

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. R017-19I

**The following document is the initial draft regulation proposed
by the agency submitted on 07/01/2019**

Section 1. NAC 284.210 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, is intended to clarify that the shift defined in “qualifying shift” is a shift that meets the criteria included in the definition. Historically, the Division has considered the application of “shift” to be at least 8 hours which does not include those hours considered to be overtime.

NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)

1. As used in this section:
 - (a) “Differential rate of pay” means an adjustment in pay equivalent to an additional 5 percent of an employee’s normal rate of pay.
 - (b) “Qualifying shift” means a period of work of *at least* 8 hours ~~for more,~~ *of regular time, exclusive of overtime*, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. The term includes, without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.
2. An employee is eligible for the differential rate of pay if he or she works in a unit which provides services requiring multiple shifts within a 24-hour period and is:
 - (a) A nonexempt employee in the classified service who works:
 - (1) A qualifying shift; or
 - (2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.
 - (b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his or her regularly scheduled hours of employment on that workday.
3. If an employee is assigned to a qualifying shift when he or she is on paid leave or a holiday occurs, he or she must receive the differential rate of pay for that shift.
4. Except as otherwise provided in subsection 3, if a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he or she is in paid status.
5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay. [Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm’n by R065-98, 7-24-98; A by Dep’t of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm’n by R069-02, 8-14-2002; R022-05, 10-31-2005; R077-11, 12-30-2011; R008-12, 5-30-2012)

Sec. 2. NAC 284.255 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, revises language related to how a non-exempt employee is paid if he or she transfers to a different agency the day before or the day of a holiday recognized by the State

of Nevada. This regulation was amended in subsection 8 as part of a rule simplification process in LCB File No. R147-01. The language has proven to be ambiguous as many questions have been raised regarding which agency is responsible to pay a non-exempt employee if he or she transfers the day before or the day of a holiday. The intent is to clarify which agency is responsible by reverting to the language in the regulation prior to 2002 (R147-01).

NAC 284.255 Holidays: Holiday pay. (NRS 284.065, 284.155, 284.175, 284.180, 284.345)

1. For the purpose of this section, “holiday pay” means payment for a holiday at a nonexempt employee’s normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.

2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he or she is in paid status during any portion of his or her shift immediately preceding the holiday.

3. Except as otherwise provided in subsections 5 and 7:

(a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his or her shift immediately preceding a holiday is entitled to receive holiday pay equal to the pay he or she receives for his or her average workday. For the purposes of this paragraph:

(1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.

(2) A firefighter assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

(b) A part-time nonexempt employee is entitled to receive holiday pay when he or she is in paid status during any portion of his or her shift immediately preceding the holiday if a holiday occurs on a normally scheduled workday of the employee. Except as otherwise provided in this paragraph, if such an employee is not required to work his or her normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he or she would have been paid if there had not been a holiday, but may not exceed the equivalent of his or her pay for 8 hours of work.

(c) A:

(1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he or she works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his or her established workday as set forth in his or her innovative workweek agreement.

(2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he or she works on a holiday, not to exceed the number of hours in his or her established workday.

4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his or her normal schedule of work is more than 8 hours, he or she must be in paid status or be placed on leave without pay for any difference between his or her holiday pay and his or her normal work schedule. An appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.

5. A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefor to his or her supervisor or designated representative as prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his or her absence to his or her supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he or she is in paid status during his or her scheduled shift.

7. A nonexempt employee whose employment is terminated:

(a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.

(b) Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he or she is working must be paid holiday pay for the actual hours he or she works on the holiday. If a nonexempt employee gives notice that he or she is terminating his or her employment on a holiday and he or she is not scheduled to work on the holiday, the last day on which he or she works or is in paid status is his or her date of termination.

8. ~~¶The agency that lists a nonexempt employee as an “employee of record” on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an “employee of record” is a person employed by the state agency that is required to claim the person as an employee of the agency.]~~ *A non-exempt employee who transfers the day before a holiday becomes an employee of record in the new agency on the holiday and is entitled to receive compensation for the holiday from the new agency. An employee who transfers from an agency at the end of a shift on a holiday is entitled to receive compensation for the holiday from the agency from which they are transferring.*

9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm’n by R096-03, 10-30-2003; R145-05, 12-29-2005)