

LCB File No. T011-04

**PROPOSED TEMPORARY REGULATION OF THE
DEPARTMENT OF PERSONNEL**

Regulations presented at workshop September 13, 2004

Section 1 was removed from consideration.

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

Explanation of Proposed Change: This section, proposed by the Department of Motor Vehicles, allows an appointing authority to deliver specificity of charges to a former employee if the person's alleged wrong doing would have resulted in a recommendation for termination had the person remained continuously employed under the jurisdiction of the appointing authority. The employee will have the opportunity to the pre-disciplinary and post-disciplinary hearing process. Under certain circumstances, the specificity of charges may be filed with the Department of Personnel Records Section.

(If the person is currently employed by the State, his current appointing authority may dismiss him pursuant to NRS 284.385.)

NEW SECTION. Delivery of specificity of charges following transfer of an employee from one appointing authority to appointing authority.

- 1. If an appointing authority conducts an investigation of an employee who had previously been under his span of control and the results of the investigation would have resulted in a recommendation of termination had the person remained continuously employed under his jurisdiction, the appointing authority may cause the specificity of charges to be delivered to the employee and placed in his personnel file.**
- 2. The employee must be afforded all the rights to respond to the specificity of charges in accordance with the pre-disciplinary hearing requirements of NAC 284.656 and post-disciplinary provisions of NRS 284.390 prior to the specificity of charges being placed in his file.**
- 3. If the employee fails to avail himself of the pre-disciplinary or post-disciplinary process, a copy of the specificity of charges will be filed with the Records Section of the Department of Personnel.**
- 4. *If the employee participates in the pre-disciplinary and post-disciplinary process and the hearing officer upholds the recommendation for termination, the specificity of charges and hearing officer decision will be filed with the Records Section of the Department of Personnel.***

Sec. 2. NAC 284.182 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes the method used for adjusting an employee's pay progression date and clarifies the current regulation. Adjustments will be made to a pay progression date only in full workday increments, and the adjustment will be made on a calendar day basis rather than a workday basis.

Additionally, it allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to retain the pay progression date they held at the time they left State service. Paragraph (e) of subsection 2 of this regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer's Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)

1. An employee receives a new pay progression date if he is:
 - (a) Promoted to a position that results in an increase of two grades or more; or
 - (b) Reinstated.
2. An employee retains his *current* pay progression date if he is:
 - (a) Promoted to a position that results in an increase of one grade;
 - (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;
 - (c) Transferred to a position without receiving an increase in grade;
 - (d) Reappointed to a position at a grade that he formerly held;
 - (e) Reemployed and has remained continuously employed *or who is reemployed pursuant to SB 37 of the 1999 Legislative Session*; or
 - (f) Demoted.
3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.
4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.
5. Except as otherwise provided in this subsection, an employee's pay progression date must be adjusted:
 - (a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or
 - (b) On a day-for-day basis for the amount of time ~~[that he was unemployed if]~~ the employee:
 - (1) ~~[Hs]~~ *Was separated from State service if the employee is* reemployed ~~[following a separation from state service]~~ within 1 year after the date on which he was laid off or received a seasonal separation.
 - (2) ~~[Hs]~~ *Was separated from State service if the employee is* a person with a permanent disability arising from a disability related to work who is reemployed ~~[following a~~

~~separation from state service~~ within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) ~~Has~~: *Was on leave without pay or catastrophic leave if the employee is:*

(I) A nonexempt employee who is on leave without pay, or on catastrophic leave, in excess of 240 hours; or

(II) An exempt classified employee who is on leave without pay, or on catastrophic leave, in excess of 30 working days,

in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. *If the total hours of leave without pay or catastrophic leave exceeding 240 hours is less than one full-time equivalent day for the pay class designation, an adjustment will not be made for those hours.* An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date. *If the employee continues to be on leave of absence without pay or catastrophic leave on his pay progression date, an adjustment will be made to his pay progression date once he returns to work.*

6. *Paragraph (e) of subsection 2 becomes effective upon approval of the Personnel Commission and filing with the Secretary of State and applies retroactively to January 1, 2000.*

Sec. 3. NAC 284.210 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes payment of shift differential. The change would allow employees who work a qualifying shift, and who are only in paid status for a portion of their shift, to be paid shift differential for the portion of their shift they are in paid status. Additionally, the change would provide shift differential to employees whose 8-hour shift is reduced to 7 hours due to daylight savings time.

