

Personnel Commission Meeting
June 19, 2015

FOR INFORMATION ONLY

Attached is AB 388 of the 2015 Legislative Session for your reference and consideration of the emergency regulations. Additionally, two examples are included that illustrate the effect of the amendments to subsection 2 of NRS 281.145.

Assembly Bill No. 388—Assemblymen Paul
Anderson, Kirkpatrick; and Armstrong

CHAPTER.....

AN ACT relating to public employment; revising provisions governing certain leaves of absence for military duty for public officers and employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, public officers and employees who are active members of the National Guard or a reserve component of the Armed Forces of the United States are required to be relieved from their duties as a public officer or employee to serve under orders without loss of their regular compensation for a period of not more than 15 working days in a calendar year. In addition to these 15 working days of leave, such public officers and employees who are employed by the State of Nevada and whose work schedules include Saturday or Sunday are required to be relieved from their duties as a public officer or employee to serve under orders without loss of their regular compensation for an additional 24 working days in a calendar year. (NRS 281.145)

This bill changes the period during which a public officer or employee is eligible to take the specified number of days of leave of absence for military duty each year from a calendar year to a 12-month period selected by the officer's or employee's public employer. This bill requires: (1) the Personnel Commission within the Division of Human Resource Management of the Department of Administration to prescribe this 12-month period by regulation for each state agency; and (2) each political subdivision to prescribe this 12-month period for its agencies.

Under existing law, a public officer or employee who is on leave of absence for military duty receives his or her regular compensation and his or her military pay during that period of leave. With respect to a state officer or employee whose work schedule includes a Saturday or Sunday, this bill limits the officer's or employee's compensation for those additional 24 working days of leave as follows, for each hour during any such period of leave: (1) if the officer's or employee's military pay exceeds his or her regular compensation, the officer or employee receives only his or her military pay and not his or her regular compensation; or (2) if the officer's or employee's military pay does not exceed his or her regular compensation, the officer or employee receives his or her military pay and his or her regular compensation is reduced by an amount equal to his or her military pay. This bill provides that for any hours in which an officer or employee receives such compensation, the officer or employee is not entitled to receive any additional compensation for which he or she would otherwise be eligible or use any paid or certain unpaid leave. This bill also limits the use of the additional 24 working days of leave from service under any type of orders to only service under orders for training that is scheduled on a Saturday or Sunday.

Finally, this bill clarifies the terms "work schedule" and "working day" for purposes of accounting for officers' and employees' leave of absence for military duty and clarifies that the leave must be accounted for on an hourly basis instead of a daily basis.



EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 281.145 is hereby amended to read as follows:

281.145 1. Except as otherwise provided in subsection 2, any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve or the Nevada National Guard must be relieved from the officer's or employee's duties, upon the officer's or employee's request, to serve under orders *including, without limitation, orders for training or deployment*, without loss of the officer's or employee's regular compensation for a period of not more than *the number of hours equivalent to 15 working days in any ~~1 calendar year.~~ 12-month period, as prescribed in subsection 3 or 4, as applicable.* No such absence may be a part of the *officer's or employee's* annual vacation provided for by law.

2. ~~{Any}~~ *In addition to the leave authorized pursuant to subsection 1, any public officer or employee of the State or any agency thereof whose work schedule includes Saturday or Sunday and who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve or the Nevada National Guard must be relieved from the officer's or employee's duties, upon the officer's or employee's request, ~~{to serve under orders without loss of the officer's or employee's regular compensation}~~ for a period of not more than ~~{39}~~ *the number of hours equivalent to 24 working days in any ~~1 calendar year.~~ 12-month period, as prescribed in subsection 3, to serve under orders for training that is scheduled on a Saturday or Sunday, including, without limitation, monthly and annual training.* No such absence may be a part of the *officer's or employee's* annual vacation provided for by law. *An officer or employee is not entitled to receive his or her regular compensation for any hours in a working day in which the officer or employee serves under orders for training pursuant to this subsection if his or her military pay for the service is equal to or exceeds his or her regular compensation for those hours. If the officer's or employee's military pay does not exceed his or her regular**



compensation for those hours, the officer or employee is entitled to receive, in addition to his or her military pay for those hours, the difference between the regular compensation that the officer or employee would have otherwise received as an officer or employee and his or her military pay for those hours. An officer or employee is not entitled to:

(a) Receive any other compensation for which he or she would otherwise be eligible, including, without limitation, compensation pursuant to NRS 284.358; or

(b) Use any annual leave, compensatory time or other paid leave or any unpaid leave that is required as a result of statewide economic conditions,

↳ for any hours for which the officer or employee receives compensation pursuant to this subsection.

