

ASSEMBLY BILL NO. 365—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 14, 2001

Referred to Committee on Government Affairs

SUMMARY—Requires that certain local governmental employers and employees submit certain disputed issues to arbitrator for binding arbitration in certain circumstances. (BDR 23-1057)

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 collective bargaining; requiring that certain local governmental employers and employees submit certain disputed issues to an arbitrator for binding arbitration in certain circumstances; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 288 of NRS is hereby amended by adding thereto a
- 2 new section to read as follows:
- 3 *Except in cases to which NRS 288.215 and 288.217 apply:*
- 4 *1. If the parties to a dispute have not agreed to make the findings*
- 5 *and recommendations of the factfinder final and binding upon all issues,*
- 6 *as provided by NRS 288.200, and do not otherwise resolve their dispute,*
- 7 *the parties shall, within 10 days after the factfinder has submitted his*
- 8 *report, submit the issues remaining in dispute to an arbitrator, who must*
- 9 *be selected in the manner provided in NRS 288.200 and have the same*
- 10 *powers provided for factfinders in NRS 288.210.*
- 11 *2. The arbitrator shall, within 10 days after he is selected, and 7 days*
- 12 *after he has given written notice to the parties, hold a hearing to receive*
- 13 *information concerning the dispute. The hearing must be held in the*
- 14 *county in which the local government employer is located, and the*
- 15 *arbitrator shall arrange for a full and complete record of the hearing.*
- 16 *3. At the hearing, or at any time subsequent to which the hearing*
- 17 *may be adjourned, information may be presented by:*
- 18 *(a) The parties to the dispute; or*
- 19 *(b) Any interested person.*
- 20 *4. The parties to the dispute shall each pay one-half of the costs of*
- 21 *the arbitration.*



1 5. *A determination of the financial ability of a local government*
2 *employer must be based on all existing available revenues as established*
3 *by the local government employer and within the limitations set forth in*
4 *NRS 354.6241, with due regard for the obligation of the local*
5 *government employer to provide facilities and services guaranteeing the*
6 *health, welfare and safety of persons residing within the political*
7 *subdivision.*

8 6. *At the recommendation of the arbitrator, the parties may, before*
9 *the submission of a final offer, enter into negotiations. If negotiations*
10 *are begun, the arbitrator may adjourn the hearing for a period of 3*
11 *weeks. If the parties reach an agreement after entering into negotiations*
12 *pursuant to this subsection, the agreement is final and binding on the*
13 *parties, and upon notification to the arbitrator, the arbitration*
14 *terminates.*

15 7. *If the parties do not enter into negotiations or do not reach an*
16 *agreement within 30 days after the hearing held pursuant to subsection*
17 *2, each of the parties shall submit a single written statement containing*
18 *its final offer for each of the unresolved issues.*

19 8. *The arbitrator shall, within 10 days after the parties have*
20 *submitted their final offers, accept one of the written statements, on the*
21 *basis of the criteria provided in NRS 288.200, and shall report his*
22 *decision to the parties. The decision of the arbitrator is final and binding*
23 *on the parties. Any award of the arbitrator is retroactive to the expiration*
24 *date of the last contract between the parties.*

25 9. *The decision of the arbitrator must include a statement:*

26 (a) *Giving his reason for accepting the final offer that is the basis of*
27 *his award; and*

28 (b) *Specifying his estimate of the total cost of the award.*

29 **Sec. 2.** NRS 288.045 is hereby amended to read as follows:

30 288.045 "Factfinding" means the formal procedure by which an
31 investigation of a labor dispute is conducted ~~by one person, a panel or a~~
32 ~~board~~ at which:

33 1. Evidence is presented; and

34 2. A written report is issued by the factfinder describing the issues
35 involved and setting forth recommendations for settlement which may or
36 may not be binding as provided in NRS 288.200.

37 **Sec. 3.** NRS 288.190 is hereby amended to read as follows:

38 288.190 Except in cases to which ~~NRS 288.205~~ **subsection 8 of NRS**
39 **288.200** and **NRS 288.215** apply:

40 1. Anytime before July 1, the dispute may be submitted to a mediator,
41 if both parties agree. On or after July 1 but before July 5, either party
42 involved in negotiations may request a mediator. If the parties do not agree
43 upon a mediator, the commissioner shall submit to the parties a list of
44 seven potential mediators. The parties shall select their mediator from the
45 list by alternately striking one name until the name of only one mediator
46 remains, who will be the mediator to hear the dispute. The employee
47 organization shall strike the first name.

