

ASSEMBLY BILL NO. 279—ASSEMBLYMEN GIUNCHIGLIANI
AND ANDERSON

MARCH 11, 2003

Referred to Committee on Education

SUMMARY—Abolishes requirement of binding arbitration for teachers and educational support personnel and provides authority to strike under certain circumstances. (BDR 23-108)

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 public employees; abolishing requirement of binding arbitration for teachers and educational support personnel; providing the authority to strike under 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.** NRS 288.150 is hereby amended to read as follows:
2 288.150 1. Except as *otherwise* provided in subsection 4,
3 every local government employer shall negotiate in good faith
4 through one or more representatives of its own choosing concerning
5 the mandatory subjects of bargaining set forth in subsection 2 with
6 the designated representatives of the recognized employee
7 organization, if any, for each appropriate bargaining unit among its
8 employees. If either party so requests, agreements reached must be
9 reduced to writing.
10 2. The scope of mandatory bargaining is limited to:
11 (a) Salary or wage rates or other forms of direct monetary
12 compensation.
13 (b) Sick leave.
14 (c) Vacation leave.



- 1 (d) Holidays.
- 2 (e) Other paid or nonpaid leaves of absence.
- 3 (f) Insurance benefits.
- 4 (g) Total hours of work required of an employee on each
- 5 workday or workweek.
- 6 (h) Total number of days' work required of an employee in a
- 7 work year.
- 8 (i) Discharge and disciplinary procedures.
- 9 (j) Recognition clause.
- 10 (k) The method used to classify employees in the bargaining
- 11 unit.
- 12 (l) Deduction of dues for the recognized employee organization.
- 13 (m) Protection of employees in the bargaining unit from
- 14 discrimination because of participation in recognized employee
- 15 organizations consistent with the provisions of this chapter.
- 16 (n) No-strike provisions consistent with the provisions of this
- 17 chapter ~~H~~, *if applicable*.
- 18 (o) Grievance and arbitration procedures for resolution of
- 19 disputes relating to interpretation or application of collective
- 20 bargaining agreements.
- 21 (p) General savings clauses.
- 22 (q) Duration of collective bargaining agreements.
- 23 (r) Safety of the employee.
- 24 (s) Teacher preparation time.
- 25 (t) Materials and supplies for classrooms.
- 26 (u) The policies for the transfer and reassignment of teachers.
- 27 (v) Procedures for reduction in workforce.
- 28 3. Those subject matters which are not within the scope of
- 29 mandatory bargaining and which are reserved to the local
- 30 government employer without negotiation include:
- 31 (a) Except as otherwise provided in paragraph (u) of subsection
- 32 2, the right to hire, direct, assign or transfer an employee, but
- 33 excluding the right to assign or transfer an employee as a form of
- 34 discipline.
- 35 (b) The right to reduce in force or lay off any employee because
- 36 of lack of work or lack of money, subject to paragraph (v) of
- 37 subsection 2.
- 38 (c) The right to determine:
- 39 (1) Appropriate staffing levels and work performance
- 40 standards, except for safety considerations;
- 41 (2) The content of the workday, including without limitation
- 42 workload factors, except for safety considerations;
- 43 (3) The quality and quantity of services to be offered to the
- 44 public; and
- 45 (4) The means and methods of offering those services.



1 (d) Safety of the public.

2 4. Notwithstanding the provisions of any collective bargaining
3 agreement negotiated pursuant to this chapter, a local government
4 employer is entitled to take whatever actions may be necessary to
5 carry out its responsibilities in situations of emergency such as a
6 riot, military action, natural disaster or civil disorder. Those actions
7 may include the suspension of any collective bargaining agreement
8 for the duration of the emergency. Any action taken under the
9 provisions of this subsection must not be construed as a failure to
10 negotiate in good faith.

11 5. The provisions of this chapter, including without limitation
12 the provisions of this section, recognize and declare the ultimate
13 right and responsibility of the local government employer to manage
14 its operation in the most efficient manner consistent with the best
15 interests of all its citizens, its taxpayers and its employees.

16 6. This section does not preclude, but this chapter does not
17 require, the local government employer to negotiate subject matters
18 enumerated in subsection 3 which are outside the scope of
19 mandatory bargaining. The local government employer shall discuss
20 subject matters outside the scope of mandatory bargaining but it is
21 not required to negotiate those matters.

