

Steve Sisolak
Governor



Laura E. Freed
Director

Colleen Murphy
Deputy Director

Peter Long
Administrator

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 | <http://hr.nv.gov> | Fax: (775) 684-0122

MEMORANDUM
HR# 02-21

February 9, 2021

TO: DHRM Listserv Recipients

FROM: Peter Long, Administrator *Peter Long*
Division of Human Resource Management

SUBJECT: NOTICE OF PUBLIC HEARING – Amendment and Adoption of Regulations that Pertain to NAC 284

The regulation changes included with this memorandum are being proposed for temporary adoption at the upcoming meeting of the Personnel Commission. This meeting will be held via teleconference only. Pursuant to Governor Sisolak's Declaration of Emergency Directives 026 and 029, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, anyone planning to participate in the meeting must participate by using the teleconference number.

Friday, March 19, 2021 – 9:00 a.m.

Meeting materials are available on the Division of Human Resource Management's website at: <http://hr.nv.gov/Boards/Master Meetings Calendar/>

Teleconference Access:
Teleconference Number – 877-848-7030
Participant Code – 4277490#

Please circulate and post the attached Notice of Hearing along with the text of the proposed regulations.

PL:nj

Attachments

NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for the Temporary Adoption and Amendment
of Regulations of the Personnel Commission

The Personnel Commission will hold a public teleconference hearing to receive comments from all interested persons regarding the adoption and amendment of regulations that pertains to Chapter 284 of the Nevada Administrative Code.

Friday March 19, 2021 – 9:00 a.m.

***This meeting will be held via teleconference only. Pursuant to Governor Sisolak’s Declaration of Emergency Directives 026 and 029, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, anyone planning to participate in the meeting must participate by using the teleconference number. Meeting materials are available on the Division of Human Resource Management’s website at:**

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Participant Code – 4277490#

The following information is provided pursuant to the requirements of NRS 233B.0603:

- This regulation does not have a direct economic effect on any business or the public.
- Enforcement of this regulation will not result in an increased cost.
- To our knowledge, this regulation does not overlap or duplicate the regulations of other State or local governmental agencies.
- This regulation does not establish any new fee or increase an existing fee.

| <u>LCB File:</u> | <u>Section:</u> | <u>NAC:</u> | <u>Leadline or Description</u> |
|-------------------------|------------------------|--------------------|---------------------------------------|
| E001-21 | Section 1. | NEW | Furlough leave. |

Persons wishing to comment upon the proposed action of the Personnel Commission may participate in the public teleconference hearing or may address their comments, data, views, or arguments in written form to the Department of Administration, Division of Human Resource Management, 209 East Musser Street, Suite 101, Carson City, Nevada 89701, Attention: Michelle Garton. Written submissions must be received by the Division of Human Resource Management on or before March 19, 2021. If no person who is directly affected by the proposed action makes an oral presentation during the public teleconference hearing, the Personnel Commission may proceed immediately to act upon any written submissions.

This notice and the text of the proposed regulation is available in the State of Nevada Register of Administrative Regulations, which is prepared and published periodically by the Legislative

Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption or amendment of any regulation, the agency, if requested to do so by an interested person, either before adoption or amendment, or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or amendment, and incorporate therein its reason for overruling the consideration urged against its adoption or amendment.

This notice of hearing has been provided via electronic means to all persons on the Division's official Listserv e-mail list and posted on the following websites:

Legislative Counsel Bureau website: www.leg.state.nv.us

Nevada Public Notice website: <http://notice.nv.gov>

Division of Human Resource Management website: www.hr.nv.gov

Explanation of Proposed Change: A regulation to bring Chapter 284 of the Nevada Administrative Code into alignment with A.B. 3 of the 31st Special Session of the Nevada Legislature related to furlough leave was adopted by the Personnel Commission on December 4th as an emergency regulation and was filed with the Secretary of State, effective on January 7, 2021. The regulation requires each employee to take 48 hours of unpaid furlough leave beginning January 2, 2021 and ending June 30, 2021. The emergency regulation will expire prior to the ending date of June 30, 2021. Therefore the regulation is submitted as a temporary regulation to ensure its effectiveness through June 30, 2021. The changes indicated on the attached document (LCB File #E001-21) are intended to correct agency information in subsection 7, as well as to provide clarifying requirements.

NEW Furlough leave.

1. An appointing authority may establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by an employee of the appointing authority if the appointing authority determines that the minimum increment is necessary based on business necessity. The policy may provide different increments for employees in different divisions, locations or work groups based on business necessity. The appointing authority shall disseminate the policy to each employee under its authority who is required to take furlough leave.

2. The total number of hours of furlough leave required to be taken in a fiscal year by an employee who is initially appointed to state service after January 1, 2021 is:

(a) For a full-time employee, the equivalent of 8 hours of furlough leave for each full month remaining in the fiscal year.

(b) For a part-time employee, the equivalent of the portion of 8 hours of furlough leave for each full month remaining in the fiscal year that is proportional to the average number of hours worked by the part-time employee.

