

**ADOPTED EMERGENCY REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. E001-21A

**The following document is an emergency regulation submitted
by the agency on 01/07/2021**

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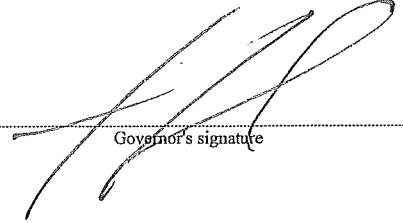
FOR EMERGENCY
REGULATIONS ONLY

Effective date January 7, 2021

Expiration date May 6, 2021
~~March 31, 2021~~

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Agency Department of Administration
Division of
Human Resource
Management



Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action Adoption of emergency regulation to bring Chapter 284 of the Nevada Administrative Code into alignment with A.B. 3 of the 31st Special Session of the Nevada Legislature.

Authority citation other than 233B §1, NRS 284.065, 284.155 and A.B. 3 of the 31st Special Session of the Nevada Legislature.

Notice date November 19, 2020 (agenda)

Date of Adoption by Agency

Hearing date December 4, 2020

December 4, 2020

ACTION – ADOPTION OF EMERGENCY REGULATION

NAC REGULATION

Section 1. Furlough leave.

NEW

**NEVADA PERSONNEL COMMISSION'S
STATEMENT OF EMERGENCY**

WHEREAS, the Nevada Personnel Commission ("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 requirement for implement of the furlough on January 1, 2021 does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for adding a permanent regulation, and

2. The State anticipated receiving federal support to manage to the fiscal crisis created the COVID-19 pandemic. To date the State has not received adequate federal funding, therefore the furlough leave requirement must be implemented.

NOW THEREFORE, the Commission hereby adopts the following Emergency Regulation which shall be effective on January 1, 2021 upon the endorsement by the Governor and filing with the Secretary of State.

FOR THE COMMISSION:



KATHERINE FOX, Chairman
Nevada Personnel Commission

12/04/2020
Date

GOVERNOR'S ENDORSEMENT

I, Governor Steve Sisolak, endorse the Nevada Personnel Commission's foregoing Statement of Emergency.



STEVE SISOLAK
Governor of Nevada

1/07/2020
Date

[Text continues on next page]

EMERGENCY REGULATION

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

NEW Furlough leave.

1. *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.*

2. *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 January 1, 2021 is:*

(a) *For a full-time employee, the equivalent of 8 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 8 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 to state service 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.*

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 5, Statutes of Nevada 2020, at page 94.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
Emergency Regulations

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

This new regulation pertaining to furlough leave is necessary as a result of Assembly Bill 3 of the 31st Special Session of the Nevada Legislature. Section 131.2 of the bill requires each full-time state employee to take 48 hours of unpaid furlough leave, and part-time employees to take a proportional amount of such hours, during the period between January 1, 2021, and June 30, 2021, unless: (1) the employee's position is exempted from this requirement pursuant to section 131.4 of the bill because the employee is determined to fill a position of critical need; or (2) the employee is employed by the Department of Tourism and Cultural Affairs and has a standard workweek of 32 hours or less. Section 131.2 of the bill also requires the Personnel Commission to adopt regulations to carry out the provision of the section for the employees of the Executive Branch of the State Government.

2. A 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.

N/A pursuant to subsection 2 of NRS 233B.066.

3. The number of persons who:

- (a) Attended each hearing:**
- (b) Testified at each hearing:**
- (c) Submitted written comments:**

N/A pursuant to subsection 2 of NRS 233B.066.

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3(b):

N/A pursuant to subsection 2 of NRS 233B.066.

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.

N/A pursuant to subsection 2 of NRS 233B.066.

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.

N/A pursuant to subsection 2 of NRS 233B.066.

7. **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.**

This regulation does not have a direct economic effect on either a regulated business or the public.

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 proposed 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.**

This regulation does not overlap or duplicate any State or federal regulations.

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

The regulation does not include any provisions that are covered by any federal regulations.

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.