3. The Personnel Commission created by NRS 284.030 shall adopt regulations prescribing for each agency of the State the 12-month period during which an officer or employee of the agency is eligible to take the number of working days of leave set forth in subsections 1 and 2.

4. A political subdivision shall establish the 12-month period during which an officer or employee of an agency of the political subdivision or an agency thereof is eligible to take the number of working days of leave set forth in subsection 1.

5. As used in this section:

(a) "Work schedule" means the working days that an officer or employee is regularly assigned to work. The term does not include, without limitation, any temporary change in assigned working days unless the change becomes permanent.

(b) "Working day" means a period of work consisting of the number of hours that a public officer or employee is regularly scheduled to work. The term does not include, without limitation, overtime, or any time in which the officer or employee is on standby status or has been called back to work during his or her scheduled time off.

Sec. 2. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2015, for all other purposes.



AB 388 Examples

EXAMPLE #1 MILITARY PAY FOR TRAINING IS LESS THAN STATE PAY

EXAMPLE: If an officer or employee's State compensation is \$16.29 per hour and the employee reports for military training for two work days (Saturday and Sunday), the two 8-hour days of compensation would equal \$260.64. If the same employee was a Guard/Reserve member in the lowest enlisted rank (E-1), with less than 2-years' time in service, the drill pay for both days of the weekend would total \$204.20. Under this scenario, the employee's State compensation exceeds the employee's Military/Drill pay. The State compensation of \$260.64 would be reduced by the amount of Military/Drill pay totaling \$204.20. The employee would keep his Military/Drill pay totaling \$204.20 and the Agency would complete a manual adjustment using the Special Pay/Time Adjustment Sheet reducing the State pay by \$204.20.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	TOTAL HRS	TOTAL PAY
Paid Regular Time	RDO	RDO	8.00	8.00	8.00				
Paid Military Training Leave						8.00	8.00		
			8.00	8.00	8.00	8.00	8.00	40.00	\$651.60
								Subject to leave accrual	Subject to retirement contributions

	STATE PAY	MILITARY PAY	TOTAL PAY
MILITARY TRAINING DIFFERENTIAL	\$260.64	\$204.20	
	-\$204.20		
	\$56.44	\$204.20	\$260.64

AB 388 Examples

EXAMPLE #2 MILITARY PAY FOR TRAINING IS GREATER THAN STATE PAY

EXAMPLE: If an officer or employee's State compensation is \$12.29 per hour and the employee reports for military training for two work days (Saturday and Sunday), the two 8-hour days of compensation would equal \$196.64. If the same employee was a Guard/Reserve member in the lowest enlisted rank (E-1), with less than 2-years' time in service, the drill pay for both days of the weekend would total \$204.20. Under this scenario, the employee's State compensation does not exceed the employee's Military/Drill pay. Their State compensation of \$196.64 would be reduced by \$196.64. The employee would keep his Military/Drill pay totaling \$204.20 and the Agency would complete a manual adjustment using the Special Pay/Time Adjustment Sheet reducing the State pay by \$196.64.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	TOTAL HRS	TOTAL PAY
Paid Regular Time	RDO	RDO	8.00	8.00	8.00				
Paid Military Training Leave						8.00	8.00		
			8.00	8.00	8.00	8.00	8.00	40.00	\$491.60
								Subject to leave accrual	Subject to retirement contributions

	STATE PAY	MILITARY PAY	TOTAL PAY
MILITARY TRAINING DIFFERENTIAL	\$196.64	\$204.20	
	-\$196.64		
	\$0.00	\$204.20	<u>\$204.20</u>

**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 Regulation, which relates to military leave with pay;

WHEREAS, the Commission finds that an emergency exists insofar as the need for swift action resulting from the implementation of the 12-month period for each agency during which an officer or employee of the agency is eligible to take military leave on July 1, 2015 does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for amending a permanent regulation;

NOW THEREFORE, the Commission hereby adopts the following Emergency Regulation which shall be effective on July 1, 2015 upon the endorsement by the Governor and filing with the Secretary of State.

