

**STATE OF NEVADA
PERSONNEL COMMISSION**

Carson City at the Legislative Building, Room 4100, 401 South Carson Street, and in Las Vegas at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue via videoconferencing

**MEETING MINUTES (Subject to Commission Approval)
Wednesday, September 28, 2011**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Ms. Katherine Fox, Chairperson
Mr. David Read, Commissioner
Mr. Mitch Brust, Commissioner

**STAFF PRESENT IN
CARSON CITY:**

Ms. Cameron Vandenberg, Deputy Attorney General
Ms. Shelley Blotter, Division Administrator, Department of Personnel
Mr. Peter Long, Division Administrator, Department of Personnel

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Mr. David Sanchez, Commissioner
Mr. Gary Mauger, Commissioner

**STAFF PRESENT
IN LAS VEGAS:**

Ms. Teresa J. Thienhaus, Director, Department of Personnel

I. OPEN MEETING

Chairperson Katherine Fox opened the meeting at 9:07 A.M. Welcomed Commissioner Gary Mauger to the Commission.

Commissioner Mauger: Retired Teamsters CEO and has an extensive labor background.

II. ADOPTION OF THE AGENDA Action Item

MOTION: Move to approve the adoption of the agenda.
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

III. ADOPTION OF THE MINUTES OF PREVIOUS MEETING Action Item

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MOTION: Move to approve the minutes of the 6/21/11 meeting.
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

IV. PUBLIC COMMENT NOTICE: Read into record by Chairperson Katherine Fox:

Note: No vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020) Comments will be limited to three minutes per person and persons making comment will be asked to begin by stating their name for the record and to spell their last name. The Committee Chair may elect to allow additional public comment on a specific agenda item when the item is being considered.

Mr. Glenn Marr came forward with comments pertaining to a complaint against Hearing Officer Bill Kockenmeister he made over three years ago. At that time he requested an investigation into Mr. Kockenmeister, Peter Anderson, State Forester and nothing was done. Mr. Marr feels that Mr. Kockenmeister was dishonest regarding jurisdiction. He would like this put on the agenda for next meeting.

There were no further comments.

V. APPROVAL OF PROHIBITIONS AND PENALTIES - Action Item

A. Department of Public Safety

Amy Davey, Personnel Analyst, Department of Personnel: Recommended approval of agency P & P's submitted by Department of Public Safety.

Norma Santoyo, Chief Personnel Officer, Department of Public Safety: Based on feedback, they did revise their P & P. Looked at NDOC's format and felt it was a much easier way to describe the range of discipline and better understood by their employees.

Commissioner Mauger: Questioned if employee disobeyed a lawful order; what would be legal and morally safe? Also had questions about notification by an employee to their supervisor when they are going to be late or call in sick. Questioned what maintaining a vehicle would entail.

Norma Santoyo: The department would look at the situations where an employee refused an order. She could not recall a situation where command staff has ordered an employee to do something which was illegal or unsafe. There is a procedure for the employee to use when they do not feel that following the order would be legal or safe. Clarified that each division would have own procedures and policies to cover calling in late or sick. Vehicle maintenance includes general cleanliness as well as required maintenance and servicing to maintain warrantees.

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James Wright, Deputy Director, Dept. of Public Safety: The expectation is that officers ensure required and general maintenance is done for the vehicles assigned to them.

Commissioner Brust: Questions regarding the attendance section. Specifically leaving duty without authorization or failure to report to duty. He questioned that the penalty listed may not be enough and suggested a range of 2-5.

Norma Santoyo: Open to increasing the range from 2-5.

James Wright: Agreed with increased range.

Commissioner Mauger: Had questions about unbecoming conduct and activities which are incompatible with an employee's job. How are employees held accountable for situations where they perhaps wear State of Nevada identifiable clothing and get in trouble after work and/or when they don't have any identifiable clothing and get in trouble in their off time?

Chairperson Fox: The Department would need to provide a nexus between the off duty conduct and the employees job.

Norma Santoyo: An investigation would be conducted by the Department's Office of Professional Responsibility to determine if that nexus exists.

James Wright: Due to the Department's staff living in the communities they work in, particularly in rural communities, the Department does have a need to ensure that their employees are conducting themselves responsibly even in their off time and when not wearing State of Nevada identifying clothing.

Ron Cuzze, President of Nevada State Law Enforcement Association: Overall they are in agreement with the P & P's. He said that his concern is that nowhere in this document or anywhere else does it detail what a first-line supervisor's responsibilities are in the disciplinary process. Feels the first-line supervisors need to get more involved in the disciplinary process. The first job of these supervisors is to correct behavior instead of going directly to the disciplinary process.

