

SENATE BILL NO. 460—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

(ON BEHALF OF THE CLARK COUNTY
SCHOOL DISTRICT)

MARCH 24, 2003

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises provisions governing licensed employees of
school districts. (BDR 34-450)

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 educational personnel; providing that the employment of a teacher for whom a license is required must be suspended or terminated for failure to maintain a license in force; prescribing administrative procedural protections for certain teachers who are suspended for failure to maintain a license in force; providing that certain other existing administrative procedural protections do not apply to a teacher whose employment is suspended or terminated for failure to maintain a license in force; revising the definition of “immorality” applicable to the licensed employees of a school district to include the commission of certain drug-related offenses and sexual conduct or attempted sexual conduct with a pupil; and providing other matters properly relating thereto.

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



1 **Section 1.** Chapter 391 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless*
5 *the context otherwise requires, "employee" means a person who:*

6 1. *Is employed by a school district in this state; and*
7 2. *Is required, as a condition of his employment, to hold a*
8 *license issued pursuant to this chapter.*

9 **Sec. 3.** 1. *If an employee fails to maintain his license in*
10 *force, the school district that employs him shall:*

11 (a) *Immediately suspend the employee without pay; and*
12 (b) *Terminate his employment if he fails to reinstate his license*
13 *within the time prescribed by subsection 2 of section 4 of this act.*

14 2. *If an employee is suspended pursuant to this section and,*
15 *within 90 days after the date of suspension, is granted by the*
16 *Department or Commission an extension of time or any other*
17 *relief which has the effect of reinstating or continuing his license*
18 *in force, the suspension of the employee is ineffective and the*
19 *school district shall immediately reinstate the employee while his*
20 *license remains in force. The employee must be reinstated to the*
21 *position he held at the time of his suspension. If the employee*
22 *thereafter fails again to maintain his license in force, the school*
23 *district shall again suspend the employee without pay and proceed*
24 *in accordance with sections 4, 5 and 6 of this act.*

25 **Sec. 4.** 1. *If a school district is required to suspend an*
26 *employee pursuant to section 3 of this act, the superintendent of*
27 *schools of the school district shall provide written notice of the*
28 *suspension to the employee by personal delivery or by certified*
29 *mail. The notice must:*

30 (a) *Include a copy of the text of the provisions of sections 2 to*
31 *6, inclusive, of this act;*

32 (b) *Inform the employee that his employment will be*
33 *terminated unless he reinstates his license within the time*
34 *prescribed by subsection 2;*

35 (c) *Set forth the date on which the period for reinstatement of*
36 *his license will expire;*

37 (d) *Advise the employee of his right to a hearing pursuant to*
38 *section 5 of this act;*

39 (e) *Include a copy of the form upon which the employee may*
40 *request a hearing; and*

41 (f) *Set forth the name and address of the person to whom a*
42 *request for a hearing should be directed.*

43 2. *If an employee reinstates his license:*

44 (a) *Within 90 days after the date of the notice of suspension;*
45 *or*



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- 1 (b) Within any longer period authorized by the superintendent
2 of schools of the school district or his designee pursuant to section
3 5 of this act,
4 the school district shall immediately reinstate the employee to the
5 position that he held at the time of his suspension.
- 6 3. If an employee fails to reinstate his license within the time
7 prescribed by subsection 2, his employment shall be deemed to
8 have terminated as of the date of his suspension pursuant to
9 section 3 of this act. The superintendent of schools of the school
10 district shall provide written notice of the termination to the
11 employee by personal delivery or by certified mail. The failure of
12 the employee to receive the notice required by this subsection does
13 not render the termination ineffective.
- 14 Sec. 5. 1. An employee who is suspended by a school
15 district pursuant to section 3 of this act is entitled to a hearing if
16 he makes a timely request for a hearing, as set forth in this
17 section. A request for a hearing must:
- 18 (a) Be received, within 15 days after the date of the notice of
19 suspension, by the person designated by the school district
20 pursuant to paragraph (f) of subsection 1 of section 4 of this act;
21 (b) Set forth any facts which the employee believes are
22 relevant; and
23 (c) Be accompanied by a copy of any documents which the
24 employee believes are relevant.
- 25 2. If an employee fails to make a timely request for a hearing
26 pursuant to this section, the right of the employee to reinstatement
27 by the school district pursuant to subsection 2 of section 4 of this
28 act is not affected if he satisfies the requirements of that
29 subsection.
- 30 3. If a timely request for a hearing is made, the
31 superintendent of schools of the school district or his designee
32 shall convene a hearing to consider whether extenuating
33 circumstances exist that warrant an extension of the time
34 prescribed by paragraph (a) of subsection 2 of section 4 of this act
35 for reinstatement of his license.
- 36 4. A hearing required by this section must be held within 20
37 days after the date of notice of suspension. The employee and the
38 school district are each entitled to:
- 39 (a) Present evidence;
40 (b) Cross-examine witnesses; and
41 (c) Be represented by counsel or any other person.
- 42 5. Immediately upon conclusion of the hearing, the
43 superintendent of schools of the school district or his designee
44 shall issue a ruling. The ruling must:



- 1 (a) State whether the employee will be granted an extension of
2 time for reinstatement of his license;
3 (b) Set forth the factual basis for his determination; and
4 (c) State the date on which an extension, if any, will expire.

