

ASSEMBLY BILL NO. 479—COMMITTEE ON WAYS AND MEANS

MARCH 28, 2011

Referred to Concurrent Committees on
Government Affairs and Ways and Means

SUMMARY—Revises provisions governing the hours of operation of state offices and the hours of employment of state employees. (BDR 23-890)

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 governmental administration; setting forth the maximum number of hours and days for each scheduled week of work for an employee who is employed by the State of Nevada; expanding the hours during which the office of a state officer, department, board, commission or agency must be open to transact business under certain circumstances; reducing the number of days that the office must be open to transact business during a year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the employment of any person who is employed by the
2 State of Nevada or by any county, city, town, township or other political
3 subdivision thereof is limited to not more than 8 hours in any 1 calendar day and
4 not more than 40 hours in any 1 week. This limitation generally does not apply to:
5 (1) certain officials and employees of the State of Nevada or a county, city, town,
6 township or other political subdivision thereof; (2) firefighters, police, deputy
7 sheriffs, jailers or nurses who are training or working in hospitals; (3) employees
8 who work a variable workday or a variable 80-hour work schedule; (4) employees
9 who work more than 8 hours but not more than 10 hours in any 1 workday or 40
10 hours in any 1 workweek; (5) executive, administrative, professional or supervisory
11 employees; (6) employees who are covered by a collective bargaining agreement
12 which establishes the hours of service of those employees; (7) employees of the
13 Legislative Counsel Bureau; and (8) certain employees of a public utility. (NRS
14 281.100) Existing law also establishes the classified and unclassified service of the
15 State and specifies which employees are in either service. (NRS 284.140, 284.150)
16 The classified service of the State consists of all positions in the public service
17 which are designated as being in the classified service and are filled according to



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merit and fitness from eligible lists of applicants. (NRS 284.150) The unclassified service consists of the following state officers and employees in the Executive Department of State Government who receive annual salaries for their services: (1) a member of a board or commission or a head of a department, agency or institution who is required by law to be appointed; (2) certain persons required by law to be appointed by the Governor or a board; (3) an employee, other than a clerical employee, employed in the Office of the Attorney General or the State Public Defender; (4) an employee of the Nevada System of Higher Education or any other state institution other than a custodial, clerical or maintenance employee; and (5) any other officer or employee authorized by law to be employed in the unclassified service of the State. (NRS 284.140) **Section 1** of this bill provides that, for each person who is employed by the State of Nevada, each scheduled week of work for the employee must consist of a scheduled 10 hours per day for 4 consecutive calendar days beginning on Monday of each of those weeks. **Section 1** also sets forth the circumstances under which the employee may be permitted to work more than those hours or days.

Under existing law, the offices of all state officers, departments, boards, commissions and agencies are required to be open for business at least from 8 a.m. to 12 p.m. and from 1 p.m. to 5 p.m. every day of the year except Saturdays, Sundays and legal holidays, unless otherwise required for the efficient transaction of business and the convenience of the persons with whom business is transacted. Any of those offices that are staffed by more than one person are also required to remain open during the noon hour of each working day. (NRS 281.110) **Section 2** of this bill requires those offices to be open at least from 7 a.m. to 12 p.m. and from 1 p.m. to 6 p.m. during each working day. **Section 2** also adds Fridays to the list of days during which those offices are not required to be open.

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

Section 1. NRS 281.100 is hereby amended to read as follows:
281.100 1. Except as otherwise provided in this section and NRS 284.180, the services and employment of ~~all persons~~ *each person* who ~~are~~ *is* employed by ~~the~~ :

(a) *The State of Nevada ~~is~~ is limited to not more than 10 hours in any 1 calendar day for 4 consecutive calendar days beginning on Monday of each scheduled week of work; or ~~by any~~*

(b) *Any county, city, town, township or other political subdivision thereof, ~~are~~ is limited to not more than 8 hours in any 1 calendar day ,*

↪ and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:



(a) Officials of ~~the State of Nevada or of~~ any county, city, town, township or other political subdivision thereof, or employees of the State whose employment is governed by NRS 284.148.

