

Joe Lombardo
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STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
515 E. Musser Street, Suite 101 | Carson City, Nevada 89701
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MEMORANDUM
HR#48-24

November 8, 2024

TO: DHRM Listserv Recipients

FROM: Bachera Washington, Administrator *Bachera Washington*
Division of Human Resource Management

SUBJECT: NOTICE OF INTENT TO ACT UPON A REGULATION – Permanent
Amendment of Regulations that Pertain to NAC 284

The regulation changes included outlined in the attached Notice of Intent to Act Upon A Regulation are scheduled for proposed adoption at the Human Resources Commission meeting on December 13, 2024. The meeting will begin at 9:00 a.m. at the Nevada State Library and Archives Building, Room 110, 100 N. Stewart Street, Carson City, Nevada with videoconferencing available at the Eureka Building, 7251 Amigo Street, Suite 120, Las Vegas, Nevada.

Please circulate and post the attached *Notice of Intent to Act Upon A Regulation* along with the text of the proposed regulations.

Attachments

NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for the Permanent Amendment of
Regulations of the Human Resources Commission

The Human Resources Commission will hold a public hearing at 9:00 a.m. on December 13, 2024, at the Nevada State Library and Archives Building, Room 110, 100 N. Stewart Street, Carson City, Nevada, with videoconferencing to the Eureka Building, 7251 Amigo Street, Suite 120, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the permanent amendment of regulations that pertain to Chapter 284 of the Nevada Administrative Code.

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

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do 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>
R172-24	Sec. 1	284.5775	Temporary total disability: Use of sick leave, compensatory time, annual leave and catastrophic leave; leave of absence without pay.
	Sec. 2	284.598	Breaks in continuous service.

Persons wishing to comment upon the proposed action of the Human Resources Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Administration, Division of Human Resource Management, 515 E. 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 December 13, 2024. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Human Resources Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted or amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additionally, copies of this notice and the regulations to be adopted or amended will be available at the Division of Human Resource Management, at 515 E. Musser Street, Suite 101, Carson City, Nevada, and 7251 Amigo Street, Suite 120, Las Vegas, Nevada; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business

hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly 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 regulations 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, amendment or repeal of any regulation, the agency, if requested to do so by an interested person, either before adoption, amendment or repeal, or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, amendment or repeal, and incorporate therein its reason for overruling the consideration urged against its adoption, amendment or repeal.

This notice of hearing has been posted at the following locations:

Carson City

EICON Building, 515 E. Musser Street
Nevada State Library & Archives Building, 100 N. Stewart Street
Nevada State Capitol Building, 101 N. Stewart Street
Legislative Counsel Bureau, 401 S. Carson Street

Las Vegas

Eureka Building, 7251 Amigo Street

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
Permanent Regulations

LCB File No. R172-24

Explanation of proposed change: The amendment to NAC 284.5775, proposed by the Division of Human Resource Management in consultation with the Risk Management Division, clarifies that an employee may not receive compensation for a temporary total disability (i.e., 66 ^{2/3}% of wages) at the same time as paid family leave (i.e., 50% of wages).

The amendment to NAC 284.598 in Section 2 of this LCB File, proposed by the Department of Wildlife, will allow a seasonal employee to be rehired into a seasonal or permanent position within a year of their seasonal layoff without having a break in service.

**PROPOSED REGULATION OF THE
HUMAN RESOURCES COMMISSION**

LCB File No. R172-24

August 27, 2024

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

AUTHORITY: § 1, NRS 284.065; § 2, NRS 284.065 and 284.155.

A REGULATION relating to human resources; making an employee of the Executive Department of the State Government who is receiving benefits for a temporary total disability ineligible to take paid family leave; clarifying that a seasonal layoff does not constitute a break in continuous service if an employee is reemployed in a seasonal or permanent position within a prescribed time period; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Human Resources Commission in the Division of Human Resource Management of the Department of Administration to adopt regulations to carry out the provisions relating to the State Human Resources System. (NRS 284.065) Existing law provides that certain employees of the Executive Department of the State Government are entitled to take paid family leave for certain purposes. (NRS 284.356) **Section 1** of this regulation makes an employee who is receiving benefits for a temporary total disability ineligible to take paid family leave.

Existing law requires the Human Resources Commission to adopt a code of regulations for the classified service. (NRS 284.155) Existing regulations make the receipt of certain benefits by an employee contingent upon the amount of continuous service completed by an employee. (NAC 284.446, 284.5395, 284.5405, 284.541) Existing regulations define “continuous service” to mean service which is not broken by a separation. (NAC 284.0525) Existing regulations provide that a seasonal layoff does not constitute a break in continuous service if the employee is reemployed within 1 year after the end of the previous seasonal appointment. (NAC 284.598) **Section 2** of this regulation clarifies that, for a seasonal layoff to not constitute a break in continuous service, an employee must be reemployed in a seasonal or permanent position within 1 year after the end of the previous seasonal appointment.

Section 1. NAC 284.5775 is hereby amended to read as follows:

284.5775 1. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS *is not eligible for paid family leave pursuant to NRS 284.356. Such an employee* may:

(a) Elect to receive payment for all or part of the difference between his or her normal pay and the benefits received by:

(1) Using his or her accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;

(2) Using his or her accrued compensatory time;

(3) Using his or her accrued annual leave if he or she:

(I) 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; or

(II) Elected to use his or her accrued sick leave pursuant to NRS 281.390 and has exhausted all of his or her accrued sick leave; or

(4) Using catastrophic leave if he or she has exhausted all of his or her accrued annual leave, sick leave and compensatory time and his or her request for catastrophic leave has been approved pursuant to NAC 284.576; or

(b) Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.

2. An employee who does not have enough paid leave to make up the difference between his or her normal pay and the benefits for a temporary total disability pursuant to paragraph (a) of subsection 1 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.

Sec. 2. NAC 284.598 is hereby amended to read as follows:

284.598 The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he or she was laid off.
3. A seasonal layoff if the employee is reemployed *in a seasonal or permanent position* within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

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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 Human Resources 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. This regulation only impacts employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

A concerted effort was made to determine any economic burden. The Department has relied on the expert knowledge of Department staff. The regulation solely addresses pay for government employees so the impact is solely on government employees and agencies and no small business will be affected.

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.

Bachera Washington
Bachera Washington, Administrator

November 8, 2024
Date