

BDR 23-155 AB 224(R1)

UNSOLICITED EXECUTIVE AGENCY FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: May 12, 2023

Agency Submitting: Nevada System of Higher Education

Items of Revenue or Expense, or Both	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25	Effect on Future Biennia
Personnel - System Administration (Expense)		\$385,671	\$1,110,630	\$2,356,312
Operating - System Administration (Expense)		\$215,000	\$180,000	\$360,000
Total	0	\$600,671	\$1,290,630	\$2,716,312

Explanation

(Use Additional Sheets of Attachments, if required)

The Board of Regents of the Nevada System of Higher Education ("NSHE") has reviewed AB 224 and Amendment No. 177 and determined that there will be a fiscal impact to NSHE and its institutions. This bill, in its current form, would require the addition of twelve (12) Full-time Equivalent (FTE) centralized positions. These newly created positions would serve as a resource for the entire System and would be established in the NSHE System Administration Office to conduct the collective bargaining related work explained below. This legislation also has a fiscal impact for operating and information technology related expenses. Both the personnel and operating expenses are anticipated to be ongoing annual expenses. However, to lessen the fiscal impact, NSHE is only requesting funding for seven (7) of the twelve (12) positions (five beginning on January 1, 2024, and an additional 2 positions in FY 25) now with the understanding that NSHE will phase in the remaining five (5) positions during the next biennium. While we are phasing in the hiring process over the 2024-25 biennium, the effect on future biennia, however, must be reckoned with and considered.

Please see the attached Exhibit for a detailed breakdown of the anticipated costs.

Name	<u>Tillery Williams</u>
Title	<u>Director of Community Engagement, Equity, and Inclusion</u>

Exhibit 1 - AB 224 1st Reprint

May 11, 2023

Exhibit 1 – Supplemental Information

The Board of Regents of the Nevada System of Higher Education (“NSHE”) has reviewed AB 224 and Amendment No. 177 and determined that there will be a fiscal impact to NSHE and its institutions. This bill, in its current form, would require the addition of twelve (12) Full-time Equivalent (FTE) centralized positions. These newly created positions would serve as a resource for the entire System and would be established in the NSHE System Administration Office to conduct the collective bargaining related work explained below. This legislation also has a fiscal impact for operating and information technology related expenses. Both the personnel and operating expenses are anticipated to be ongoing annual expenses. However, to lessen the fiscal impact, NSHE is only requesting funding for seven (7) of the twelve (12) positions (five beginning on January 1, 2024, and an additional 2 positions in FY 25) now with the understanding that NSHE will phase in the remaining five (5) positions during the next biennium. While we are phasing in the hiring process over the 2024-25 biennium, the effect on future biennia, however, must be reckoned with and considered.

NSHE regulations have authorized collective bargaining for certain professional employees who are employed for a period exceeding six months at .50 FTE or more, but excluding adjunct faculty members, administrators, and clinical faculty members for approximately 30 years. NSHE *Handbook*, Title 4, Chapter 4. Such regulations provide for a separate bargaining unit for the System and one for the community colleges. Bargaining units at three community colleges, College of Southern Nevada, Truckee Meadows Community College, and Western Nevada College, have negotiated collective bargaining agreements (“CBAs”) that are currently in effect. Under the current regulations, there are three CBAs, three active collective bargaining units, topics of mandatory bargaining set forth in the NSHE *Handbook*, and an internal process for resolution of grievances.

The legislation would increase the number of employees eligible to collectively bargain, increase the number of bargaining units that would be negotiated with, expand the scope of mandatory bargaining, and increase the procedural requirements to resolve grievances and employment disputes, culminating in arbitration by a third party. This legislation supplants NSHE’s existing collective bargaining regulations for its professional employees and will require additional, modified, and expanded infrastructure to support additional bargaining units as well as the expanded scope of mandatory bargaining. The employment relationship between professionals in higher education and their employer is not easily adaptable to the typical classified employment relationship and therefore does not lend itself easily to the collective bargaining structure currently provided for state classified employees.

Along with this increased complexity, the legislation will require NSHE to increase interactions with EMRB, DHRM, and the Attorney General’s Office as well as require NSHE to mandatorily engage in costly arbitration outside of the state. For example, an employer’s cost share of a typical single-day arbitration (which is a low estimate as many arbitration hearings last multiple days) is approximately \$1,400, not including travel expenses, the arbitrator’s preparation expenses of approximately \$2,800, and transcription expenses of approximately \$1,600 for the employer’s share for a one-day hearing. NSHE estimates twenty-five (25) to one-hundred (100) grievance instances per institution per year, which will require significant employee time to be spent on investigations, research, negotiation, and early resolution of grievances resolved prior to arbitration NSHE conservatively anticipates anywhere from twenty-five (25) to fifty (50) grievance instances statewide annually that could require arbitration for resolution.¹ At a minimum, the annual costs for grievances, without travel or attorney costs, that could result in arbitration is \$145,000 (25 grievances per year x \$5,800 per grievance). On the higher end, this could cost at least \$290,000 (50 grievances per year x \$5,800 per grievance).