(b) Employees of ~~the State of Nevada or of~~ any county, city, town, township or other political subdivision thereof who:

(1) Are engaged as employees of a fire department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;

(2) Chose and are approved for a variable workday or variable 80-hour work schedules within a biweekly pay period;

(3) Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 workweek;

(4) Are executive, administrative, professional or supervisory employees; or

(5) Are covered by a collective bargaining agreement which establishes hours of service.

(c) ~~Employees of the Legislative Counsel Bureau.~~

~~(d)}~~ Work done directly by any public utility company pursuant to an order of the Public Utilities Commission of Nevada or other public authority.

4. *Any employee whose hours are limited by paragraph (a) of subsection 1 may be authorized to work more than or less than the number of hours or days specified in that paragraph if the employer of the employee determines that the position of the employee cannot be subject to that paragraph because of the need to provide appropriate services that are necessary for the protection of public health, safety or welfare and the employer makes findings on the record in a public meeting that:*

(a) *The position is necessary for the protection of public health, safety or welfare;*

(b) *The public health, safety or welfare will be significantly diminished by that paragraph;*

(c) *No alternatives exist to provide for the protection of public health, safety and welfare; and*

(d) *The employer identifies and will carry out other methods to reduce overall costs equal to the savings produced by that paragraph.*

5. *For the purposes of subsection 1:*

(a) *Except as otherwise provided in this subsection, the State Board of Examiners shall determine positions within the Executive Department of State Government that cannot be subject to the provisions of paragraph (a) of subsection 1.*

(b) *The Board of Regents shall determine positions within the Nevada System of Higher Education that cannot be subject to the provisions of paragraph (a) of subsection 1.*



1 (c) *The Public Employees' Retirement Board shall determine*
2 *positions within the Public Employees' Retirement System that*
3 *cannot be subject to the provisions of paragraph (a) of*
4 *subsection 1.*

5 (d) *The Supreme Court shall determine positions within the*
6 *Judicial Department of State Government that cannot be subject*
7 *to the provisions of paragraph (a) of subsection 1.*

8 (e) *The Legislative Commission shall determine positions*
9 *within the Legislative Department of State Government that*
10 *cannot be subject to the provisions of paragraph (a) of*
11 *subsection 1.*

12 6. Any employee whose hours are limited by *paragraph (b) of*
13 *subsection 1* may be permitted, or in case of emergency where life
14 or property is in imminent danger may be required, at the discretion
15 of the officer responsible for the employment of the employee, but
16 subject to any agreement made pursuant to NRS 284.181, to work
17 more than the number of hours limited. If so permitted or required,
18 the employee is entitled to receive, at the discretion of the
19 responsible officer:

20 (a) Compensatory vacation time; or

21 (b) Overtime pay.

22 ~~[5.]~~ 7. *Notwithstanding any provision of law to the contrary,*
23 *for each paid legal holiday of this State that occurs on:*

24 (a) *A Monday, Tuesday, Wednesday or Thursday, an employee*
25 *of the State of Nevada is entitled to be paid for 10 hours on that*
26 *holiday; or*

27 (b) *A Friday, an employee of the State of Nevada is not entitled*
28 *to be paid for that holiday.*

29 8. Any officer or agent of the State of Nevada, or of any
30 county, city, town, township, or other political subdivision thereof,
31 whose duty it is to employ, direct or control the services of an
32 employee covered by this section, who violates any of the
33 provisions of this section as to the hours of employment of labor as
34 provided in this section, is guilty of a misdemeanor.

35 **Sec. 2.** NRS 281.110 is hereby amended to read as follows:

36 281.110 1. Unless required for the efficient transaction of
37 business and the convenience of the persons with whom business is
38 transacted, the offices of all state officers, departments, boards,
39 commissions and agencies must:

40 (a) Maintain not less than a 40-hour workweek.

41 (b) Be open for the transaction of business at least from ~~[8]~~
42 7 a.m. until 12 p.m. and from 1 p.m. until ~~[5]~~ 6 p.m. every day of the
43 year, with the exception of *Fridays*, Saturdays, Sundays and legal
44 holidays.



