
ASSEMBLY BILL NO. 537—COMMITTEE ON
GOVERNMENT AFFAIRS

MARCH 24, 2003

Referred to Committee on Government Affairs

SUMMARY—Revises provisions regarding state personnel.
(BDR 23-1155)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to the state personnel system; requiring certain employees to be paid for a regularly scheduled shift that falls on a holiday; requiring the Department of Personnel to adopt regulations authorizing the transfer of certain hours of the accrued sick leave of a retiring employee to an account for catastrophic leave established by the appointing authority; authorizing the use of an arbitrator for certain grievances filed by an employee; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 284.180 is hereby amended to read as follows:
2 284.180 1. The Legislature declares that since uniform salary
3 and wage rates and classifications are necessary for an effective and
4 efficient personnel system, the pay plan must set the official rates
5 applicable to all positions in the classified service, but the
6 establishment of the pay plan in no way limits the authority of the
7 Legislature relative to budgeted appropriations for salary and wage
8 expenditures.
9 2. Credit for overtime work directed or approved by the head
10 of an agency or his representative must be earned at the rate of time
11 and one-half, except for those employees described in NRS 284.148.



1 3. Except as otherwise provided in subsections 4, 6, 7 and 9,
2 overtime is considered time worked in excess of:

- 3 (a) Eight hours in 1 calendar day;
- 4 (b) Eight hours in any 16-hour period; or
- 5 (c) A 40-hour week.

6 4. Firemen who choose and are approved for a 24-hour shift
7 shall be deemed to work an average of 56 hours per week and 2,912
8 hours per year, regardless of the actual number of hours worked or
9 on paid leave during any biweekly pay period. A fireman so
10 assigned is entitled to receive 1/26 of his annual salary for each
11 biweekly pay period. In addition, overtime must be considered time
12 worked in excess of:

- 13 (a) Twenty-four hours in one scheduled shift; or
- 14 (b) Fifty-three hours average per week during one work period
15 for those hours worked or on paid leave.

16 The appointing authority shall designate annually the length of the
17 work period to be used in determining the work schedules for such
18 firemen. In addition to the regular amount paid such a fireman for
19 the deemed average of 56 hours per week, he is entitled to payment
20 for the hours which comprise the difference between the 56-hour
21 average and the overtime threshold of 53 hours average at a rate
22 which will result in the equivalent of overtime payment for those
23 hours.

24 5. The Director, with the approval of the Commission, shall
25 adopt regulations to carry out the provisions of subsection 4.

26 6. For employees who choose and are approved for a variable
27 workday, overtime will be considered only after working 40 hours
28 in 1 week.

29 7. Employees who are eligible under the Fair Labor Standards
30 Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour
31 work schedule within a biweekly pay period and who choose and
32 are approved for such a work schedule will be considered eligible
33 for overtime only after working 80 hours biweekly, except those
34 eligible employees who are approved for overtime in excess of one
35 scheduled shift of 8 or more hours per day.

36 8. An agency may experiment with innovative workweeks
37 upon the approval of the head of the agency and after majority
38 consent of the affected employees. The affected employees are
39 eligible for overtime only after working 40 hours in a workweek.

40 9. This section does not supersede or conflict with existing
41 contracts of employment for employees hired to work 24 hours a
42 day in a home setting. Any future classification in which an
43 employee will be required to work 24 hours a day in a home setting
44 must be approved in advance by the Commission.



1 10. All overtime must be approved in advance by the
2 appointing authority or his designee. No officer or employee, other
3 than a director of a department or the chairman of a board,
4 commission or similar body, may authorize overtime for himself.
5 The chairman of a board, commission or similar body must approve
6 in advance all overtime worked by members of the board,
7 commission or similar body.

8 11. The Budget Division of the Department of Administration
9 shall review all overtime worked by employees of the Executive
10 Department to ensure that overtime is held to a minimum. The
11 Budget Division shall report quarterly to the State Board of
12 Examiners the amount of overtime worked in the quarter within the
13 various agencies of the State.

14 *12. A full-time employee who is not subject to the provisions
15 of NRS 284.148 is entitled to receive his normal rate of pay or an
16 equivalent amount of compensatory time for all his regularly
17 scheduled hours of employment on a legal holiday if:*

18 *(a) The legal holiday falls upon a regularly scheduled workday
19 of the employee;*

20 *(b) The regularly scheduled workday of the employee is more
21 than 8 hours;*

22 *(c) The employee is in paid status during any portion of his
23 shift immediately preceding the holiday; and*

24 *(d) The employee does not work any part of his regularly
25 scheduled workday on that holiday.*

26 *13. As used in this section, "normal rate of pay" means the
27 rate set forth in the pay plan adopted pursuant to NRS 284.175 for
28 the class of position in which the employee is employed plus any
29 additional adjustment to that rate that is prescribed by regulation
30 and has been approved for the employee.*

31 **Sec. 2.** NRS 284.355 is hereby amended to read as follows:

32 284.355 1. Except as otherwise provided in this section, all
33 employees in the public service, whether in the classified or
34 unclassified service, are entitled to sick and disability leave with pay
35 of 1 1/4 working days for each month of service, which may be
36 cumulative from year to year. After an employee has accumulated
37 90 working days of sick leave, the amount of additional unused sick
38 leave which he is entitled to carry forward from 1 year to the next is
39 limited to one-half of the unused sick leave accrued during that year,
40 but the Department may by regulation provide for subsequent use of
41 unused sick leave accrued but not carried forward because of this
42 limitation in cases where the employee is suffering from a long-term
43 or chronic illness and has used all sick leave otherwise available to
44 him.



