

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R077-11

Effective December 30, 2011

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.175.

A REGULATION relating to state personnel; revising provisions governing the payment of a differential rate of pay for certain shifts; and providing other matters properly relating thereto.

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

284.210 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~~ 7 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 must not receive the differential rate of pay for more than 8 hours worked in a shift.*

3. 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~~ 7 p.m. and 7 a.m. ~~It~~ *Except as otherwise provided in subsection 2, in* such cases, an employee must receive the differential rate of pay for only the hours worked between ~~6~~ 7 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. ~~It~~ *Except as otherwise provided in subsection 2, in* such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

~~3. It~~

4. *Except as otherwise provided in subsection 2, 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.~~ 5. Except as otherwise provided in subsection ~~3.~~ 2 or 4, 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 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.~~

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB File #R077-11

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 Administration Division of Human Resource Management 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 excerpts from the minutes from the workshop that apply to these regulations.

A Regulation Workshop was conducted by the Department of Personnel on August 22, 2011 and a public hearing was held by the Nevada Personnel Commission on November 18, 2011.

2. The number of persons who:

- (a) **Attended each hearing:** August 22, 2011 – 39; November 18, 2011 – 27
- (b) **Testified at each hearing:** August 22, 2011 – 11; November 18, 2011 – 9
- (c) **Submitted written comments:** 2

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.

It was explained that in order to comply with the mandated revision to the Department of Corrections' budget, changes were proposed to this regulation to avoid alternative solutions. Several employee associations were opposed to any revisions to this regulation stating that this would not only impact the Department of Corrections (NDOC,) but other agencies. It was pointed out that other agencies acknowledged the situation and were open to finding a solution.

AFSCME supported the regulation change. They were aware that if this revision was not approved, another and more disruptive solution, such as revamping all work shifts in NDOC, could be implemented. AFSCME saw no real savings to the department's budget with the proposed change "between 7:00 p.m. and 6:00 a.m." as the "qualifying shift" They suggested that the "qualifying shift" be changed to "between 7:00 p.m. and 7:00 a.m." to keep the morning schedule a 12 hour shift. There was no opposition to this new "qualifying shift" revision and was adopted by the Personnel Commission.

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:

This change will help the Department of Correction achieve its Priorities of Government.

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.