

**STATE OF NEVADA
PERSONNEL COMMISSION**

209 E. Musser St, Room 100, Carson City, Nevada and by
Telephone/video conference at 555 E. Washington Ave, Training Room,
Grant Sawyer Building Las Vegas, Nevada, via videoconferencing

**MEETING MINUTES (Subject to Commission Approval)
Friday, February 19, 2010**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Mr. David Read, Chairperson
Mr. Mitch Brust, Commissioner

**STAFF PRESENT IN
CARSON CITY:**

Ms. Christine S. Munro, Deputy Attorney General
Ms. Shelley Blotter, Division Administrator,
Department of Personnel

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Ms. Daryl Ann Moore, Commissioner

**STAFF PRESENT
IN LAS VEGAS:**

Ms. Teresa J. Thienhaus, Director,
Department of Personnel
Mr. Mark Anastas, Division Administrator,
Department of Personnel

I. OPEN MEETING

Chairperson David Read opened the meeting at 2:00 P.M.

II. *ADOPTION OF THE AGENDA

Chairperson Read indicated that there was just one agenda item for the meeting.

**III. *APPROVAL OF STATEMENT OF EMERGENCY AND PROPOSED EMERGENCY
REGULATION AMENDMENT**

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Sec. 1 NAC 284.614 Layoffs: Procedure

Shelley Blotter: Stated for the record the following:

The purpose of this meeting is to consider a proposed emergency regulation amendment. Procedurally emergency regulations are different than permanent regulations in several ways:

1. There is no requirement to conduct a workshop;
2. The Legislative Counsel Bureau does not perform a pre-adoption or post-adoption review;
3. The Governor approves the adopted language instead of the Legislative Commission prior to filing it with the Secretary of State; and
4. The regulation is only in effect for 120 days unless steps are taken to either permanently or temporarily adopt the regulation for a longer period of time.

The regulation amendment you are considering today was requested by the Department of Corrections to address staffing concerns they have regarding the possible closure of the Nevada State Prison.

The language that is proposed for amendment was added into NAC 284.614 in 2003 at the request of an employee association whose membership consists primarily of law enforcement personnel such as Highway Patrol Troopers, University Police Officers, and Airport Authority Officers. The argument was it was in the best interest of the State to retain its most experienced employees during a layoff if they were willing to move to another geographical location.

This amendment adds the words “geographical location” in two places within subsection 2(a) of NAC 284.614. By inserting this phrase it will no longer allow for statewide transfer into the least senior position within the department, class, and option.

So for example:

Under the proposed regulation change, when employees receive layoff notices as a result of the closing of Nevada State Prison located in Carson City, eligible employees would have the right to transfer to the position of the least senior employees within the department, class, option and geographical location as defined in NAC 284.612 which includes Carson City, Lyon, Churchill, Storey, Douglas, Mineral and Washoe counties.

This would not prevent an employee from voluntarily transferring to a vacant position outside of the geographical location if there was a vacancy. It just would not allow them to displace the least senior employee outside of the geographical location such as in Las Vegas.

Mark Anastas, Department of Personnel, Division Administrator of Recruitment and Retention is available in Las Vegas should you have any questions regarding the implementation of layoffs. Additionally, staff from the Department of Corrections is here to provide additional information regarding why this regulation amendment is necessary.

Please note that all Commissioners present today must vote in the affirmative for this to pass. Once passed, it is the intent of the Department of Personnel to obtain the Governor’s signature and file the regulation with the Secretary of State on March 2nd making that the effective date.

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Ron Cuzze: Presented, as president of the Nevada State Law Enforcement Officers Association (NSLEOA), a letter with an attached email message originally sent to Chairman Fox (See attachment B). He indicated the association he represents will block any measure to make the proposed amendment permanent.

David Read: Asked Mr. Cuzze which NRS the proposed amendment will violate if passed?

Ron Cuzze: Stated he did not have that information available at that time but would forward it to Director Thienhaus.