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 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. *A “qualifying shift” includes a shift of 8 hours that is reduced to 7 hours due to daylight savings time.*

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he 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 regularly scheduled hours of employment on that workday.
- 3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.
- 4. *An employee assigned to a qualifying shift who is not in paid status for the entire shift must receive the differential rate of pay for the portion of the shift the employee is in paid status.***
- ~~4.]~~ **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.

Sec. 4. NAC 284.282 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to receive longevity pay based on their “continuous service”. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer’s Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.282 Longevity pay: Particular circumstances. (NRS 284.065, 284.155, 284.175, 284.345, 284.355, 284.3626)

- 1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.
- 2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if:
 - (a) He is an exempt classified employee or exempt unclassified employee and he uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or
 - (b) He is a nonexempt employee, the base hours established for his pay class designation are 40 hours per week or 80 hours biweekly and he uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.
- 3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.
- 4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his base hours and the full-time equivalency for his pay class designation. The longevity

pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his pay class designation pursuant to subsection 2.

5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.
6. An employee who is laid off and is rehired within 1 year after the date of layoff *or who is reemployed pursuant to SB 37 of the 1999 Legislative Session* is eligible for the longevity pay he would have earned if he had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
7. A person with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he would have earned if he had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
8. An employee is eligible to earn service credit for the calculation of longevity pay when he is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his normal pay and the benefits he receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he is placed on a leave of absence without pay or catastrophic leave.
9. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his service during the previous longevity period.
10. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted as service credit for the calculation of longevity pay. The person is eligible for longevity pay for the time he is in paid status in accordance with the provisions of subsection 2.
11. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.
12. *This regulation becomes effective upon approval of the Personnel Commission and filing with the Secretary of State and applies retroactively to January 1, 2000.*

Sec. 5. NAC 284.490 is hereby amended to read as follows:

<p>Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that the repayment of wages owed because of failure to successfully complete training or termination prior to 1 year following the training is the responsibility of the employee.</p>

NAC284.490 Reimbursement or prepayment for training or education. (NRS 284.343)

1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:
 - (a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or
 - (b) The employing agency may elect to prepay the cost of the training or education.
2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:
 - (a) The employee fails to complete the training successfully; or
 - (b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.Any repayment from wages owed ~~[to the employing agency]~~ *by the employee* must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.
3. For the purposes of this section, “successful completion of training and education” means:
 - (a) Receiving a grade of C or better;
 - (b) Receiving a passing grade if the students are designated only as passing or failing the course;
 - (c) Receiving a certificate of completion; or
 - (d) Receiving other evidence of completion as predetermined by the appointing authority.

Sec. 6. NAC 284.5405 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to accrue annual leave based on his total state service. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer’s Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.
2. An employee who is rehired within 1 year after being laid off *or who is reemployed pursuant to SB 37 of the 1999 Legislative Session* accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.
3. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual

leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.
5. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.
6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.
7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.
8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.
9. If a nonclassified employee, an unclassified employee of the University and Community College System of Nevada, or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, University, or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.

10. This regulation becomes effective upon approval of the Personnel Commission and filing with the Secretary of State and applies retroactively to January 1, 2000.

Sec. 7. NAC 284.598 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to receive credit for continuous service as if they had never left State service. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer's Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Authorized military leave for active service if the person is reemployed within 90 calendar days after an honorable discharge from military service.
2. Separation because of layoff if a former employee is ~~rehired within~~ *reemployed* :
(a) Within 1 year after the date he was laid off ~~[-]~~; *or*
(b) Pursuant to SB 37 of the 1999 Legislative Session.
3. Reemployment of a seasonal employee within 1 year after the end of the previous seasonal appointment.
4. Separation because an employee sustained a permanent disability arising from a disability related to work, if the former employee was reemployed not later than 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.
5. *This regulation becomes effective upon approval of the Personnel Commission and filing with the Secretary of State and applies retroactively to January 1, 2000.*