

ASSEMBLY BILL NO. 478—ASSEMBLYMEN PRICE, ARBERRY, CHOWNING,
CLABORN, COLLINS, DE BRAGA, FREEMAN, GIUNCHIGLIANI,
GOLDWATER, MCCLAIN, MORTENSON, OHRENSCHALL AND
WILLIAMS

MARCH 19, 2001

Referred to Committee on Government Affairs

SUMMARY—Authorizes collective bargaining for certain state employees. (BDR 23-592)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 labor; authorizing collective bargaining for employees of the supreme court, the legislative counsel bureau and boards and commissions that issue occupational or professional licenses, certificates or permits; creating a board for labor relations between those employees and their employers; establishing procedures for collective bargaining; prohibiting certain unfair labor practices; 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.** Title 23 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 41,
3 inclusive, of this act.
4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 13, inclusive, of*
6 *this act have the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Bargaining unit” means a group of employees that is*
8 *recognized by an employer as having sufficient community of interest*
9 *appropriate for representation by an employee organization for the*
10 *purpose of collective bargaining.*
11 **Sec. 4.** *“Board” means the board for employee-management*
12 *relations created pursuant to section 14 of this act.*
13 **Sec. 5.** *“Collective bargaining” means a method of determining*
14 *conditions of employment by negotiation between representatives of*
15 *employer and employee organizations, entailing a mutual obligation of*
16 *the employer and the representative of the employees to meet at*
17 *reasonable times and bargain in good faith with respect to:*



- 1 1. *Wages, hours, and other terms and conditions of employment;*
- 2 2. *The negotiation of an agreement regarding the terms and*
- 3 *conditions of employment;*
- 4 3. *The resolution of any question arising under a negotiated*
- 5 *agreement; or*
- 6 4. *The execution of a written contract incorporating any agreement*
- 7 *reached if requested by either party,*
- 8 *but this obligation does not compel either party to agree to a proposal or*
- 9 *require the making of a concession.*
- 10 Sec. 6. *"Commissioner" means the commissioner appointed by the*
- 11 *board.*
- 12 Sec. 7. *"Employee" means an employee of:*
- 13 1. *The supreme court of Nevada;*
- 14 2. *The legislative counsel bureau; or*
- 15 3. *A board or commission that issues occupational or professional*
- 16 *licenses, certificates or permits pursuant to Title 54 of NRS.*
- 17 Sec. 8. *"Employee organization" means an organization of any kind*
- 18 *having as one of its purposes the improvement of the terms and*
- 19 *conditions of the employment of employees.*
- 20 Sec. 9. *"Employer" means:*
- 21 1. *The justices of the supreme court of Nevada, in the case of a*
- 22 *person employed by the supreme court of Nevada;*
- 23 2. *The legislative commission, in the case of a person employed by*
- 24 *the legislative counsel bureau; or*
- 25 3. *The appointed members of the applicable board or commission, in*
- 26 *the case of a person employed by a board or commission that issues*
- 27 *occupational or professional licenses, certificates or permits pursuant to*
- 28 *Title 54 of NRS.*
- 29 Sec. 10. *"Factfinding" means the formal procedure by which an*
- 30 *investigation of a labor dispute is conducted by one person, a panel or a*
- 31 *board at which:*
- 32 1. *Evidence is presented; and*
- 33 2. *A written report is issued by the factfinder describing the issues*
- 34 *involved and setting forth recommendations for settlement that may or*
- 35 *may not be binding as provided in section 30 of this act.*
- 36 Sec. 11. *"Mediation" means assistance by an impartial third party to*
- 37 *reconcile differences between an employer and a bargaining unit.*
- 38 Sec. 12. *"Recognition" means the formal acknowledgment by an*
- 39 *employer that a particular employee organization has the right to*
- 40 *represent employees within a particular bargaining unit.*
- 41 Sec. 13. *"Strike" means any concerted:*
- 42 1. *Stoppage of work, slowdown or interruption of operations by*
- 43 *employees;*
- 44 2. *Absence from work by employees upon any pretext or excuse, such*
- 45 *as illness, that is not founded in fact; or*
- 46 3. *Interruption of the operations of an employer by an employee*
- 47 *organization.*
- 48 Sec. 14. 1. *The board for employee-management relations is*
- 49 *hereby created.*