48 2. If mediation is agreed to or requested pursuant to subsection 1, the
49 mediator must be selected on or before July 15.



1 3. The mediator shall bring the parties together as soon as possible
2 and, unless otherwise agreed upon by the parties, attempt to settle the
3 dispute no later than July 31. He may establish the times and dates for
4 meetings and compel the parties to attend but has no power to compel the
5 parties to agree.

6 4. The local government employer and employee organization each
7 shall pay one-half of the cost of mediation. Each party shall pay its own
8 costs of preparation and presentation of its case in mediation.

9 5. If the dispute is submitted to a mediator and then submitted to a
10 factfinder, the mediator shall, before August 15, give to the commissioner
11 of the board a report of the efforts made to settle the dispute.

12 **Sec. 4.** NRS 288.200 is hereby amended to read as follows:

13 288.200 Except in cases to which ~~NRS 288.205 and 288.215, or~~
14 NRS 288.217 ~~apply;~~ *applies and except as otherwise provided in*
15 *subsection 8:*

16 1. If:

17 (a) The parties have participated in mediation and by August 1, have not
18 reached agreement; or

19 (b) The bargaining unit represented by the employee organization
20 contains fewer than 30 persons,

21 either party to the dispute, at any time up to September 20, may submit the
22 dispute to an impartial factfinder for his findings and recommendations.
23 His findings and recommendations are not binding on the parties except as
24 provided in ~~subsections 5, 6 and 9;~~ *subsection 5.* The mediator of a
25 dispute may also be chosen by the parties to serve as the factfinder.

26 2. If the parties are unable to agree on an impartial factfinder within 5
27 days, either party may request from the American Arbitration Association
28 or the Federal Mediation and Conciliation Service a list of seven potential
29 factfinders. If the parties are unable to agree upon which arbitration service
30 should be used, the Federal Mediation and Conciliation Service must be
31 used. The parties shall select their factfinder from this list by alternately
32 striking one name until the name of only one factfinder remains, who will
33 be the factfinder to hear the dispute in question. The employee organization
34 shall strike the first name.

35 3. The local government employer and employee organization each
36 shall pay one-half of the cost of factfinding. Each party shall pay its own
37 costs of preparation and presentation of its case in factfinding.

38 4. A schedule of dates and times for the hearing must be established
39 before October 20 , and the factfinder shall report his findings and
40 recommendations to the parties to the dispute within 30 days after the
41 conclusion of the factfinding hearing.

42 5. The parties to the dispute may agree, before the submission of the
43 dispute to factfinding, to make the findings and recommendations on all or
44 any specified issues final and binding on the parties.

45 6. ~~If the parties do not agree on whether to make the findings and~~
46 ~~recommendations of the factfinder final and binding, either party may~~
47 ~~request the formation of a panel to determine whether the findings and~~
48 ~~recommendations of a factfinder on all or any specified issues in a~~
49 ~~particular dispute which are within the scope of subsection 9 are to be final~~



1 ~~and binding. The determination must be made upon the concurrence of at~~
2 ~~least two members of the panel and not later than October 20 unless that~~
3 ~~date is extended by the commissioner of the board. Each panel shall, when~~
4 ~~making its determination, consider whether the parties have bargained in~~
5 ~~good faith and whether it believes the parties can resolve any remaining~~
6 ~~issues. Any panel may also consider the actions taken by the parties in~~
7 ~~response to any previous factfinding between these parties, the best~~
8 ~~interests of the state and all its citizens, the potential fiscal effect both~~
9 ~~within and outside the political subdivision, and any danger to the safety of~~
10 ~~the people of the state or a political subdivision.~~

11 ~~7.~~ Except as otherwise provided in subsection ~~18.~~ 7, any factfinder,
12 whether his recommendations are to be binding or not, shall base his
13 recommendations or award on the following criteria:

14 (a) A preliminary determination must be made as to the financial ability
15 of the local government employer based on all existing available revenues
16 as established by the local government employer and within the limitations
17 set forth in NRS 354.6241, with due regard for the obligation of the local
18 government employer to provide facilities and services guaranteeing the
19 health, welfare and safety of the people residing within the political
20 subdivision.