Chairperson Fox: Read from P & P's where indicated the duties of supervisors to correct behavior.

Norma Santoyo: Pointed out the sections that address the responsibilities of supervisors to address performance issues with their employees and the penalties to the supervisor for failure to perform these duties.

MOTION: Move to approve the Department of Public Safety's P & P's with the change of discipline ranging from 2-5 for the following:
Attendance A #6 & #8 as well as insubordination J #1.

BY: Commissioner Mitch Brust

SECOND: Commissioner David Read

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VOTE: The vote was unanimous in favor of the motion.

B. Department of Conservation and Natural Resources

Amy Davey, Personnel Analyst, Department of Personnel: Recommended approval of the Department of Conservation and Natural Resources.

Kay Scherer, Deputy Director, of Conservation and Natural Resources: Prohibitions and Penalties are new to the department and believe they will be beneficial to the department to provide clarity to employees. Worked with a committee from across the organization to develop and ensure that it fit the needs of all employees and jobs within the organization.

No public comment.

MOTION: Move to accept the P & P's as presented by the department.
BY: Commissioner David Read
SECOND: Commissioner David Sanchez
VOTE: The vote was unanimous in favor of the motion.

VI: HEARING OFFICER INTERVIEWS AND SELECTION (CLOSED SESSION MAY BE HELD TO CONSIDER CHARACTER, ALLEGED MISCONDUCT, OR PROFESSIONAL COMPETENCE OF APPLICANTS IN ACCORDANCE WITH NRS 241.030.) ACTION ITEM

Beverly Ghan, Personnel Analyst, Department of Personnel: stated the recruitment was announced on the State website on April 17, 2011 and was closed on June 30, 2011. The position was also advertised in newsletters and website of the State of Nevada Bar Association and the Clark County Bar Association. A committee of subject matter experts, organized by the Department of Personnel met on July 11, 2011 to review the 28 resumes received. At that time, 4 resumes were recommended for review today. We've asked the 4 applicants to be present today to provide a brief presentation on their qualifications. They are: Gary Pulliam; Esther Rodriguez; Paul Lamboley and Renee Mancino. Applicants not recommended were also invited today for interview, if interested. One applicant, Leonard Root has confirmed appearance for today.

A. RECOMMENDED TO THE COMMISSION FOR INTERVIEW.

Mr. Lamboley (appeared in Carson City) provided his background and answered questions by the Commission.

Ms. Renee Mancino (appeared in Las Vegas) provided her background and answered questions by the Commission.

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Mr. Pulliam (appeared in Las Vegas) provided his background and answered questions by the Commission.

Ms. Rodriguez (appeared in Las Vegas) provided her background and answered questions by the Commission.

No public comment from the North or South.

Cameron Vandenberg cautioned the Commission regarding reservist activity.

Chairperson Fox: Asked for additional comments from the Commissioners. She stated what the process overview was and thanked Commissioner Read for volunteering to be a part of the resume review process and working with the State Department of Personnel. She reiterated the minimum qualifications.

B. NOT RECOMMENDED

Chairperson Fox: Indicated that there is 1 individual in the South who was not recommended but would like the opportunity to speak to the Commission.

Mr. Root: Appeared in Las Vegas. Provided his background and stated why he feels he qualifies.

MOTION: Moved to approve Paul Lambolely as a Hearing Officer.
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

MOTION: Moved to approve Gary Pulliam as a Hearing Officer.
BY: Commissioner David Sanchez
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

Commissioner Read: Indicated he was very pleased with the quality of candidates this time.

Chairperson Fox: Thanked all of the candidates.

Chairperson Fox: Called for a break at 10:47 A.M.

The meeting reconvened at 10:59 A.M.

VII. APPROVAL OF THE PROPOSED REGULATION CHANGES TO NEVADA ADMINISTRATIVE CODE.

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A. LCB FILE #R056-10 ITEM 7A/B – PERFORMANCE FEEDBACK

Amy Davey: LCB File #R056-10 incorporates amendments to NAC 284.097, 284.470 and 284.638 as they relate to providing an employee with performance feedback. NAC 284.097 is changed only in its reference to 284.470. In NAC 284.470 language has been inserted regarding informing an employee promptly and specifically of deficiencies in their performance. This requirement is being removed from NAC 284.638, the section entitled “Warnings and written reprimands”. The movement of the language reinforces that performance feedback should be communicated to an employee in a timely manner when there is a problem, and may not necessarily require disciplinary action.

