

# BDR 18-843

## AB 355

### EXECUTIVE AGENCY FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 26, 2015

Agency Submitting: Nevada Department of Corrections

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Personnel Services (Expense)		\$229,732	\$311,632	\$654,427
In-State Travel (Expense)		\$6,015	\$6,015	\$12,030
Operating (Expense)		\$11,458	\$13,250	\$26,500
Equipment (Expense)		\$37,436		
Total	0	\$284,641	\$330,897	\$692,957

#### Explanation

(Use Additional Sheets of Attachments, if required)

The Nevada Department of Corrections (NDOC) has reviewed BDR 18-843 and Section 1 of this bill eliminates all exemptions for state agencies from the rulemaking requirements of (Chapter 233B of NRS). Sections 2, 5, 6 and 8 of this bill require the review of permanent regulations by the Legislative Commission and Subcommittee to occur only during a regular legislative session. Sections 10-12, 14-18 and 20-22 of this bill make conforming changes to clarify that the rulemaking requirements of the Act apply to all state agencies except the Governor. Eliminating the exemption of the NDOC from the requirements of NRS 233B will have significant operational and fiscal impacts on the Department's goal of reviewing each of the 221 Administrative Regulations (AR) annually. The Department has statewide operations which would indicate the need to have statewide public workshops and collect comments statewide, and the Department is not currently staffed to handle regulations in this manner. The NDOC would need two Program Officers and one Administrative Assistant in both the north and south in order to comply with hearing and workshop requirements in Sec. 2; the distribution requirements of Sec. 3; small business impact statements of Sec. 9, and the preparation of informational statements pursuant to NRS 233B.066. Based on the extended timeframe that will be needed to add, update, or change regulations in response to an identified operational requirement, there are additional impacts that the Department is unable to quantify and determine costs for at this time.

Name Scott K. Sisco

Title Deputy Director

#### DEPARTMENT OF ADMINISTRATION'S COMMENTS

Date Tuesday, March 24, 2015

The agency's response appears reasonable.

Name James R. Wells

Title Director

**Nevada Department of Corrections**  
**Expanded Narrative for BDR 18-843, Assembly Bill No. 355**

Eliminating the exemption of the Nevada Department of Corrections (NDOC) from the requirements of NRS 233B will have significant operational and fiscal impacts on the Department's goal of reviewing each of the 221 Administrative Regulations (AR) annually.

**A. Operational.** The Department's goal is to review and approve each of its current 221 ARs at least annually. Elimination of the exemption of the Nevada Department of Corrections (NDOC) from the requirements of NRS 233B will reduce this review process out to two – three years. Currently, the Board of Prison Commissioners review and approve the ARs presented by the Department. The Board of Prison Commissioners is comprised of the Governor, the Secretary of State, and the Attorney General. The incumbents of these offices are familiar with the operation of the Department. If the exemption of the Nevada Department of Corrections (NDOC) from the requirements of NRS 233B is removed, Legislators without this experience would be reviewing and approving the ARs.

(1) Currently, the NDOC Director can respond to changes in the operational environment by immediately issuing Temporary ARs. If the NDOC exemption from the requirements of NRS 233B is eliminated, it will take an average of three to four months to issue a Temporary AR. This will make the Department much less responsive to the need to make immediate changes.

(2) Currently, the Department's Temporary ARs are reviewed and approved by the Board of Prison Commissioners who meet on an average of about every three months. If the NDOC exemption from the requirements of NRS 233B is eliminated, the Department's Temporary ARs will only be reviewed when the Legislature is in session every two years.

(3) The current process for revising ARs, creating new ARs, or for rescinding ARs is comparatively simple. If the NDOC exemption from the requirements of NRS 233B is eliminated, the process for revising ARs, creating new ARs, or for rescinding ARs will be made much more complicated and will involve many more people at a much greater expense and use of Departmental resources.

a. The NDOC currently has one Management Analyst 4 who coordinates the drafting of ARs; coordinates the review of the ARs by NDOC staff, senior management personnel, and Attorney General staff; prepares the Temporary ARs for issue; prepares the Temporary ARs for review by the Board of Prison Commissioners; ensures the Temporary and Permanent ARs are posted to the NDOC website; and maintains the record copies of the Temporary ARs, Permanent ARs, and all rescinded/superseded ARs.

b. If the NDOC exemption from the requirements of NRS 233B is eliminated, we estimate that it will require at least four (4) Program Officer I positions; and two (2) Administrative Assistant II positions in additional staff to

process the ARs from creation/revision to the presentation to the Legislative Counsel.