- 1 2. *The board consists of three members appointed by the governor.*
- 2 3. *The members of the board must be broadly representative of the*
- 3 *public and must not be closely allied with an employee organization or*
- 4 *an employer.*
- 5 4. *Not more than two of the three members of the board may be*
- 6 *members of the same political party.*
- 7 5. *After the initial terms, each member of the board shall serve a*
- 8 *term of 4 years. If a vacancy occurs during a member's term, the*
- 9 *governor shall appoint a person qualified pursuant to this section to*
- 10 *replace that member for the remainder of the unexpired term.*
- 11 **Sec. 15.** 1. *The members of the board shall annually elect one*
- 12 *member as chairman and one member as vice chairman. Any two*
- 13 *members of the board constitute a quorum.*
- 14 2. *The board may, within the limits of legislative appropriations:*
- 15 (i) *Appoint a commissioner and a secretary, who are in the*
- 16 *unclassified service of the state; and*
- 17 (ii) *Employ such additional clerical personnel as may be necessary,*
- 18 *who are in the classified service of the state.*
- 19 **Sec. 16.** 1. *Each member of the board is entitled to receive a salary*
- 20 *of not more than \$80, as fixed by the board, for each day in which he is*
- 21 *engaged in the business of the board.*
- 22 2. *While engaged in the business of the board, each member or*
- 23 *employee of the board is entitled to receive the per diem allowance and*
- 24 *travel expenses provided for state officers and employees generally.*
- 25 **Sec. 17.** 1. *The board may adopt regulations governing:*
- 26 (i) *Proceedings before the board;*
- 27 (ii) *Procedures for factfinding;*
- 28 (iii) *The recognition of employee organizations; and*
- 29 (iv) *The determination of bargaining units.*
- 30 2. *The board may hear and determine any complaint arising out of*
- 31 *the interpretation of, or performance under, the provisions of this*
- 32 *chapter by any:*
- 33 (i) *Employer;*
- 34 (ii) *Employee; or*
- 35 (iii) *Employee organization.*
- 36 *The board shall conduct a hearing within 90 days after it decides to hear*
- 37 *a complaint. The board, after a hearing, may take no action or order any*
- 38 *person to refrain from the action complained of or to restore to the party*
- 39 *aggrieved any benefit of which he has been deprived by that action. The*
- 40 *board shall issue its decision within 120 days after the hearing on the*
- 41 *complaint is completed.*
- 42 3. *Any party aggrieved by the failure of any person to obey an order*
- 43 *of the board issued pursuant to subsection 2, or the board at the request*
- 44 *of such a party, may apply to a court of competent jurisdiction for a*
- 45 *prohibitory or mandatory injunction to enforce the order.*
- 46 4. *The board may not consider any complaint or appeal filed more*
- 47 *than 6 months after the occurrence that is the subject of the complaint or*
- 48 *appeal.*
- 49 5. *The board may decide without a hearing a contested matter:*



1 (a) In which all the legal issues have been previously decided by the
2 board, if it adopts its previous decision or decisions as precedent; or

3 (b) Upon agreement of all the parties.

4 6. The board may award reasonable costs, which may include
5 attorneys' fees, to the prevailing party.

6 **Sec. 18. 1. To hear and decide appeals or complaints, the board**
7 **may:**

8 (a) Issue subpoenas requiring the attendance of witnesses before it,
9 together with all books, memoranda, papers and other documents relative
10 to the matters under investigation;

11 (b) Administer oaths; and

12 (c) Take testimony.

13 2. The district court in and for the county in which any hearing is
14 being conducted by the board may compel the attendance of witnesses,
15 the giving of testimony and the production of books and papers as
16 required by any subpoena issued by the board.

17 3. In case of the refusal of any witness to attend or testify or produce
18 any papers required by such a subpoena, the board may file a report with
19 the district court in and for the county in which the hearing is pending by
20 petition, setting forth:

21 (a) That due notice has been given of the time and place of attendance
22 of the witness or the production of the books and papers;

23 (b) That the witness has been subpoenaed in the manner prescribed in
24 this chapter; and

25 (c) That the witness has failed and refused to attend or produce the
26 papers required by the subpoena before the board in the hearing named
27 in the subpoena, or has refused to answer questions propounded to him
28 in the course of the hearing,
29 and asking for an order of the court compelling the witness to attend and
30 testify or produce the books or papers before the board.

31 4. The court, upon petition of the board, shall enter an order
32 directing the witness to appear before the court at a time and place to be
33 fixed by the court in the order, the time to be not more than 10 days after
34 the date of the order, and then and there show cause why he has not
35 attended or testified or produced the books or papers before the board. A
36 certified copy of the order must be served upon the witness. If it appears
37 to the court that the subpoena was regularly issued by the board, the
38 court shall thereupon enter an order that the witness appear before the
39 board at the time and place fixed in the order and testify or produce the
40 required books or papers, and upon failure to obey the order, the witness
41 must be dealt with as for contempt of court.

