

**SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL**

July 15, 2011

**CARSON CITY, NEVADA
And via Video Conferencing in
LAS VEGAS, NEVADA**

Attendees in Carson City:

Teresa Thienhaus, Director, DOP
Shelley Blotter, Division Administrator, DOP
Mark Evans, Supervisory Personnel Analyst, DOP
Peter Long, Division Administrator, DOP
Denise Woo-Seymour, DOP
Norma Mallett, DHHS/MHDS
Amy Davey, DOP
Angelica Gonzalez, DOP
Mark Teska, DPS
Renee Travis, DOA
Diana Roder, DOE
Carrie Hughes, DOP
Conni Valley, DOE
Kelly Munoz, DOF
Ron Bratsch, AFSCME
Priscilla Maloney, AFSCME
Dave Olsen, DOT
Jenny Hawkins, DOT
Salli Herbert, DCA
Joan Dinning, DOP

Attendees in Law Vegas:

Larry Hamilton, UNLV
Kalora Snyder, CRC
Brenda Haymore, CRC
Walter Shupe, CRC
Sandra Owens, DOP

Shelley Blotter: Opened the meeting at 9:00 a.m. and welcomed everyone. She asked everyone in attendance to sign the sign-in sheet and stated the purpose of the workshop was to solicit comments from affected parties for proposed regulations for permanent adoption. These regulations will be considered at a future Personnel Commission Meeting. Our next Personnel

Commission Meeting is scheduled for September 28, 2011. If the regulation at that meeting is adopted by the Personnel Commission, it will go into effect when approved by the Legislative Commission and filed with the Secretary of State, which is approximately 40 days after the adoption by the Personnel Commission. At this time, I am going to ask Mark Evans to summarize the changes to the Furlough Regulation and then we will accept comments.

Mark Evans: My name is Mark Evans, and I am a Supervisory Personnel Analyst for the Department of Personnel. Our first regulation concerns unpaid furlough leave and the language presented today is the same as what was included in the emergency regulation. Senate Bill 505 was passed during the 2011 Legislative Session and it requires all State employees to take 48 hours of furlough leave in both fiscal year 2012 and fiscal year 2013. The regulation requires that employees take a minimum amount of furlough hours by the end of each quarter. Employee, can however, exceed the quarterly minimum with management approval as long as they do not exceed the maximum furlough requirement for the fiscal year or take more than 8 hours in a work week.

Part-time employees are required to take a proportional amount of furlough hours, and the regulation does not make a distinction between classified and unclassified employees.

Are there questions or comments?

Shelley Blotter: I'll just provide one bit of information before we get started. And that is, at the Personnel Commission Meeting where we adopted the Emergency Regulation, a number of comments were received related to the limitation of eight hours of furlough rather than allowing for the shift length of a 10-hour or 12-hour. So I would like to let you know that I did contact the Employment Security Division, and they did advise that they continue to recommend no more than an 8-hour furlough per week due to the fact that anything greater than that increases the State's risk of paying a partial unemployment benefit. I will be providing this information to our new Director of Department of Administration.

Ron Bratsch: I did have concern about the 8-hour work week because a lot of the people that work for the Department of Corrections are working 12-hour shifts, and it really limits when they can take it or they have to take it in conjunction with leave.

If you have a schedule for 12-hours and we have to take eight hours every other month, how are we going to get 12 by September 30th in a two-month period -- or in a three-month period? We get scheduled our furloughs and our furloughs are one every other month, and there's no way that every one of us will get the 12 hours in the required time frame. If we get furlough in August, then October would be the next one. So if we get them in August and October, there's no way we're going to get 12 hours by the end of September.

Shelley Blotter: The Department of Corrections has filed an exception request to implement it differently than required by regulation, which is allowed. So that's already been filed to accommodate the schedule that you are referring to.

