

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

Sponsor: Assembly Committee on Government Affairs

Assembly Bill 65 provides for collective bargaining for certain state employees.

Proposed amendments: Based on the amendments proposed at the hearings, attached is a mock-up showing proposed amendments in Sections 1 through 27 of the bill. Please note that the amendment to Section 32 (page 14) requested by Wally Tarantino on behalf of the Nevada Corrections Association and the Nevada Highway Patrol Association, was withdrawn.

Also being proposed for committee action is a conceptual amendment that would merge the existing Local Government Employee-Management Relations Board with the proposed Board for Labor Relations for State Employees. The merger would include:

- The addition of two board members to the three-member Local Government Employee-Management Relations Board (appointed by the Governor).
- The two additional board members would be appointed by the Senate Majority Leader and the Speaker of the Assembly;
- The reconstituted board would oversee collective bargaining for local government employees under the current provisions in Chapter 288 applicable to local government employees; and
- The reconstituted board would also oversee collective bargaining for state employees in accordance with the provisions of Assembly Bill 65; thereby creating a dual system for local and state employees overseen by the reconstituted board.

Testimony in opposition: Testimony in opposition included Sam McMullen, Las Vegas Chamber of Commerce; and John Wagner, Nevada Republican Assembly. Carole Vilaro from the Nevada Taxpayers Association voiced numerous concerns with the bill as drafted.

Fiscal Impact:

Local: No.

State: Yes. The fiscal note is attached.

Based on testimony received, the estimated cost for operating the Local Government Employee-Management Relations Board is 34 cents per member per month, of which 17 cents is paid by the employee organization. Costs associated with adding two members to the existing board are not available.

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 65

PREPARED FOR GOVERNMENT AFFAIRS
MARCH 5, 2003

PREPARED BY THE RESEARCH DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) ~~green bold dashed underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment.

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

- 1 **Section 1.** NRS 281.129 is hereby amended to read as follows:
2 281.129 Any officer of the State, except the Legislative Fiscal
3 Officer, who disburses money in payment of salaries and wages of officers
4 and employees of the State may, upon written requests of the officer or
5 employee specifying amounts, withhold those amounts and pay them to:
6 1. Charitable organizations;
7 2. Employee credit unions;
8 3. Insurers, if the Board of the Public Employees' Benefits Program
9 has approved the request;
10 4. The United States for the purchase of savings bonds and similar
11 obligations of the United States; and
12 5. ~~{Employee}~~ *Except as otherwise provided in section 32 of this act,*
13 *employee organizations and labor organizations.*
14 The State Controller may adopt regulations necessary to withhold money
15 from the salaries or wages of officers and employees of the Executive
16 Department.
17 **Sec. 2.** NRS 284.013 is hereby amended to read as follows:

PROPOSED AMENDMENT TO AB65

I, 2/11

1 284.013 1. Except as otherwise provided in subsection 4, this
2 chapter does not apply to:

3 (a) Agencies, bureaus, commissions, officers or personnel in the
4 Legislative Department or the Judicial Department of State Government,
5 including the Commission on Judicial Discipline;

6 (b) Any person who is employed by a board, commission, committee
7 or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644,
8 inclusive, 648, 652, 654 and 656 of NRS; or

9 (c) Officers or employees of any agency of the Executive Department
10 of the State Government who are exempted by specific statute.

11 2. Except as otherwise provided in subsection 3, the terms and
12 conditions of employment of all persons referred to in subsection 1,
13 including salaries not prescribed by law and leaves of absence, including,
14 without limitation, annual leave and sick and disability leave, must be
15 fixed by the appointing or employing authority within the limits of
16 legislative appropriations or authorizations.

17 3. Except as otherwise provided in this subsection, leaves of absence
18 prescribed pursuant to subsection 2 must not be of lesser duration than
19 those provided for other state officers and employees pursuant to the
20 provisions of this chapter. The provisions of this subsection do not govern
21 the Legislative Commission with respect to the personnel of the
22 Legislative Counsel Bureau.