42 **Sec. 19. Each hearing and determination of an appeal or complaint**
43 **by the board is a contested case subject to the provisions of law that**
44 **govern the administrative decision and judicial review of such cases.**

45 **Sec. 20. 1. It is the right of every employee to:**

46 (a) Join an employee organization of his choice; or

47 (b) Refrain from joining an employee organization.

48 An employer shall not discriminate in any way among its employees on
49 account of membership or nonmembership in an employee organization.



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1 2. *The recognition of an employee organization for negotiation,*
2 *pursuant to this chapter, does not preclude an employee who is not a*
3 *member of that employee organization from acting on his own behalf*
4 *with respect to any condition of his employment, but any action taken on*
5 *a request or in adjustment of a grievance must be consistent with the*
6 *terms of an applicable negotiated agreement, if any.*

7 **Sec. 21.** *1. Except as otherwise provided in subsection 4, each*
8 *employer shall negotiate in good faith through one or more*
9 *representatives of its own choosing concerning the mandatory subjects of*
10 *bargaining set forth in subsection 2 with the designated representatives*
11 *of the recognized employee organization, if any, for each appropriate*
12 *bargaining unit among its employees. If either party so requests,*
13 *agreements reached must be reduced to writing.*

14 2. *The scope of mandatory bargaining is limited to:*

15 (a) *Salary or wage rates or other forms of direct monetary*
16 *compensation.*

17 (b) *Sick leave.*

18 (c) *Vacation leave.*

19 (d) *Holidays.*

20 (e) *Other paid or unpaid leaves of absence.*

21 (f) *Insurance benefits.*

22 (g) *Total hours of work required of an employee on each workday or*
23 *work week.*

24 (h) *Total number of days' work required of an employee in a work*
25 *year.*

26 (i) *Discharge and disciplinary procedures.*

27 (j) *Recognition clause.*

28 (k) *The method used to classify employees in the bargaining unit.*

29 (l) *Deduction of dues for the recognized employee organization.*

30 (m) *Protection of employees in the bargaining unit from*
31 *discrimination because of participation in recognized employee*
32 *organizations consistent with the provisions of this chapter.*

33 (n) *No-strike provisions consistent with the provisions of this chapter.*

34 (o) *Grievance and arbitration procedures for the resolution of*
35 *disputes relating to the interpretation or application of collective*
36 *bargaining agreements.*

37 (p) *General savings clauses.*

38 (q) *Duration of collective bargaining agreements.*

39 (r) *Safety of the employee.*

40 (s) *Procedures for any reduction in the work force.*

41 3. *Those subjects which are not within the scope of mandatory*
42 *bargaining and which are reserved to the employer without negotiation*
43 *include:*

44 (a) *The right to hire, direct, assign or transfer an employee, but*
45 *excluding the right to assign or transfer an employee as a form of*
46 *discipline.*

47 (b) *The right to reduce in force or lay off any employee because of*
48 *lack of work or lack of money, subject to paragraph (s) of subsection 2.*

49 (c) *The right to determine:*



1 (1) *Appropriate staffing levels and work performance standards,*
2 *except for safety considerations;*

3 (2) *The content of the workday, including, without limitation, work*
4 *load factors, except for safety considerations;*

5 (3) *The quality and quantity of services to be offered to the public;*
6 *and*

7 (4) *The means and methods of offering those services.*

8 (d) *The safety of the public.*

9 4. *Notwithstanding the provisions of any collective bargaining*
10 *agreement negotiated pursuant to this chapter, an employer is entitled to*
11 *take whatever actions may be necessary to carry out its responsibilities in*
12 *the case of an emergency such as a riot, military action, natural disaster*
13 *or civil disorder. Those actions may include the suspension of any*
14 *collective bargaining agreement for the duration of the emergency. Any*
15 *action taken under the provisions of this subsection must not be*
16 *construed as a failure to negotiate in good faith.*

17 5. *The provisions of this chapter do not interfere with the right and*
18 *responsibility of an employer to manage its operation in the most*
19 *efficient manner consistent with the best interests of the taxpayers and its*
20 *employees.*

21 6. *This section does not preclude, but this chapter does not require,*
22 *an employer to negotiate subject matters enumerated in subsection 3 that*
23 *are outside the scope of mandatory bargaining. The employer shall*
24 *discuss subjects outside the scope of mandatory bargaining, but it is not*
25 *required to negotiate those subjects.*

26 Sec. 22. *Agreements entered into between employers and employee*
27 *organizations pursuant to this chapter may extend beyond the term of*
28 *office of any member or officer of the employer.*

29 Sec. 23. 1. *An employee organization may apply to an employer for*
30 *recognition by filing with the employer:*

31 (a) *A copy of its constitution and bylaws, if any;*

32 (b) *A roster of its officers, if any, and representatives; and*

33 (c) *A pledge in writing not to strike against the employer under any*
34 *circumstances.*