Priscilla Maloney: Think this is a very important piece of the regulations. We support the amendment as written.

MOTION: Move to approve Item 7a LCB File R056-10, specifically NAC’s 284.097; 284.470 and 284.638
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

B. LCB FILE #R007-11, SECTIONS 1-6

Amy Davey: Presented LCB File #R007-11. These temporary regulations are recommended for permanent adoption. These regulations clarify the role of the reviewing officer and the appointing authority when an employee has requested a review of a report on performance, ensure that an agency director respond to a grievance related to a report on performance, and amend associated language to provide consistency through the regulations. I am going to provide you with a brief review of the changes for each section.

NAC 284.470 is being amended to indicate that the reviewing officer’s recommendations are advisory and the final decision on the report on performance rests with the appointing authority. In the past, there has been some confusion over who has ultimate authority over the report on performance; this change makes the regulations consistent with NRS 284.340 which states that reports on performance are a “duty” of the appointing authority.

NAC 284.478 modifies language to state that a grievance about a report on performance relates to the content of the report and not the recommendation of the reviewing officer. This change reflects the advisory role of the reviewing officer and provides consistency with the changes to 284.470.

NAC 284.658 specifies that a contested report on performance can be the subject of a grievance and provides consistency with the language changed in NAC 284.470.

NAC 284.678 is being amended both to provide consistent language and to add a new provision. Existing language allows a grievance regarding a report on performance to skip anyone who was

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involved in writing or preparing it and could result in these grievances advancing directly to the Employee-Management Committee. This provision would ensure that all such grievances be submitted to the agency director and will allow the agency a final opportunity to resolve the grievance or uphold the report on performance.

NAC 284.690 and 284.695 make changes to support the consistency of language in the above mentioned regulations. Additionally, the Legislative Counsel Bureau has requested authorization to change related language in other regulations where these same terms exist to provide consistency.

Ron Cuzze: Thanked the Director for the work done to get NRS changes regarding the grievance process. Stated that he was unclear with what step in grievance procedure that the informal negotiations occurs, between steps 3 & 4 or when?

Amy Davey - During the last legislative session AB 354 was passed requiring procedures to be developed for a resolution conference. The resolution conference can be requested by employees or management after the employee has escalated the grievance to the EMC but prior to the hearing. The Department will be forwarding proposed regulations to the Commission at a future meeting for your consideration. AB 354 goes into effect as of January 1, 2012.

MOTION: Move to approve Item 7b LCB File #R007-11, Specifically NAC 284.470; 284.478; 284.658; 284.678; 284.690; 284.695 including LCB to be able to change references within in 284 consist with item B
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

C. LCB FILE #R009-11

Denise Woo-Seymour, Personnel Analyst, Department of Personnel. LCB File #R009-11, is currently a temporary regulation that the Department of Personnel is proposing as a permanent revision to NAC 284.882. The U.S. Department of Health and Human Services guidelines provide standards on issues to include, for example, cutoff testing levels and laboratories. The federal standard regarding laboratories is consistent with NRS 284.4067 that requires screening tests to be performed by a laboratory that is certified by the United States Department of Health and Human Services. However, aside from these federal standards, adopting the federal procedures may be overly burdensome in the State's drug and alcohol testing program, particularly in the rural areas. This amendment will allow the Personnel Commission to adopt procedures and supplementary standards that reflect the State's unique testing challenges while maintaining a basis for the testing program with the federal standards. This could potentially allow for testing for substances that are not on the federal controlled substance schedules but have been placed on a State of Nevada controlled substance schedule. The Department of Personnel is currently researching procedures and standards used by other public entities.

No public comment.

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MOTION: Move to approve Item 7c LCB File #R009-11, specifically NAC 284.882.
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

D. LCB FILE #R010-11

Denise Woo-Seymour: LCB File #R010-11 was previously adopted as a temporary regulation and the Department of Personnel is now proposing it for permanent adoption.

NAC 284.888. Testing on the basis of circumstances related to a motor vehicle accident as outlined in subsection 2 of NRS 284.4065, does not require following the procedures outlined in subsection 1 of NRS 284.4065. This amendment will bring NAC 284.888 into alignment with NRS 284.4065.

No public comment.