- 1 2. Upon the retirement of an employee, his termination through
2 no fault of his own or his death while in public employment, the
3 employee or his beneficiaries are entitled to payment:
- 4 (a) For his unused sick leave in excess of 30 days, exclusive of
5 any unused sick leave accrued but not carried forward, according to
6 his number of years of public service, except service with a political
7 subdivision of the State, as follows:
- 8 (1) For 10 years of service or more but less than 15 years, not
9 more than \$2,500.
- 10 (2) For 15 years of service or more but less than 20 years, not
11 more than \$4,000.
- 12 (3) For 20 years of service or more but less than 25 years, not
13 more than \$6,000.
- 14 (4) For 25 years of service, not more than \$8,000.
- 15 (b) For his unused sick leave accrued but not carried forward, an
16 amount equal to one-half of the sum of:
- 17 (1) His hours of unused sick leave accrued but not carried
18 forward; and
- 19 (2) An additional 120 hours.
- 20 3. The Department may by regulation provide for additional
21 sick and disability leave for long-term employees and for prorated
22 sick and disability leave for part-time employees.
- 23 4. *The Department shall, by regulation, provide for the*
24 *transfer of one-half of the portion of unused sick leave of a*
25 *retiring employee for which the employee is not entitled to*
26 *payment pursuant to subsection 2 to the account for catastrophic*
27 *leave, if any, established by the relevant appointing authority. The*
28 *transfer must be made in the name of the retiring employee. Not*
29 *more than 120 hours of unused sick leave may be transferred*
30 *pursuant to this subsection.*
- 31 5. An employee entitled to payment for unused sick leave
32 pursuant to subsection 2 may elect to receive the payment in any
33 one or more of the following forms:
- 34 (a) A lump-sum payment.
- 35 (b) An advanced payment of the premiums or contributions for
36 insurance coverage for which he is otherwise eligible pursuant to
37 chapter 287 of NRS. If the insurance coverage is terminated and the
38 money advanced for premiums or contributions pursuant to this
39 subsection exceeds the amount which is payable for premiums or
40 contributions for the period for which the former employee was
41 actually covered, the unused portion of the advanced payment must
42 be paid promptly to the former employee or, if he is deceased, to his
43 beneficiary.
- 44 (c) The purchase of additional retirement credit, if he is
45 otherwise eligible pursuant to chapter 286 of NRS.



1 ~~[5-]~~ 6. Officers and members of the faculty of the University
2 and Community College System of Nevada are entitled to sick and
3 disability leave as provided by the regulations adopted pursuant to
4 subsection 2 of NRS 284.345.

5 ~~[6-]~~ 7. The Department may by regulation provide policies
6 concerning employees with mental or emotional disorders which:

7 (a) Use a liberal approach to the granting of sick leave or leave
8 without pay to such an employee if it is necessary for him to be
9 absent for treatment or temporary hospitalization.

10 (b) Provide for the retention of the job of such an employee for a
11 reasonable period of absence, and if an extended absence
12 necessitates separation or retirement, provide for the reemployment
13 of such an employee if at all possible after recovery.

14 (c) Protect employee benefits, including, without limitation,
15 retirement, life insurance and health benefits.

16 ~~[7-]~~ 8. The Director shall establish by regulation a schedule for
17 the accrual of sick leave for employees who regularly work more
18 than 40 hours per week or 80 hours biweekly. The schedule must
19 provide for the accrual of sick leave at the same rate proportionately
20 as employees who work a 40-hour week accrue sick leave.

21 ~~[8-]~~ 9. The Department may investigate any instance in which
22 it believes that an employee has taken sick or disability leave to
23 which he was not entitled. If, after notice to the employee and a
24 hearing, the Commission determines that he has taken sick or
25 disability leave to which he was not entitled, the Commission may
26 order the forfeiture of all or part of his accrued sick leave.

27 **Sec. 3.** NRS 284.3621 is hereby amended to read as follows:

28 284.3621 1. Each appointing authority may establish an
29 account for catastrophic leave.

30 2. *The limitations on the transfer of accrued sick leave*
31 *provided in this section do not apply to the transfer of accrued sick*
32 *leave to an account for catastrophic leave pursuant to regulations*
33 *adopted in accordance with subsection 4 of NRS 284.355.*

34 3. An employee of an appointing authority may request, in
35 writing, that a specified number of hours of his accrued annual or
36 sick leave be transferred from his account to the account for
37 catastrophic leave.

