

LCB File No. R187-09

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

File 1

Section 1 of LCB file No. R080-09 is hereby amended to read as follows:

Explanation of Proposed Regulation: Senate Bill 433 of the 2009 Legislative Session requires most State classified employees to take 96 hours of unpaid furlough leave in each of the next two fiscal years and for other than classified employees, 1 days of unpaid furlough leave a month during each of the next two fiscal years. The purpose of this regulation is to address concerns expressed by the Legislative Commission when they approved the permanent regulation. It is requested that this regulation expire as of June 30, 2011 unless the Legislature extends the effective date of the furlough. In such a case, this regulation will only be in effect for the period of time in which the Legislature requires furloughs to exist.

Section 1 of LCB File No. R080-09 (NRS 284.065, 284.155, 284.383, 284.385, and 284.390)

1. Except as otherwise provided in Senate Bill No. 433, chapter 391, Statutes of Nevada 2009, at page 2147, a :

(a) Full-time employee that is other than a classified employee shall take 1 day of furlough leave per month. Part-time employees that are other than classified employees must prorate their time in accordance with section 3 of Senate Bill 433 of the 2009 Legislative Session.

(b) ~~full-time~~ 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)~~(1) 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)~~(2) 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 vacancy 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.