

**PROPOSED REGULATION OF THE
HUMAN RESOURCES COMMISSION**

LCB File No. R168-24

July 18, 2024

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

AUTHORITY: §§ 1, 2 and 5 NRS 284.065, 284.155 and 284.175; § 3, NRS 284.065, 284.155 and 284.290; § 4, NRS 284.065, 284.155, 284.3621 and 284.3626.

A REGULATION relating to state human resources; eliminating the authority for a receiving agency to assume the liability for compensatory time of certain nonexempt employees; authorizing an appointing authority to waive a new probationary period for certain employees who transfer to the classified service; revising certain requirements for the use of catastrophic leave; repealing the minimum rate of pay for certain continuous employees hired before 1975; 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 to carry out the State Human Resources System. (NRS 284.065)

Existing regulations provide that if a nonexempt employee who has accrued compensatory time transfers from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the accrued compensatory time must be paid by the agency he or she is leaving, unless the receiving agency agrees in writing to assume the liability for the compensatory time and the employee concurs. (NAC 284.254)

Section 2 of this regulation eliminates the authority for a receiving agency to agree in writing to assume the liability for the compensatory time.

Existing regulations provide that an employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. (NAC 284.444) **Section 3** of this regulation provides instead that an employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period unless the new probationary period is waived in writing by the appointing authority.

Existing regulations provide that, under certain circumstances: (1) an employee who is affected by a catastrophe and has used or is about to use all of his or her leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his or her personal use after the balance of all of his or her leave has been used; and (2) an employee who wishes to donate hours to an account for catastrophic leave for use by another employee may notify his or her appointing authority on the appropriate form of his or her intent to donate the leave. Existing regulations further require a donor and his or her appointing authority to be

notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. (NAC 284.576) **Section 4** of this regulation eliminates the requirement that such requests be on an appropriate form.

Existing regulations require the appointing authority to assign numbers to employees in a sequential order and in such manner that ensures the confidentiality of the identity of employees for purposes of providing certain information to the Administrator of the Division of Human Resource Management. (NAC 284.576) **Section 4** eliminates the requirement to assign such numbers and provides instead that the appointing authority shall not provide the names of employees for purposes of providing certain information to the Administrator of the Division of Human Resource Management.

Existing regulations provide that an employee who has been continuously employed without a break in service may not have his or her step set below: (1) step 4 of any grade if his or her date of hire is before April 26, 1973; or (2) step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion. (NAC 284.179) **Section 5** of this regulation repeals this provision. **Section 1** of this regulation makes a conforming change to eliminate an internal reference to the repealed provision.

Section 1. NAC 284.172 is hereby amended to read as follows:

284.172 1. Except as otherwise provided in NAC 284.204, the following provisions govern the rate of pay which must be paid if an employee is promoted:

(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:

(1) If the employee moves one or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.

(2) If the employee moves three or more grades above his or her former grade, the employee must be placed:

(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or

(II) At the lowest step of the new grade,

↳ whichever pay is higher. ~~[and in accordance with the provisions of NAC 284.179.]~~

(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.

(c) If an employee has been demoted, he or she may not, within 1 year after the demotion, receive a promotional increase in pay that is greater than the increase which he or she would have otherwise been entitled to receive had he or she not been demoted unless the Administrator approves the promotional increase.

(d) This subsection does not apply when an employee is reemployed or reappointed to his or her former grade within 1 year after holding that grade.

2. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.

Sec. 2. NAC 284.254 is hereby amended to read as follows:

284.254 1. Except as otherwise provided in subsection 2, if a nonexempt employee who has accrued compensatory time transfers from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the accrued compensatory time must be paid by the agency he or she is leaving . ~~[- unless the receiving agency agrees in writing to assume the liability for the compensatory time and the employee concurs.]~~

2. The accrued compensatory time of an employee transferring to an exempt position must be paid by the agency the employee is leaving.

3. As used in this section, “exempt position” means a position in the classified or unclassified service that is subject to the provisions of NRS 284.148.