23 4. Any board, commission, committee or council created in chapters
24 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and
25 656 of NRS which contracts for the services of a person, shall require the
26 contract for those services to be in writing. The contract must be approved
27 by the State Board of Examiners before those services may be provided.

28 5. *To the extent that they are inconsistent or otherwise are in*
29 *conflict, the provisions of this chapter do not apply to any terms or*
30 *conditions of employment that are properly within the scope of and*
31 *subject to the provisions of:*

32 (a) *A collective bargaining agreement or supplemental bargaining*
33 *agreement that is enforceable pursuant to the provisions of sections 4 to*
34 *50, inclusive, of this act; or*

35 (b) *An agreement concerning the terms and conditions of*
36 *employment for compositors, bindery operators, pressmen and assistants*
37 *that is made pursuant to section 68 of this act between the*
38 *Superintendent of the State Printing Division of the Department of*
39 *Administration and any group or organization that represents such*
40 *employees.*

41 *As used in this subsection, "terms and conditions of employment" has*
42 *the meaning ascribed to it in section 17 of this act.*

43 **Sec. 3.** Chapter 288 of NRS is hereby amended by adding thereto the
44 provisions set forth as sections 4 to 50, inclusive, of this act.

1 **Sec. 4.** *As used in sections 4 to 50, inclusive, of this act, unless the*
2 *context otherwise requires, the words and terms defined in sections 5 to*
3 *17, inclusive, of this act have the meanings ascribed to them in those*
4 *sections.*

5 **Sec. 5.** *"Bargaining unit" means a collection of employees that the*
6 *Board has established as a bargaining unit pursuant to section 27 of this*
7 *act.*

8 **Sec. 6.** *"Board" means the Board for Labor Relations for State*
9 *Employees.*

10 **Sec. 7.** *"Chief of the Budget Division" means the Chief of the*
11 *Budget Division of the Department of Administration.*

12 **Sec. 8.** *"Collective bargaining" means a method to determine the*
13 *terms and conditions of employment for all employees within a*
14 *bargaining unit through negotiation, mediation or arbitration between*
15 *the Executive Department and the exclusive representative of the*
16 *bargaining unit pursuant to sections 4 to 50, inclusive, of this act.*

17 **Sec. 9.** *"Confidential employee" means an employee who:*

18 1. *Assists in the formulation, determination and effectuation of*
19 *personnel policies or managerial policies concerning collective*
20 *bargaining or supplemental bargaining;*

21 2. *Provides administrative support to an employee described in*
22 *subsection 1; or*

23 3. *Is employed by the Board.*

24 **Sec. 10.** 1. *"Employee" means a person who:*

25 (a) *Is employed in the classified service of the State pursuant to*
26 *chapter 284 of NRS, including, without limitation, persons employed in*
27 *the classified service by the University and Community College System of*
28 *Nevada;*

29 (b) *Is employed by the Public Employees' Retirement System and*
30 *who is required to be paid in accordance with the pay plan for the*
31 *classified service of the State; and*

32 (c) *Is employed by any other employer that receives money from the*
33 *State of Nevada if the National Labor Relations Board has refused to*
34 *assert jurisdiction over the employer because the employer lacks the*
35 *ultimate authority to determine the primary terms and conditions of*
36 *employment and who is in a position similar to a position in the*
37 *classified service of the State.*

38 2. *The term does not include:*

39 ~~(a) An employee whose position is classified at grade 42 or higher~~
40 ~~under the pay plan in existence on January 1, 2003, or whose position is~~
41 ~~given an equivalent classification under any subsequently adopted pay~~
42 ~~plan. A managerial employee whose primary function is to administer~~
43 ~~and control the business of an Agency, Department, or Division of the~~
44 ~~State and who is vested with discretion and independent judgment with~~
45 ~~the general conduct and control of an Agency, Department or Division of~~

Amendment proposed by Teamsters Union.