Ron Bratsch: Absolutely. But the rest of the State employees won't have that same availability because over the four-month period, they need 16. How are they going to accomplish the 12? You're forcing them to take them in the first three months: two days and then one in the last three months. So what I am trying to do is make it more fair. Maybe only call it half a year -- have a half-year guideline instead of what you have. Requiring 12 hours per quarter is not really practical.

Shelley Blotter: Their department could request the same type of exception to the implementation plan. Again, I am not discounting what you're saying. I'm just providing the information I know and will take what you're saying under consideration. But there is a vehicle for them to get that same type of usage schedule that Corrections is implementing.

Ron Bratsch: Right. And I do understand because I do work for that department. And that's my next point of concern because I do have a grievance on their process. What they've done is they schedule us into a three-day weekend, which is fine, but on July 1st, without my knowledge, they changed my furlough day from my Monday to my Friday and they put me on leave. I have a shift-trade agreement with someone, which conflicts with this, and they just told me to resolve it myself. The way I understand this regulation is they're supposed to work with us. The way I understand the NAC is they're forcing us to take leave where it says leave is suppose to be done like any other leave and none of my other leave that I know of is scheduled. It's on my behalf. So they are putting us in positions of less than any kind of authority for us -- again, a dictatorship kind of stuff. I just wanted to bring that to your attention that they're not being very cooperative with their employees, so if there's a way to tweak whatever they're doing to let them know we do have some say in it. We can't just be scheduled too bad so sad because that's how they're treating us.

Shelley Blotter: Okay. Thank you.

Ron Bratsch: Thank you.

Mark Teska: Good morning. For the record, Mark Teska, Department of Safety. Before I start, I first want to thank Shelley for taking some time earlier this week to clarify some things and go over some of the department's concerns and some of the things I'll be raising this morning. It was very helpful, and she was very accommodating to do that.

I just have a few issues on the Department of Public Safety-level that I'd like to bring forward. The first one obviously is a topic we've already heard about is the no more than eight hours in a single day, and I understand that DETR has provided some documentation that suggests that it really can't be more than that. The only suggestion that the Department of Public Safety would

make is that the Personnel Commission maybe request from DETR legal counsel or at least their administration something formal to document their concerns because we have many divisions that have 10-hour shifts. To try to coordinate that with the requirement that they take only eight hours, it requires them to change their shift for the week or use annual or comp-time or things like that, and it becomes a little more cumbersome to try to manage that, so not to belabor it, but we wanted to put it on the record.

The other suggestion the Department has is to change the overtime requirement. Currently, the regulation indicates that there cannot be any overtime work in the same pay period as a furlough without obtaining certain exceptions. The Department would suggest that because we have individuals on “no variables,” 40-hour variables, and 80-hour variables to try to manage those different schedules becomes very cumbersome even with the exception process. We would suggest that for “no variable” work week and a 40-hour variable week, no overtime in the same pay week. And then for the 80-hour variable, no overtime on the days off within the same pay period. And the reason -- the complication with the 80-hour variable work week is the statute allows the payment of overtime if an individual has an 80-hour variable schedule, if they work in excess of 8 hours in a day, even if they have not exceeded 80 hours in the pay period, the Agency may pay overtime, and this usually occurs within the Department of Public Safety because of events beyond an employee’s control. While there is a possibility for the employee to flex time off or make other arrangements, if the flex time occurs, one, we’re sort of forcing an employee to use flex time and then if we reduce a furlough to flex that time they worked over their 8-hour shift during that pay period, it then just pushes back the requirement for them to make up those additional furlough hours which makes it a challenge for scheduling and so on. And the reason that overtime is an issue with the Department of Public Safety is there are certain things that we cannot do on regular time that require overtime. For example, Highway Patrol when they do special events that’s done on an overtime basis not during a regular shift of a Trooper. Or if there are call-outs -- if a Trooper pulls over a drunk driver toward the end of their shift, they have to see that all the way through and beyond their control. Or if they see an accident, it just adds to the overtime. And because there are unscheduled events, public safety, the Amtrak crash being an example, it makes it very difficult to manage those especially when you have that exception -- or that pay-period limitation.