Sec. 3. NAC 284.444 is hereby amended to read as follows:

284.444 1. A probationary employee who transfers:

- (a) Within the same class must serve the remaining portion of the probationary period.
- (b) From one class to another class must serve a new probationary period.

2. A permanent employee must serve a trial period if he or she voluntarily transfers:

- (a) Within the same class; or
- (b) From one class to another class and such classes are comparable classes,

↳ unless the trial period is waived in writing by the appointing authority. If the appointing authority waives the trial period, the employee is entitled to the status of appointment held at the time he or she transferred.

3. Promotion to a vacant position requires a new probationary period or trial period. A promotion that results from a reclassification is governed by NAC 284.134 and 284.138.

4. Except as otherwise provided in subsection 11:

- (a) No probationary period will be required if a permanent employee is demoted.
- (b) A new probationary period will be required if a probationary employee is demoted.

5. An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.

6. A probationary employee who is reappointed must serve a new probationary period.

7. A permanent employee who is reappointed to a class:

(a) At a higher grade level must serve a trial period unless it is waived in writing by the appointing authority.

(b) At the same grade level or a lower grade level is not required to serve a trial period.

8. An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if reemployed in a different class or in a different department than that from which he or she was laid off, and the employee is subject to the provisions of subsection 8 of NAC 284.630.

9. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed in a different class or option than his or her regular position must serve a new probationary period as required by NAC 284.6018.

10. A person who is on a military leave of absence pursuant to NRS 284.359 is entitled to return to the status of appointment held at the time he or she commenced the military leave of absence. If the employee did not complete the probationary period, he or she will only be required to complete the remaining portion thereof. Upon successful completion of the probationary period, permanent status must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

11. An employee who is restored to his or her former position or class pursuant to NAC 284.462 following a promotional appointment must serve the portion of the trial period which was remaining at the time of the promotion. No probationary period is required if, pursuant to subparagraph (1) of paragraph (c) of subsection 2 of NAC 284.462, an employee is placed in a position in a class equal to or lower than the class held by the employee immediately before the promotion.

12. An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period ~~†~~, *unless the new probationary period is waived in writing by the appointing authority.* Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398 ~~†~~ *or for those employees for whom the appointing authority has waived the new probationary period pursuant to this subsection,* the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.

Sec. 4. NAC 284.576 is hereby amended to read as follows:

284.576 1. An account for catastrophic leave may be established for an employee when he or she or a member of his or her immediate family experiences a catastrophe and the employee has used all of his or her accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his or her leave may request ~~†, on the appropriate form,†~~ the transfer of leave to an account for catastrophic leave for his or her personal use after the balance of all of his or her leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

5. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his or her appointing authority ~~{on the appropriate form}~~ of his or her intent to donate the leave. The appointing authority of the employee donating the leave shall ~~{submit a copy of the form to}~~ *notify* the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be ~~{maintained in chronological order and}~~ used, one at a time as needed, according to the date in which they were received.

6. A donor and his or her appointing authority must be notified ~~{on the appropriate form}~~ when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Except as otherwise provided in this subsection, excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave. If the donor is separated from state service before the excess leave is restored pursuant to this subsection, the excess leave must be transferred to the account for catastrophic leave of the appointing authority of the donor when the donation of leave was made.

7. For each employee who donates or uses catastrophic leave, the appointing authority shall annually, or as requested by the Administrator, provide to the Administrator ~~the number assigned to each employee in accordance with subsection 8 and~~ the grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection 6, or used by each such employee.

8. The appointing authority shall ~~assign numbers to employees~~ *not provide the names of employees* for the purposes of subsection 7 ~~in a sequential order and in such a manner that ensures~~ *to ensure* the confidentiality of the identity of those employees.

9. Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

10. As used in this section, “immediate family” has the meaning ascribed to it in NAC 284.562.

Sec. 5. NAC 284.179 is hereby repealed.

TEXT OF REPEALED SECTION

284.179 Rate of pay: Minimum step for continuous employees hired before 1975. (NRS 284.065, 284.155, 284.175) An employee who has been continuously employed without a break in service may not have his or her step set below:

1. Step 4 of any grade if his or her date of hire is before April 26, 1973; or

2. Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.