1 *the State. The Board shall determine whether the employment functions*
2 *or relations of the particular managerial employees preclude their*
3 *inclusion in a bargaining unit.*

4 (b) *An employee who is not in the classified or unclassified service of*
5 *the State pursuant to NRS 223.085;*

6 (c) *A compositor, bindery operator, pressman or assistant who is*
7 *employed pursuant to NRS 344.080 by the Superintendent of the State*
8 *Printing Division of the Department of Administration;*

9 (d) *A confidential employee;*

10 (e) *An employee who is normally scheduled to work 20 hours or less*
11 *per week, unless the employee is hired to avoid the provisions of sections*
12 *4 to 50, inclusive, of this act; and*

13 (f) *A temporary employee who is employed for a fixed period of 4*
14 *months or less.*

15 Sec. 11. *"Employee organization" means an organization that is*
16 *created, maintained and operated to represent employees concerning the*
17 *terms and conditions of employment for those employees.*

18 Sec. 12. *"Exclusive representative" means an employee*
19 *organization that, as a result of designation by the Board, has the*
20 *exclusive right to represent all employees within a bargaining unit and to*
21 *negotiate with the Executive Department pursuant to sections 4 to 50,*
22 *inclusive, of this act concerning the terms and conditions of employment*
23 *for those employees.*

24 Sec. 13. *"Executive Department" means an agency, board, bureau,*
25 *commission, department, division, elected officer or any other unit of the*
26 *Executive Department of State Government.*

27 Sec. 14. *"Mediation" means assistance by an impartial third party*
28 *to reconcile differences between the Executive Department and an*
29 *exclusive representative through interpretation, suggestion and advice.*

30 Sec. 15. *"Party" includes, without limitation, the Executive*
31 *Department.*

32 Sec. 16. *"Supplemental bargaining" means bargaining concerning*
33 *the terms and conditions of employment that is conducted pursuant to*
34 *section 45 of this act.*

35 Sec. 17. *Except as otherwise provided in sections 4 to 50, inclusive,*
36 *of this act, "terms and conditions of employment" includes, without*
37 *limitation:*

38 1. *Salaries and wages;*

39 2. *Hours and working conditions;*

40 3. *Benefits other than benefits related to the Public Employees'*

41 *Retirement System;*

42 4. *Grievances;*

43 5. *Discipline and discharge; and*

44 ~~5-6~~ *Labor disputes.*

Amendment
proposed by Peace
Officers Research
Association (Ron
Dreher)

1 **Sec. 18.** *The provisions of chapter 241 of NRS do not apply to any*
2 *of the following if conducted for the purposes of sections 4 to 50,*
3 *inclusive, of this act:*

4 1. *A negotiation or informal discussion between the Executive*
5 *Department and an employee organization.*

6 2. *A meeting or investigation conducted by a mediator or arbitrator.*

7 3. *A meeting between the Executive Department and its designated*
8 *representatives concerning collective bargaining or supplemental*
9 *bargaining.*

10 **Sec. 19.** 1. *The Board for Labor Relations for State Employees is*
11 *hereby created, consisting of three members appointed as follows:*

12 (a) *One member appointed by the Governor;*

13 (b) *One member appointed by the Majority Leader of the Senate; and*

14 (c) *One member appointed by the Speaker of the Assembly.*

15 2. *The members of the Board must be broadly representative of the*
16 *public and must not be closely allied with any employee organization or*
17 *the Executive Department.*

18 3. *The term of office of each member of the Board is 4 years.*

19 4. *The members of the Board serve at the pleasure of the appointing*
20 *authority in each case.*

21 5. *Any vacancy in the membership of the Board must be filled for*
22 *the remainder of the unexpired term in the same manner as the original*
23 *appointment.*

24 **Sec. 20.** 1. *The Board shall annually elect a Chairman and a Vice*
25 *Chairman from among its members. The Vice Chairman shall perform*
26 *the duties of the Chairman during any absence of the Chairman.*

27 2. *Two members of the Board constitute a quorum.*

28 3. *The Board may, within the limits of legislative appropriations:*

29 (a) *Appoint an Executive Secretary, who is in the classified service of*
30 *the State; and*

31 (b) *Employ such clerical personnel as may be necessary, who are in*
32 *the classified service of the State.*

