

ASSEMBLY BILL NO. 560—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DIVISION OF BUDGET AND PLANNING)

MARCH 28, 2011

Referred to Committee on Ways and Means

SUMMARY—Makes various changes relating to the compensation and benefits of state employees. (BDR 23-1158)

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

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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 state employees; reducing the rate of accrual of annual leave and sick leave for state employees; eliminating the required payment of a state employee at the rate of time and one-half for working on a holiday; eliminating the requirement that the state purchase credit for service for retirement for certain employees if an agency is required to reduce the number of its employees; continuing the temporary suspension of the semiannual payment of longevity pay and merit pay increases for state employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the establishment of a personnel system for state employees. (Chapter 284 of NRS) This includes prescribing the rates at which annual leave and sick leave accrue for those employees. (NRS 284.350, 284.355; NAC 284.538) **Sections 2 and 3** of this bill reduce the rate at which state employees accrue annual leave and sick leave, effective July 1, 2012.

Existing law provides, in addition to paying state employees on state holidays, for payment at the rate of time and one-half for employees who work on a holiday. (NAC 284.256) **Section 1** of this bill eliminates this premium for working on a holiday.

Existing law provides for the purchase of credit for service for the purposes of the Public Employees' Retirement System for certain employees who agree to retire when a state agency is required to reduce the number of its employees. (NRS 286.3007) **Section 4** of this bill limits that benefit to employees hired before July 1, 2011.



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Existing law provides for a plan to encourage continuity of service in State Government, under which semiannual payments are made to state employees rated standard or better with 8 years or more of continuous service, commonly known as "longevity pay." (NRS 284.177) Existing law also provides for state employees who are rated standard or better and have not attained the top step of their grade to receive a merit pay increase annually. (NRS 284.175, 284.335; NAC 284.194) Those semiannual payments and merit pay increases were temporarily suspended by the Legislature in 2009 for the 2009-2011 biennium. (Chapter 276, Statutes of Nevada 2009, p. 1164-65, as amended by chapter 465, Statutes of Nevada 2009, p. 2642-43) **Section 5** of this bill continues the suspension of those payments and increases for the next 2 fiscal years.

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

Section 1. 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 hours in 1 calendar day;
- (b) Eight 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



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1 firefighter is entitled to payment for the hours which comprise the
2 difference between the 56-hour average and the overtime threshold
3 of 53 hours average at a rate which will result in the equivalent of
4 overtime payment for those hours.

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

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

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

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

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

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

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

39 *12. A state employee is not entitled to payment at the rate of*
40 *time and one-half for working on a holiday unless the employee is*
41 *entitled to payment for overtime pursuant to this section and the*
42 *regulations adopted pursuant thereto.*

43 **Sec. 2.** NRS 284.350 is hereby amended to read as follows:

44 284.350 1. Except as otherwise provided in subsections 2, 3
45 and 4, an employee in the public service, whether in the classified or



1 unclassified service, is entitled to annual leave with pay of ~~[1-1/4~~
2 ~~working days for each]~~ :

3 (a) *One day per month for an employee who has completed less*
4 *than 5 years of continuous public service [1];*

5 (b) *One and one-quarter days per month for an employee who*
6 *has completed 5 years or more but less than 15 years of*
7 *continuous public service;*

8 (c) *One and one-half days per month for an employee who has*
9 *completed 15 years or more but less than 20 years of continuous*
10 *public service; and*

11 (d) *One and three-quarters days per month for an employee*
12 *who has completed 20 years or more of continuous public service.*

13 ➔ The annual leave may be cumulative from year to year not to
14 exceed 30 working days. The Commission may by regulation
15 provide for ~~[additional annual leave for long-term employees and~~
16 ~~for]~~ prorated annual leave for part-time employees.

17 2. Except as otherwise provided in this subsection, any annual
18 leave in excess of 30 working days must be used before January 1 of
19 the year following the year in which the annual leave in excess of 30
20 working days is accumulated or the amount of annual leave in
21 excess of 30 working days is forfeited on that date. If an employee:

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

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

26 ➔ the employee is entitled to payment for any annual leave in
27 excess of 30 working days which the employee requested to take
28 and which the employee would otherwise forfeit as the result of the
29 denial of the employee's request, unless the employee has final
30 authority to approve use of the employee's own accrued leave and
31 the employee received payment pursuant to this subsection for any
32 unused annual leave in excess of 30 working days accumulated
33 during the immediately preceding calendar year. The payment for
34 the employee's unused annual leave must be made to the employee
35 not later than January 31.

