

Chapter 284 of NAC

**PROPOSED TEMPORARY REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. T017-11

Scheduled to be filed with the Secretary of State on June 27, 2011

NAC 284.218 is hereby amended to read as follows:

Explanation of Proposed Change: Pay for Standby Status is reportable to the Public Employees' Retirement System (PERS). Although Central Payroll complies with this reporting requirement when this event is compensated with pay, it is not always in compliance when it is earned as accrued compensatory time off. This regulation change, proposed by the Department of Personnel, would ensure proper employee compensation reporting to PERS.

NAC 284.218 Compensation for standby status. (NRS 284.065, 284.155, 284.175)

1. A nonexempt employee in the classified service of the State is on standby status when he is:

- (a) Directed to remain available for notification to work during specified hours;
- (b) Prepared to work if the need arises;
- (c) Able to report to work within a reasonable time;
- (d) Directed by his supervisor to carry a paging device, provide a telephone number where he may be notified or provide any other acceptable means for notification; and
- (e) Allowed to use the time during which he is waiting for notification to work for his personal pursuits.

2. When a nonexempt employee in the classified service of the State who is on standby status begins the performance of his regular duties after receiving notice to work, he ceases to be on standby status and qualifies for straight time or overtime pay, whichever is applicable, for the actual time worked. Upon completion of the work, he returns to standby status for the remainder of the time he has been directed to be available to work.

3. A nonexempt employee in the classified service of the State is entitled to receive additional pay ~~[, or equivalent compensatory time off,]~~ at the rate of 5 percent of his normal rate of pay for every hour he is on standby status.

4. ~~[Cash payment is the preferred method of compensation pursuant to this section, but compensatory time off, not to exceed the maximum allowed pursuant to subsection 3 of NAC 284.250, must be granted in lieu of cash payment if the employee requests compensatory time and the agency approves the request.]~~

~~[5.]~~ Any class designated by statute as a 24-hour class does not automatically qualify for this additional pay.

[Personnel Div., Rule III § K, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-22-87; 3-23-94; R147-01, 1-22-2002)

NAC 284.256 is hereby amended to read as follows:

Explanation of Proposed Change: Holiday Premium Pay is reportable to the Public Employees' Retirement System (PERS). Although Central Payroll complies with this reporting requirement when this event is compensated with pay, it is not always in compliance when it is earned as accrued compensatory time off. This regulation change, proposed by the Department of Personnel, would ensure proper employee compensation reporting to PERS.

NAC 284.256 Holidays: Compensation for working. (NRS 284.065, 284.155, 284.175)

1. As used in this section, "holiday premium pay" means pay ~~for compensatory time~~ at the rate of time and one-half of an employee's normal rate of pay for hours designated as worked on a holiday, except those hours that are considered overtime pursuant to NRS 284.180.

2. A nonexempt employee who works on a holiday is entitled to receive holiday premium pay *or* overtime pay ~~for compensatory time~~ for the hours he works on the holiday, in addition to any holiday pay that he is entitled to be paid pursuant to NAC 284.255. ~~[A nonexempt employee who elects to receive compensatory time for the hours he works on a holiday must not exceed the limits on the accrual of compensatory time set forth in NAC 284.250.]~~

[Personnel Div., Rule VII § B part subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-21-89; 9-13-91; 3-23-94; R058-01, 9-6-2001; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.530)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
NAC 284.218 & 284.256**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel
Blasdel Building
209 E. Musser St
Carson City, NV 89701

Grant Sawyer State Office Bldg.
555 E. Washington Blvd
Suite 4401
Las Vegas, NV 89101

Nevada State Library and Archives
100 Stewart St
Carson City, NV 89701

Capitol Building
Main Floor
Carson City, NV 89701

Legislative Building
401 S. Carson St
Carson City, NV 89701

Gaming Control Board
1919 College Parkway
Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to these regulations.

A Regulation Workshop was conducted by the Department of Personnel on March 17, 2011 and a public hearing was held by the Nevada Personnel Commission on May 6, 2011.