33 **Sec. 21.** 1. *Each member of the Board is entitled to receive a*
34 *salary of not more than \$80, as fixed by the Board, for each day in which*
35 *the member is engaged in the business of the Board.*

36 2. *While engaged in the business of the Board, each member and*
37 *employee of the Board is entitled to receive the per diem allowance and*
38 *travel expenses provided for state officers and employees generally.*

39 **Sec. 22.** 1. *The Board shall adopt regulations concerning:*

40 (a) *The establishment of bargaining units and the classifications of*
41 *employees within each bargaining unit pursuant to section 27 of this act;*

42 (b) *The recognition of employee organizations and the designation of*
43 *exclusive representatives pursuant to sections 28 to 32, inclusive, of this*
44 *act;*

45 (c) *Procedures for mediation;*

1 (d) Procedures for arbitration; and
2 (e) Hearings and proceedings before the Board, including, without
3 limitation, hearings and proceedings conducted pursuant to section 48 of
4 this act.

5 2. The Board may adopt any other regulations that are necessary to
6 carry out the provisions of sections 4 to 50, inclusive, of this act.

7 3. The Board may hear and determine any complaint:

8 (a) Arising out of the interpretation or performance of an agreement
9 entered into pursuant to sections 4 to 50, inclusive, of this act;

10 (b) Concerning the classification of an employee within an
11 appropriate bargaining unit pursuant to section 27 of this act; or

12 (c) Concerning a practice that is prohibited by section 47 of this act.

13 Sec. 23. 1. In carrying out the provisions of sections 4 to 50,
14 inclusive, of this act, the Board may:

15 (a) Administer oaths or affirmations;

16 (b) Take testimony; and

17 (c) Issue subpoenas to compel the attendance and testimony of a
18 person and to compel the production of books, papers and other items
19 that are relevant to a matter being investigated or considered by the
20 Board.

21 2. If a person named in a subpoena fails or refuses to attend or
22 testify before the Board, to answer any questions propounded by the
23 Board or to produce the books, papers or other items required by the
24 subpoena, the Chairman of the Board may petition the district court to
25 enter an order compelling the person to attend and testify before the
26 Board, to answer the questions propounded by the Board or to produce
27 the books, papers or other items required by the subpoena. The petition
28 filed by the Chairman must set forth that:

29 (a) Due notice has been given to the person named in the subpoena
30 of the time and place for his attendance and testimony before the Board
31 or for the production of the books, papers or other items required by the
32 subpoena;

33 (b) The person has been subpoenaed by the Board pursuant to this
34 section; and

35 (c) The person has failed or refused to attend or testify before the
36 Board, to answer certain questions propounded by the Board or to
37 produce the books, papers or other items required by the subpoena.

38 3. Upon such a petition, the court shall enter an order directing the
39 person named in the subpoena to:

40 (a) Appear before the court at the place and time designated in the
41 order. The time designated by the court must be not later than 10 days
42 after the date of the order.

43 (b) Show cause why the person has failed or refused to attend or
44 testify before the Board, to answer the questions propounded by the

1 Board or to produce the books, papers or other items required by the
2 subpoena.

3 A certified copy of the order must be served upon the person named in
4 the subpoena.

5 4. If it appears to the court that the subpoena was regularly issued
6 by the Board and properly served, the court shall enter an order directing
7 the person named in the subpoena to appear before the Board at the
8 place and time designated in the order and to testify before the Board, to
9 answer the questions propounded by the Board or to produce the books,
10 papers or other items required by the subpoena. Failure to obey the order
11 constitutes contempt of court.

12 Sec. 24. 1. A subpoena issued by the Board extends to all parts of
13 this state and must be served in accordance with the provisions of
14 N.R.C.P. 4(c). The Board may not require a person named in a subpoena
15 to attend at a place outside the county in which the person resides
16 unless:

17 (a) The location of the place is less than 100 miles from the person's
18 primary residence; or

19 (b) A party, by affidavit, shows that the testimony of the person is
20 material and necessary to the proceedings and the Board endorses on the
21 subpoena an order requiring the person to attend at the place named in
22 the subpoena, regardless of its location in this state.