22 7. Contract provisions presently existing in signed and ratified
23 agreements as of May 15, 1975, at 12 p.m. remain negotiable.

24 **Sec. 2.** NRS 288.160 is hereby amended to read as follows:

25 288.160 1. An employee organization may apply to a local
26 government employer for recognition by presenting:

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

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

29 (c) ~~[A]~~ *Except as otherwise provided in NRS 288.217, a* pledge
30 in writing not to strike against the local government employer under
31 any circumstances.

32 ~~[A]~~ *Except as otherwise provided in NRS 288.217, a* local
33 government employer shall not recognize as representative of its
34 employees any employee organization which has not adopted,
35 in a manner valid under its own rules, the pledge required by
36 paragraph (c).

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

43 3. A local government employer may withdraw recognition
44 from an employee organization which:



1 (a) Fails to present a copy of each change in its constitution or
2 bylaws, if any, or to give notice of any change in the roster of its
3 officers, if any, and representatives;

4 (b) ~~Disavows~~ *Except as otherwise provided in NRS 288.217,*
5 *disavows* its pledge not to strike against the local government
6 employer under any circumstances;

7 (c) Ceases to be supported by a majority of the local
8 government employees in the bargaining unit for which it is
9 recognized; or

10 (d) Fails to negotiate in good faith with the local government
11 employer,
12 if it first receives the written permission of the board.

13 4. If the board in good faith doubts whether any employee
14 organization is supported by a majority of the local government
15 employees in a particular bargaining unit, it may conduct an election
16 by secret ballot upon the question. Subject to judicial review, the
17 decision of the board is binding upon the local government
18 employer and all employee organizations involved.

19 5. The parties may agree in writing, without appealing to the
20 board, to hold a representative election to determine whether an
21 employee organization represents the majority of the local
22 government employees in a bargaining unit. Participation by the
23 board and its staff in an agreed election is subject to the approval of
24 the board.

25 **Sec. 3.** NRS 288.217 is hereby amended to read as follows:

26 288.217 1. The provisions of this section govern negotiations
27 between school districts and employee organizations representing
28 teachers and educational support personnel.

29 2. If the parties to a negotiation pursuant to this section have
30 failed to reach an agreement after at least four sessions of
31 negotiation, either party may , *at any time before September 20,*
32 declare the negotiations to be at an impasse and, after 5 days'
33 written notice is given to the other party, submit the issues
34 remaining in dispute to an arbitrator. The arbitrator must be selected
35 in the manner provided in subsection 2 of NRS 288.200 and has the
36 powers provided for fact finders in NRS 288.210.

37 3. *The parties to the dispute may, before the submission of*
38 *the dispute to an arbitrator, agree to make the findings and*
39 *recommendations on all or any specified issues final and binding*
40 *on the parties.*

41 4. The arbitrator shall, within 30 days after he is selected ~~H~~
42 and after 7 days' written notice is given to the parties, hold a hearing
43 to receive information concerning the dispute. The hearing must be
44 held in the county in which the school district is located and the
45 arbitrator shall arrange for a full and complete record of the hearing.



1 ~~[4.]~~ 5. The parties to the dispute shall each pay one-half of the
2 costs of the arbitration.

3 ~~[5. A determination of the financial ability of a school district
4 must be based on all existing available revenues as established by
5 the school district and within the limitations set forth in NRS
6 354.6241, with due regard for the obligation of the school district to
7 provide an education to the children residing within the district.]~~

8 6. At the recommendation of the arbitrator, the parties may,
9 before the submission of a final offer, enter into negotiations. If the
10 negotiations are begun, the arbitrator may adjourn the hearing for a
11 period of 3 weeks. If an agreement is reached, it must be submitted
12 to the arbitrator, who shall certify it as final and binding. *Unless the
13 terms of the agreement provide otherwise, the provisions of the
14 agreement are retroactive to the expiration date of the last contract
15 between the parties.*

16 7. If the parties do not enter into negotiations or do not agree
17 within 30 days after the hearing held pursuant to subsection ~~[3.]~~ 4,
18 each of the parties shall submit a single written statement containing
19 its final offer for each of the unresolved issues.