The exact number of new bargaining units is unknown but can be estimated (as solely applicable to NSHE) at a minimum of sixteen, considering the legislation adds professional employees across NSHE, including supervisory employees who will belong to a separate bargaining unit (than the employees they supervise),

¹ This may underestimate the number of grievances because of increased unionization of additional employees and expanded issues.

creates a presumption of separate bargaining units per branch university, college or other branch and would encompass academic faculty, administrative faculty, graduate assistants, adjunct faculty, and technologist employees not already engaged in collective bargaining within NSHE.

Further, the legislation expands the number of mandatory subjects. Some added subjects not in existing NSHE collective bargaining regulations include:

- Maternity/paternity leave and family medical leave
- Method for classification and titles of professional employees in a bargaining unit
- No strike provisions consistent with the provisions of this chapter
- Facilities for meeting with students for professional employees who have teaching or advising responsibilities
- Policies for the transfer and reassignment of professional employees

Additionally, it appears that the scope of bargaining related to health care benefits is expanded. This legislation combined with the remaining classified bargaining units that have not yet organized under NRS 288 significantly adds to the overall staff time demand to implement this legislation's initial cycles as well as the time demand of future negotiation cycles.

NSHE will be responsible for negotiating and administering all aspects of the collective bargaining agreements, including organizing bargaining teams and reaching out to various management teams of departments to secure their participation and working with the contract negotiator to organize meetings. NSHE would need 12 additional staff to fully implement the parameters of this legislation. However, NSHE is only requesting funding for 5 of the 12 positions in FY 24 beginning on January 1st, 2024, and an additional 2 positions in FY 25 for a total of 7 new positions over the biennium. Those positions that are included in this fiscal note which are essential for compliance with the mandates of this bill are as follows:

For FY 24:

Two (2) Labor Relations Managers, and
Three (3) Labor Relations Counsel positions.

For FY 25:

One (1) additional Labor Relations Manager position, and
One (1) additional Labor Relations Counsel position.

NOTE: In addition to the 4 Labor Relations Counsel positions, eventually a need will arise for retention of outside legal counsel to avoid conflicts of interest as the attorneys and management employees participate in bargaining. NSHE is unable to determine a cost estimate at this time.

The remaining 5 positions are being postponed until the next biennium:

One (1) Executive Director of Labor Relations.
Two (2) Labor Relations Paralegal-Researcher positions.
Two (2) Collective Bargaining Assistant/Coordinator positions will manage communications with unions requesting support and will answer administrative questions related to labor relations.

The bill contains no provision for paying NSHE's cost to administer it. As drafted, the bill contains no appropriation provided to NSHE for its services.

Lastly, NSHE would likely experience a fiscal impact in the form of the fee per professional employee represented by a bargaining unit that has exclusive representation (\$10 per employee). However, we cannot

determine the exact amount at this time. Based on the approved professional positions for FY 2021 across the System (state supported budgets), should the fee apply to all professional positions (a very unlikely scenario), the maximum fee per year would be approximately \$150,000 (approximately 15,000 professional positions @ \$10 per position). This estimate is therefore not included in the below table, although we expect to absorb some amount.

The tables below provide a breakdown of the anticipated annual personnel and operating costs for FY 24 and FY25. Salary plus fringe is calculated at 32% for FY24. Assumed 4% COLA in FY25 with fringe calculated at 32%. Future Biennia assumed a 4% COLA for each year and 32% fringe rate.

Items of Revenue or Expense, or Both	Fiscal Year	Fiscal Year	Fiscal Year	Effect on Future Biennia
	2022-23	2023-24	2024-25	
Personnel (Expense)	-	\$385,671	\$1,110,630	\$2,356,312
Operating (Expense)	-	\$215,000	\$180,000	\$360,000
Total	-	\$748,957	\$1,290,630	*\$2,716,312

*Only includes the 7 positions and related operating costs being requested this biennium. At a minimum, it would cost NSHE at least **\$4,472,453** in future biennia to phase in the remaining 5 positions (1 Executive Director of Labor Relations, 2 Labor Relations Paralegals-Researchers, and 2 Collective Bargaining Assistants/Coordinators) needed to fully implement the parameters of this legislation and cover all operating costs.

FY 2024

Personnel Costs

Position Name	Annual Salary	Benefits	Percent of Time Required	Cost
Labor Relations Managers (2)	\$89,675*	\$28,696	200%	\$236,742
Labor Relations Counsels (3)	\$135,000**	\$43,200	300%	\$534,600
Total				\$771,342

*Labor Relations Manager salary and benefits at 6 months = \$59,185.50 x 2 positions = \$ 118,371.

**Labor Relations Counsel salary and benefits at 6 months = \$89,100 x 3 positions = \$267,300.

Total cost for all salaries and benefits for FY 24 is **\$385,671**.

FY 2024

Operating Costs

Description	Cost
Computers	\$35,000
Office Supplies	\$17,500
Professional Development	\$17,500
Mandatory Arbitration (25 grievances per year x \$5,800 per grievance)	\$145,000
Total	\$215,000

FY 2025**Personnel Costs**

Position Name	Annual Salary	Benefits	Percent of Time Required	Cost
Labor Relations Managers (3)	\$93,262	\$29,844	\$300%	\$369,318
Labor Relations Counsel (4)	\$140,400	\$44,928	\$400%	\$741,312
Total				\$1,110,630

FY 2025**Operating Costs**

Description	Cost
Office Supplies	\$17,500
Professional Development	\$17,500
Mandatory Arbitration (25 grievances per year x \$5,800 per grievance)	\$145,000
Total	\$180,000