

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R022-11

Effective October 26, 2011

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

AUTHORITY: §1, NRS 284.065, 284.155, 284.175 and 284.180, as amended by section 1 of Assembly Bill No. 560, chapter 475, Statutes of Nevada 2011, at page 2887.

A REGULATION relating to state personnel; revising provisions relating to holiday premium pay; and providing other matters properly relating thereto.

Section 1. NAC 284.256 is hereby amended to read as follows:

284.256 1. As used in this section, “holiday premium pay” means pay or compensatory time at ~~[the rate of time and one-half of]~~ an employee’s normal rate of pay for hours designated as worked on a holiday, except those hours that are considered overtime pursuant to NRS 284.180.

2. A nonexempt employee who works on a holiday is entitled to receive holiday premium pay, overtime pay or compensatory time for the hours he works on the holiday, in addition to any holiday pay that he is entitled to be paid pursuant to NAC 284.255. A nonexempt employee who elects to receive compensatory time for the hours he works on a holiday must not exceed the limits on the accrual of compensatory time set forth in NAC 284.250.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB File #R022-11

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

Attached are excerpts from the minutes from the workshop that apply to these regulations.

A Regulation Workshop was conducted by the Department of Personnel on July 15, 2011 and a public hearing was held by the Nevada Personnel Commission on September 28, 2011.

2. The number of persons who:

- (a) **Attended each hearing:** July 15, 2011 – 25; September 28, 2011 – 57
- (b) **Testified at each hearing:** July 15, 2011 – 4; September 28, 2011 – 0
- (c) **Submitted written comments:** 1

3. 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 regulations do not affect businesses.

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

A written comment and public comment made during regulation workshop raised concern for employees who work a non-traditional workweek and the proposed amendment changing compensation for working the actual holiday. It was explained that employees would be compensated for working the actual holiday either by straight time or time and one half for any overtime.

Other comments praised efforts to listen to agency concerns.

5. 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.

These regulations do not have a direct economic effect on either a regulated business or the public.

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

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

7. 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.

There are no other state or government agency regulations that the proposed amendments duplicate.

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

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

9. 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 these regulations.

10. 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?

These regulations are specific to State government agencies and has no impact on small businesses.

**SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL**

July 15, 2011

**CARSON CITY, NEVADA
And via Video Conferencing in
LAS VEGAS, NEVADA**

Attendees in Carson City:

Teresa Thienhaus, Director, DOP
Shelley Blotter, Division Administrator, DOP
Mark Evans, Supervisory Personnel Analyst, DOP
Peter Long, Division Administrator, DOP
Denise Woo-Seymour, DOP
Norma Mallett, DHHS/MHDS
Amy Davey, DOP
Angelica Gonzalez, DOP
Mark Teska, DPS
Renee Travis, DOA
Diana Roder, DOE
Carrie Hughes, DOP
Conni Valley, DOE
Kelly Munoz, DOF
Ron Bratsch, AFSCME
Priscilla Maloney, AFSCME
Dave Olsen, DOT
Jenny Hawkins, DOT
Salli Herbert, DCA
Joan Dinning, DOP

Attendees in Las Vegas:

Larry Hamilton, UNLV
Kalora Snyder, CRC
Brenda Haymore, CRC
Walter Shupe, CRC
Sandra Owens, DOP

Shelley Blotter: Opened the meeting at 9:00 a.m. and welcomed everyone. She asked everyone in attendance to sign the sign-in sheet and stated the purpose of the workshop was to solicit comments from affected parties for proposed regulations for permanent adoption. These regulations will be considered at a future Personnel Commission Meeting. Our next Personnel Commission Meeting is scheduled for September 28, 2011. If the regulation at that meeting is adopted by the Personnel Commission, it will go into effect when approved by the Legislative Commission and filed with the Secretary of State, which is approximately 40 days after the adoption by the Personnel Commission.

Shelley Blotter: Okay. I don't see anyone coming forward, so we'll go ahead and move on to our next regulation related to compensation for working on a holiday, and Mark is going to summarize that for us.

Mark Evans: One thing I want to point out is the copy in your handout does not include a change that was made as part of a temporary regulation, and what that change in that temporary regulation deleted was the wording of “or compensate for time” (comp-time). So your handouts do not reflect the temporary regulation change. What will happen is both the changes we’re going to discuss today and the ones that we previously workshopped which are part of that temporary regulation will both be going to the Personnel Commission’s September 28th meeting as part of the permanent regulation.