So those are the suggestions the Department would make on the overtime.

Shelley Blotter: When the furlough was implemented in 2009, there was discussion about Troopers paid when they staff a special event, such as Candy Dance traffic control. I believe I recall that the Troopers received time and one-half for working such an event. I know the organizers reimburse on an overtime rate so it’s assumed we would pay the employees on an overtime rate.

If we went with your suggestion in not allowing it on their days off, but an 80-hour variable, then they still wouldn’t be able to do those types of special events in their furlough week. They

would only be able to do extended hours on a day they had worked and maybe they're participating in something like a DUI checkpoint operation.

Mark Teska: that would be true --

Shelley Blotter: Okay.

Mark Teska: -- But by opening up that second week, it allows greater flexibility for scheduling these events that come up or if there is a major event and having to send resources to that, there's a lot more flexibility.

Another instance that we have is that we receive federal grant funding from various federal agencies that require us -- in order to get the grant money, it has to be overtime; they will not reimburse for straight time for these events. So DUI checkpoints or saturation patrols, in order for those to occur, it has to happen on overtime for those individual Troopers. So having the overtime restriction within the pay period then limits who can be sent and who can staff those events.

Another point that we would like to bring up is the stand-by and call-back. Those are sort of lumped in to the overtime that stand-by and call-back cannot be worked in the same pay period as a furlough. And we would argue that since stand-by and call-back aren't considered time-worked for overtime purposes that they don't need to be part of that. That in an off-week an individual could still have stand-by. We have call-back for emergencies and, so on, so that would also provide some flexibility for the department.

I believe we have only one other comment that we would make regarding the exception process. The suggestion from the Department of Public Safety is that if the circumstances have not changed from the previous exceptions that were approved that the Department be allowed to essentially just say we would like for those to continue rather than go through the administrative time to fill out new forms and send them through for approval. Many state agencies, not all, have seen a reduction in staffing and to devote that kind of time to that administrative work, we would suggest could be better spent some place else.

Shelley Blotter: Thank you. I appreciate you reiterating those concerns, and I will certainly put those into the considerations as we review this before moving forward. On the exception process, I know that these were put in as kind of safety nets to make certain the furlough wasn't being abused, and as we spoke about, the exception process because there were some changes that the Budget Division wanted new documentation, but I will bring this to their attention again.

We're going to go on to our next regulation, and Denise, you can go ahead.

Denise Woo-Seymour: Pursuant to AB 211 of the 2011 Legislative Session, the proposed amendment to NAC 284.114 adds *“gender identity or expression”* to ensure equal access and non-discrimination regarding employment with the State.

AB 211 defines *“gender identity or expression”* as: *“the gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth,”*

Are there any questions or comments?

Shelley Blotter: Okay. I don’t see anyone coming forward, so we’ll go ahead and move on to our next regulation related to compensation for working on a holiday, and Mark is going to summarize that for us.

Mark Evans: One thing I want to point out is the copy in your handout does not include a change that was made as part of a temporary regulation, and what that change in that temporary regulation deleted was the wording of “or compensate for time” (comp-time). So your handouts do not reflect the temporary regulation change. What will happen is both the changes we’re going to discuss today and the ones that we previously workshopped which are part of that temporary regulation will both be going to the Personnel Commission’s September 28th meeting as part of the permanent regulation.

But what we’re talking about specifically today is the change that was made pursuant to AB 560, which changed the rate of pay for employees who work on holidays. Employees who work on a holiday shall receive their normal rate of compensation instead of time and a half as the previous regulation allowed. The pay for working on the holiday, however, is in addition to any other pay the employee is eligible to receive, including compensation for the State holiday itself. So basically, the old regulation allowed an employee working a holiday to be paid two and a half times the regular pay, and the change means the compensation will now be two times the regular pay. Overtime worked on a State holiday will continue to be paid time and a half.

