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STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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MEMORANDUM
HR# 10-24

March 6, 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 with this memorandum are being proposed for amendment at the April 5, 2024, meeting of the Human Resources Commission. This meeting will be held at 9:00 a.m. at the Nevada State Library and Archives Building, Room 110, 100 North Stewart Street, Carson City, Nevada with videoconferencing to 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 April 5, 2024, at the Nevada State Library and Archives Building, Room 110, 100 North 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>
R046-22	Sec. 1		Amends Chapter 284 to add sections 2 and 3.
	Sec. 2	NEW	Succession plan; appointments.
	Sec. 3	NEW	Certification of employees who prepare succession plans.
	Sec. 4	284.058	“Eligible person” defined.
	Sec. 5	284.313	Limitation of competition in recruitment; applications.
R134-22	Sec. 1	284.126	Creation of new class, reclassification of position or reallocation of existing class.
	Sec. 2	284.3745	Refusal to examine applicant or certify eligible person: Review of action; appeal.
R141-22	Sec. 1	284.524	Reporting for work; workweeks and workdays; periods for meals and rest.

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, 209 East Musser Street, Suite 101, Carson City, Nevada 89701, until March 29, 2024, and

beginning April 1, 2024, at 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 April 5, 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 North 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, 100 North Stewart Street, Suite 200, Carson City, Nevada, until March 29, 2024, and beginning April 1, 2024, 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

Blasdel Building, 209 East Musser Street
Nevada State Library & Archives Building, 100 North Stewart Street
Nevada State Capitol Building, 101 North Stewart Street
Legislative Counsel Bureau, 401 South 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. R046-22

Explanation of proposed change: The following amendments, proposed by the Division of Human Resource Management (DHRM), will allow an agency to submit a request for the approval of a succession plan by the Administrator. Employees and the State of Nevada find value in identifying solid career paths for all employees. This process will engage staff and encourage them to stay with the State of Nevada by identifying goals and obtainable objectives. Succession planning provides agencies with the opportunity to develop career progression, without requiring employees to move to different agencies to gain experience. The succession plan program is intended to be used to hire for positions that have historically been difficult to fill, as well as for positions where outside candidates have not been successful.

Agencies that have identified an employee as exceedingly engaged and high achieving may submit a request for approval of his or her placement in a succession plan to the Administrator. The Administrator will ensure that succession plans include safeguards to maintain fairness and equity and are not discriminatory. The establishment of a succession plan will be a collaborative exercise between an agency and DHRM. The intent of these regulations is to develop and retain talent to make sure the State has the very best staff working in crucial roles, while ensuring the continuous operations of State functions and a high level of service to the community.

**PROPOSED REGULATION OF
THE HUMAN RESOURCES COMMISSION**

LCB File No. R046-22

March 1, 2024

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

AUTHORITY: §§ 1 and 4, NRS 284.065, as amended by section 72 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3562; § 2, NRS 284.065, as amended by section 72 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3562, NRS 284.155, 284.250, as amended by section 88 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3569, and NRS 284.295, as amended by section 94 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3571; §§ 3 and 5, NRS 284.065, as amended by section 72 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3562, NRS 284.155 and 284.295, as amended by section 94 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3571.

A REGULATION relating to state personnel; authorizing an appointing authority to submit to the Administrator of the Division of Human Resource Management of the Department of Administration a written request for the approval of a succession plan; authorizing, under certain circumstances, an appointing authority to submit to the Administrator a written request for the appointment of a current state employee pursuant to an approved succession plan; requiring a state employee whose duties include the preparation of succession plans to obtain certain certification from the Division; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Human Resources Commission to adopt: (1) regulations to carry out the provisions governing the State’s Human Resources System; and (2) a code of regulations for the classified service. (NRS 284.065, as amended by section 72 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3562, NRS 284.155) Existing law additionally requires, in part, that, in compliance with regulations adopted by the Commission: (1) vacancies in positions within a department or agency be filled by the promotion of employees in the classified service; and (2) eligibility for promotion be determined by the recommendation and evaluation of an appointing authority that the employee meets certain qualifications. (NRS 284.295, as amended by section 94 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3571)

Section 2 of this regulation authorizes an appointing authority to submit a written request to the Administrator of the Division of Human Resource Management of the Department of

Administration for: (1) the approval of a succession plan to prepare employees for promotion to particular positions; and (2) the appointment, under certain circumstances, of a current state employee to a position set forth in an approved succession plan. **Section 3** of this regulation requires a state employee whose duties include the preparation of succession plans to be certified by the Division in the preparation of succession plans before preparing any such plan.