But what we’re talking about specifically today is the change that was made pursuant to AB 560, which changed the rate of pay for employees who work on holidays. Employees who work on a holiday shall receive their normal rate of compensation instead of time and a half as the previous regulation allowed. The pay for working on the holiday, however, is in addition to any other pay the employee is eligible to receive, including compensation for the State holiday itself. So basically, the old regulation allowed an employee working a holiday to be paid two and a half times the regular pay, and the change means the compensation will now be two times the regular pay. Overtime worked on a State holiday will continue to be paid time and a half.

Are there any comments or questions on this regulation?

Shelley Blotter: I’ll accept comments on both the change that related to the statutory change, as well as the comp-time. So if you have comments on either of those, please feel free to come forward.

Ron Bratsch: Ron Bratsch AFSCME Local 4041. Again, the term double-time is not a true term. It’s not mentioned here. I think I showed at a previous Personnel Commission meeting that when the 4th of July occurs, my co-workers when they get Monday off and then work 40 hours, they get 48 hours of pay. I worked the 4th of July, I got Friday-Saturdays off, at the end of the week, I got 48 hours of pay. I want to know who got double-time, that’s my question and who got double-time and a half when we were getting time and a half because we’re not being compensated for the holidays anymore for working them -- being straight paid.

I’m away from my family and other people aren’t. I think we should be compensated, but unfortunately, the legislature doesn’t agree and neither did the Department of Personnel in introducing that language.

And further, since accrual of comp-time has been eliminated for working on a holiday, I do not have an alternative day off that I can take, so I am losing 11 days of comp-time throughout the year, so I am losing 11 days with my family that the rest of the State employees aren’t losing. I would like that re-introduced back into us to have the option to grab the comp-time on those holidays because you’re asking me now to give up a day with my family and you’re not allowing me to have it with my family. And, like I mentioned at the Personnel Commission, I work at a prison, and it is prison. I go to prison every day. The more I work there, the more the State is taking away from what they promised me at the beginning of my job, the less I like my job. And now it is a job; it’s no longer a career as far as I’m concerned. So taking away more benefits I don’t think is the best way to keep us employed. I know a lot of my co-workers are looking for employment elsewhere. The only thing keeping me around is the hope that we can have 12-hour

shifts starting in January. If not, you probably won't see me in another year. I appreciate your time. Thank you.

Shelley Blotter: Ron, I just wanted to thank you for taking the time to meet with us earlier to discuss some of your concerns, and we are looking into that further and will be getting back to you on some of those specifically. We are not ignoring you. It may take a little bit of time to gather the information related specifically to the comp-time piece of it and how it affects PERS. So, again, we do appreciate you meeting with us and letting us know what your concerns are.

Ron Bratsch: Thank you. I'm a little frustrated, but I do appreciate all the time that you sit down and work with us -- listening to the concerns of the employees I believe is very big. You don't have to agree with us. We just want you listen to what our concerns are and why it might be frustrating us further. Thank you for your time.

Dave Olsen: Dave Olsen from the Department of Transportation. We have some confusion on the definition of what overtime is. Some of the holidays are on a Friday. Employees work 32 hours, Monday through Thursday, and they get 8 hours of holiday pay for a holiday, so now they have 40 hours of base. If they come into work on the holiday, wouldn't that be time and a half as overtime?

Shelley Blotter: The answer is "no" because it is payment for a holiday but is not time worked. So they are receiving 40 hours of compensation, but they would not be eligible for overtime until they actually worked over 40.

Dave Olsen: So if they worked 10 hours on a holiday, after working 32 for Monday through Thursday, 2 hours of overtime, would they get 8 hours of holiday?

Shelley Blotter: I think they would end up with holiday pay that would equal the length of their shift so they'd actually get 10 hours of holiday pay and then they would get 10 hours of holiday premium pay for working on the holiday. That's the way it used to work. Now, I would think they would get 8 hours of holiday premium pay and 2 hours of time and a half.

Dave Olsen: Okay. Thank you.

Shelley Blotter: Would anyone else like to speak regarding this?

No further responses were received.

Well, again, I thank you for your attendance. I know these are concerning issues, and we take your comments seriously. We will be bringing them forward at a future Personnel Commission meeting. Thank you.

[END OF MEETING]