23 2. A person who appears before the Board pursuant to a subpoena
24 is entitled to receive fees and mileage in the same amounts and under the
25 same circumstances as prescribed by law for a witness in a civil action in
26 the district court, unless the person is a party to the proceeding or an
27 officer or employee of this state or any of its political subdivisions. As
28 used in this subsection, "employee" includes, without limitation, an
29 employee in the classified or unclassified service of the State.

30 3. If a person who is entitled to receive fees and mileage pursuant to
31 subsection 2 must appear at a hearing before the Board at a place
32 located so far from his primary residence that it is not reasonable for the
33 person to return to that residence from day to day, the person is entitled,
34 in addition to fees and mileage, to receive the per diem compensation for
35 subsistence and transportation authorized by NRS 281.160 for each day
36 of actual attendance at such a hearing and for each day necessarily
37 occupied in traveling to and from such a hearing.

38 4. Except as otherwise provided in subsection 5, a party who
39 requests that the Board issue a subpoena to a person shall pay to the
40 Board the amount of any compensation for subsistence and
41 transportation that the person is entitled to receive from the Board
42 pursuant to subsection 3.

43 5. As part of an award of costs to the party who prevails in a
44 proceeding, the Board may require the party who did not prevail in the
45 proceeding to pay to the Board the amount of any compensation for

1 subsistence and transportation that the prevailing party would have
2 otherwise been required to pay to the Board pursuant to subsection 4.

3 **Sec. 25. 1.** For the purposes of collective bargaining,
4 supplemental bargaining and other mutual aid or protection, employees
5 have the right to:

6 (a) Organize, form, join and assist employee organizations, engage in
7 collective bargaining and supplemental bargaining through exclusive
8 representatives and engage in other concerted activities; and

9 (b) Refrain from engaging in any such activity.

10 2. Collective bargaining and supplemental bargaining entail a
11 mutual obligation of the Executive Department and an exclusive
12 representative to meet at reasonable times and to bargain in good faith
13 with respect to:

14 (a) The terms and conditions of employment;

15 (b) The negotiation of an agreement;

16 (c) The resolution of any question arising under an agreement; and

17 (d) The execution of a written contract incorporating the provisions
18 of an agreement, if requested by either party or required pursuant to
19 sections 4 to 50, inclusive, of this act.

20 3. The provisions of this section must not be construed to compel
21 the Executive Department or an exclusive representative to agree to a
22 proposal or to make a concession.

23 **Sec. 26. 1.** Except as otherwise provided in subsection 2, the
24 following subjects are not within the scope of collective bargaining or
25 supplemental bargaining pursuant to sections 4 to 50, inclusive, of this
26 act and are reserved to the Executive Department without negotiation:

27 (a) The right to hire, direct or assign an employee, except the right to
28 reassign an employee as a form of discipline;

29 (b) The right to determine the minimum qualifications for a job or
30 position and the nature and content of any examination offered to
31 applicants for that job or position;

32 (c) The right to determine the content of the workday, including,
33 without limitation, the amount of work that must be performed, except
34 for considerations of safety; and

35 (d) The right to take whatever action may be necessary to carry out
36 the responsibilities of the Executive Department in a situation of
37 emergency, including, without limitation, a riot, military action, natural
38 disaster or civil disorder.

39 2. The Executive Department and an exclusive representative may
40 negotiate concerning:

41 (a) The procedures that the Executive Department will observe in
42 exercising the authority reserved to it pursuant to this section; and

43 (b) The effect of the exercise of such authority by the Executive
44 Department.