21 (b) Once the factfinder has determined in accordance with paragraph (a)
22 that there is a current financial ability to grant monetary benefits, he shall
23 use normal criteria for interest disputes regarding the terms and provisions
24 to be included in an agreement in assessing the reasonableness of the
25 position of each party as to each issue in dispute and he shall consider
26 whether the board found that either party had bargained in bad faith.

27 The factfinder's report must contain the facts upon which he based his
28 determination of financial ability to grant monetary benefits and his
29 recommendations or award.

30 ~~18.~~ 7. Any sum of money which is maintained in a fund whose
31 balance is required by law to be:

32 (a) Used only for a specific purpose other than the payment of
33 compensation to the bargaining unit affected; or

34 (b) Carried forward to the succeeding fiscal year in any designated
35 amount, to the extent of that amount,
36 must not be counted in determining the financial ability of a local
37 government employer and must not be used to pay any monetary benefits
38 recommended or awarded by the factfinder.

39 ~~19. The issues which may be included in a panel's order pursuant to~~
40 ~~subsection 6 are:~~

41 ~~— (a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of~~
42 ~~mandatory bargaining, unless precluded for that year by an existing~~
43 ~~collective bargaining agreement between the parties; and~~

44 ~~— (b) Those which an existing collective bargaining agreement between~~
45 ~~the parties makes subject to negotiation in that year.~~

46 ~~This subsection does not preclude the voluntary submission of other issues~~
47 ~~by the parties pursuant to subsection 5.]~~



1 **8. In the case of an employee organization and a local government**
2 **employer to which NRS 288.215 applies, the following departures from**
3 **the provisions of this section also apply:**
4 **(a) If the parties have not reached agreement by April 10, either party**
5 **may submit the dispute to an impartial factfinder at any time for his**
6 **findings.**
7 **(b) In a regular legislative year, the factfinding hearing must be**
8 **stayed up to 20 days after the adjournment of the legislature sine die.**
9 **(c) Any time limit prescribed by this section may be extended by**
10 **agreement of the parties.**
11 **Sec. 5.** NRS 353.264 is hereby amended to read as follows:
12 353.264 1. The reserve for statutory contingency account is hereby
13 created in the state general fund.
14 2. The state board of examiners shall administer the reserve for
15 statutory contingency account, and the money in the account must be
16 expended only for:
17 (a) The payment of claims which are obligations of the state pursuant to
18 NRS 41.03435, 41.0347, 176.485, 179.310, 212.040, 212.050, 212.070,
19 214.040, 281.174, 282.290, 282.315, ~~288.203,~~ 293.253, 293.405,
20 353.120, 353.262, 412.154 and 475.235;
21 (b) The payment of claims which are obligations of the state pursuant
22 to:
23 (1) Chapter 472 of NRS arising from operations of the division of
24 forestry of the state department of conservation and natural resources
25 directly involving the protection of life and property; and
26 (2) NRS 7.155, 34.750, 176A.640, 178.465, 179.225, 213.153 and
27 293B.210,
28 but the claims must be approved for the respective purposes listed in this
29 paragraph only when the money otherwise appropriated for those purposes
30 has been exhausted;
31 (c) The payment of claims which are obligations of the state pursuant to
32 NRS 41.0349 and 41.037, but only to the extent that the money in the fund
33 for insurance premiums is insufficient to pay the claims; and
34 (d) The payment of claims which are obligations of the state pursuant to
35 NRS 535.030 arising from remedial actions taken by the state engineer
36 when the condition of a dam becomes dangerous to the safety of life or
37 property.
38 **Sec. 6.** NRS 288.201, 288.202, 288.203 and 288.205 are hereby
39 repealed.

LEADLINES OF REPEALED SECTIONS

288.201 Request for formation of panel to determine whether findings and recommendations of factfinder are final and binding.

288.202 Formation of panel to determine whether findings and recommendations of factfinder are final and binding.

288.203 Compensation of members of panel; claims.



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288.205 Submission of dispute between certain employees and local government employer to factfinder: Time limited for certain matters.

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