MOTION: Move to approve Item 7d LCB File #R010-11, specifically NAC 284.888.
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

E. LCB FILE #R011-11

Amy Davey: The Department of Personnel recommends permanent adoption of the temporary regulation changes to regulations for Hearing Procedures, LCB file #063-09 and NAC 284.778 regarding the use of a required form for requesting an appeal of a suspension, demotion, dismissal or involuntary transfer. This language change indicates that a request for appeal must be submitted on a form provided by the Department of Personnel.

LCB file #R063-09: Permanent classified employees may appeal a suspension, demotion, dismissal, involuntary transfer or alleged retaliation. Appeals based on alleged retaliation are required to be submitted on a form developed by the Department of Personnel. This regulation change and the change to NAC 284.778 will align this process for all employee appeals.

The recommended language in NAC 284.778 completes the references regarding use of a required form to submit an appeal for a hearing from a Hearing Officer.

No public comment.

MOTION: Move to approve Item 7e LCB File #R011-11, including sections 1 & 2.
BY: Commissioner David Read

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SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

F. LCB FILE #R012-11

Mark Evans, Supervisory Personnel Analyst, Department of Personnel: Presented the proposed regulations under LCB File No. R012-11 which include two regulation changes that pertain to compensation. Both were previously approved as temporary regulations.

NAC 284.218 Compensation for standby status was proposed by the Department of Personnel's Central Payroll Section and is recommended for adoption. The amendment removes the provision that allows compensation for standby pay to be made in the form of comp-time. Pay for standby is reportable to the Public Employees' Retirement Systems (PERS). However, this compensation may not be appropriately reported to PERS in certain situations when employees are given comp-time in lieu of cash. This regulation change will help ensure that employees' compensation is reported correctly.

NAC 284.256 Holidays: Compensation for working was also proposed by the Department of Personnel's Central Payroll Section and is recommended for permanent approval as well. This amendment removes the provision allowing for comp-time instead of pay for Holiday Premium Pay. As with standby pay, the use of comp-time for Holiday Premium Pay could result in an employee's earnings not being accurately reported to PERS. This regulation change will prevent such an error from occurring.

Our Central Payroll Manager, Adam Drost, and Brian Snyder, representative from PERS, are here to answer any questions regarding these regulations.

Commissioner Brust: Asked what type of cost is involved in this.

Adam Drost, Payroll Manager, Department of Personnel: With comp-time the expense is incurred once it is used. The liability is incurred once it is accrued. Does not include a specific cost figure. For Holiday Premium Pay, 87% of employees take pay for the hours instead of accruing comp-time. For Stand-by Pay, 84% of the time is taken for pay during this last fiscal year.

Chairwoman Fox: Asked for further explanation about when the problem occurs.

Adam Drost: Overtime is not reportable to PERS. The Holiday Premium Pay that is taken as comp-time would not get reported to PERS when an employee leaves state service and receive a comp-time payoff. This could result in an under payment to PERS.

Ron Bratsch, Rep. for Employee Association of AFSCME: Concerned with no longer allowing comp-time for standby and holiday premium pay. This regulation, along with the reduction in Holiday Premium Pay from time and one-half to straight time, provides no incentive to work the holiday and takes away another benefit. This would potentially have the effect of taking away 11 days that could have been taken off with their families. Effects primarily public safety positions as most other state employee aren't required to work on a holiday.

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Chairperson Fox: Clarified the effect of the change of statute and the regulation changes.

Commissioner Brust: Clarified that when an employee works on the holiday, that employee is paid double time.

Ron Bratsch: Explained that the injustice was that an employee that has the day off is receiving the same amount of pay as the employee that had to work the day.

Mark Evans: Explained that this regulation change does not address the amount of pay received for working on a holiday. That regulation is later in the agenda.

Ron Bratsch: Said that he would not be commenting on NAC 284.256 as that was legislatively mandated.

Shelley Blotter: This recommended amendment was based on a PERS audit. Due to the way comp-time was allowed on these two compensation types there is a possibility that the employee's retirement contribution would be incorrectly reported.

Chairperson Fox: She had previously gone through a PERS audit while working for her employer. We have an obligation that we ensure that we are properly applying PERS law to state employees.

Ron Cuzze: Understands why this regulation came out. Call-back is a PERS contributing pay. Doing it for comp-time but not call-back this is also PERS reportable.

Adam Drost: Payroll system is properly reporting call-back time. The regulation related to call-back makes no mention of the ability to accrue comp-time for that event so no regulation change was required. The event code was just expired in the system.

Ron Cuzze: Stated that some agencies are still allowing comp-time for call-back.

