

**ADOPTED REGULATION OF  
THE PERSONNEL COMMISSION**

**LCB File No. R022-13**

Effective October 23, 2013

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

AUTHORITY: §§1-4, NRS 284.065 and 284.345; and section 3 of Assembly Bill No. 511, chapter 447, Statutes of Nevada 2013, at page 2625.

A REGULATION relating to state personnel; requiring state employees to take a certain amount of furlough leave; and providing other matters properly relating thereto.

**Section 1.** NAC 284.531 is hereby amended to read as follows:

284.531 1. The total number of hours of furlough leave required to be taken in a fiscal year by an employee who is initially appointed to state service after the commencement of the fiscal year is:

(a) For a full-time employee, the equivalent of 4 hours of furlough leave for each full month remaining in the fiscal year.

(b) For a part-time employee, the equivalent of the portion of 4 hours of furlough leave for each full month remaining in the fiscal year that is proportional to the average number of hours worked by the part-time employee.

↪ If such an employee is appointed on a day other than the first day of a month, the month in which the employee is appointed is not included in the calculation set forth in this subsection.

2. An appointing authority may establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by an employee of the appointing authority if the appointing authority determines that the minimum increment is necessary based on business

necessity. 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 that the employee holds.

6. An appointing authority shall not require or allow an employee to take more than 12 hours of furlough leave in a workweek.

7. Unless approved in advance by the Administrator of the Division of Human Resource Management 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, an appointing authority shall not require or allow an employee to work additional time during the same workweek in which the employee takes furlough leave if the additional time would be:

- (a) Overtime for which the employee would be entitled to be compensated; or
- (b) Added regular time for work as a part-time employee.

8. An employee who leaves state service will not be reimbursed for any furlough leave taken.

9. Any furlough leave taken by an employee 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 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 chapter ~~374,~~ 447, Statutes of Nevada ~~2011,~~ 2013, at page ~~2207,~~ 2625.

**Sec. 2.** NAC 284.531 is hereby repealed.

**Sec. 3.** Section 2 of LCB File No. R021-11 is hereby repealed.

**Sec. 4.** The emergency regulation adopted by the Personnel Commission on June 20, 2013, and assigned as LCB File No. E001-13, is hereby repealed.

**Sec. 5.** 1. This section and sections 1, 3 and 4 of this regulation become effective upon filing with the Secretary of State.

2. Section 2 of this regulation becomes effective on July 1, 2015.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File #R022-13**

**1. A clear and concise explanation of the need for the adopted regulation.**

The emergency regulation adopted to implement AB 511 of the 2013 Legislative Session is set to expire. This regulation is necessary to replace the emergency regulation with a permanent regulation which will then expire on June 30, 2015. This regulation mirrors the emergency regulation and contains the same provisions as the regulation adopted during the previous biennium. NAC 284.531 sets the rules surrounding the furlough requirement and assists the agencies with administration.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of 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 Division of Human Resource Management website, emailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building  
209 E. Musser Street  
Carson City, NV 89701

Grant Sawyer State Office Bldg.  
555 E. Washington Blvd.  
Las Vegas, NV 89101

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV 89701

Capitol Building  
Main Floor  
Carson City, NV 89701

Legislative Building  
401 S. Carson Street  
Carson City, NV 89701

Gaming Control Board  
1919 College Parkway  
Carson City, NV 89701

Attached are pertinent comments from the workshop and the Personnel Commission meeting.

A Regulation Workshop was conducted by the Division of Human Resource Management on July 17, 2013 and a public hearing was held by the Nevada Personnel Commission on October 10, 2013.

Comments from the workshop and hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at [sblotter@admin.nv.gov](mailto:sblotter@admin.nv.gov) or calling (775) 684-0105.

3. **The number of persons who:**
  - (a) **Attended each hearing:** October 10, 2013 – 53
  - (b) **Testified at each hearing:** October 10, 2013 – 2
  - (c) **Submitted written comments:** 0
  
4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Michelle Garton, Supervisory Personnel Analyst  
State of Nevada Human Resource Management Division  
209 E. Musser St., Room 101  
Carson City, NV 89701  
(775) 684-0136  
mgarton@admin.nv.gov

Ron Cuzze, President  
State of Nevada Law Enforcement Officers Association  
(702) 736-4460  
rcuzze@earthlink.net

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

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. No written comments were received. Comments from the workshop and hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

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

This is the same regulation adopted by the Personnel Commission as an emergency regulation in June 2013. The regulation mirrors the permanent regulation adopted for the previous 2-year period, with the exception that it references the current statutory requirement in section 3 of Assembly Bill 511 of the 2013 Legislative Session. There were no comments in favor of or against the proposed regulation at the June 2013 Personnel Commission meeting (for emergency adoption) or at the workshop (for permanent adoption).

At the October 10, 2013 Personnel Commission Ron Cuzze, State of Nevada Law Enforcement Association, stated that the 4-hour increment is difficult to manage when employees work 10 or 12 hour shifts. Shelley Blotter explained that the regulation does allow up to 12 hours of furlough in a workweek which should cover the situation when an employee works a 10 or 12 hour shift.

Testimony was heard at the hearing and all sections of the regulation were unanimously adopted by the Personnel Commission.

- 7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**  
**(a) Estimated economic effect on the businesses which they are to regulate.**  
**(b) Estimated economic effect on the public which they are to regulate.**

This regulation does not have a direct economic effect on either a regulated business or the public. It only impacts the classified service of Executive Branch departments and the Nevada System of Higher Education.

