grant Sawyer Office Building
555 E. Washington Avenue
Las Vegas, NV

A regulation workshop was conducted by the Division of Human Resource Management on June 25, 2015, and a public hearing was held by the Nevada Personnel Commission on October 9, 2015.

There were no comments related to these regulation amendments at the regulation workshop or the public hearing.

Written minutes from the regulation workshop and public hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

- 3. The number of persons who:**
 - (a) Attended each hearing:** October 9, 2015 – 17
 - (b) Testified at each hearing:** October 9, 2015 – 1
 - (c) Submitted written comments:**
- 4. Following is a list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3(b):**

Carrie Hughes, Personnel Analyst
State of Nevada
Department of Administration
Division of Human Resource Management
100 N. Stewart Street, Suite 200
Carson City, NV 89701
(775) 684-0111
cphughes@admin.nv.gov

- 5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. Written minutes from the workshop and public hearing can be obtained as instructed in the response to question #2. No written comments were received.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No opposition to the regulation was received at the Personnel Commission hearing.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
- (a) Both adverse and beneficial effects; and**
 - (b) Both immediate and long-term effects.**

This regulation does not have a direct economic effect on either a regulated business or the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of these regulations.

9. **A description of any regulations of other State or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any State or federal regulations.

10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The regulations do not include any provisions that are more stringent than any federal regulations.

11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

No fees are associated with this regulation.