35 *An employer shall not recognize as a representative of its employees any*
36 *employee organization that has not adopted, in a manner valid under its*
37 *own rules, the pledge required by paragraph (c).*

38 2. *If an employee organization, at or after the time of its application*
39 *for recognition, presents a verified membership list showing that it*
40 *represents a majority of the employees in a bargaining unit, and if the*
41 *employee organization is recognized by the employer, it is the exclusive*
42 *bargaining agent of the employees in that bargaining unit.*

43 3. *An employer may, if the employer first receives the written*
44 *permission of the board, withdraw recognition from an employee*
45 *organization that:*

46 (a) *Fails to present a copy of each change in its constitution or*
47 *bylaws, if any, or to give notice of any change in the roster of its officers,*
48 *if any, and representatives;*



- 1 (b) Disavows its pledge not to strike against the employer under any
2 circumstances;
3 (c) Ceases to be supported by a majority of the employees in the
4 bargaining unit for which it is recognized; or
5 (d) Fails to negotiate in good faith with the employer.
- 6 4. If the board in good faith doubts whether any employee
7 organization is supported by a majority of the employees in a particular
8 bargaining unit, it may conduct an election by secret ballot upon the
9 question. Subject to judicial review, the decision of the board is binding
10 upon the employer and all employee organizations involved.
- 11 5. The parties may agree in writing, without appealing to the board,
12 to hold a representative election to determine whether an employee
13 organization represents a majority of the employees in a bargaining unit.
14 Participation by the board and its staff in an agreed election is subject to
15 the approval of the board.
- 16 6. As used in this section, "bargaining agent" means an employee
17 organization recognized by an employer as the exclusive representative of
18 all employees in a bargaining unit for the purpose of collective
19 bargaining.
- 20 **Sec. 24.** Each employer shall, on or before November 30 of each
21 year, file with the board a list of all employee organizations recognized by
22 the employer and a description of the bargaining unit for each employee
23 organization.
- 24 **Sec. 25.** 1. Each employee organization recognized by an employer
25 shall file a report with the board during November of each year.
- 26 2. The report required by this section must include:
- 27 (a) The full name of the employee organization.
- 28 (b) The name of each employer that recognizes the employee
29 organization.
- 30 (c) The names of the officers of the employee organization.
- 31 (d) The total number of persons in each bargaining unit represented
32 by the employee organization.
- 33 (e) Copies of all changes in the employee organization's constitution
34 or bylaws adopted during the preceding year.
- 35 (f) The name, address and telephone number of the person designated
36 by the employee organization to receive communications from the board
37 on business relating to the employee organization.
- 38 (g) A copy of any collective bargaining agreement in effect between
39 the organization and the employer.
- 40 3. An employee organization that has not previously been recognized
41 by an employer shall file the information required by this section within
42 30 days after recognition.
- 43 **Sec. 26.** 1. Each employer that has recognized one or more
44 employee organizations shall determine, after consultation with the
45 recognized organization or organizations, which group or groups of its
46 employees constitute an appropriate unit or units for negotiating. The
47 primary criterion for that determination must be the community of
48 interest among the employees concerned.



1 2. *A head of a department, an administrative employee or a*
2 *supervisory employee must not be a member of the same bargaining unit*
3 *as the employees under his direction. Any dispute between the parties as*
4 *to whether an employee is administrative or supervisory must be*
5 *submitted to the board.*

6 3. *Confidential employees of the employer must be excluded from*
7 *any bargaining unit, but are entitled to participate in any plan to provide*
8 *benefits for a group that is administered by the bargaining unit of which*
9 *they would otherwise be a member.*

10 4. *If any employee organization is aggrieved by the determination of*
11 *a bargaining unit, it may appeal to the board. Subject to judicial review,*
12 *the decision of the board is binding upon the employer and employee*
13 *organizations involved. The board shall apply the same criterion as*
14 *specified in subsection 1.*

15 5. *As used in this section:*

16 (a) *“Administrative employee” means an employee whose primary*
17 *duties consist of work directly related to management policies and who*
18 *customarily exercises discretion and independent judgment and regularly*
19 *assists an executive. The term includes department heads, their deputies*
20 *and immediate assistants, attorneys, and other employees who are*
21 *primarily responsible for formulating and administering management*
22 *policy and programs.*

23 (b) *“Confidential employee” means an employee who is involved in*
24 *the decisions of management affecting collective bargaining.*