2. The number of persons who:

- (a) **Attended each hearing:** March 17, 2011 – 21; May 6, 2011 – 40
- (b) **Testified at each hearing:** March 17, 2011 – 2; May 6, 2011 – 1
- (c) **Submitted written comments:** 3

3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were not solicited, as these regulations do not affect businesses.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Testimony from the Department of Personnel requested that the regulation revision go into effect on June 27, 2011 to coincide with the beginning of the 1st pay period of the new fiscal year; this was approved.

Testimony and a written statement were submitted from the Division of Forestry in opposition to the proposed regulations stating that the agency did not have the budget to cover the added costs that would be required by the revisions. The State Budget Director verified that additional funding would not be required; therefore, the proposed revisions were adopted without change.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

These regulations do not have a direct economic effect on either a regulated business or the public.

6. The estimated cost to the agency for enforcement of the adopted regulation:

There is no additional cost to the agency for enforcement of these regulations.

7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

These regulations do not include any provisions that are more stringent than any federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No fees are associated with these regulations.

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

These regulations are specific to State government agencies and has no impact on small businesses.

**SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL**

March 17, 2011

CARSON CITY, NEVADA
And via Video Conferencing in
LAS VEGAS, NEVADA

Attendees in Carson City:

Shelley Blotter, Division Administrator, Department of Personnel
Mark Evans, Supervisory Personnel Analyst, Department of Personnel
Peter Long, Division Administrator, Department of Personnel
Adam Drost, Central Payroll Manager, Department of Personnel
Kimberley King, Personnel Officer III, Department of Transportation
Denise Woo-Seymour, Personnel Analyst II, Department of Personnel
Carrie Hughes, Personnel Analyst, Department of Personnel
Norma Mallett, Personnel Officer III, Department of Health & Human Services-MHDS
Valerie Kneefel, Executive Assistant, Department of Personnel
Vicky Cummins, Division of Mortgage Lending
Kirsten Hettrick, State Parks
Jamie Pruneser, Rural Services
Sue Dunt, NSHE
Tracy Walters, Health Division
Kate Hinton-Burnette, DHCFP
Susie Bargmann, NDOC
Karen Caterino, Risk Management

Attendees in Las Vegas:

Mark Anastas, Division Administrator, Department of Personnel
J. C. Scarborough, Director-Administrative Operations, College of Southern Nevada
Tracy Townsend, Administrative Assistant, Department of Personnel
Rudy Lednicky, Office of the Military

Shelley Blotter:

Opened the meeting at 9:00 a.m. and welcomed everyone. She asked everyone in attendance to sign the sign in sheet and stated the purpose of the workshop was to solicit comments from affected parties with regard to a newly proposed temporary regulation. These regulations will be considered for adoption by the Personnel Commission at their May 6, 2011 meeting.

Mark Evans:

Presented Section 2, Compensation for standby status, and Section 3, Compensation for working holiday, together. Employees are compensated for working overtime, holidays, and other events as either cash or as hours into their comp time bank. If the employee chooses the latter and takes comp time off in the future, it is paid time off. As such, the hours and related wages are reported to the Public Employees' Retirement System (PERS). If an employee retires or terminates state

service with a balance in his comp bank, the bank is “cashed out” and the employee receives pay for these remaining hours.

These comp time payouts are not reported to PERS. The reason for this is overtime pay is not reported to PERS and the bulk of these comp time hours were earned by the employee working overtime. However, there is the possibility that some of these comp time hours were associated with holiday premium or standby. These events must be reported to PERS and can impact an employee’s retirement benefit. This is primarily an issue when these events occurred during an employee’s 36 highest salaried months. These months are used to determine the employee’s retirement benefit.

The Central Payroll system was tested to see if it could be modified in some way to account for these events. Unfortunately, it could not. Sections 2 and 3 would require employees to only be compensated with pay for holiday premium and standby. By doing so, there would be proper retirement reporting to PERS. Adam Drost, Central Payroll Manager, is here to answer any questions.

Shelley Blotter:

Asked for comments on NAC 284.256.

Kristen Hettrick:

State Parks, changing the holiday comp time to holiday pay would effect our budget and doing this during a budget year would so they could account for it in their budget.

Shelley Blotter:

Did you mean Holiday premium pay?

Kristen Hettrick: yes

No other comments.

Shelley Blotter: Closed the workshop.