Are there any comments or questions on this regulation?

Shelley Blotter: I’ll accept comments on both the change that related to the statutory change, as well as the comp-time. So if you have comments on either of those, please feel free to come forward.

Ron Bratsch: Ron Bratsch AFSCME Local 4041. Again, the term double-time is not a true term. It’s not mentioned here. I think I showed at a previous Personnel Commission meeting that when the 4th of July occurs, my co-workers when they get Monday off and then work 40 hours, they get 48 hours of pay. I worked the 4th of July, I got Friday-Saturdays off, at the end of the week, I got 48 hours of pay. I want to know who got double-time, that’s my question and who got double-time and a half when we were getting time and a half because we’re not being compensated for the holidays anymore for working them -- being straight paid.

I'm away from my family and other people aren't. I think we should be compensated, but unfortunately, the legislature doesn't agree and neither did the Department of Personnel in introducing that language.

And further, since accrual of comp-time has been eliminated for working on a holiday, I do not have an alternative day off that I can take, so I am losing 11 days of comp-time throughout the year, so I am losing 11 days with my family that the rest of the State employees aren't losing. I would like that re-introduced back into us to have the option to grab the comp-time on those holidays because you're asking me now to give up a day with my family and you're not allowing me to have it with my family. And, like I mentioned at the Personnel Commission, I work at a prison, and it is prison. I go to prison every day. The more I work there, the more the State is taking away from what they promised me at the beginning of my job, the less I like my job. And now it is a job; it's no longer a career as far as I'm concerned. So taking away more benefits I don't think is the best way to keep us employed. I know a lot of my co-workers are looking for employment elsewhere. The only thing keeping me around is the hope that we can have 12-hour shifts starting in January. If not, you probably won't see me in another year. I appreciate your time. Thank you.

Shelley Blotter: Ron, I just wanted to thank you for taking the time to meet with us earlier to discuss some of your concerns, and we are looking into that further and will be getting back to you on some of those specifically. We are not ignoring you. It may take a little bit of time to gather the information related specifically to the comp-time piece of it and how it affects PERS. So, again, we do appreciate you meeting with us and letting us know what your concerns are.

Ron Bratsch: Thank you. I'm a little frustrated, but I do appreciate all the time that you sit down and work with us -- listening to the concerns of the employees I believe is very big. You don't have to agree with us. We just want you listen to what our concerns are and why it might be frustrating us further. Thank you for your time.

Dave Olsen: Dave Olsen from the Department of Transportation. We have some confusion on the definition of what overtime is. Some of the holidays are on a Friday. Employees work 32 hours, Monday through Thursday, and they get 8 hours of holiday pay for a holiday, so now they have 40 hours of base. If they come into work on the holiday, wouldn't that be time and a half as overtime?

Shelley Blotter: The answer is "no" because it is payment for a holiday but is not time worked. So they are receiving 40 hours of compensation, but they would not be eligible for overtime until they actually worked over 40.

Dave Olsen: So if they worked 10 hours on a holiday, after working 32 for Monday through Thursday, 2 hours of overtime, would they get 8 hours of holiday?

Shelley Blotter: I think they would end up with holiday pay that would equal the length of their shift so they'd actually get 10 hours of holiday pay and then they would get 10 hours of holiday premium pay for working on the holiday. That's the way it used to work. Now, I would think they would get 8 hours of holiday premium pay and 2 hours of time and a half.

Dave Olsen: Okay. Thank you.

Shelley Blotter: Would anyone else like to speak regarding this?

No further responses were received.

Well, again, I thank you for your attendance. I know these are concerning issues, and we take your comments seriously. We will be bringing them forward at a future Personnel Commission meeting. Thank you.

[END OF MEETING]