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EMERGENCY REGULATION

LCB File No. R138-13 *Military leave with pay. (NRS 281.145, 284.065, 284.345)*

~~1. In accordance with NRS 281.145 and subsections 2 and 3:~~

~~(a) If a public officer or employee has a work schedule that does not include any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 15 working days of military leave with pay in a calendar year to serve under orders; and~~

~~(b) If a public officer or employee has a work schedule that includes any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 39 working days of military leave with pay in a calendar year to serve under orders.~~

~~2. If the work schedule of a public officer or employee is changed in a calendar year from including any portion of Saturday or Sunday to not including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 15 working days of military leave with pay after the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year.~~

~~3. If the work schedule of a public officer or employee is changed in a calendar year from not including any portion of Saturday or Sunday to including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 39 working days of military leave with pay for the calendar year from the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year or more than 15 working days of military leave with pay before the effective date of the change. If the public officer or employee took more than 15 working days of military leave to serve under orders before the effective date of the change to the work schedule, military leave with pay must not be granted retroactively for those working days.~~

~~4. As used in this section and NRS 281.145, the Commission will interpret:~~

~~(a) "To serve under orders" to mean to perform military service pursuant to orders issued by the appropriate military authority, including, without limitation, orders for deployment and any orders to complete training.~~

~~(b) "Work schedule" to mean a public officer's or employee's regularly assigned schedule of work. The term does not include any short term changes to a schedule, overtime, standby status or instances where the public officer or employee is called back to work during his or her scheduled time off, unless the change becomes part of his or her regularly assigned schedule.~~

~~(c) "Working day" to mean a period of work consisting of the number of hours a public officer or employee is regularly scheduled to work. The term does not include overtime, standby status or instances where the public officer or employee is called back to work during his or her scheduled time off.]~~

For the purposes of subsection 1 and 2 of NRS 281.145, a calendar year will be used for all State agencies except for the Office of the Military. The Office of the Military will use the federal fiscal year beginning on October 1 for this purpose.

(Added to NAC by Personnel Comm'n by R138-13, eff. 6-23-14)

FOR THE COMMISSION:

KATHERINE FOX, Chairperson
Nevada Personnel Commission

Date

GOVERNOR'S ENDORSEMENT

I, Governor Brian Sandoval, endorse the Nevada Personnel Commission's foregoing Statement of Emergency.

BRIAN SANDOVAL
Governor of Nevada

Date

**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 Regulation, which relates to the effect of military leave with pay on probationary period;

WHEREAS, the Commission finds that an emergency exists insofar as the need for swift action resulting from the implementation of the 12-month period for each agency during which an officer or employee of the agency is eligible to take military leave on July 1, 2015 does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for amending a permanent regulation;

NOW THEREFORE, the Commission hereby adopts the following Emergency Regulation which shall be effective on July 1, 2015 upon the endorsement by the Governor and filing with the Secretary of State.

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EMERGENCY REGULATION

NAC 284.448 Time not counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290) The following types of leave or temporary status do not count toward the completion of any probationary period:

1. Authorized military leave for active service, as set forth in subsection 8 of NAC 284.444.
2. Authorized military leave for training beyond the 15 paid working days in ~~any 1 calendar year, as set forth in subsection 8 of NAC 284.444.~~ *a 12-month period pursuant to NRS 281.145.*
3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his or her regular work schedule exceeds 80 hours biweekly. As used in this subsection, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.
4. Time which is served in a temporary position pursuant to NAC 284.414.
5. Any hours worked which exceed 40 in a week.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-27-92; 9-16-92; 11-16-95; 3-1-96; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004; R141-07, 1-30-2008)

FOR THE COMMISSION:

KATHERINE FOX, Chairperson
Nevada Personnel Commission

Date

GOVERNOR'S ENDORSEMENT

I, Governor Brian Sandoval, endorse the Nevada Personnel Commission's foregoing Statement of Emergency.

BRIAN SANDOVAL
Governor of Nevada

Date