Mark Evans: Asked if perhaps this was within the Nevada System of Higher Education? He said he will follow up with the universities.

Ron Cuzze: He confirmed that was that case at universities both north and south.

No further public comment.

MOTION: Move to approve Item 7f LCB File #R012-11, specifically NAC 284.218 and NAC 284.256.
BY: Commissioner Mitch Brust
SECOND: Commissioners David Sanchez and David Read
VOTE: The vote was unanimous in favor of the motion.

G. LCB FILE #R021-11

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Mark Evans: LCB File No. R021-11 is the permanent regulation for unpaid furlough leave. It differs from the emergency furlough regulation based on public comments received at the regulation workshop and feedback from the Legislative Counsel Bureau. The regulation focuses on issues not addressed in Senate Bill 505 which requires State employees to take 6 days of furlough leave in fiscal year 2012 and 2013. The regulation addresses such issues as:

- The amount of furlough to be taken by employees who start after the beginning of the fiscal year;
- The appointing authorities ability to set minimum increment of furlough leave required to be taken at one time;
- The establish of a requirement that employees may not be required or allowed to take more than 12 furlough hours in a workweek;
- The need for advanced approval if an employee works overtime or added regular time in the same pay period as furlough.

Requested a change to the word “pay period” to “work week” in section 7 and that the effective date of the regulation would be 10/31/11 which coincides with the beginning of a new pay period.

No questions from Commissioners.

Shelley Blotter: Clarified for continuing employees that the 6 days works out to 4 hours per month. When trying to determine what furlough responsibility an employee would have if leaving in the middle of fiscal year, 4 hours per month can be used to make that calculation. Employees aren't required by this regulation to take it in that increment, it is simple a way of calculating the furlough requirement. This information will be posted on our website under FAQ's.

Ron Bratsch: Expressed concerns that the regulation does not represent what was in SB 505. Management in his department is not allowing employees to request furloughs in the same manner as other leave. Instead they are mandating which days, in the middle our work weeks, and 8 hour increments.

Mark Evans: Clarified that subsection 2 does not address the issues Mr. Bratsch is bringing up. It is not provided for in regulation.

Shelley Blotter: Recommended using the grievance process if there is a difference in the regulation and the way your agency is implementing the furlough.

Mr. Bratsch: Has turned in a grievance; however it was returned by EMC, stating they don't have jurisdiction over the agencies. Corrections changed his furlough day without notifying him which in turn jeopardized a shift-trade agreement that he had.

Mark Evans: Stated that this current version of the furlough regulation is different than the emergency regulation and no longer has certain benchmarks that must be met. That may change the way Corrections implements the furlough in the future.

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Ron Cuzze: His members have some of the same concerns as Mr. Bratsch in respect to shifts. Don't believe regulations are taking those that work shifts into consideration.

Mark Evans: Mr. Cuzze's concerns are addressed in subsection 6. There are no benchmarks in this regulation.

Sheri Brueggemann, Department of Public Safety: Would like to commend the Commission and the Personnel Department for working with them as closely as they did and they met all of our requests.

Pricilla Maloney: Appreciate all the work that went into subsection 6 and removing the benchmarks. Only concern under subsection 2 and 3 and that appointing may need to be educated about the intent of the regulation. She suggested tweaking to clarify what the appointing authority is required to do under subsection 2.

Mark Evans: Clarification on "May" which tells the agency that they can establish a policy to define the minimum increment and the "Shall" applies when a policy is established that employee are notified.

Pricilla Maloney: Employee feel like they should be able to provide input on the way furloughs are implemented.

David Olsen, Dept. of Transportation: Thanked the Commission for the 12-hour flexibility. Supports change request by Department of Personnel in subsection 7.

No further public comment.

MOTION: Move to approve Item 7g LCB File #R021-11, with the change of #7, sub 7, which removes pay period and inserts work week with a effect date of 10/31/11.
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

H. LCB FILE #R022-11

Mark Evans: LCB File No R022-11 makes an additional change to NAC 284.256 which we previously amended at this meeting. Pursuant to Assembly Bill 560 this amendment changes the rate of pay for an employee who works on a holiday from time and a half to the employee's normal rate of pay. The pay for working the holiday is in addition to any other pay the employee is eligible to receive including pay for the holiday itself. This regulation is currently in effect as an emergency regulation and will now become permanent.

MOTION: Move to approve Item 7h LCB File #R022-11 addresses NAC 284.256.