Jeff Muhlenkamp: Deputy Director, Department of Corrections stated he was in support of the proposed amendment to NAC 284.614. The Department of Corrections is facing the potential closure of two facilities, Nevada State Prison and Casa Grande, due to budget reductions. A total of approximately 174 positions are facing layoff. He would like to minimize disruption caused by the closure of these facilities. One of the concerns that has been stated is the loss of senior staff. It is Correction's intent to minimize this by allowing voluntary transfers. They will go through on a seniority basis and offer transfers to those that would have been impacted by the layoff. The Department is trying to avoid the anxiety of bumping rights involving all of the institutions in the state. Senior staff are less likely to be laid off due to the nature of the process. They are also trying to reduce the workload of the Department's personnel staff due to the volume of work needing to be done and it will delay the process needed to move forward. They are hoping to regionalize the process.

Mitch Brust: Asked what date will the layoffs be effective?

Jeff Muhlenkamp: Answering Mr. Brust he stated that the prison closure would have to be completed by the end of July 2010 and it would be carried out in three phases: first phase at the end of May, the second at the end of June and the third at the end of July. Casa Grande would have to be closed by the end of June.

Mitch Brust: Asked, if the amendment is not passed, how long would it take for seniority calculations to be made?

Alys Dobel: Personnel Officer II, Department of Corrections. In answer to Mr. Brust she indicated it took a total of 160 hours to calculate the seniority for 930 employees in the north. To calculate the seniority for the south and rural areas it would take approximately another 4 to 6 weeks. She explained the complexity of the seniority calculation process.

Mitch Brust: Asked, that with the regulation currently in place, will it allow senior staff to go into a position of a junior staff person, and if not approved, what other options would those individuals be entitled to?

Alys Dobel: Answered Mr. Brust, stating it disrupts the livelihood of those employees. She continued that it is not just about the workload for personnel, but, to help those employees avoid having to uproot their families. She suggested another option was to amend subsection 4 to

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designate the different divisions as their own department for the purpose of layoff similar to the Department of Health and Human Services and the Nevada System of Higher Education.

Shelley Blotter: By amending subsection 4, the Department of Correction would essentially gain the same result as they are asking for by amending subsection 2 but it would then only affect the Department of Corrections and no other departments in the state.

David Read: Asked what would happen if a facility in this geographic region is closed and are there other facilities in the geographical region for those employees to transfer to?

Alys Dobel: Answered Mr. Read, indicating there are several other institutions for which those employees can transfer to within northern geographic region.

Daryl Ann Moore: Questioned whether if the regulation was approved it would be only in affect for a 120-days?

David Read: Verified that the regulation would be in effect for 120 days but can be brought back as permanent regulation change.

Ron Cuzze: Punctuated his concern regarding the changes to subsection 4. He requested that something be included in this regulation that would ensure that any change to this regulation would not allow each institution to see themselves as an independent department for other purposes.

Shelley Blotter: Responded by indicating that subsection 4 is specific to this regulation and would not affect any other regulation.

Aldo Vennettilli: Objected to any change to the NRS code, and stated that this is going to destroy the families if made to go anywhere the department makes them go.

Mitch Brust: Verified even without a change to the current regulation employees may end up having to move to a different geographic location in order to retain their current classification.

Rick McCann: Suggested the changes seem to be more of a staffing and paperwork concern.

David Read: Stated that if he were an employee and had to be laid off he would want a chance to go anywhere in the state to keep his job.

Jeff Muhlenkamp: Agreed that this change would produce a considerable amount of work, which he doesn't consider the primary concern. The biggest issue is that it could cause nervousness and disruption across the state because of bumping. He suggested that attempting to contain those rights regionally would be less disruptive.

Mitch Brust: Asked if only subsection 4 was amended what would change from the previous request?

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Alys Dobel: Indicated it wouldn't change much; the administrative division is statewide and then there would be approximately the same institutions in the rural division, north division and south division. The major difference would be in the administrative division because when you close a prison, the administrative staff would not have rights to the positions on a statewide basis but would be limited to division.

Mitch Brust: Suggested that the most junior staff would not have the rights in either case.

