

Joe Lombardo
Governor



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Mandee Bowsmith
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STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
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MEMORANDUM
HR#71-23

December 12, 2023

TO: DHRM Listserv Recipients

FROM: Mandee Bowsmith, Administrator *Mandee Bowsmith*
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 January 12, 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, 100 N. Stewart Street, Room 110, 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 January 12, 2024, at the Nevada State Library and Archives Building, 100 N. Stewart Street, Room 110, 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>
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, Attention: Michelle Garton. Written submissions must be received by the Division of Human Resource Management on or before September 22, 2023. 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, 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

Bladel 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. R141-22

Explanation of Proposed Change: This amendment is in response to a recent decision out of the First Judicial District Court of the State of Nevada remanding the decision back to the Employee-Management Committee (EMC) to determine which activities performed before or after a regularly scheduled shift are compensable, however, pursuant to NRS 284.065, the authority to adopt regulations lies with the Human Resources Commission, and as such, the administrative regulation making process is appropriate to address the court's decision. This revised proposed draft of the LCB File clarifies that an employee who arrives to work early is not entitled to overtime unless it has been preapproved.

**REVISED PROPOSED REGULATION OF
THE HUMAN RESOURCES COMMISSION**

LCB File No. R141-22

November 6, 2023

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

AUTHORITY: § 1, NRS 284.065, as amended by section 72 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3562, 284.155 and 284.345.

A REGULATION relating to human resources; specifying when the work shift of certain employees in the Executive Department of the State Government begins for purposes of determining compliance with requirements relating to attendance; providing that the workday of certain employees in the Executive Department of State Government includes certain work-related activities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Human Resources Commission of the Division of Human Resource Management of the Department of Administration to adopt regulations relating to the attendance of certain state employees at work. (NRS 284.345) Existing regulations require an employee in the Executive Department of the State Government to report for a work shift on time and ready to perform the duties assigned to his or her position. (NAC 284.524) This regulation provides that, for purposes of determining whether an employee is in compliance with the requirement that an employee report for a work shift on time, the work shift of an employee who is not working remotely begins when the employee arrives at the entrance to the physical location at which the employee performs his or her duties or responsibilities. This regulation also clarifies that an employee who reports for a work shift early is not entitled to receive overtime unless the overtime is approved in accordance with certain statutory and regulatory provisions.

Existing regulations prescribe requirements relating to the workday for certain employees in the Executive Department of State Government. (NAC 284.524) This regulation provides that the workday for such an employee who is not working remotely includes the time it takes the employee to: (1) travel to and from the entrance to the physical location at which the employee performs his or her duties and responsibilities and to a location designated as his or her assigned workstation within that location; (2) conduct a mandatory pre- or post-shift briefing between arriving and departing staff; and (3) perform any other activities required by the appointing authority.

Section 1. NAC 284.524 is hereby amended to read as follows:

284.524 1. An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his or her position. *For purposes of determining whether an employee is in compliance with the requirement that an employee report for a work shift on time, the work shift of an employee who is not working remotely begins when the employee arrives at the entrance to the physical location at which the employee performs his or her duties or responsibilities. An employee who reports for a work shift early is not entitled to receive overtime unless the overtime is approved in accordance with subsection 10 of NRS 284.180 and NAC 284.242.*

2. Except as otherwise provided in this subsection, the workweek for state employees is 40 hours. A workweek of a different number of hours may be established to meet the needs of state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180.

3. *The workday for a state employee who is not working remotely begins at the time specified in subsection 1 and includes, without limitation, the time it takes the employee to:*

(a) Travel to and from the entrance to the physical location at which the employee performs his or her duties or responsibilities and to a location designated by his or her employer as his or her assigned workstation within that location;

(b) Conduct a mandatory pre- or post-shift briefing between arriving and departing staff;
and

(c) Perform any other activities required by an appointing authority.

4. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15

minutes must be granted for each 4-hour period of work and, except as otherwise provided in NAC 284.5242 and insofar as practicable, must occur in the middle of the period of work.

~~13.1~~ 5. Except as otherwise provided in subsections ~~14.1~~ 6 and ~~15.1~~ 7, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 6 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, except as otherwise provided in NAC 284.5242 and insofar as practicable, must occur in the middle of the period of work.

~~14.1~~ 6. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

~~15.1~~ 7. The requirement for a rest period does not apply to an employee who works:

(a) Directly with the inmates at a correctional institution.

(b) For the Division of Public and Behavioral Health of the Department of Health and Human Services and who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day;
and

(2) Works a straight 8-hour work shift.

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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.

Mandee Bowsmith
Mandee Bowsmith, Administrator

December 12, 2023
Date