25 (c) *“Supervisory employee” means a person having authority in the*
26 *interest of the employer to hire, transfer, suspend, lay off, recall,*
27 *promote, discharge, assign, reward or discipline other employees, or the*
28 *responsibility to direct them, to adjust their grievances or effectively to*
29 *recommend such action, if such authority and responsibility is carried*
30 *out using independent judgment and not in a routine or clerical manner.*
31 *The term does not include an employee:*

32 (1) *For whom the exercise of such authority and responsibility*
33 *occupies an insignificant portion of his workday; or*

34 (2) *Who has been given incidental administrative duties.*

35 **Sec. 27.** *1. If an employee organization wishes to negotiate*
36 *concerning any matter that is subject to negotiation pursuant to this*
37 *chapter, it shall give written notice to the employer. If the subject of*
38 *negotiation requires the budgeting of money by the employer, the*
39 *employee organization shall give notice on or before February 1.*

40 *2. Following the notification provided for in subsection 1, the*
41 *employee organization or the employer may request reasonable*
42 *information concerning any subject matter included in the scope of*
43 *mandatory bargaining that it deems necessary for and relevant to the*
44 *negotiations. The information requested must be furnished without*
45 *unnecessary delay. The information must be accurate and must be*
46 *presented in a form responsive to the request and in the format in which*
47 *the records containing it are ordinarily kept.*



1 3. The parties shall promptly commence negotiations. As the first
2 step, the parties shall discuss the procedures to be followed if they are
3 unable to agree on one or more issues.

4 4. This section does not preclude, and this chapter does not require,
5 informal discussion between an employee organization and an employer
6 of any matter that is not subject to negotiation or contract under this
7 chapter. Any such informal discussion is exempt from all requirements
8 of notice or a time schedule.

9 **Sec. 28.** 1. Anytime before July 1, the dispute may be submitted to
10 a mediator if both parties agree. On or after July 1, but before July 5,
11 either party involved in negotiations may request a mediator. If the
12 parties do not agree upon a mediator, the commissioner shall submit to
13 the parties a list of seven potential mediators. The parties shall select a
14 mediator from the list by alternately striking one name until the name of
15 only one mediator remains, who will be the mediator to hear the dispute.
16 The employee organization shall strike the first name.

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

19 3. The mediator shall bring the parties together as soon as possible
20 and, unless otherwise agreed upon by the parties, attempt to settle the
21 dispute not later than July 31. He may establish the times and dates for
22 meetings and compel the parties to attend, but may not compel the parties
23 to agree.

24 4. The employer and employee organization each shall pay one-half
25 of the cost of mediation. Each party shall pay its own costs of preparation
26 and presentation of its case in mediation.

27 5. If the dispute is submitted to a mediator and then submitted to a
28 factfinder, the mediator shall, before August 15, give to the commissioner
29 a report of the efforts made to settle the dispute.

30 **Sec. 29.** If an employee organization enters into negotiations with
31 an employer pursuant to sections 20 to 35, inclusive, of this act, the
32 employee organization may be represented by an attorney licensed to
33 practice law in the State of Nevada.

34 **Sec. 30.** 1. If:

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

37 (b) The bargaining unit represented by the employee organization
38 contains fewer than 30 persons,
39 either party to the dispute, at any time up to September 20, may submit
40 the dispute to an impartial factfinder for his findings and
41 recommendations. His findings and recommendations are not binding on
42 the parties except as otherwise provided in subsections 5, 6 and 9. The
43 mediator of a dispute may also be chosen by the parties to serve as the
44 factfinder.

45 2. If the parties are unable to agree on an impartial factfinder within
46 5 days, either party may request from the American Arbitration
47 Association or the Federal Mediation and Conciliation Service a list of
48 seven potential factfinders. If the parties are unable to agree upon which
49 arbitration service should be used, the Federal Mediation and



1 *Conciliation Service must be used. The parties shall select their*
2 *factfinder from this list by alternately striking one name until the name*
3 *of only one factfinder remains, who will be the factfinder to hear the*
4 *dispute in question. The employee organization shall strike the first*
5 *name.*

6 *3. The employer and employee organization each shall pay one-half*
7 *of the cost of factfinding. Each party shall pay its own costs of*
8 *preparation and presentation of its case in factfinding.*

9 *4. A schedule of dates and times for the hearing must be established*
10 *before October 20, and the factfinder shall report his findings and*
11 *recommendations to the parties to the dispute within 30 days after the*
12 *conclusion of the factfinding hearing.*

13 *5. The parties to the dispute may agree, before the submission of the*
14 *dispute to factfinding, to make the findings and recommendations on all*
15 *or any specified issues final and binding on the parties.*