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

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



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

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

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

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

Sec. 3. NRS 284.355 is hereby amended to read as follows:

284.355 1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of 1 ~~[1/4]~~ working ~~[days]~~ **day** for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

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

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

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

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

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

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

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



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

3 (2) An additional 120 hours.

4 3. The Commission may by regulation provide for additional
5 sick and disability leave for long-term employees and for prorated
6 sick and disability leave for part-time employees.

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

10 (a) A lump-sum payment.

11 (b) An advanced payment of the premiums or contributions for
12 insurance coverage for which the employee is otherwise eligible
13 pursuant to chapter 287 of NRS. If the insurance coverage is
14 terminated and the money advanced for premiums or contributions
15 pursuant to this subsection exceeds the amount which is payable for
16 premiums or contributions for the period for which the former
17 employee was actually covered, the unused portion of the advanced
18 payment must be paid promptly to the former employee or, if the
19 employee is deceased, to the employee's beneficiary.

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

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

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

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

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

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

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

42 8. The Department may investigate any instance in which it
43 believes that an employee has taken sick or disability leave to which
44 the employee was not entitled. If, after notice to the employee and a
45 hearing, the Commission determines that the employee has taken



1 sick or disability leave to which the employee was not entitled, the
2 Commission may order the forfeiture of all or part of the employee's
3 accrued sick leave.

4 **Sec. 4.** NRS 286.3007 is hereby amended to read as follows:

5 286.3007 Except as otherwise required as a result of
6 NRS 286.537:

7 1. A state agency may enter into an agreement to pay the cost
8 of purchasing credit for service pursuant to NRS 286.300 on behalf
9 of a member if:

10 (a) The agency enters into the agreement before the member is
11 employed;

12 (b) The member is employed upon the condition that the
13 employer pay the cost of purchasing the credit; and

14 (c) The agreement to pay the cost of purchasing the credit is in
15 writing, becomes part of the personnel records of the employee and
16 is approved in advance by the State Board of Examiners.

17 2. If a state agency is authorized to purchase credit pursuant to
18 subsection 1, it shall not do so until the member has completed 1
19 year of service in its employ.

20 3. If a state agency is required to reduce the number of its
21 employees, it shall purchase credit for service pursuant to NRS
22 286.300 for any member who:

23 (a) Is eligible to purchase credit;

24 (b) Is eligible to retire or will be made eligible by the purchase
25 of the credit;

26 (c) Agrees to retire upon completion of the purchase; ~~and~~

27 (d) Has been employed by the agency for 5 or more years ~~and~~ ;
28 *and*

29 *(e) Was hired before July 1, 2011, and has been continuously*
30 *employed by the State since that date.*

31 4. If a state agency is required to purchase credit pursuant to
32 subsection 3, it shall pay 5 percent of the cost of purchasing the
33 credit and an additional 5 percent of the cost for each year that the
34 person has been employed by the agency in excess of the minimum
35 requirement of 5 years.

36 **Sec. 5.** 1. The four semiannual payments to which a state
37 employee would otherwise be entitled pursuant to NRS 284.177
38 must not be made during the period beginning on July 1, 2011, and
39 ending on June 30, 2013. For the purposes of payments made
40 pursuant to NRS 284.177 on or after July 1, 2013, any service
41 during that 2-year period must be considered in determining the
42 length of continuous service of an employee, but an employee is not
43 entitled to semiannual payments that would otherwise have been
44 made during the period during which the semiannual payments are
45 suspended.



1 2. No merit pay increases to which a state employee would
2 otherwise be entitled pursuant to chapter 284 of NRS and the
3 regulations adopted pursuant thereto may be granted during the
4 period beginning on July 1, 2011, and ending on June 30, 2013. For
5 the purposes of merit pay increases granted on or after July 1, 2013,
6 an employee is not entitled to any increases that would otherwise
7 have been granted during that period.

8 **Sec. 6.** 1. This section and sections 1, 4 and 5 of this act
9 become effective on July 1, 2011.

10 2. Sections 2 and 3 of this act become effective on July 1,
11 2012.

