

LCB File No. R058-01

**PROPOSED REGULATION
OF THE DEPARTMENT OF PERSONNEL**
(This proposed regulation was previously adopted as LCB File No. T046-01)

NOTE: Matter in *italics* is new; matter within brackets [] is to be omitted.

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

Explanation of Change: This amendment, proposed by the Department of Personnel, provides a definition for "holiday premium pay."

New Section "Holiday premium pay" defined. *"Holiday premium pay" means compensation at the rate of time and one-half for hours worked on a legal holiday, except those hours subject to overtime as provided in NRS 284.180.*

Sec. 2 NAC 284.526 is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, provides that employees working more than eight hours on a holiday can receive holiday pay for hours worked on the legal holiday up to the number of hours established by an innovative work week agreement. Hours worked on a legal holiday that exceed their established work day or work week would be compensated at the rate of time and one-half.

For example:

1. An employee has an innovative work week agreement which allows him to work four ten-hour days, Monday through Thursday. A holiday occurs on a Monday and the employee works his established shift of ten hours. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis and ten hours of holiday premium pay at the rate of time and one-half for working on a holiday.
2. An employee has an innovative work week agreement which allows him to work four ten-hour days, Tuesday through Friday. A holiday occurs on a Monday and the employee is scheduled to work ten hours on his regular day off in addition to his regularly scheduled work week. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis and ten hours of pay at the rate of time and one-half for working overtime.
3. An employee has an innovative work week agreement which allows him to work four ten-hour days, Monday through Thursday. A holiday occurs on a Monday and the employee works twelve hours on the holiday and works his regularly scheduled work week. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis, two hours of overtime at the rate of time and one-half, and ten hours of holiday premium pay at the rate of time and one-half.

NAC 284.526 Computation of payments for holidays. (NRS 284.155, 284.345)

1. For the purpose of this section, "paid status" means the time an employee is working, is on leave approved pursuant to NAC 284.580 or is on leave with pay, excluding overtime hours or catastrophic leave.

2. A full-time employee working other than a standard work week is entitled to the same number of paid holidays as a full-time employee working the equivalent standard work week.

3. Except as otherwise provided in subsections 11 and 12, a full-time employee who works 40 hours per week, does not work on a holiday and is in paid status during any portion of his scheduled shift immediately before the holiday is entitled to receive 8 hours of holiday pay.

4. Except as otherwise provided in subsections 11 and 12, a full-time employee who works more than 40 hours per week or 80 hours biweekly, is not scheduled to work on a holiday and is in paid status during any portion of his scheduled shift before the holiday is entitled to receive an amount of holiday pay equal to the pay received for his average workday. The average workday of an employee is determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8. For the purposes of this subsection, a fireman assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

5. Except as otherwise provided in subsection 11 and 12, an employee ~~[who is scheduled to work on a holiday and]~~ who works any portion of ~~[his scheduled shift]~~ *the legal holiday* is eligible to receive holiday pay in the amount provided in subsection 3 or 4. ~~[The]~~ *An* employee *who has an innovative work week schedule* is entitled to earn additional holiday pay on an hour-for-hour basis for any hours worked in addition to the period represented by the holiday pay *up to the number of hours of his established workday.* ~~[if the hours are worked as part of the employee's normally scheduled shift.]~~ Any hours worked ~~[in addition to the normally scheduled shift]~~ *that exceed the established workday, under the innovative work week agreement,* do not qualify for additional holiday pay.

6. An employee who works on a holiday must be in paid status on that holiday for the amount of time which is the difference between the time represented by his holiday pay and his normal work schedule for that holiday. If the employee has not worked enough hours to be in paid status, he must use sick leave, annual leave, or compensatory time to make up the difference.

7. Except as otherwise provided in subsection 11, an employee who is scheduled to work on a holiday, but does not work, is eligible for holiday pay in the manner provided in subsection 3 or 4.

8. A full-time employee whose employment begins on a holiday is entitled to receive holiday pay in accordance with subsection 3 or 4 if he is in paid status during his scheduled shift.

9. A full-time employee whose regular schedule of work is more than 8 hours, but who has the day off because of a holiday, may use annual leave, compensatory leave, or have his schedule adjusted for the amount of time in excess of the holiday pay to which he would be entitled pursuant to subsection 3 or 4. An employee who does not elect to use annual leave or compensatory time and whose schedule is not adjusted may, with the approval of the appointing authority, be placed on a leave of absence without pay.

10. An employee working a part-time standard, nonstandard or innovative work week must be paid holiday pay if:

(a) The holiday falls on a scheduled workday; and

(b) He is in paid status during his scheduled shift immediately before the holiday or on the holiday if his employment begins on that day.

The amount of holiday pay must not exceed 8 hours but must otherwise equal what he would have been paid if there had not been a holiday.

11. An employee scheduled to work on a holiday who fails to report his absence to his supervisor or a designated representative as required by NAC 284.590 is not entitled to receive compensation for the holiday.

12. An employee whose employment is terminated:

(a) The day before the holiday is not entitled to receive compensation for the holiday.

(b) On a holiday on which he is working must be paid an amount for the holiday in proportion to the time he actually worked on the holiday. When an employee gives notice to terminate on a holiday and is not scheduled to work on the holiday, the last day worked or in paid leave status is his date of termination.

13. An employee who transfers the day before a holiday becomes an employee of record in the new agency on the holiday and is entitled to receive compensation for the holiday from the new agency. An employee who transfers from an agency at the end of a shift on a holiday is entitled to receive compensation for the holiday from the previous agency.

14. An employee whose employment is not full-time employment is entitled to be paid holiday pay as provided in subsection 10.

15. Subsections 1 to 14, inclusive, do not apply to an excluded classified employee or excluded unclassified employee. The salary of an excluded classified employee or excluded unclassified employee must not be reduced solely because a holiday occurs on a scheduled workday of that employee.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]--(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99)

Sec. 3 NAC 284.530 is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, clarifies that an employee shall receive payment for the holiday as provided for in NAC 284.526 and either time and one-half holiday premium pay or time and one-half overtime for working on the holiday. An employee is not eligible for both time and one-half holiday premium pay and time and one-half overtime pay for the hours worked on the holiday.

NAC 284.530 Compensation for working on holidays.

1. An employee is entitled to earn either holiday premium pay or overtime for actual hours worked on the legal holiday in addition to any holiday pay as provided for in NAC 284.526.

~~1~~ 2. An employee, other than an excluded classified employee or excluded unclassified employee, must receive either time and one-half cash payment or time and one-half compensatory time for holidays worked.

~~2~~ 3. An employee entitled to a cash payment pursuant to subsection 1 who works on a holiday may elect to receive compensatory time off for the holiday in lieu of any cash payment pursuant to NAC 284.526 if such an election does not exceed the limits on compensatory time imposed by NAC 284.250. All hours in excess of those limits must be paid in cash. The provisions of this subsection do not apply to a fireman who works a 24-hour shift.

[Personnel Div., Rule VIII § B part subsec. 3, eff. 8-11-73]--(NAC A by Dep't of Personnel, 7-21-89; 9-13-91; 3-23-94)