16 *6. If the parties do not agree on whether to make the findings and*
17 *recommendations of the factfinder final and binding, either party may*
18 *request the formation of a panel to determine whether the findings and*
19 *recommendations of a factfinder on all or any specified issues in a*
20 *particular dispute that are within the scope of subsection 9 are to be final*
21 *and binding. The determination must be made upon the concurrence of*
22 *at least two members of the panel and not later than October 20, unless*
23 *that date is extended by the commissioner. Each panel shall, when*
24 *making its determination, consider whether the parties have bargained in*
25 *good faith and whether it believes the parties can resolve any remaining*
26 *issues. Any panel may also consider the actions taken by the parties in*
27 *response to any previous factfinding between these parties and the best*
28 *interests of the state and all its residents.*

29 *7. Except as otherwise provided in subsection 8, any factfinder,*
30 *whether his recommendations are to be binding or not, shall base his*
31 *recommendations or award on the following criteria:*

32 *(a) A preliminary determination must be made as to the financial*
33 *ability of the employer based on all existing available revenues as*
34 *established by the employer.*

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

42 *The factfinder's report must contain the facts upon which he based his*
43 *determination of financial ability to grant monetary benefits and his*
44 *recommendations or award.*

45 *8. Any sum of money that is maintained in a fund the balance of*
46 *which is required by law to be:*

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



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1 (b) Carried forward to the succeeding fiscal year in any designated
2 amount, to the extent of that amount,
3 must not be counted in determining the financial ability of an employer
4 and must not be used to pay any monetary benefits recommended or
5 awarded by the factfinder.

6 9. The issues that may be included in a panel's order pursuant to
7 subsection 6 are:

8 (a) Those enumerated in subsection 2 of section 21 of this act as the
9 subjects of mandatory bargaining, unless precluded for that year by an
10 existing collective bargaining agreement between the parties; and

11 (b) Those which an existing collective bargaining agreement between
12 the parties makes subject to negotiation in that year.

13 This subsection does not preclude the voluntary submission of other
14 issues by the parties pursuant to subsection 5.

15 **Sec. 31.** Any request for the formation of a panel to determine
16 whether the findings and recommendations of a factfinder must be final
17 and binding must be filed with the commissioner not later than
18 October 1. The request must include:

19 1. A list of the issues that remain unresolved and the position of each
20 party regarding those issues;

21 2. The requester's assessment of the fiscal effect on the employer of
22 the requester's positions;

23 3. An outline of any previous factfinding between the parties that
24 includes any recommendations and awards of a factfinder and the
25 actions of each party in response thereto;

26 4. A statement of whether the parties are engaged in mediation
27 regarding the current dispute;

28 5. A schedule of the dates and times set by the factfinder for the
29 hearing; and

30 6. Any other information deemed necessary by the
31 commissioner.

32 Any person filing such a request shall give written notice of the request
33 to the Nevada state board of accountancy and the State Bar of Nevada.

34 **Sec. 32.** 1. Within 5 days after receiving notice of a request
35 pursuant to section 31 of this act, the Nevada state board of accountancy
36 and the State Bar of Nevada shall each submit to the commissioner and
37 each party to the dispute a list of names of five of their members who
38 would serve on a panel and are not closely allied with any employee
39 association or employer.

40 2. Within 8 days after receiving the lists, the parties shall choose one
41 name from each list by alternately striking one name until the names of
42 only one attorney and one accountant remain, who will each be a
43 member of the panel. The parties shall choose the member from the list
44 of accountants separately from their choice from the list of attorneys.
45 The parties shall notify the commissioner of their selections, and he shall
46 notify the attorney and accountant selected.

47 3. Within 5 days after receiving notice of their selection, the attorney
48 and accountant shall:

49 (a) Choose the third member of the panel, who must:



* A B 4 7 8 *

- 1 (1) *Be willing to serve on the panel;*
- 2 (2) *Be a resident of this state; and*
- 3 (3) *Not be closely allied with any employee organization or*
- 4 *employer.*

5 (b) *Notify the commissioner of their choice, and the three members*
6 *shall notify the commissioner of the dates before August 10 when they*
7 *will all be available to attend hearings.*

8 4. *The commissioner shall serve as a nonvoting member and also as*
9 *the chairman of the panel.*

10 5. *If the accountant or attorney selected to serve on the panel is*
11 *unable to do so, the Nevada state board of accountancy or the State Bar*
12 *of Nevada shall designate a person to replace its nominee. If the*
13 *commissioner is unable to serve, the governor shall designate a person to*
14 *serve in his capacity.*

15 Sec. 33. 1. *Each person, except the commissioner, who serves on a*
16 *panel formed pursuant to section 31 of this act is entitled to receive \$150*
17 *for each day he is engaged in the business of the panel and the expenses*
18 *and allowances prescribed in NRS 281.160.*