## **B. Fiscal**

(1) If the NDOC exemption from the requirements of NRS 233B is eliminated, new procedures to create a new AR, revise a current AR, rescind an AR, or to issue a Temporary AR will have to be developed. The new procedures will require additional staff and there will be a significant increase in the cost to carry out the new procedures.

a. Preparation for the Hearings/Workshops. Please note that the Hearings and Workshops are two separate events that cannot be held on the same day. For each Temporary or Permanent AR change, the Department will have to prepare a detailed “Notice of intent to adopt, amend or repeal permanent or temporary regulations.” The preparation of this notice of intent requires a thorough analysis and adherence to detail, which could cause it to take a considerable amount of time to prepare. This notice of intent would then have to be posted in every NDOC office throughout the state, and with other designated offices in every Nevada county until the hearing. This also means that NDOC staff will have to monitor the NDOC locations to ensure the notices of intent are kept current.

b. Small Business Impact Statement. For each Temporary or Permanent AR change, the Department will have to prepare a detailed “Small Business Impact Statement.” This small business impact statement would require an analysis to determine if adoption of the AR will impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. This will require NDOC staff or consultants to consult with owners and officers of the small businesses and take actions to reduce the impact on them. The requirement to prepare the impact statement and consult with the small business owners/officers will require detailed analysis. It will also require an additional resources and expense to contact the owners/officers throughout the state.

c. Hearings/Workshops. Please note that the Hearings and Workshops are two separate events that cannot be held on the same day. NDOC will be required to provide all interested persons a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing. The most efficient way to provide an oral opportunity would be through video conferences. This will significantly increase the number of video conferences which the Department conducts which will result in increased expenses. Despite the use of video conferences, NDOC staff will have to be present at each location of the video conference during the hearing/workshop, possibly at an overtime rate. To provide a written opportunity to interested persons, the NDOC will have to establish procedures to ensure all written input is received and presented during the hearing. NDOC staff will have to be assigned to ensure the management, accounting, and safekeeping for the written input. NDOC staff will also have to

prepare and maintain a mailing list for any person who requests to be notified of a hearing/workshop. Assignment of these additional duties may require more staff. The NDOC must be prepared to try to accommodate the communications disabled at hearing/workshop locations. This will require additional expenses (i.e. sign language interpreters for the deaf; braille written notices for the blind; etc.). NRS 241.035 requires that written minutes and an audio recording or transcript of each public hearing/workshop held be kept, retained, and made available for public inspection. This will require the purchase of recording equipment, storage media, and additional printing supplies (paper, toner, printer) and the use of transcript services.

d. Informational Statement. NRS 233B.066 requires that detailed information be prepared, calculated, analyzed, and maintained by the NDOC as a part of the Informational Statement for each of its adopted permanent or temporary regulations. If the NDOC exemption from the requirements of NRS 233B is eliminated, the completion of this Informational Statement will require NDOC staff to spend a significant amount of time collecting and maintaining the information. Since each of the 221 NDOC ARs will be required to be reviewed every three years, NDOC staff will have to prepare this information for an average of six ARs each month. While it is not yet possible to determine exactly how much time this will entail, a very conservative estimate is that it will take 8 hours of staff time to prepare the Informational Statement for each of the 221 current ARs. Currently, NDOC staff spends, on average, about two hours preparing each AR for issue as a permanent or temporary AR. The lost productivity may be about 6 hours for each of the 221 ARs. The extra time spent on preparing the Informational Statement may result in the loss of over 1,300 hours of productivity.

e. Objections. NRS 233B.105 requires that procedures be placed in effect in case a small business objects to all or a part of a regulation. If the NDOC exemption from the requirements of NRS 233B is eliminated, the NDOC will have to develop procedures to determine whether the small business objections have merit. The NDOC may also have to defend the validity or applicability of an AR in district court in and for Carson City, or in and for the county where the plaintiff resides when it is alleged that the AR, or its proposed application interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the plaintiff. These procedures will require close management. Defense of an AR in court will require significant expenses (travel, preparation, etc.).

**NEVADA DEPARTMENT OF CORRECTIONS****BDR 18-843 Assembly Bill No. 355**

Revises provisions governing administrative regulations.

	YR 1	YR 2	Future Biennium
4-Program Officer 1	\$ 163,040	\$ 221,348	\$ 464,831
2-Administrative Assistant 2	\$ 66,692	\$ 90,284	\$ 189,596
<b>Personnel Services Total</b>	<b>\$ 229,732</b>	<b>\$ 311,632</b>	<b>\$ 654,427</b>
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In-State Travel 6 trips Reno to LV and 6 trips from LV to Reno for five days for two staff members	\$ 6,015	\$ 6,015	\$ 12,030
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Operating Supplies (OC 7025, 7280, 7290, & 7296) divided by 185 FTE	\$ 1,872	\$ 2,496	\$ 4,991
Lease one copy machine north and south	\$ 3,503	\$ 4,671	\$ 9,342
Adds in news papers for public workshops	\$ 1,083	\$ 1,083	\$ 2,166
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Professional Services to include audio recording and transcription of public hearings and workshops	\$ 5,000	\$ 5,000	\$ 10,000
<b>Operating Total</b>	<b>\$ 11,458</b>	<b>\$ 13,250</b>	<b>\$ 26,500</b>
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Desktop Computer, software and surge protector	\$ 9,888		
2-Network Printers	\$ 5,748		
Office Furniture - Executive	\$ 17,820		
Office Furniture - Secretarial	\$ 3,980		
<b>Equipment Total</b>	<b>\$ 37,436</b>	<b>\$ -</b>	<b>\$ -</b>
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<b>Total</b>	<b>\$ 284,641</b>	<b>\$ 330,897</b>	<b>\$ 692,957</b>
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