Teresa Thienhaus: Clarified that it was Corrections intent to offer voluntary transfers based on vacant positions statewide.

Jeff Muhlenkamp: Stated, we do have vacancies now and with the closure of NSP would be transferring positions down south based on seniority, providing an example, a 28-year employee who wants to transfer to another facility then he would be allowed to do so. His previous position would be able to be filled by a junior staff member and the layoff rules would apply.

Teresa Thienhaus: Recognized that J. Mulenkamp would like to lessen the impact prior to closing a facility through voluntary transfers.

Alys Dobel: Asked that if we don't go with geographic location and limits, then where can they go?

Rick McCann: Stated, that it is a statewide budget, classification, and regulation, so why are we using the budget to change the workload of the state. These are state employees and deserve to have state jurisdiction.

Teresa Thienhaus: Asked which positions from your union will be directly affected?

Ron Cuzze: Indicated that his association represents 30 people from the Department of Corrections. He went on to say that even though this is at temporary change for the 120-days those employees are permanently impacted.

David Read: Stated, it appears layoffs are inevitable and we are trying to make it as equitable as possible.

Ron Cuzze: Asked, if they will be moving all the positions first before the layoffs?

David Read: State we get our direction from the Governor, the facilities will be closed.

Jeff Muhlenkamp: Indicated all transfer positions would be filled before any layoffs. At present there are 108 vacancies.

Alys Dobel: Added, of the 108 vacancies, 64 are over 6 months old and will go away on March 1st.

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Shelley Blotter: Stated that subsection 2 is unique to this (amending the NAC) situation in that it provides for transfers on a statewide basis, but that downward movement is limited to the geographical location.

Aldo Vennettilli: Reported that his association represents over 600 Correctional Officers. He suggested that the proposed amendment is premature and asked that it be held until after the special session of the legislature.

Daryl Ann Moore: Asked, that in addition to staff time is there any other costs to the state? And do employees pay the costs to relocate?

Jeff Muhlenkamp: Indicated there are costs associated with buyout costs for layoffs to some employees. After calculating the layoffs it would typically be staff with less than 4 years of service that would be laid off and senior staff would not be laid off.

Mitch Brust: Stated, there is a regulation in place for just this situation with regard to bumping rights. He indicated he wasn't convinced that a change to the regulation is necessary, and made a motion:

MOTION: Move to deny the amendment for 120-day period.
The chair not hearing a second asked for another motion.

Daryl Ann Moore: Then made the following motion:

MOTION: Move to approve for 120-day period to add the words "geographic location."
The chair not hearing a second, asked commissioners to discuss other suggestions.

David Read: He stated that the board is not in agreement and asked if a compromise of changing only subsection 4 would work, because a decision was needed today.

Daryl Ann Moore: Requested an explanation about changing only subsection 4.

Teresa Thienhaus: Question for DAG, amendment to subsection 4 is this a problem?

Christine Munro: Suggested, to be safe, put the amendment to subsection 4 on a future agenda.

David Read: Asked, being that we don't have a unanimous vote; can we put this on the agenda for March?

Christine Munro: Shared, that because this is an emergency meeting to amend a regulation, the 30 day posting requirement is waived.

Jeff Muhlenkamp: Shared, they will abide by whatever decision is made and the impact for the department will be significant for a handful of staff if not changed.

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David Read: Indicated that because there was not a unanimous vote that there will be no change to the regulation. He shared that it affects everyone, not just one department and we will try to handle this in the most equitable way possible.

IV. COMMENTS BY THE GENERAL PUBLIC- ACTION MAY NOT BE TAKEN ON THE MATTERS CONSIDERED DURING THIS PERIOD UNTIL SPECIFICALLY INCLUDED ON THE AGENDA AS AN ACTION ITEM

None

V. *ADJOURNMENT

MOTION: Move to adjourn this special meeting of the Personnel Commission
BY: Commissioner Mitch Brust
SECOND: Commissioner Daryl Ann Moore
VOTE: The vote was unanimous in favor of the motion at 2:52 PM