19 2. *All claims that arise pursuant to this section must be paid from the*
20 *reserve for statutory contingency account upon approval by the*
21 *commissioner and the state board of examiners.*

22 Sec. 34. 1. *To investigate disputes, the factfinder may:*

23 (a) *Issue subpoenas requiring the attendance of witnesses before him,*
24 *together with all books, memoranda, papers and other documents relative*
25 *to the matters under investigation;*

26 (b) *Administer oaths; and*

27 (c) *Take testimony.*

28 2. *The district court in and for the county in which any investigation*
29 *is being conducted by a factfinder may compel the attendance of*
30 *witnesses, the giving of testimony and the production of books and*
31 *papers as required by any subpoena issued by the factfinder.*

32 3. *In case of the refusal of any witness to attend or testify or produce*
33 *any papers required by such a subpoena, the factfinder may report to the*
34 *district court in and for the county in which the investigation is pending*
35 *by petition, setting forth:*

36 (a) *That due notice has been given of the time and place of attendance*
37 *of the witness or the production of the books and papers;*

38 (b) *That the witness has been subpoenaed in the manner prescribed in*
39 *this chapter;*

40 (c) *That the witness has failed and refused to attend or produce the*
41 *papers required by the subpoena before the factfinder in the investigation*
42 *named in the subpoena, or has refused to answer questions propounded*
43 *to him in the course of such an investigation,*
44 *and asking for an order of the court compelling the witness to attend and*
45 *testify or produce the books or papers before the factfinder.*

46 4. *The court, upon petition of the factfinder, shall enter an order*
47 *directing the witness to appear before the court at a time and place to be*
48 *fixed by the court in the order, the time to be not more than 10 days after*
49 *the date of the order, and then and there show cause why he has not*



1 *attended or testified or produced the books or papers before the*
2 *factfinder. A certified copy of the order must be served upon the witness.*
3 *If it appears to the court that the subpoena was regularly issued by the*
4 *factfinder, the court shall thereupon enter an order that the witness*
5 *appear before the factfinder at the time and place fixed in the order and*
6 *testify or produce the required books or papers, and upon failure to obey*
7 *the order, the witness must be dealt with as for contempt of court.*

8 **Sec. 35.** *The following proceedings, required by or pursuant to this*
9 *chapter, are not subject to any provision of NRS that requires a meeting*
10 *to be open or public:*

11 *1. Any negotiation or informal discussion between an employer and*
12 *an employee organization or employees as individuals, whether*
13 *conducted by the governing body of the employer, if any, or through a*
14 *representative or representatives.*

15 *2. Any meeting of a mediator with either party or both parties to a*
16 *negotiation.*

17 *3. Any meeting or investigation conducted by a factfinder.*

18 *4. Any meeting of the governing body of an employer, if any, with its*
19 *management representative or representatives.*

20 *5. Deliberations of the board toward a decision on a complaint,*
21 *appeal or petition for declaratory relief.*

22 **Sec. 36.** *1. The legislature finds as facts:*

23 *(a) That the services provided by the employers are of such nature that*
24 *they are not and cannot be duplicated from other sources and are*
25 *essential to the well-being of the people of the State of Nevada;*

26 *(b) That the continuity of such services is essential, and their*
27 *disruption incompatible with the responsibility of the state to its*
28 *residents; and*

29 *(c) That every person who enters or remains in the employment of an*
30 *employer accepts the facts stated in paragraphs (a) and (b) as an*
31 *essential condition of his employment.*

32 *2. The legislature therefore declares it to be the public policy of the*
33 *State of Nevada that strikes against an employer are illegal.*

34 **Sec. 37.** *1. If a strike occurs against an employer, the employer*
35 *shall, and if a strike is threatened against an employer, the employer*
36 *may, apply to a court of competent jurisdiction to enjoin the strike. The*
37 *application must set forth the facts constituting the strike or threat to*
38 *strike.*

39 *2. If the court finds that an illegal strike has occurred or unless*
40 *enjoined will occur, it shall enjoin the continuance or commencement of*
41 *the strike. The provisions of N.R.C.P. 65 and of the other Nevada Rules*
42 *of Civil Procedure apply generally to proceedings pursuant to this*
43 *section, but the court shall not require security of the employer.*

44 **Sec. 38.** *1. If a strike is commenced or continued in violation of an*
45 *order issued pursuant to section 37 of this act, the court may:*

46 *(a) Punish the employee organization or organizations guilty of the*
47 *violation by a fine of not more than \$50,000 against each organization*
48 *for each day of continued violation.*



1 (b) Punish any officer of an employee organization who is wholly or
2 partly responsible for the violation by a fine of not more than \$1,000 for
3 each day of continued violation, or by imprisonment as provided in NRS
4 22.110.