20 8. The arbitrator shall, within 10 days after the final offers are
21 submitted, render his decision on the basis of the *following* criteria
22 ~~[set forth in NRS 288.200. The arbitrator shall accept one of the
23 written statements and shall report his decision to the parties.]~~ :

24 (a) *The financial ability of a school district. A preliminary
25 determination of the financial ability of the school district must be
26 based on all existing available revenues as established by the
27 school district and within the limitations set forth in NRS
28 354.6241, with due regard for the obligation of the school district
29 to provide an education to the children residing within the district.*

30 (b) *After the arbitrator has determined in accordance with
31 paragraph (a) that there is a current financial ability to grant
32 monetary benefits, he shall use normal criteria for interest
33 disputes regarding the terms and provisions to be included in an
34 agreement in assessing the reasonableness of the position of each
35 party as to each issue in dispute and he shall consider whether the
36 board found that either party had bargained in bad faith.
37 He shall issue his decision regarding the specified issues in
38 dispute. Except as otherwise provided in subsection 3, the decision
39 of the arbitrator is *not* final and binding on the parties. Any award of
40 the arbitrator is retroactive to the expiration date of the last contract
41 between the parties.*

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

43 (a) Giving ~~[his reason for accepting the final offer that is the
44 basis of his award; and]~~ *the facts upon which he based his
45 determination of financial ability to grant monetary benefits;*



1 (b) Specifying his estimate of the total cost , *if any*, of the award
2 ~~to~~; and

3 (c) *Containing any related recommendations.*

4 10. *If the employee organization and the school district do*
5 *not agree to make the decision of the arbitrator final and binding,*
6 *and the employee organization determines that negotiations have*
7 *reached an impasse, within 5 days after the employee organization*
8 *has provided written notice of the impasse to the school district*
9 *and the board, the employee organization may call a vote of its*
10 *members for a strike against the school district. Within 30 days*
11 *after the members of the employee organization have approved a*
12 *strike, the employee organization must provide written notice of its*
13 *intent to strike to the board and the school district. Within 5 days*
14 *after the receipt of such written notice, the school district may*
15 *request the board to reopen negotiations. If the board determines*
16 *that further negotiations are likely to result in an agreement, the*
17 *board may order both parties to the dispute to reenter negotiations*
18 *for a period not to exceed 10 days. If the parties to the dispute do*
19 *not reach an agreement during the negotiations ordered by the*
20 *board, the employee organization may resume its strike activities.*

21 11. As used in this section:

22 (a) "Educational support personnel" means all classified
23 employees of a school district, other than teachers, who are
24 represented by an employee organization.

25 (b) "Teacher" means an employee of a school district who is
26 licensed to teach in this state and who is represented by an employee
27 organization.

28 **Sec. 4.** NRS 288.230 is hereby amended to read as follows:

29 288.230 1. The Legislature finds as facts:

30 (a) That the services provided by the State and local government
31 employers are of such nature that they are not and cannot be
32 duplicated from other sources and are essential to the health, safety
33 and welfare of the people of the State of Nevada;

34 (b) That the continuity of such services is likewise essential, and
35 their disruption incompatible with the responsibility of the State to
36 its people; and

37 (c) That every person who enters or remains in the employment
38 of the State or a local government employer accepts the facts stated
39 in paragraphs (a) and (b) as an essential condition of his
40 employment.

41 2. ~~The~~ *Except as otherwise provided in NRS 288.217, the*
42 *Legislature therefore declares it to be the public policy of the State*
43 *of Nevada that strikes against the State or any local government*
44 *employer are illegal.*



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1 **Sec. 5.** NRS 288.240 is hereby amended to read as follows:
2 288.240 1. ~~HH~~ *Except as otherwise provided in NRS*
3 *288.217, if* a strike occurs against the State or a local government
4 employer, the State or local government employer shall, and if a
5 strike is threatened against the State or a local government
6 employer, the State or local government employer may, apply to a
7 court of competent jurisdiction to enjoin such strike. The application
8 shall set forth the facts constituting the strike or threat to strike.
9 2. If the court finds that an illegal strike has occurred or unless
10 enjoined will occur, it shall enjoin the continuance or
11 commencement of such strike. The provisions of N.R.C.P. 65 and of
12 the other Nevada Rules of Civil Procedure apply generally to
13 proceedings under this section, but the court shall not require
14 security of the State or of any local government employer.
15 **Sec. 6.** This act becomes effective on July 1, 2003.