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BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

I. LCB FILE #R023-11

Denise Woo-Seymour: Pursuant to Assembly Bill 211 of the 2011 Legislative Session, NAC 284.114 – Gender identity or expression and non-discrimination LCB File #R023-11 proposes amendment to NAC 284.114 by adding “*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.*”

This recommended language addition to NAC 284.114 makes the regulation consistent with AB 211.

No questions by the Commission.

No public comment.

MOTION: Move to approve LCB File #R023-11 relating to NAC 284.114.
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

VIII. APPROVAL OF OCCUPATIONAL GROUP STUDY NEW/REVISED CLASS SPECIFICATIONS

Item A – Regulatory & Public Safety Occupational Group

Mary Day, Supervisory Personnel Analyst, Department of Personnel: Requests the abolishment of a class that is no longer used or necessary - Polygraph Examiner, class code 11.289 - pay grade 35.

No questions by the Commission.

No public comment.

MOTION: Move to approve Item #8A.
BY: Commissioner Mitch Brust
SECOND: Commissioner David Read
VOTE: The vote was unanimous in favor of the motion.

Item B – Medical, Health & Related Services

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Frank Steinberg, Personnel Analyst, Department of Personnel: Requests approval of Health Facilities Inspector Series and Health Facilities Inspector Series – RN Series. The proposed class specifications would separate registered nurses into their own class specification. In the remaining class specification the options were removed to make the class specification easier to work with. If specialty skills are needed, those may be included at the time of recruitment for the position.

No questions by the Commission.

No public comment.

MOTION: Move to approve Item #8B, specifically Health Facilities Inspector Series and Health Facilities Inspector Series – RN Series.
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.

Director Thienhaus stated that Commissioner Sanchez had to leave without participating in last vote.

Chairperson Fox noted the remaining items require no action from the Commission and will hear remainder of agenda without Commissioner Sanchez, even though we still have a quorum.

IX: UNCONTESTED CLASSIFICATION ACTION REPORT

Chairperson Fox: Reviewed and accepted report.

X: SPECIAL REPORTS

Mark Evans: Kockenmeister report. At a previous meeting, concerns were expressed about the timeliness of Mr. Kockenmeister's decisions and also concerns were brought up by a former employee about some of Mr. Kockenmeister's interactions with Glenn Marr. What is being provided today a copy of Glenn Marr's affidavit in support of Ty Robben's emergency motion to report Mr. Kockenmeister to appropriate authorities for judicial misconduct. The motion was denied by the district court. Also included in your packet is Mr. Kockenmeister's decision for a third reconsideration of Mr. Marr's case. Mr. Evans presented information about Mr. Kockenmeister's timeliness and made comparisons to another experienced Hearing Officer. Mr. Evan's concluded that the timeliness of Mr. Kockenmeister's decisions are within an acceptable range.

Commissioner Brust: Timeframes are from date of receipt? How soon is decision given?

Mark Evans: From date-stamped received into office. Will look into the time it is taking to issue decisions.

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Commissioner Read: Concerned about the issues that Mr. Robben and Mr. Marr continue to bring up. He noted that the Commission does not have an investigative body. Mr. Read observed that he thought that these decisions should be in a court someplace.

Cameron Vandenberg: Stated that clearly the employee or appellant have the right to review by the court of the decisions made by the Hearing Officers. It could be assumed that if the case has gone all the way through the District Court and the Supreme Court that all of those issues would have been addressed. Other issues that don't imply to a specific case that would be relevant to the Commission are the appointment of Hearing Officers. If the concerns are specific to the merits of the case, then those should be heard by the court.

Shelley Blotter: Earlier you heard that I refused to investigate Mr. Kockenmeister. The Department of Personnel takes a very hands off manner when working with the Hearing Officers because they are independent contractors. We believe that if there are concerns about the handling of the case that is the function of the courts.

XI. PUBLIC COMMENT

Note: No vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020) Comments will be limited to three minutes per person and persons making comment will be asked to begin by stating their name for the record and to spell their last name. The Committee Chair may elect to allow additional public comment on a specific agenda item when the item is being considered.

No public comment.

XII: ANNOUNCEMENT OF NEXT MEETING DATE

Shelley Blotter: November 18th for telephonic Regulation Review; December 9, 2011 and March 16, 2012.

Chairperson Fox: Requested that Mr. Sanchez be surveyed regarding the proposed date in November.

V. ADJOURNMENT

MOTION: Move to adjourn at 12:19 P.M.
BY: Commissioner David Read
SECOND: Commissioner Mitch Brust
VOTE: The vote was unanimous in favor of the motion.