38 ~~[3-]~~ 4. An employee may not transfer to the account for
39 catastrophic leave any hours of sick leave if the balance in his
40 account after the transfer is less than 240 hours.

41 ~~[4-]~~ 5. The maximum number of hours which may be
42 transferred by an employee in any 1 calendar year is 120. The
43 minimum number of hours which may be transferred in any 1
44 calendar year is 8.



1 ~~[5.]~~ 6. An employee may transfer hours to any such account
2 for catastrophic leave for use by a particular employee in any branch
3 of State Government who is eligible to receive them. A record of the
4 source and number of hours of leave transferred among different
5 appointing authorities for this purpose and the date of the transfer
6 must be maintained by each appointing authority. Leave transferred
7 in excess of the amount approved for use by a particular employee
8 must be returned to the employee's account from which it
9 originated. The Commission shall, by regulation, determine the
10 procedure to return excess leave.

11 ~~[6.]~~ 7. Any hours of annual or sick leave which are transferred
12 from any employee's account to the account for catastrophic leave
13 and not designated for use by a particular employee may not be
14 returned or restored to the originating employee. This subsection
15 does not prevent the employee from receiving leave pursuant to
16 NRS 284.3622.

17 **Sec. 4.** NRS 284.384 is hereby amended to read as follows:

18 284.384 1. The Director shall propose, and the Commission
19 shall adopt, regulations which provide for the adjustment of
20 grievances for which a hearing is not provided by NRS 284.165,
21 284.245, 284.3629, 284.376 or 284.390. Any grievance for which a
22 hearing is not provided by NRS 284.165, 284.245, 284.3629,
23 284.376 or 284.390 is subject to adjustment pursuant to this section.

24 2. The regulations must provide procedures for:

25 (a) Consideration and adjustment of the grievance within the
26 agency in which it arose.

27 (b) Submission *of the grievance by the employee* to the
28 Employee-Management Committee *or an arbitrator* for a final
29 decision if the employee is still dissatisfied with the resolution of
30 the dispute.

31 3. The regulations must include provisions for:

32 (a) Submitting each proposed resolution of a dispute which has a
33 fiscal effect to the Budget Division of the Department of
34 Administration for a determination by that Division whether the
35 resolution is feasible on the basis of its fiscal effects; and

36 (b) Making the resolution binding.

37 4. Any grievance which is subject to adjustment pursuant to
38 this section may be ~~[appealed]~~ *submitted by the employee* to the
39 Employee-Management Committee *or an arbitrator* for a final
40 decision. *If a grievance is submitted to an arbitrator:*

41 (a) *The arbitrator shall assess his costs to the losing party,*
42 *unless the arbitrator determines that a different assessment of*
43 *costs is more equitable; and*

44 (b) *Each party shall pay its own costs of the preparation and*
45 *presentation of its case.*



1 5. The employee may represent himself at any hearing
2 regarding a grievance which is subject to adjustment pursuant to this
3 section or be represented by an attorney or other person of the
4 employee's own choosing.

5 6. *The Commission shall appoint an arbitration panel whose
6 members are authorized to make final decisions on grievances that
7 are submitted to an arbitrator pursuant to this section. To appoint
8 such a panel, the Commission shall request from the American
9 Arbitration Association or the Federal Mediation and Conciliation
10 Service a list of seven potential arbitrators. If the Commission and
11 the organizations that represent state employees in this state are
12 unable to agree upon which arbitration service to use, the Federal
13 Mediation and Conciliation Service must be used.*

14 7. *The Commission shall hold a hearing at which the
15 Commission will hear objections to any of the seven potential
16 arbitrators. At the conclusion of the hearing, the Commission
17 shall appoint three arbitrators to serve as members of an
18 arbitration panel for terms of 1 year, and one alternate arbitrator
19 to serve on the panel if a vacancy arises.*

20 8. *An arbitration panel must be reappointed in the same
21 manner as specified in subsections 6 and 7 for original
22 appointments.*

23 9. *If a grievance is submitted to the arbitration panel, the
24 employee who submitted the grievance and the appointing
25 authority of the employee shall select the arbitrator who will hear
26 the grievance. The parties shall select an arbitrator from the panel
27 by alternately striking one name until the name of only one
28 arbitrator remains. The remaining arbitrator shall hear the
29 grievance in question. The employee shall strike the first name.*

30 10. *A hearing held pursuant to this section must be held in
31 the county in which the employee resides, unless the employee
32 agrees to a different location.*

33 11. As used in this section, "grievance" means an act, omission
34 or occurrence which an employee who has attained permanent status
35 feels constitutes an injustice relating to any condition arising out of
36 the relationship between an employer and an employee, including,
37 but not limited to, compensation, working hours, working
38 conditions, membership in an organization of employees or the
39 interpretation of any law, regulation or disagreement.

40 **Sec. 5.** This act becomes effective on July 1, 2003.