1 **Sec. 27. 1. The Board shall, by regulation, establish bargaining**
2 **units on a statewide basis, including, without limitation, the bargaining**
3 **units described in subsection 2.**

4 **2. The Board shall establish one bargaining unit for each of the**
5 **following occupational groups and each such bargaining unit must**
6 **include all supervisory employees at the working level of the**
7 **occupational group:**

8 **(a) Labor, maintenance, custodial and institutional employees,**
9 **including, without limitation, employees of penal and correctional**
10 **institutions who are not responsible for security at those institutions.**

11 **(b) Administrative and clerical employees, including, without**
12 **limitation, paralegals and employees whose work involves general office**
13 **work, or keeping or examining records and accounts.**

14 **(c) Technical aides to professional employees, including, without**
15 **limitation, computer programmers, tax examiners, conservation**
16 **employees and crew supervisors.**

17 **(d) Professional employees, including, without limitation, physical**
18 **therapists and other employees in medical and other professions related**
19 **to health.**

20 **(e) Employees, other than professional employees, who provide**
21 **health care and personal care, including, without limitation, employees**
22 **who care for children.**

23 **(f) Officers of the Nevada Highway Patrol who hold the rank of**
24 **sergeant or lower.**

25 **(g) Adult and youth correctional employees, including, without**
26 **limitation, classification caseworkers, group supervisors in correctional**
27 **institutions and forensic specialists.**

28 **(h) Employees, other than officers of the Nevada Highway Patrol**
29 **and adult and youth correctional employees, who have the powers of a**
30 **peace officer and whose work includes investigation, the enforcement of**
31 **statutes, ordinances or regulations, or the preservation of public order,**
32 **including, without limitation, all such employees of the Public Utilities**
33 **Commission of Nevada, the Transportation Services Authority and the**
34 **Taxicab Authority.**

35 **(i) Supervisory employees not otherwise included in other bargaining**
36 **units.**

37 **(j) All employees of the State Printing Division of the Department of**
38 **Administration.**

39 **(k) All employees of the University and Community College System of**
40 **Nevada.**

41 **3. This section does not prohibit the Board from including within**
42 **an occupational group employees other than those specified for that**
43 **group.**

44 **4. The Board shall, by regulation, establish the exact classifications**
45 **of employees within each bargaining unit. The Board may assign a new**

Amendments
proposed by
SNEA

1 classification to a bargaining unit based upon the similarity of the new
2 classification to other classifications within the bargaining unit.

3 5. The Board shall not change an established bargaining unit
4 arbitrarily.

5 6. As used in this section:

6 (a) "Professional employee" means an employee engaged in work
7 that:

8 (1) Is predominantly intellectual and varied in character as
9 opposed to routine mental, manual, mechanical or physical work;

10 (2) Involves the consistent exercise of discretion and judgment in
11 its performance;

12 (3) Is of such a character that the result accomplished or
13 produced cannot be standardized in relation to a given period; and

14 (4) Requires advanced knowledge in a field of science or learning
15 customarily acquired through a prolonged course of specialized
16 intellectual instruction and study in an institution of higher learning, as
17 distinguished from general academic education, an apprenticeship or
18 training in the performance of routine mental or physical processes.

19 (b) "Supervisory employee" means an employee who has authority
20 to:

21 (1) Hire, transfer, suspend, lay off, recall, promote, discharge,
22 assign, reward or discipline other employees, or who has the
23 responsibility to direct such employees; or

24 (2) Adjust the grievances of other employees or effectively
25 recommend such an action, if the exercise of that authority requires the
26 use of independent judgment and is not of a routine or clerical nature.

27 Sec. 28. 1. If no employee organization is designated as the
28 exclusive representative of a bargaining unit and an employee
29 organization files with the Board a list of its membership showing that
30 the employee organization represents more than 50 percent of the
31 employees within the bargaining unit, the Board shall designate the
32 employee organization as the exclusive representative of the bargaining
33 unit without ordering an election.

34 2. If the Board designates an employee organization as the
35 exclusive representative of a bargaining unit without ordering an
36 election pursuant to subsection 1 of this section or paragraph (a) of
37 subsection 2 of section 29 of this act, the Board shall:

38 (a) Without ordering an election, remove the employee organization
39 as the exclusive representative of the bargaining unit and designate
40 another employee organization as the exclusive representative of the
41 bargaining unit if, after June 30 and on or before December 31 of an
42 odd-numbered year:

43 (1) Another employee organization files with the Board a list of its
44 membership showing that it represents more than 50 percent of the
45 employees within the bargaining unit; and