5 (c) Punish any employee of an employer who participates in the strike
6 by ordering the dismissal or suspension of the employee.

7 2. Any of the penalties enumerated in subsection 1 may be applied
8 alternatively or cumulatively, in the discretion of the court.

9 **Sec. 39.** 1. If a strike or violation is commenced or continued in
10 violation of an order issued pursuant to section 37 of this act, the
11 employer may:

12 (a) Dismiss, suspend or demote all or any of the employees who
13 participate in the strike or violation.

14 (b) Cancel the contracts of employment of all or any of the employees
15 who participate in the strike or violation.

16 (c) Withhold all or any part of the salaries or wages that would
17 otherwise accrue to all or any of the employees who participate in the
18 strike or violation.

19 2. Any of the powers conferred by subsection 1 may be exercised
20 alternatively or cumulatively.

21 **Sec. 40.** 1. It is a prohibited practice for an employer or its
22 designated representative willfully to:

23 (a) Interfere, restrain or coerce any employee in the exercise of any
24 right guaranteed pursuant to this chapter.

25 (b) Dominate, interfere with or assist in the formation or
26 administration of any employee organization.

27 (c) Discriminate in regard to hiring, tenure or any term or condition
28 of employment to encourage or discourage membership in any employee
29 organization.

30 (d) Discharge or otherwise discriminate against any employee because
31 he has signed or filed an affidavit, petition or complaint or given any
32 information or testimony pursuant to this chapter, or because he has
33 formed, joined or chosen to be represented by any employee
34 organization.

35 (e) Refuse to bargain collectively in good faith with the exclusive
36 representative as required pursuant to section 21 of this act. Bargaining
37 collectively includes the entire bargaining process, including mediation
38 and factfinding, provided for in this chapter.

39 (f) Discriminate because of race, color, religion, sex, age, physical or
40 visual handicap, or national origin, or because of political or personal
41 reasons or affiliations.

42 (g) Fail to provide the information required pursuant to section 27 of
43 this act.

44 2. It is a prohibited practice for an employee or for an employee
45 organization or its designated agent willfully to:

46 (a) Interfere with, restrain or coerce any employee in the exercise of
47 any right guaranteed under this chapter.

48 (b) Refuse to bargain collectively in good faith with an employer, if it
49 is an exclusive representative, as required pursuant to section 21 of this



1 *act. Bargaining collectively includes the entire bargaining process,*
2 *including mediation and factfinding, provided for in this chapter.*

3 *(c) Discriminate because of race, color, religion, sex, age, physical or*
4 *visual handicap, or national origin, or because of political or personal*
5 *reasons or affiliations.*

6 *(d) Fail to provide the information required pursuant to section 27 of*
7 *this act.*

8 **Sec. 41.** *Any controversy concerning prohibited practices may be*
9 *submitted to the board in the same manner and with the same effect as*
10 *provided in section 17 of this act, except that an alleged failure to provide*
11 *information as required pursuant to section 27 of this act must be heard*
12 *and determined by the board as soon as possible after the complaint is*
13 *filed with the board.*

14 **Sec. 42.** NRS 679A.160 is hereby amended to read as follows:

15 679A.160 Except as otherwise provided by specific statute, no
16 provision of this code applies to:

17 1. Fraternal benefit societies, as identified in chapter 695A of NRS,
18 except as stated in chapter 695A of NRS.

19 2. Hospital, medical or dental service corporations, as identified in
20 chapter 695B of NRS, except as stated in chapter 695B of NRS.

21 3. Motor clubs, as identified in chapter 696A of NRS, except as stated
22 in chapter 696A of NRS.

23 4. Bail agents, as identified in chapter 697 of NRS, except as stated in
24 NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.

25 5. Risk retention groups, as identified in chapter 695E of NRS, except
26 as stated in chapter 695E of NRS.

27 6. Captive insurers, as identified in chapter 694C of NRS, with respect
28 to their activities as captive insurers, except as stated in chapter 694C of
29 NRS.

30 7. Health and welfare plans arising out of collective bargaining ~~under~~
31 *pursuant to* chapter 288 of NRS, *or sections 2 to 41, inclusive, of this act,*
32 except that the commissioner may review the plan to ensure that the
33 benefits are reasonable in relation to the premiums and that the fund is
34 financially sound.

35 **Sec. 43.** As soon as practicable after July 1, 2001, the governor shall
36 appoint to the board for employee-management relations created pursuant
37 to section 14 of this act:

38 1. One member whose term expires on June 30, 2003.

39 2. One member whose term expires on June 30, 2004.

40 3. One member whose term expires on June 30, 2005.

41 **Sec. 44.** This act becomes effective on July 1, 2001.

