

**STATE OF NEVADA
PERSONNEL COMMISSION**

Carson City at the Legislative Building, Room 3138, 401 South Carson Street, in Elko at the UNR School of Medicine, 701 Walnut Street, Griswold Hall, Room 31, and in Las Vegas at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue via videoconferencing

**MEETING MINUTES (Subject to Commission Approval)
Friday, November 18, 2011**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

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

**STAFF PRESENT IN
CARSON CITY:**

Ms. Teresa J. Thienhaus, Administrator, Division of Human Resource Management
Ms. Shelley Blotter, Deputy Administrator, Division of Human Resource Management
Mr. Peter Long, Deputy Administrator, Division of Human Resource Management
Ms. Cameron Vandenberg, Deputy Attorney General

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Mr. Gary Mauger, Commissioner

**STAFF PRESENT
IN LAS VEGAS:**

None

I. OPEN MEETING

Chairperson Katherine Fox opened the meeting at 9:13 A.M.

II. ADOPTION OF THE AGENDA Action Item

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

III. PUBLIC COMMENT Non-Action Item

November 18, 2011

Public Comment notice: Read into record by Chairperson Katherine Fox.

There were no public comments.

IV. Approval of Proposed Regulation Changes to Nevada Administrative Code, Chapter 284 – LCB File #R077-11

Mark Evans, Supervisory Personnel Analyst, Division of Human Resource Management: presents proposed regulation change to NAC 284 – LCB File #R077-11, NAC 284.210 differential rate for any qualifying shift; this regulation change is recommended for approval. The Director of the Department of Administration and representatives from the Department of Corrections are present to give additional testimony. This change will redefine period of time that qualifies for shift differential. It also limits shift differential to eight hours unless the employee works two independently qualifying shifts.

Jeff Mohlenkamp, Director of Dept. of Administration: This started as a budget initiative for the Department of Corrections to reduce their budget in line with decreasing revenues of the state; it also helps provide for consistency of the application of shift differential across state agencies. This proposal will eliminate providing shift differential in cases where an employee works a graveyard qualifying shift and then extends his shift to a day time shift. In some instances employees are receiving shift differential for whole 16 hour period and other agencies may be paying it differently. Mr. Mohlenkamp elaborates on the ramifications to NDOC. The regulation change would allow the flexibility the department currently has and sustain the 12-hour shifts it currently has; if the regulation does not pass the department would have to do a massive overhaul to their shifts. Strongly encourages approval. Also believes that these changes will bring consistency in the future. Open for questions.

Chairperson Fox; Requests clarification on shift differential; if an employee works a qualify shift that is 10 hours, would the employee receive shift differential on 8 of those hours?

Jeff Mohlenkamp; Explained that shift differential would be strictly limited to 8 hours as long as it was a qualifying shift. Tried to make the changes to the regulation as limited as possible in order to reduce the unintended consequences on other departments.

Commissioner Mauger: Believes the reduction of shift differential is another hardship on top of the other reductions such as furloughs, no step increases, no longevity pay, increased cost for health insurance and increased cost for retirement contributions and it would also deprive them of PERS contributions. Had 8 people testify (at the workshop) how this would impact them; some of the testimony was that not all employees or departments had an opportunity to comment on the changes to shift differential at the legislature; subsequently he found out that public comment was taken at the workshop.

Shelley Blotter: Explains that the regulation workshop was open for all comments; written comments were also accepted after the workshop, as well as at this meeting.

PERSONNEL COMMISSION MEETING

November 18, 2011

Commissioner Mauger: Having trouble putting his arms around this and at this time, and right now cannot vote in favor of this.

Commissioner Brust: Asks J. Mohlenkamp questions regarding an employee who works back to back qualifying shifts and what was generating the most cost savings, the time change or the limitation of 8 hours of shift differential.

Jeff Mohlenkamp: Confirmed that an employee working two back to back qualifying shifts would receive up to 16 hours of shift differential. Explains the different shifts and how this will allow the NDOC an additional hour of flexibility with less hardship to their employees. The hardship on other agencies is minimal. He has spoken to the Directors of Health and Human Services and the Department of Public Safety and they have stated that they could work with the adjusted hours proposed in the regulation and if they desired could have two shifts that would qualify for shift differential. Strongly recommends that if anything, you approve of the hour changes, otherwise NDOC will have significant headaches and levels of inconsistency along with a heavy hole within NDOC's budget.

