

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATIONS**

The Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on Wednesday, November 22, 2017, at the Legislative Counsel Bureau, 401 S. Carson Street, Room 2135, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4412E, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulations:

<u>NAC #</u>	<u>Regulation Leadline</u>
NAC 284.544	Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation.
NAC 284.888	Request for employee to submit to screening test: Interpretation of grounds; completion of required form.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division of Human Resource Management at 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, or 555 E. Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-0034. A reasonable fee for copying may be charged. The agency's Small Business Impact Statement is attached.

This Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us
Division of Human Resource Management
website: www.hr.nv.gov
Nevada Public Notice website: www.notice.nv.gov

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to:

ALL STATE AGENCIES
ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE:

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Nora Johnson at (775) 684-0135, no later than five working days before the meeting.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will conform to the current language in NAC 284.5775. Similar language was removed in 2005 as “unnecessary and redundant Family and Medical Leave Act language.” However, the current language when read on its face appears to be in conflict with NAC 284.5775, subsection 5 of NRS 281.390 and current State of Nevada workers’ compensation practice. The amendment is intended to clarify which type of leave may be used to supplement an employee’s wages when receiving benefits for a workers’ compensation temporary total disability.

NAC 284.544 Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue sick leave during the time he or she is on leave without pay or on catastrophic leave.

2. *Except as otherwise provide in NAC 284.5775, ~~[A]~~ a* person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and:

(a) Makes the election provided in subsection 1 or 3 of NRS 281.390 is entitled to accrue sick leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Makes the election provided in subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee *is on family and medical leave for a serious health condition that prevents him or her from performing one or more of the essential functions of his or her position. Such an employee may, while he or she is on such leave, ~~[elects]~~ elect* to use his or her accrued annual leave *in lieu of being placed on leave of absence without pay.*

3. *Except as otherwise provided in NAC 284.5775, ~~[An]~~ an* employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for temporary total disability must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by paid leave. The employee accrues sick leave only for the time he or she is in paid status, excluding overtime.

4. To compute the amount of sick leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, the amount of sick leave to which the employee is entitled must be computed based on not more than 40 hours each week in each position.

5. The basis for the computation of the amount of sick leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

(Added to NAC by Dep’t of Personnel, eff. 12-17-87; A 7-14-88; 7-21-89; 8-1-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm’n by R145-05, 12-29-2005)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will clarify that the requirements outlined in subsection 1 of NRS 284.4065 (e.g., inform the employee in writing “whether the test will be for alcohol or drugs, or both”) do not apply to the situations outlined in subsection 2 of NRS 284.4065 (e.g., “has or is involved in a work-related accident, motor vehicle crash or injury”).

This amendment also makes conforming changes based on amendments made by the Nevada Legislature in 2015. At that time, the Legislature amended certain sections of existing law by changing the word “accident” to “crash,” and by adding “motor vehicle crash” when an “accident” is intended to include both a motor vehicle crash and an accidental incident of another type.

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:

- (a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;
- (b) The odor of alcohol or a controlled substance on the breath of the employee;
- (c) Observation of the employee consuming alcohol; or
- (d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to ~~[paragraph (b) of]~~ subsection 2 of NRS 284.4065.

4. For the purposes of subsection 2 of NRS 284.4065 : ~~[- as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049:]~~

- (a) “Substantial damage to property” includes, but is not limited to:
 - (1) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or
 - (2) The operation of a motor vehicle in such a manner as to cause two *crashes which cause damage to* property ~~[accidents]~~ within a 1-year period.
- (b) “Work-related accident, *motor vehicle crash* or injury” means an accident, *motor vehicle crash* or injury that occurs in the course of employment or that involves an employee on the premises of the workplace.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A by Personnel Comm’n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011; R044-15, 1-1-2016)



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | www.hr.nv.gov | Fax: (775) 684-0122

November 3, 2017

Regulation Small Business Impact Statement

Section 15 of Article 15 of the Nevada Constitution requires the Legislature to provide for a State merit system governing the employment of employees in the Executive Branch of State government and in 1969 the Legislature provided for such in NRS 284. Additionally, NRS 284.013 provides limitations to which employees of the Executive Branch are covered by NRS 284. NRS 284.065 authorizes the Personnel Commission to adopt regulations to carry out the provisions of this chapter.

Due to the limitations of the Nevada State Constitution and NRS 284, the Division of Human Resource Management staff has determined that the adoption of this proposed regulation does not affect small businesses, impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business. These regulations only impact employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in this statement was prepared properly and is accurate.

Peter Long

Peter Long, Administrator

November, 3, 2017

Date