2. Variable workweek scheduling may be required in those agencies where coverage is needed on *Fridays*, Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

3. The offices of all state officers, departments, boards, commissions and agencies that are open on the days and during the hours set forth in paragraph (b) of subsection 1 must remain open during the noon hour of each working day if any such office has more than one person on its staff.

Sec. 3. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

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

- (a) ~~Eight~~ *Ten* hours in 1 calendar day;
- (b) ~~Eight~~ *Ten* hours in any 16-hour period; or
- (c) A 40-hour week.

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

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

➔ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.



5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

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

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of ~~8~~ 10 or more hours per day.

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

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

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

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

Sec. 4. NRS 284.350 is hereby amended to read as follows:

284.350 1. Except as otherwise provided in subsections 2, 3 and 4, an employee in the public service, whether in the classified or unclassified service, is entitled to annual leave with pay of ~~1 1/4~~ 1 working ~~days~~ day for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed 30 working days. The Commission may by regulation provide for additional annual leave for long-term employees and for prorated annual leave for part-time employees.

2. Except as otherwise provided in this subsection, any annual leave in excess of 30 working days must be used before January 1 of



1 the year following the year in which the annual leave in excess of 30
2 working days is accumulated or the amount of annual leave in
3 excess of 30 working days is forfeited on that date. If an employee:

4 (a) On or before October 15, requests permission to take annual
5 leave; and

6 (b) The employee's request for leave is denied in writing for any
7 reason,

8 ➔ the employee is entitled to payment for any annual leave in
9 excess of 30 working days which the employee requested to take
10 and which the employee would otherwise forfeit as the result of the
11 denial of the employee's request, unless the employee has final
12 authority to approve use of the employee's own accrued leave and
13 the employee received payment pursuant to this subsection for any
14 unused annual leave in excess of 30 working days accumulated
15 during the immediately preceding calendar year. The payment for
16 the employee's unused annual leave must be made to the employee
17 not later than January 31.

18 3. Officers and members of the faculty of the Nevada System
19 of Higher Education are entitled to annual leave as provided by the
20 regulations adopted pursuant to subsection 2 of NRS 284.345.

21 4. The Commission shall establish by regulation a schedule for
22 the accrual of annual leave for employees who regularly work more
23 than 40 hours per week or 80 hours biweekly. The schedule must
24 provide for the accrual of annual leave at the same rate
25 proportionately as employees who work a 40-hour week accrue
26 annual leave.

27 5. No elected state officer may be paid for accumulated annual
28 leave upon termination of the officer's service.

29 6. During the first 6 months of employment of any employee in
30 the public service, annual leave accrues as provided in subsection 1,
31 but no annual leave may be taken during that period.

32 7. No employee in the public service may be paid for
33 accumulated annual leave upon termination of employment unless
34 the employee has been employed for 6 months or more.

35 8. Upon the request of an employee, the appointing authority of
36 the employee may approve the reduction or satisfaction of an
37 overpayment of the salary of the employee that was not obtained by
38 the fraud or willful misrepresentation of the employee with a
39 corresponding amount of the accrued annual leave of the employee.

40 **Sec. 5.** NRS 284.355 is hereby amended to read as follows:

41 284.355 1. Except as otherwise provided in this section, all
42 employees in the public service, whether in the classified or
43 unclassified service, are entitled to sick and disability leave with pay
44 of ~~1 1/4~~ 1 working ~~[days]~~ day for each month of service, which
45 may be cumulative from year to year. After an employee has



1 accumulated 90 working days of sick leave, the amount of
2 additional unused sick leave which the employee is entitled to carry
3 forward from 1 year to the next is limited to one-half of the unused
4 sick leave accrued during that year, but the Commission may by
5 regulation provide for subsequent use of unused sick leave accrued
6 but not carried forward because of this limitation in cases where the
7 employee is suffering from a long-term or chronic illness and has
8 used all sick leave otherwise available to the employee.