Greg Cox, Director, Department of Corrections: Reiterates the impact to the NDOC as stated by Mr. Mohlenkamp. It would impact the current 12-hour operations; has a budget that NDOC has to live within. Modifying hours provides flexibility in shifts. The NDOC is very mission driven based on the needs of the facility. Open for questions.

Commissioner Brust: Would the hole in the budget include layoffs?

Greg Cox: Layoffs would be the least-likely thing I'd do. I wouldn't want to take anything off the table as an administrator to say what I would have to do.

Commissioner Mauger: Seems as though the employees are in a no-win situation. Are there no other avenues to explore before hitting the employees? Why keep going to the same well?

Greg Cox: Department looked at many avenues with regard to reducing the overall budget before looking at avenues that impact employees. The department made cuts that were appropriate to operate efficiently and effectively. We are not eliminating shift differential to everyone, there still will be employees that receive it.

Jeff Mohlenkamp: Explains narrowing hours that qualify. Does not believe it causes a hardship for state employees; helps NDOC with not having to change as many shifts. The second piece of this limits shift differential to 8 hours in any single shift worked. Asked for this proposal to be looked at as two different issues.

Chairperson Fox: Opens to public comment

Ronald Bratsch: North – represents AFSCME local 4041/Correctional Officer – In support of changes; Association also in support to change to 6pm to 7am – keeping morning shift the same by keeping it a 12 hour shift. Lovelock & Ely will be difficult to staff with 8 hour shifts. Savings to employees on 12 hour shifts since commute would be less.

PERSONNEL COMMISSION MEETING

November 18, 2011

Commissioner Brust: Clarified the requested change of hours from 7pm to 7am.

Jeff Mohlenkamp: No opposition to that change.

Greg Cox: No opposition to change.

Ron Cuzze: Totally against regulation change. 1. This regulation change doesn't just affect Department of Corrections; it affects NDOT workers, police dispatchers, NHP, 6 of 10 divisions of NDOC; gaming agents; university police, taxi authority. 2. Division heads he spoke with are against the change. 3. In 2011 Holiday premium pay was taken away, cost of living, step increases and now furloughs, not to mention the 2.5% pay cut. Does not see legislative intent that supports this regulation change. This is not the way to solve the budget problem for NDOC; budget reductions should be achieved in a different way.

Commissioner Mauger: Asks if Mr. Cuzze is aware of possible ramifications if it fails and the workers lose on the other end. If it passes, they still lose with the reconfiguration of shifts.

Ron Cuzze: Taken back by the whole thing. Go back to the drawing board but do not include other agencies, only NDOC. Needs two sets of regulations – one for NDOC and the other for all other agencies.

Chairperson Fox: Any comments from Elko? No. North?

Jeff Mohlenkamp: Wants to make sure the Commission understands the scope and magnitude. Department of Corrections comprises approximately 65-70% of all shift differential paid and if Department of Health and Human Services is included NDOC comprises approximately 80%.

Gene Columbus, NDOC Association: Opposes any changes as well as separating NDOC from the rest of the state as Mr. Cuzze had mentioned as an option.

Ron Cuzze: Agrees with Mr. Columbus. Would like to prefer that nobody in state government has to take any further deductions!

Chairperson Fox: We are in unprecedented financial times that the State of Nevada has been in within the last 4-5 years. Applauds employees and management for coming together for shared solutions; I think everyone is doing everything they can think of to avoid the loss of jobs. In the words of Directors Cox and Mohlenkamp, they are given a budget in which they must live and that is what they are trying to do.

Teresa Thienhaus: Clarifies how information was gathered about the impact of the proposed regulations on other agencies. Telephone calls were made to other agency heads, She personally called the head of the Veteran's Home which operates 3 shifts. Director Mohlenkamp spoke to the Director of DHHS. Agency heads reported that they could work with the proposed changes and still maintain two qualifying shifts. The impact lies with NDOC.

PERSONNEL COMMISSION MEETING

November 18, 2011

Axel James, Nevada Public Safety Association President, PORAN Vice-President, NHP Trooper: NHP is primarily federally funded. His department is running 10-hour shifts. This is clearly an issue with NDOC – troopers are opposed to this change. Agrees with Mr. Cuzze – going to impact other agencies and needs to be looked at in other ways. The rest of state agencies are functioning within their budgets. Department of Corrections budget is the one that needs to be focused on.