- 8. The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of this regulation.

- 9. 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.

- 10. 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.

- 11. 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.

**Pertinent Testimony from Personnel Commission Meeting Held on June 20, 2013 (for Emergency Adoption)**

**Shelley Blotter**, Deputy Administrator, HRM (Human Resource Management): Stated that she had before the Personnel Commission an Emergency Regulation. She noted it was proposed as a result of action taken during the Legislative Session. She stated that the Legislature had continued the furlough in the same manner that had been implemented over the last two years. She stated that on the previous occasion when the Furlough Regulation was adopted it was set to expire on June 30, 2013. She explained that two things needed to be done. The first was to extend the regulation to June 30, 2015. She added the second concerned language. She said that

in the body of the regulation, subsection 10 there was a reference to the statute that was adopted in 2011 and this would now be updated to reflect the bill that had adopted furlough once again for the next biennium.

**Shelley Blotter:** Stated that she would read the Statement of Emergency into the record: “Whereas, the Personnel Commission has convened this public meeting for the purpose of considering the adoption of the foregoing Emergency Regulation which relates to the implementation of furloughs. Whereas, the Commission finds that an emergency exists insofar as:

1. The need for swift action to implement furloughs due to the state's significant budget shortfall and the statutory requirements for implementation of the furloughs on July 1, 2013 does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for amending a permanent regulation and
2. That the current regulation requiring 48 hours of furlough leave per fiscal year for full-time employees, pro-rated for part-time employees expires on June 30, 2013 which will be extended to June 30, 2015.

Now, whereas, the Commission hereby adopts the following Emergency Regulation which shall be effective on July 1, 2013 upon the endorsement by the governor and filing with the Secretary of State.”

**Shelley Blotter:** Noted that was followed by the text of the regulation. She added that they would have to go through the regular adoption process including a workshop and pre-adoption review by the Legislative Commission, the approval of the Personnel Commission and then post-approval by the Legislative Commission for it to become a permanent regulation.

**Pertinent Testimony from Regulation Workshop Held July 17, 2013 (for Permanent Adoption)**

**Shelley Blotter:** Stated that this was the same regulation adopted by the Personnel Commission as an emergency regulation. She stated that none of the text of the regulation was changed except for Subsection 10 which referred to the new Furlough Bill. She confirmed that everything else remained the same from the previous two-year period.

**Pertinent Testimony from Personnel Commission Meeting Held on October 10, 2013 (for Permanent Adoption)**

**Michelle Garton:** NAC 284.531 sets the rules surrounding the furlough requirement. This regulation is the same as the emergency regulation adopted at the June 2013 meeting and is now due to expire. Your action today will allow this regulation to become permanent until its expiration on June 30, 2015. There are several sections to this file that are necessary for the ease of administration.

Section 1 simply changes the reference in section 10 of the regulation to the new bill AB 511 of the 2013 Legislative Session.

Section 2 repeals NAC 284.531 as of June 30, 2015.

Section 3 repeals the regulation related to the furlough requirement during the previous biennium.

Section 4 repeals the emergency regulation that was adopted at the June 20, 2013 meeting as the new permanent regulation will replace it upon filing with the Secretary of State.

Section 5 sets timeframes for the different actions in this regulation.

**Commissioner Sanchez:** Question, just for my benefit and for the record, could you go over the actual details of how state employees are currently being furloughed and what the procedures are?

**Michelle Garton:** AB 511 of the 2013 Legislative Session mandates that most state employees are required to take forty-eight hours of unpaid furlough each fiscal year of the biennium. So for the next two years, forty-eight hours per year.

**Commissioner Sanchez:** How is that specifically implemented?

**Michelle Garton:** Different agencies have different ways of handling that. Some agencies will allow one hour increments. Some agencies will allow four hour increments and anywhere in between I imagine. That particular part in how they allow that to be taken is agency specific.

**Chair Katherine Fox:** Generally speaking, it is four hours per month?

**Michelle Garton:** Exactly.

**Ron Cuzze:** I have asked this every time and I am going to say it again, four hours per month when you are doing ten or twelve hour shifts as a law enforcement officer does not work. We have asked before that language be put in here of some type to have your law enforcement and correctional managers be able to have some wording so they can easily manage those employees. We are not trying to get out of the forty-eight hours. If you look at the department of corrections, they are at critical manning now. Law enforcement is bleeding blue. We are losing people left and right. So you need to give our police managers a little help with this in your wording. All we are asking for is that some kind of stipulation be put in there or wording to give supervisory people a little easier way to do this than try to give them four hours a month. That doesn't work.

**Commissioner Mauger:** I have a question, how is that being utilized now and what is the impact on what's happening with Corrections and the law enforcement offices? How are they coping with it now?

**Ron Cuzze:** They are skirting the regulation.

**Shelley Blotter:** Actually, Mr. Cuzze we have heard your concerns and the law enforcement agencies also expressed their concerns. During the last biennium and continuing on to this



biennium, in subsection 6 of the regulation, it allows an employee to take up to twelve hours at a time. So that covers those situations where an employee may have a ten hour shift or a twelve hour shift. We are very much aware of your concerns and they have been addressed in the regulation.

**Ron Cuzze:** If I am reading this correctly, it says an appointing authority shall not require or allow an employee to take more than twelve hours of furlough leave in a workweek. Not more than. It somewhat addresses it, but I still don't believe that it fully addresses this issue. We are not here to dictate that they are not going to have their forty-eight hours a year, or how it is to be done we are just asking that it be worded a little easier. That has been our request each time.