

Chapter 284 of NAC

LCB File No. E002-09

**EMERGENCY REGULATION OF THE
PERSONNEL COMMISSION**

(Effective for 120 days from July 1, 2009)

**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 Regulations, which relate to the implementation of furlough leave as set forth in SB433 of the 2009 Legislature (75th Session); and

WHEREAS, the Commission finds that an emergency exists insofar as:

1. The implementation of a furlough leave program for State employees must begin on July 1, 2009, which does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for adopting new permanent regulations as guidelines for the Department of Personnel and affected State agencies, and
2. Due to the need for regulations to guide the Department of Personnel and affected State agencies in implementing furloughs throughout State service in a consistent and equitable manner in order to avoid the application of inconsistent policies and procedures and costs associated therewith, the Commission believes that it is in the best interests of the State to adopt these Emergency Regulations.

NOW THEREFORE, the Commission hereby adopts the following Emergency Regulations which shall be effective starting July 1, 2009.

**EMERGENCY REGULATION OF THE
PERSONNEL COMMISSION**

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

New Section. Unpaid furlough leave.

1. Except as provided for in section 5 of Senate Bill 433 of the 2009 Legislative Session, every employee must take unpaid furlough leave. An employee shall not be required to take any more or less unpaid furlough leave than required by statute if he moves from one position to another. A new employee in state service will only be responsible for the proportional number of hours or days of unpaid furlough leave remaining in the fiscal year. The hours or days required of the employee cannot be adjusted due to salary savings for the position.

2. To the extent practicable, a supervisor and employee shall work together to develop a schedule in which unpaid furlough leave is taken. If a schedule cannot be agreed upon, a supervisor may direct an employee to take unpaid furlough leave on a specific day and/or at a specific time, due to business necessity.

3. In no case will more than 8 hours of unpaid furlough leave be allowed in a pay week.

4. A full-time classified employee shall use 8 hours of unpaid furlough leave each month and a part-time classified employee shall use the proportional full-time equivalency of unpaid furlough leave each month, unless:

a. The employee's appointing authority files a plan for the employee to use an alternate schedule of unpaid furlough leave during different periods of the year, due to workload demands, and

b. The plan is approved in advance by the Director and the Director of the Department of Administration or their designated representatives in the executive branch of government, or

c. The plan is approved in advance by the chief fiscal officer of the institution in the case of employees in the Nevada System of Higher Education.

In no case will an employee be required to use more unpaid furlough leave than the maximum set forth for the employee in Senate Bill 433.

5. There is no cash value to unpaid furlough leave. If an employee leaves state service and has taken more than the equivalent of 8 hours of unpaid furlough leave per month, the employee will not be reimbursed the difference.

6. Each appointing authority shall develop a policy to define the minimum increment of unpaid furlough leave to be taken by its classified employees. The policy may specify different increments of time for its divisions, locations, and/or work groups due to business necessity. The appointing authority shall disseminate the policy to all employees that are subject to the furlough.

7. In no case will overtime, standby pay, added regular time, or call back pay be allowed in the same pay period as unpaid furlough leave, unless approved in advance by the Director and the Director of the Department of Administration or their designated representatives in

the executive branch of government or by the chief fiscal officer of the institution in the case of employees in the Nevada System of Higher Education.

8. Unpaid furlough leave will be counted as time worked for the purpose of determining eligibility under the Family and Medical Leave Act (FMLA). Unpaid furlough leave taken during the time an employee is on FMLA qualifying leave will not be counted against an employee's 12-week or 26-week FMLA entitlement.

FOR THE COMMISSION:

DATED: June 29, 2009

/s/
CLAUDETTE ENUS, Chairperson
Nevada Personnel Commission

GOVERNOR'S ENDORSEMENT

I, Governor Jim Gibbons, endorse the Nevada Personnel Commission's foregoing Statement of Emergency.

DATED: 7/1/09

/s/
JIM GIBBONS
Governor of Nevada

**NOTICE OF ADOPTION OF EMERGENCY REGULATION
LCB File No. E002-09**

The Personnel Commission adopted emergency regulations assigned as LCB File No. E002-09 which pertains to chapter 284 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

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 regulation and notice 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 Personnel 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
Legislative Building 401 S. Carson St Carson City, NV 89710	Nevada State Library and Archives 100 Stewart St Carson City, NV 89701
Capitol Building Main Floor	Main branches of Nevada County Public Libraries

As a result of comments received at the workshop: No workshop was held as these are emergency regulations.

2. The number of persons who:

- (a) Attended each hearing:** Personnel Commission meeting, 22 attendees
- (b) Testified at each hearing:** Personnel Commission meeting, 1 testified
- (c) Submitted written comments:** One comment was received expressing concern that the regulation appeared to require employees of the Department of Cultural Affairs that had their hours reduced to participate in the furlough. The Department of Personnel responded that since these positions were specifically excluded in SB 433 from the furlough, that the regulation could not require them to be furloughed.

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 regulation does 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.** There were no comments taken at the Personnel Commission meeting.
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.

This regulation does 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:**

No increased cost is anticipated to the Department of Personnel with the enforcement of this regulation.

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.**

This regulation clarifies how certain aspects of SB 433 of the 2009 Legislative Session will be implemented.

8. **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.

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 this regulation.

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?**

This regulation is specific to State government agencies and has no impact on small business.