↪ If such an employee is appointed to state service on a day other than the first day of a month, the month in which the employee is appointed is not included in the calculation set forth in this subsection.

3. To the extent practicable, an employee who is required to take furlough leave and his or her supervisor shall jointly determine in advance a schedule pursuant to which the employee will take furlough leave. If, because of business necessity, such a schedule cannot be mutually agreed upon, a supervisor may direct an employee to take furlough leave on a specific day or at a specific time, or both.

4. Movement of an employee from one position to another position must not alter the amount of furlough leave required to be taken by the employee.

5. The amount of furlough leave that an employee is required to take must not be offset by any savings realized as a result of a delay in filling the position that the employee holds.

6. An appointing authority shall not require or allow an employee to take more than 12 hours of furlough leave in pay week.

7. An appointing authority shall not require or allow an employee to work additional time during the same pay week in which the employee takes furlough leave if the additional time would be:

(a) Overtime for which the employee would be entitled to be compensated; or

(b) Added regular time for work as a part-time employee.

↳ Unless any position, positions or class codes are specifically exempted by the Governor's Office or Governor's Finance Office or, in the case of the Nevada System of Higher Education, the Chief Financial Officer.

8. An employee who leaves state service will not be reimbursed for any furlough leave taken.

9. Any furlough leave taken by an employee must be considered time worked for the purpose of calculating the employee's eligibility to take leave under the federal Family and Medical Leave Act. Any furlough leave that is taken during the time in which an employee takes leave that qualifies

under the Family and Medical Leave Act will not be counted against the amount of leave which an employee is entitled to take under the Family and Medical Leave Act.

10. As used in this section, "furlough leave" means the unpaid leave required to be taken pursuant to the provisions of chapter 5, Statutes of Nevada 2020, at page 94.

LCB File No. E001-21

NEW Furlough leave.

1. An appointing authority may establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by an employee of the appointing authority if the appointing authority determines that the minimum increment is necessary based on business necessity. The policy may provide different increments for employees in different divisions, locations or work groups based on business necessity. The appointing authority shall disseminate the policy to each employee under its authority who is required to take furlough leave.

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(a) For a full-time employee, the equivalent of 8 hours of furlough leave for each full month remaining in the fiscal year.

(b) For a part-time employee, the equivalent of the portion of 8 hours of furlough leave for each full month remaining in the fiscal year that is proportional to the average number of hours worked by the part-time employee.

↪ If such an employee is appointed to state service on a day other than the first day of a month, the month in which the employee is appointed is not included in the calculation set forth in this subsection.

3. To the extent practicable, an employee who is required to take furlough leave and his or her supervisor shall jointly determine in advance a schedule pursuant to which the employee will take furlough leave. If, because of business necessity, such a schedule cannot be mutually agreed upon, a supervisor may direct an employee to take furlough leave on a specific day or at a specific time, or both.

4. Movement of an employee from one position to another position must not alter the amount of furlough leave required to be taken by the employee.

5. The amount of furlough leave that an employee is required to take must not be offset by any savings realized as a result of a delay in filling the position that the employee holds.

6. An appointing authority shall not require or allow an employee to take more than 12 hours of furlough leave in a ~~{workweek}~~ **pay week**.

7. ~~{Unless approved in advance by the Administrator of the Division of Human Resource Management and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, by the chief financial officer of the applicable institution, an}~~ **An** appointing authority shall not require or allow an employee to work additional time during the same ~~{workweek}~~ **pay week** in which the employee takes furlough leave if the additional time would be:

(a) Overtime for which the employee would be entitled to be compensated; or

(b) Added regular time for work as a part-time employee.

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8. An employee who leaves state service will not be reimbursed for any furlough leave taken.

9. Any furlough leave taken by an employee must be considered time worked for the purpose of calculating the employee's eligibility to take leave under the federal Family and Medical Leave Act. Any furlough leave that is taken during the time in which an employee takes leave that qualifies under the Family and Medical Leave Act will not be counted against the amount of leave which an employee is entitled to take under the Family and Medical Leave Act.

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MEMORANDUM

January 11, 2021

TO: Angela Hartzler, Deputy Administrator Legal Division
Legislative Counsel Bureau

FROM: Michelle Garton, Deputy Administrator

SUBJECT: Division of Human Resource Management
LCB File No. E001-21

A regulation to bring Chapter 284 of the Nevada Administrative Code into alignment with A.B. 3 of the 31st Special Session of the Nevada Legislature related to furlough leave was adopted by the Personnel Commission on December 4th as an emergency regulation and was filed with the Secretary of State, effective on January 7, 2021. The changes indicated on the attached document are intended to correct agency information in subsection 7, as well as to provide clarifying requirements.

If you have any questions regarding this matter, please contact Michelle Garton at (775) 684-0136 or mgarton@admin.nv.gov.

Attachment

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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

12/14/2020

Date