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SENATE BILL 331: OPPOSE

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Regarding NRS Chapter 284, Sections 2, 3 and 4. Giving subpoena powers to the Employee Management Committee:

The Department of Motor Vehicles opposes this proposal.

There are costs associated with travel and witness fees that are unknown and unbudgeted for the coming biennium.

An employee whose grievance is unresolved at the Department level and who has requested an Employee Management Committee hearing has the opportunity to have witnesses of his/her choice appear and testify. It remains to be seen just how disruptive it will be to have employees subpoenaed who are not anxious to become embroiled in another employee's work place issues. While it may seem at first blush that anyone and everyone with any knowledge of a given circumstance should be brought to the hearing, this is not a criminal court and these employees have to work side by side upon returning to the workplace. I sincerely believe forcing an employee to testify for or against a fellow employee will drive a wedge between those employees, and have a detrimental affect on the work environment, in general. The system of grievance review in its present state works, and I sense, in the favor of employee as often as it has favored management.

Regarding Section 4:

Some years ago, law makers saw fit to establish a Peace Officer's Bill of Rights believing, apparently, that law enforcement agents may be subject to a different and more serious set of criteria when suspected of wrong doing. Protection for law enforcement agents is set forth in NRS 289.060 and NRS 289.080. These statutes provide for reasonable advance notification to

the officer before any "interrogation or hearing" may be held. Further, that the officer may have an attorney or other representative present during any phase of the "interrogation or hearing".

I underscore the reference to "interrogation or hearing" because that is very much the circumstance when an investigation of a police officer is underway. And, as one who enjoyed about half a career in law enforcement, I think they deserve the rights provided in these statutes. This bill extends these necessary protections to employees throughout state service who are not subjected to similar circumstances.

There is a significant difference between the interrogation of a police officer, by internal affairs investigators and an effort by a DMV supervisor who is attempting to correct a subordinate employee's tardiness, or work performance. And here I underscore the word correct.

DMV supervisors are responsible for correcting employee behavior that is detrimental to their work performance, or jeopardizes the efforts of those around them in meeting department commitments.

This supervisory responsibility is an ongoing process and occurs in many small ways throughout the work day; beginning with training and continuing with encouragement and assistance. When the positive efforts are not working the supervisor may initiate progressive disciplinary action. As you are probably aware, the Personnel rules require progressive discipline, beginning with warnings. NAC 284.638 states, in part "the supervisor shall inform the employee promptly and specifically of the deficiencies". It may well be clear to the supervisor at this early stage that the employee is on the progressive disciplinary track.

Where does this bill, SB 331, leave our supervisors when they wish to implement the required progressive disciplinary action? Will the supervisor be required to give the employee 48 hours notification before sitting down to go over an established record of tardiness or slipshod work? Will the employee have a right to an attorney or a representative every time the supervisor needs to get some correction on his/her behavior? It certainly has that appearance.

There is a lot of value in working with employees toward a common and worth while goal and we believe you find that in a system that is intended to get positive results while keeping positive attitudes.

The proposed changes to Chapter 284 sets out very clearly that the relationship between employees of the state and the organization for which they work is an adversarial relationship, and that no one is looking out for them except their attorney, or some other representative.

Regarding NRS 284.384, Section 1, (b) Submission to the Employee-Management Committee or an arbitrator.....

The implications are obvious; the costs and the impact on productivity are unplanned and unnecessary. The suggestion is that a panel of experienced, third party reviewers (the Employee-Management Committee) is not a satisfactory venue to hear disputes of even the simplest of disciplinary actions. This section supposes that the employee may not get a fair hearing before the Employee-Management Committee and adds significantly to the cost of review of disciplinary actions.

NRS 284.384, Section 6, states in part, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee.....

Is the employee who suffers a documented verbal reprimand, an effort early on in the process of correcting behavior, entitled to the costly and time consuming review of an arbitrator? I should hope not!

Regarding NRS 284.390, prohibiting an employer from dismissing or demoting an employee without affording the employee a hearing before a hearing officer before the action takes place.

The State Administrative Manual, Section 1702.0 states, "Prior to the imposition of any

suspension, demotion or termination of an employee, an appointing authority must first consult with the Attorney General regarding the proposed discipline."

The current process ensures a fair and impartial review of circumstances by a representative of the Attorney General's office. There may be a perception that this is the employer's representative but my experience has been that the review by the Attorney General representatives is intended to ensure the appropriateness, and fairness of the intended suspension, demotion or termination.

Disciplinary action is already an arduous and time consuming effort, working within the parameters of the Personnel guidelines for employee discipline. My experience as a personnel manager for the past 23 years, the past 5 in state service, tells me the circumstances provided for by the changes in this bill will drive supervisors and managers with problem employees to withdraw from the process, to the detriment of the state and the departments in which they work.

I appreciate your time and attention to this presentation, and respectfully request that the existing, and working, system that regards both sides of employee issues not be turned into one of constant and adversarial consternation.

Thank you.