Chairperson Fox: Requests clarification on hours. Suggested that we should revise hours to 7pm to 7am as being the period under which the hours fall. It has also been suggested that the Commission not consider the regulation change limiting shift differential to 8 hours.

Commissioner Brust: Not a good situation for Commission to be in regarding how the budgets were built which included these regulation changes. Propose we adopt file #R077-11 with change to read hours from 7pm and 7am to avoid significant money shortfalls.

Chairperson Fox: Motion to approve regulation changes of NAC 284 LCB File #R077-11 that the hours for the qualifying period to be 7pm to 7am – motion includes the rest of the changes.

Commissioner Mauger: Seconded the motions but stated that he is not comfortable with this change at all.

MOTION: Move to approve the regulation change in LCB File #R077-11 with the change to the hours in which a qualifying shift must fall to from 7 PM – 7 AM.

BY: Commissioner Brust

SECOND: Commissioner Mauger

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

BREAK

Chairperson Fox: Reconvenes meeting

V: PRESENTATION OF COMPLAINT AGAINST PERSONNEL HEARING OFFICER BILL KOCKENMEISTER BY GLENN MARR

Chairperson Fox: Presentation complaint by G. Marr – non-action item. Chairperson Fox gives Mr. Marr 15 minutes to present his complaint.

Glenn Marr: Provided a chronology of events involving Hearing Officer Kockenmeister, the Deputy Attorney General representing his former agency, and employee representative Joe Vanacore. Mr. Marr stated that evidence was withheld in relation to his termination from state service. Additionally, Mr. Kockenmeister had stated that he would reconsider Mr. Marr's termination and later stated that he didn't have the authority to reconsider his case. Mr. Marr believes that the only reason Mr. Kockenmeister stated that he would reconsider Mr. Marr's case was that Mr. Kockenmeister's contract was up for renewal and he didn't want Mr. Marr to say negative things about him at that Personnel Commission meeting. Mr. Marr stated that he has been lied to and wants the Personnel Commission to investigate Mr. Kockenmeister and ultimately remove Mr. Kockenmeister as a Hearing Officer.

PERSONNEL COMMISSION MEETING

November 18, 2011

Chairperson Fox: Opens for questions – none.

Glenn Marr: Asked if the Commission was going to do anything or not?

Deputy Atty. General C. Vandenberg: Informs Mr. Marr that the Commission is not granted the power or duty to conduct investigations of Hearing Officers. So an investigation by the Commission won't be happening.

Glenn Marr: Asked if DAG Vandenberg had reported Mr. Kockenmeister to the Nevada Bar.

Deputy Atty. General C. Vandenberg: Responded that it was not her duty to report Kockenmeister to the Bar.

Glenn Marr: Claimed it was her responsibility.

Deputy Atty. General C. Vandenberg: Clarified what his remedy was Judicial Review and that she was not going to continue the discussion with him.

Glenn Marr: Threatened to report DAG Vandenberg to the Bar.

Deputy Atty. General C. Vandenberg: Clarified her role to advise the Commission and that she wasn't going to argue with him. She also asked if he would like to be escorted from the room by the Capitol Police

VI. UNCONTESTED CLASSIFICATION ACTION REPORT

None.

VII: SPECIAL REPORTS

Administrator T. Thienhaus introduces her new Executive Assistant Tawny Polito

VIII: Public Comment

Chairperson Fox: states that no votes will be taken; 3 minutes given to each comment.

Ty Robben: Opens by asking the Commission if 'they' are aware of the Penn State scandal; requests to be on the agenda for the next Personnel Commission meeting; speaks of crime being committed since 2008 and the Commission allowing these crimes to continue. States that this is serious business and 'we' are not going away.

Chairperson Fox: Reiterates the role of the Commission is to select hearing officers.

PERSONNEL COMMISSION MEETING

November 18, 2011

Ty Robben: Serious issues are at hand and by the Commission not doing anything is a crime.

IX: ANNOUNCEMENT OF NEXT MEETING DATE

December 9, 2011 and Friday, March 16, 2012, both meetings will take place at 9:00am

X. ADJOURNMENT

MOTION: Move to adjourn at 10:38am
BY: Commissioner Mauger
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.