Existing regulations provide that competition in recruitment is limited to applicants who meet the minimum qualifications and other criteria as specified in the publicized job announcement. (NAC 284.313) **Section 5** of this regulation provides an exception to this requirement to allow for the competition in a recruitment by a current state employee who meets the requirements of a succession plan.

Existing regulations define “eligible person” for purposes of the provisions of the Nevada Administrative Code relating to the State’s Human Resources System. (NAC 284.058) **Section 4** of this regulation amends the definition to include an employee who meets the requirements of an approved succession plan and who is approved for appointment by the Administrator.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *An appointing authority may submit to the Administrator a written request for the approval of a succession plan to prepare employees for promotion to particular positions.*

2. The succession plan must be prepared in the form prescribed by the Division of Human Resource Management.

3. Except as otherwise provided in NRS 284.305, as amended by section 2 of Senate Bill No. 87, chapter 59, Statutes of Nevada 2023, at page 285, and section 96 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3572, and NRS 284.327, as amended by section 100 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3573, if the Administrator has approved a succession plan submitted by the appointing authority pursuant to subsection 1, the appointing authority may submit to the Administrator a written request to appoint an employee to a position set forth in the succession plan. If an employee meets the requirements set forth in the succession plan, the Administrator may approve the appointment

of the employee, regardless of whether the employee meets the other minimum qualifications for the position.

Sec. 3. *Before preparing a succession plan described in section 2 of this regulation, any employee whose duties include the preparation of succession plans must be certified in the preparation of succession plans by completing the appropriate training class offered by the Division of Human Resource Management. The appointing authority and the supervisor of an employee whose duties include the preparation of succession plans are responsible for ensuring that the employee is certified in the preparation of succession plans pursuant to subsection 1 before the employee prepares a succession plan described in section 2 of this regulation.*

Sec. 4. NAC 284.058 is hereby amended to read as follows:

284.058 “Eligible person” means any person who : ~~meets the required minimum qualifications and;~~

1. Applies, *meets the required minimum qualifications*, successfully passes all phases of an examination, when required, and is placed on an appropriate eligible list; ~~or;~~
2. ~~Is;~~ *Meets the required minimum qualifications and is* eligible to be placed on a list described in paragraphs (a) to (d), inclusive, of subsection 1 of NAC 284.358 ~~or;~~ *or*
3. *Is an employee who meets the requirements of a succession plan approved pursuant to section 2 of this regulation and who is approved for appointment by the Administrator pursuant to section 2 of this regulation.*

Sec. 5. NAC 284.313 is hereby amended to read as follows:

284.313 1. Except as otherwise provided in this subsection ~~or~~ *and section 2 of this regulation*, competition in a recruitment is limited to applicants who meet the minimum

qualifications and other criteria or conditions for the class or position as specified in the publicized job announcement. The publicized job announcement may provide for the consideration of applicants who do not currently meet those minimum qualifications but who will do so by the time their names are placed on an eligible list.

2. It is the responsibility of an applicant to apply for any recruitment for which he or she is interested. Future vacancies may be filled from the results of appropriate prior recruitments.

3. Each applicant must submit an application as specified in the publicized job announcement. The application must be received not later than 5 p.m. on the closing date, as determined by the Division of Human Resource Management.

4. The incomplete or improper completion of an application that affects the ability of the Division of Human Resource Management to determine the qualifications of the applicant, including the failure to designate the locations where the applicant will work and other criteria or conditions, is cause for the rejection of the applicant.

5. If a recruitment produces a sufficient number of applicants, the Division of Human Resource Management may, as an additional phase of the process of examination, approve the obtaining of supplemental information from each applicant to assess his or her qualifications if the publicized job announcement includes notice that such supplemental information may be required. Only those applicants who are considered the most qualified, based on this assessment, may continue in the competition.

6. Except as otherwise provided in subsection 8, competition in a promotional recruitment is limited to current state employees who:

(a) Have served at least 6 months of continuous full-time equivalent service in a probationary, special disabled, emergency, provisional or permanent status, or any combination of these, in the classified service.

(b) Are working in the division, department or state service which is specified in the publicized job announcement.

7. An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer or a promotion.

8. A former incumbent of a seasonal position who was separated from state service with the status of a permanent employee may apply for a promotional recruitment up to 1 year after the day of separation even though he or she is not currently employed. The prior appointment must have been in the division, department or state service which is specified in the publicized job announcement.

9. Applications and accompanying documents are the property of the Division of Human Resource Management.



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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

March 6, 2024

Date