

ASSEMBLY BILL NO. 31—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Removes the requirement that certain administrative regulations of the Department of Corrections be adopted in accordance with the Nevada Administrative Procedure Act. (BDR 16-340)

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 institutions; removing the requirement that certain administrative regulations of the Department of Corrections relating to the deduction of money credited to the Offenders' Store Fund and the imposition of a charge on purchases of electronic devices by offenders be adopted in accordance with the Nevada Administrative Procedure Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Director of the Department of Corrections, with approval of the Board of State Prison Commissioners, to establish by regulation: (1) criteria for a reasonable deduction from money credited to the Offenders' Store Fund to repay or defray the costs relating to the operation and maintenance of the offenders' store, coffee shop, gymnasium and correctional officers' salaries for visitation posts where they exist in each facility; and (2) a charge on the purchase of electronic devices by offenders to defray the costs relating to the operation of the devices and to offset the energy costs of the facilities within the Department of Corrections. Any such regulations must be adopted in accordance with the provisions of chapter 233B of NRS, the Nevada Administrative Procedure Act, which generally sets forth minimum procedural requirements for the regulation-making and adjudication procedure of all agencies of the Executive Department of the State Government that are not expressly exempt from such requirements. (NRS 209.221, 233B.020) Existing law also provides that aside from the adoption of any such regulations, the Department of Corrections is otherwise entirely exempt from the requirements of the Nevada Administrative



17 Procedure Act. (NRS 233B.039) **Section 1** of this bill removes the requirement that
18 any such regulations be adopted in accordance with the provisions of the Nevada
19 Administrative Procedure Act.

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

1 **Section 1.** NRS 209.221 is hereby amended to read as follows:

2 209.221 1. The Offenders' Store Fund is hereby created as a
3 special revenue fund. All money received for the benefit of
4 offenders through contributions, and from other sources not
5 otherwise required to be deposited in another fund, must be
6 deposited in the Offenders' Store Fund.

7 2. The Director shall:

8 (a) Keep, or cause to be kept, a full and accurate account of the
9 Fund;

10 (b) Submit reports to the Board relative to money in the Fund as
11 may be required from time to time; and

12 (c) Submit a monthly report to the offenders of the amount of
13 money in the Fund by posting copies of the report at locations
14 accessible to offenders generally or by delivery of copies to the
15 appropriate representatives of the offenders if any are selected.

16 3. Except as otherwise provided in subsections 4 to 9,
17 inclusive, money in the Offenders' Store Fund, except interest
18 earned upon it, must be expended for the welfare and benefit of all
19 offenders.

20 4. If necessary to cover a shortfall of money in the Prisoners'
21 Personal Property Fund, the Director may, after obtaining the
22 approval of the Interim Finance Committee, authorize the State
23 Controller to transfer money from the Offenders' Store Fund to the
24 Prisoners' Personal Property Fund, and the State Controller shall
25 make the transfer.

26 5. If an offender has insufficient money in his or her individual
27 account in the Prisoners' Personal Property Fund to repay or defray
28 costs assessed to the offender pursuant to NRS 209.246, the Director
29 shall authorize the State Controller to transfer sufficient money from
30 the Offenders' Store Fund to the appropriate account in the State
31 General Fund to pay costs remaining unpaid, and the State
32 Controller shall make the transfer. Any money so transferred must
33 be accounted for separately. The Director shall cause the Offenders'
34 Store Fund to be reimbursed from the offender's individual account
35 in the Prisoners' Personal Property Fund, as money becomes
36 available.

37 6. If the Department incurs costs related to state property that
38 has been willfully damaged, destroyed or lost or incurs costs related



1 to medical examination, diagnosis or treatment for an injury to an
2 offender, the Director may authorize the State Controller to transfer
3 money from the Offenders' Store Fund to the appropriate account in
4 the State General Fund to repay or defray those costs if:

5 (a) The Director has reason to believe that an offender caused
6 the damage, destruction, loss or injury; and

7 (b) The identity of the offender is unknown or cannot be
8 determined by the Director with reasonable certainty.

9 ➡ The State Controller shall make the transfer if authorized by the
10 Director. Any money transferred must be accounted for separately.
11 If the identity of the offender is determined after money has been
12 transferred, the Director shall cause the Offenders' Store Fund to be
13 reimbursed from the offender's individual account in the Prisoners'
14 Personal Property Fund, as money becomes available.

15 7. The Director may, with approval of the Board, establish by
16 regulation criteria for a reasonable deduction from money credited
17 to the Offenders' Store Fund to repay or defray the costs relating to
18 the operation and maintenance of the offenders' store, coffee shop,
19 gymnasium and correctional officers' salaries for visitation posts
20 where they exist in each facility. ~~[Any regulations adopted pursuant~~
21 ~~to this subsection must be adopted in accordance with the provisions~~
22 ~~of chapter 233B of NRS.]~~

23 8. The Director may, with approval of the Board, establish by
24 regulation a charge on the purchase of electronic devices by
25 offenders to defray the costs relating to the operation of the devices.
26 The Director shall utilize the proceeds collected from the charge
27 established for operation of the devices to offset the energy costs of
28 the facilities within the Department. ~~[Any regulations adopted~~
29 ~~pursuant to this subsection must be adopted in accordance with the~~
30 ~~provisions of chapter 233B of NRS.]~~

31 9. If an offender who has been assigned to a center for the
32 purpose of making restitution is returned to an institution for
33 committing an infraction of the regulations of the Department and
34 the center has not been fully compensated for the cost of providing
35 the offender with housing, transportation, meals, or medical or
36 dental services at the center, the Director may authorize the State
37 Controller to transfer money from the Offenders' Store Fund to the
38 appropriate account in the State General Fund to repay or defray
39 those costs. The State Controller shall make the transfer if
40 authorized by the Director. Any money transferred must be
41 accounted for separately. The Director shall cause the Offenders'
42 Store Fund to be reimbursed from the offender's individual account
43 in the Prisoners' Personal Property Fund, as money becomes
44 available.



10. If an offender has insufficient money in his or her individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the offender shall sign a statement under penalty of perjury concerning his or her financial situation. Such a statement must include, but is not limited to, the following information:

- (a) The value of any interest the offender has in real estate;
- (b) The value of the personal property of the offender;
- (c) The assets in any bank account of the offender; and
- (d) The employment status of the offender.

11. The statement required by subsection 10 must also authorize the Department to access any relevant document, for the purpose of verifying the accuracy of the information provided by the offender pursuant to this section, including, but not limited to, information regarding any bank account of the offender, information regarding any bank account held in trust for the offender and any federal income tax return, report or withholding form of the offender.

12. An offender who conceals assets from the Department or provides false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

13. A person who aids or encourages an offender to conceal assets from the Department or to provide false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

Sec. 2. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The Governor.
- (b) ~~{Except as otherwise provided in NRS 209.221, the}~~ *The* Department of Corrections.
- (c) The Nevada System of Higher Education.
- (d) The Office of the Military.
- (e) The State Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.
- (g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.
- (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
- (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.



(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,

➤ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or



1 (d) The judicial review of decisions of the Public Utilities
2 Commission of Nevada.

3 6. The State Board of Parole Commissioners is subject to the
4 provisions of this chapter for the purpose of adopting regulations but
5 not with respect to any contested case.

6 **Sec. 3.** This act becomes effective upon passage and approval.

