

SENATE BILL NO. 188—SENATOR SETTELMEYER

FEBRUARY 22, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to correctional officers.  
(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 correctional officers; authorizing correctional officers of the Department of Corrections to work a nontraditional workweek under certain circumstances; revising the calculation of overtime for such correctional officers 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. Under existing state law, with limited exceptions, employees of the  
5 State of Nevada or of any county, city, town, township or other political  
6 subdivision thereof are only authorized to work 8 hours in any 1 calendar day and  
7 40 hours in any 1 workweek. (NRS 281.100) Employees are entitled to overtime  
8 compensation when they work more than 8 hours in 1 workday, 8 hours in any  
9 16-hour period or 40 hours in 1 workweek. (NRS 284.180) This bill authorizes the  
10 warden of an institution or the manager of a facility of the Department of  
11 Corrections, after approval from the Director of the Department, to approve  
12 84-hour work schedules within a 14-day pay period composed of 12-hour shifts for  
13 all correctional officers employed in that institution or facility. This bill also  
14 provides that, under the 84-hour work schedule, correctional officers are not  
15 entitled to overtime compensation unless they work more than 12 hours in one shift  
16 or more than 84 hours in a 14-day pay period.



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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 **8 and 10**, 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.
- 38       6. ***Correctional officers employed at an institution or facility***  
39 ***of the Department of Corrections may be scheduled to work not***  
40 ***less than three consecutive 12-hour shifts and not less than seven***  
41 ***12-hour shifts during each 14-day pay period if approved by the***  
42 ***Director of the Department of Corrections and either the warden***



1 *of the institution or the manager of the facility, as applicable.*  
2 *Overtime for such correctional officers must be considered time*  
3 *worked in excess of:*

4 (a) *Twelve hours in any one shift; or*

5 (b) *Eighty-four hours in a 14-day pay period.*

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

9 ~~7.7~~ 8. Employees who are eligible under the Fair Labor  
10 Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable  
11 80-hour work schedule within a biweekly pay period and who  
12 choose and are approved for such a work schedule will be  
13 considered eligible for overtime only after working 80 hours  
14 biweekly, except those eligible employees who are approved for  
15 overtime in excess of one scheduled shift of 8 or more hours per  
16 day.

17 ~~8.1~~ 9. 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~~ *Except as otherwise*  
20 *provided in subsections 4 and 6, the* affected employees are eligible  
21 for overtime only after working 40 hours in a workweek.

22 ~~9.1~~ 10. This section does not supersede or conflict with  
23 existing contracts of employment for employees hired to work 24  
24 hours a day in a home setting. Any future classification in which an  
25 employee will be required to work 24 hours a day in a home setting  
26 must be approved in advance by the Commission.

27 ~~10.1~~ 11. All overtime must be approved in advance by the  
28 appointing authority or the designee of the appointing authority. No  
29 officer or employee, other than a director of a department or the  
30 chair of a board, commission or similar body, may authorize  
31 overtime for himself or herself. The chair of a board, commission or  
32 similar body must approve in advance all overtime worked by  
33 members of the board, commission or similar body.

34 ~~11.1~~ 12. The Budget Division of the Department of  
35 Administration shall review all overtime worked by employees of  
36 the Executive Department to ensure that overtime is held to a  
37 minimum. The Budget Division shall report quarterly to the State  
38 Board of Examiners the amount of overtime worked in the quarter  
39 within the various agencies of the State.

40 13. *As used in this section:*

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

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

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

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



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

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