9 2. Upon the retirement of an employee, the employee's
10 termination through no fault of the employee or the employee's
11 death while in public employment, the employee or the
12 employee's beneficiaries are entitled to payment:

13 (a) For the employee's unused sick leave in excess of 30 days,
14 exclusive of any unused sick leave accrued but not carried forward,
15 according to the employee's number of years of public service,
16 except service with a political subdivision of the State, as follows:

17 (1) For 10 years of service or more but less than 15 years, not
18 more than \$2,500.

19 (2) For 15 years of service or more but less than 20 years, not
20 more than \$4,000.

21 (3) For 20 years of service or more but less than 25 years, not
22 more than \$6,000.

23 (4) For 25 years of service, not more than \$8,000.

24 (b) For the employee's unused sick leave accrued but not carried
25 forward, an amount equal to one-half of the sum of:

26 (1) The employee's hours of unused sick leave accrued but
27 not carried forward; and

28 (2) An additional 120 hours.

29 3. The Commission may by regulation provide for additional
30 sick and disability leave for long-term employees and for prorated
31 sick and disability leave for part-time employees.

32 4. An employee entitled to payment for unused sick leave
33 pursuant to subsection 2 may elect to receive the payment in any
34 one or more of the following forms:

35 (a) A lump-sum payment.

36 (b) An advanced payment of the premiums or contributions for
37 insurance coverage for which the employee is otherwise eligible
38 pursuant to chapter 287 of NRS. If the insurance coverage is
39 terminated and the money advanced for premiums or contributions
40 pursuant to this subsection exceeds the amount which is payable for
41 premiums or contributions for the period for which the former
42 employee was actually covered, the unused portion of the advanced
43 payment must be paid promptly to the former employee or, if the
44 employee is deceased, to the employee's beneficiary.



(c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.

5. Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

6. The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:

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

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

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

7. The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.

8. The Department may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that the employee has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave.

Sec. 6. NRS 286.495 is hereby amended to read as follows:

286.495 Except as provided in NRS 286.470, 286.475 and 286.501, members shall be credited with service on the basis of days, months or years actually worked by a member, except that:

1. Intermittent service shall be credited to a member on the basis of 1 day of service for :

(a) *Except as otherwise provided in paragraph (b), each 8 hours worked ~~[-, and]~~ ; or*

(b) *Each 10 hours worked if the member works a scheduled 10 hours during each calendar day for 4 consecutive calendar days during a scheduled week of work pursuant to paragraph (a) of subsection 1 of NRS 281.100.*

2. *For the purpose of subsection 1,* portions of a day shall be prorated.

~~[2-]~~ 3. Part-time employees who regularly work at least half-time for a full year with a minimum of 720 hours worked are



1 entitled to a full year of credit for retirement eligibility only, with
2 credit for actual service for determination of benefit being granted
3 on actual time worked.

4 ~~[3-]~~ 4. An employee of the Nevada Legislature who works full-
5 time for at least 6 months in a fiscal year during which the
6 Legislature meets in regular session is entitled to a full year of credit
7 for retirement eligibility only, with credit for actual service for
8 determination of benefit being granted on actual time worked.

9 ➔ Service credit under this section shall be computed according to
10 the fiscal year. No member may receive less credit under this
11 section than was provided under the law in force at the time when
12 the credit was earned. Nothing in this section allows a member to
13 receive more than 1 year of credit for retirement eligibility in any
14 year.

15 **Sec. 7.** Section 2 of chapter 169, Statutes of Nevada 2009, at
16 page 617, is hereby amended to read as follows:

17 Sec. 2. This act becomes effective on July 1, 2009 . ~~✚~~

18 ~~and expires by limitation on June 30, 2011.]~~

19 **Sec. 8.** On or before December 31, 2011:

20 1. The Personnel Commission shall adopt any regulations
21 necessary to carry out the amendatory provisions of sections 1 to 5,
22 inclusive, of this act.

23 2. The Public Employees' Retirement Board shall adopt any
24 regulations necessary to carry out the amendatory provisions of
25 section 6 of this act.

26 **Sec. 9.** This act becomes effective:

27 1. Upon passage and approval for the purpose of adopting any
28 regulations necessary to carry out the provisions of this act; and

29 2. On January 1, 2012, for all other purposes.

