

**ADOPTED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB File No. R080-09**

Effective October 27, 2009

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.345 and Senate Bill No. 433, chapter 391, Statutes of Nevada 2009, at page 2147.

A REGULATION relating to the State Personnel System; providing requirements concerning unpaid furlough leave; and providing other matters properly relating thereto.

**Section 1.** Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in Senate Bill No. 433, chapter 391, Statutes of Nevada 2009, at page 2147, a full-time classified employee shall take 8 hours of furlough leave each month and a part-time classified employee shall take a number of hours of furlough leave per month that is equivalent to the portion of an 8-hour day that his scheduled workweek or biweekly schedule bears to a full-time workweek or biweekly schedule unless:*

*(a) The employee's appointing authority files a plan with the Director and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, with the chief financial officer of the applicable institution for the employee to take furlough leave pursuant to an alternate schedule because of workload demands; and*

*(b) The plan is approved in advance by the Director and the Director of the Department of Administration or their designated representatives or by the chief financial officer of the institution, as applicable.*

*2. Each appointing authority shall establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by a classified employee of the appointing authority. The policy may provide different increments for employees in different divisions, locations or work groups based on business necessity. The appointing authority shall disseminate the policy to each employee under its authority who is required to take furlough leave.*

*3. To the extent practicable, an employee who is required to take furlough leave and his or her supervisor shall jointly determine in advance a schedule pursuant to which the employee will take furlough leave. If, because of business necessity, such a schedule cannot be mutually agreed upon, a supervisor may direct an employee to take furlough leave on a specific day or at a specific time, or both.*

*4. Movement of an employee from one position to another position must not alter the amount of furlough leave required to be taken by the employee.*

*5. The amount of furlough leave that an employee is required to take must not be offset by any savings realized as a result of a delay in filling the position.*

*6. An employee who is initially appointed to state service after July 1, 2009, may only be required to take the number of hours or days of furlough leave that is required to be taken during the remainder of the fiscal year after his appointment. If such an employee is appointed on a day other than the first of a month, the employee may not be required to commence taking furlough leave until the immediately succeeding month.*

7. *An employee may not:*

(a) *Take more than 8 hours of furlough leave in a workweek.*

(b) *Receive overtime pay, compensatory time, pay for standby status, added regular time for work as a part-time employee or callback pay in the same pay period in which the employee takes furlough leave, unless approved in advance by the Director and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, by the chief financial officer of the applicable institution.*

(c) *Be required to take more furlough leave than the amount of furlough leave required by the provisions of Senate Bill No. 433, chapter 391, Statutes of Nevada 2009, at page 2147.*

8. *If an employee who leaves state service has taken more than the equivalent of 8 hours of furlough leave per month at the time of his separation from state service, the employee will not be reimbursed for the additional furlough leave taken.*

9. *Any furlough leave that an employee takes must be considered time worked for the purpose of calculating the employee's eligibility to take leave under the federal Family and Medical Leave Act. Any furlough leave that is taken during the time in which an employee takes leave that qualifies under the Family and Medical Leave Act will not be counted against the amount of leave for which an employee is entitled to take under the Family and Medical Leave Act.*

10. *As used in this section, "furlough leave" means the unpaid leave required to be taken pursuant to the provisions of Senate Bill No. 433, chapter 391, Statutes of Nevada 2009, at page 2147.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R080-09**

The Personnel Commission adopted regulations which pertain to chapter 284 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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

Copies of the proposed regulation, notice of workshop, and notices of intent to act upon a regulation 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. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel Blasdel Building 209 E. Musser St Carson City, NV 89701	Grant Sawyer State Office Bldg. 555 E. Washington Blvd Suite 4401 Las Vegas, NV 89101
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are the minutes from the workshop.

A public hearing by the Nevada Personnel Commission was held on September 25, 2009. Representatives from public safety employee associations expressed concerns that the furlough made it difficult for law enforcement agencies to get their work done while meeting the requirements of the regulation. Representatives from the Department of Public Safety stated that the paperwork involved with the exception process was time consuming and that they would like to have the regulation changed so that exceptions would be needed only when overtime and other premium pay events occurred in the same pay week and not the same pay period as a furlough. A Department of Transportation representative asked if there could be a method to allow for employees who are furloughed to be called out for an emergency during the same pay period.

**The number of persons who:**

- (a) **Attended each hearing:** September 25, 2009, Personnel Commission meeting (hearing), 49 attendees
- (b) **Testified at each hearing:** September 25, 2009, Personnel Commission meeting, 6 testified
- (c) **Submitted written comments:** None

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

Comments were not solicited, as the regulation does not affect businesses.

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

One change was made to the original wording to add compensatory time to the list of pay types that an employee could not receive during the same pay period as furlough leave.

Changes were not made based on the hearing comments because many of the comments pertained to the furloughs as a whole which were required by Senate Bill 433 and did not directly relate to the content of the regulation. The majority of the comments that related to the content of the regulation proposed a change that would prevent overtime and other premium pay events in the same pay week as furlough leave instead of in the same pay period as stated in the regulation. However, the original wording was drafted in consultation with the State Budget Director who was concerned that salary savings gained by the furloughs could be lost if the entire pay period for the furlough wasn't considered. Additionally, changes were not considered necessary because processes are available to the agencies that would allow them to apply for exceptions to the overtime limitations as well as to the furloughs themselves.

4. **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.

5. **The estimated cost to the agency for enforcement of the adopted regulation:**

No direct cost is anticipated to the Department of Personnel for the enforcement of this regulation. Significant indirect costs have been incurred associated with the development of a unique payroll code, tracking reports, payroll system changes, forms, procedures, FAQs, regulations, and consultation to State agencies and employees.

- 6. A description of any regulations of other State or governmental agencies which the 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.**

This regulation does not overlap or duplicate any other State of governmental agency regulation. Senate Bill 433 required the Personnel Commission to adopt regulations related to the implementation of the furlough.

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

This regulation does not include any provisions that are more stringent than any federal regulation.

- 8. 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.

- 9. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

This regulation is specific to State government agencies and has no impact on small business.