

SENATE BILL NO. 188—SENATOR HORSFORD

FEBRUARY 22, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the work schedules of certain employees of the Department of Corrections. (BDR 23-699)

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 the Department of Corrections; requiring certain employees of institutions and facilities of the Department to work a nontraditional workweek; revising the calculation of overtime for such employees to account for nontraditional workweeks; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 207(k), as  
2 amended, an employee in law enforcement activities may be required to work  
3 85 1/2 hours within a biweekly pay period before being entitled to overtime  
4 compensation. The Fair Labor Standards Act specifically includes security  
5 personnel in correctional institutions as employees in law enforcement activities,  
6 regardless of their rank, and excludes those persons who are considered “civilian”  
7 employees of correctional institutions. (29 C.F.R. § 553.211(f) and (g)) Under  
8 existing state law, with limited exceptions, employees of the State of Nevada or of  
9 any county, city, town, township or other political subdivision thereof are only  
10 authorized to work 8 hours in any 1 calendar day and 40 hours in any 1 workweek.  
11 (NRS 281.100) Employees are entitled to overtime compensation when they work  
12 more than 8 hours in 1 workday, 8 hours in any 16-hour period or 40 hours in 1  
13 workweek. (NRS 284.180) This bill mandates the Director of the Department of  
14 Corrections to ensure that the warden of each institution and the manager of each  
15 facility of the Department require that at least 65 percent of the employees of the  
16 institution or facility in law enforcement activities are scheduled for 84-hour work  
17 schedules within a 14-day pay period composed of 12-hour shifts. This bill also  
18 provides that, under the 84-hour work schedule, those employees are not entitled to  
19 overtime compensation unless they work more than 12 hours in one shift or more  
20 than 84 hours in a 14-day pay period. Finally, this bill authorizes the Director of the  
21 Department of Corrections to submit a request to the Board of State Prison  
22 Commissioners for a waiver from those shift requirements for an institution or



23 facility of the Department. If the Board finds that sufficient justification exists for  
24 such a waiver, the waiver is valid for 1 year.

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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 the representative of the head of the agency must be  
11 earned at the rate of time and one-half, except for those employees  
12 described in NRS 284.148.  
13       3. Except as otherwise provided in ~~[subsections 4, 6, 7 and 9,]~~  
14 *this section*, overtime is considered time worked in excess of:  
15       (a) Eight hours in 1 calendar day;  
16       (b) Eight hours in any 16-hour period; or  
17       (c) A 40-hour week.  
18       4. Firefighters who choose and are approved for a 24-hour shift  
19 shall be deemed to work an average of 56 hours per week and 2,912  
20 hours per year, regardless of the actual number of hours worked or  
21 on paid leave during any biweekly pay period. A firefighter so  
22 assigned is entitled to receive 1/26 of the firefighter's annual salary  
23 for each biweekly pay period. In addition, overtime must be  
24 considered time worked in excess of:  
25       (a) Twenty-four hours in one scheduled shift; or  
26       (b) Fifty-three hours average per week during one work period  
27 for those hours worked or on paid leave.  
28       ➤ The appointing authority shall designate annually the length of  
29 the work period to be used in determining the work schedules for  
30 such firefighters. In addition to the regular amount paid such a  
31 firefighter for the deemed average of 56 hours per week, the  
32 firefighter is entitled to payment for the hours which comprise the  
33 difference between the 56-hour average and the overtime threshold  
34 of 53 hours average at a rate which will result in the equivalent of  
35 overtime payment for those hours.  
36       5. The Commission shall adopt regulations to carry out the  
37 provisions of subsection 4.



1 6. *Except as otherwise provided in subsection 7, the Director*  
2 *of the Department of Corrections shall ensure that the warden of*  
3 *each institution and the manager of each facility require that at*  
4 *least 65 percent of the employees at the institution or facility who*  
5 *are in law enforcement activities, as described in 29 C.F.R. §*  
6 *553.211(f), are scheduled to work not less than three consecutive*  
7 *12-hour shifts and not less than seven 12-hour shifts during each*  
8 *14-day pay period. Overtime for such employees must be*  
9 *considered time worked in excess of:*

- 10 (a) *Twelve hours in any one shift; or*  
11 (b) *Eighty-four hours in a 14-day pay period.*

12 7. *The Director of the Department of Corrections may submit*  
13 *a request to the Board of State Prison Commissioners for a waiver*  
14 *from the requirements of subsection 6 for an institution or facility.*  
15 *If the Board of State Prison Commissioners determines sufficient*  
16 *justification exists for such a waiver, the waiver is effective for 1*  
17 *year after the date on which it is granted.*

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

21 ~~[7.]~~ 9. Employees who are eligible under the Fair Labor  
22 Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable  
23 80-hour work schedule within a biweekly pay period and who  
24 choose and are approved for such a work schedule will be  
25 considered eligible for overtime only after working 80 hours  
26 biweekly, except those eligible employees who are approved for  
27 overtime in excess of one scheduled shift of 8 or more hours per  
28 day.

29 ~~[8.]~~ 10. An agency may experiment with innovative  
30 workweeks upon the approval of the head of the agency and after  
31 majority consent of the affected employees. ~~[The]~~ *Except as*  
32 *otherwise provided in subsections 4 and 6, the* affected employees  
33 are eligible for overtime only after working 40 hours in a workweek.

34 ~~[9.]~~ 11. This section does not supersede or conflict with  
35 existing contracts of employment for employees hired to work 24  
36 hours a day in a home setting. Any future classification in which an  
37 employee will be required to work 24 hours a day in a home setting  
38 must be approved in advance by the Commission.

39 ~~[10.]~~ 12. All overtime must be approved in advance by the  
40 appointing authority or the designee of the appointing authority. No  
41 officer or employee, other than a director of a department or the  
42 chair of a board, commission or similar body, may authorize  
43 overtime for himself or herself. The chair of a board, commission or  
44 similar body must approve in advance all overtime worked by  
45 members of the board, commission or similar body.



1 ~~[11]~~ 13. The Budget Division of the Department of  
2 Administration shall review all overtime worked by employees of  
3 the Executive Department to ensure that overtime is held to a  
4 minimum. The Budget Division shall report quarterly to the State  
5 Board of Examiners the amount of overtime worked in the quarter  
6 within the various agencies of the State.

7 *14. As used in this section:*

8 (a) *“Facility” has the meaning ascribed to it in NRS 209.065.*

9 (b) *“Institution” has the meaning ascribed to it in*  
10 *NRS 209.071.*

11 (c) *“Manager” has the meaning ascribed to it in NRS 209.075*

12 (d) *“Warden” has the meaning ascribed to it in NRS 209.085.*

13 **Sec. 2.** This act becomes effective on July 1, 2011.