5 6. In addition to the requirements of subsection 5, the ruling
6 must be set forth in writing. Not later than 3 working days after
7 the conclusion of the hearing, a copy of the written ruling must be
8 mailed or personally delivered to the employee and the person who
9 represented the employee during the hearing, if any. The failure of
10 an employee to receive a copy of the written ruling does not render
11 the ruling ineffective.

12 7. If an employee is granted an extension of time pursuant to
13 this section, that extension is effective only for the purposes of the
14 employment relationship between the school district and the
15 employee and is not binding on the Department or Commission.

16 Sec. 6. The provisions of sections 2 to 6, inclusive, of this act
17 do not:

18 1. Limit any right or remedy an employee may have against
19 an agency or official of this state based upon the loss of his
20 license.

21 2. Preclude a school district from employing a person as a
22 substitute teacher or in any other position for which he is legally
23 qualified.

24 Sec. 7. NRS 391.311 is hereby amended to read as follows:

25 391.311 As used in NRS 391.311 to 391.3197, inclusive,
26 unless the context otherwise requires:

27 1. "Administrator" means any employee who holds a license as
28 an administrator and who is employed in that capacity by a school
29 district.

30 2. "Board" means the board of trustees of the school district in
31 which a licensed employee affected by NRS 391.311 to 391.3197,
32 inclusive, is employed.

33 3. "Demotion" means demotion of an administrator to a
34 position of lesser rank, responsibility or pay and does not include
35 transfer or reassignment for purposes of an administrative
36 reorganization.

37 4. "Immorality" means ~~act~~ :

38 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
39 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265 ~~for~~
40 ~~207.260.1~~ , 201.560, 207.260, 453.316 to 453.336, inclusive,
41 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or
42 453.562; or

43 (b) An act forbidden by NRS 201.540 or any other sexual
44 conduct or attempted sexual conduct with a pupil enrolled in an



1 *elementary or secondary school. As used in this paragraph,*
2 *“sexual conduct” has the meaning ascribed to it in NRS 201.520.*

3 5. “Postprobationary employee” means an administrator or a
4 teacher who has completed the probationary period as provided in
5 NRS 391.3197 and has been given notice of reemployment.

6 6. “Probationary employee” means an administrator or a
7 teacher who is employed for the period set forth in NRS 391.3197.

8 7. “Superintendent” means the superintendent of a school
9 district or a person designated by the board or superintendent to act
10 as superintendent during the absence of the superintendent.

11 8. “Teacher” means a licensed employee the majority of whose
12 working time is devoted to the rendering of direct educational
13 service to pupils of a school district.

14 **Sec. 8.** NRS 391.120 is hereby amended to read as follows:

15 391.120 1. Boards of trustees of the school districts in this
16 state may employ legally qualified teachers and other licensed
17 personnel and may determine their salaries and the length of the
18 term of school for which they are employed. These conditions and
19 any other conditions agreed upon by the parties must be embodied
20 in a written contract, or notice of reemployment, to be approved by
21 the board of trustees and accepted and signed by the employee. A
22 copy of the contract or notice of reemployment, properly written,
23 must be delivered to each teacher or other licensed employee not
24 later than the opening of the term of school.

25 2. A board of trustees may not employ teachers or other
26 licensed personnel for any school year commencing after the
27 expiration of the time for which any member of the board of trustees
28 was elected or appointed.

29 3. It is unlawful for the board of trustees of any school district
30 to employ any teacher who is not legally qualified to teach all the
31 grades which the teacher is engaged to teach. *The board of trustees*
32 *shall suspend or terminate, as applicable, the employment of any*
33 *teacher who fails to maintain a license issued pursuant to this*
34 *chapter in force, if such a license is required for employment. Any*
35 *such suspension or termination must comply with the*
36 *requirements of sections 2 to 6, inclusive, of this act.*

37 4. On or before November 15 of each year, the school district
38 shall submit to the Department, in a form prescribed by the
39 Superintendent of Public Instruction, the following information for
40 each licensed employee employed by the school district on
41 October 1 of that year:

42 (a) The amount of salary of the employee; and

43 (b) The designated assignment, as that term is defined by the
44 Department of Education, of the employee.



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1 **Sec. 9.** NRS 391.3115 is hereby amended to read as follows:
2 391.3115 1. The demotion, suspension, dismissal and
3 nonreemployment provisions of NRS 391.311 to 391.3197,
4 inclusive, do not apply to:

- 5 (a) Substitute teachers; or
- 6 (b) Adult education teachers.

7 2. *The provisions of NRS 391.311 to 391.3194, inclusive, do*
8 *not apply to a teacher whose employment is suspended or*
9 *terminated pursuant to subsection 3 of NRS 391.120 for failure to*
10 *maintain a license in force.*

11 3. A licensed employee who is employed in a position fully
12 funded by a federal or private categorical grant or to replace another
13 licensed employee during that employee's leave of absence is
14 employed only for the duration of the grant or leave. Such a licensed
15 employee and licensed employees who are employed on temporary
16 contracts for 90 school days or less to replace licensed employees
17 whose employment has terminated after the beginning of the school
18 year are entitled to credit for that time in fulfilling any period of
19 probation and during that time the provisions of NRS 391.311 to
20 391.3197, inclusive, for demotion, suspension or dismissal apply to
21 them.

22 **Sec. 10.** 1. The provisions of sections 2 to 6, inclusive, of
23 this act and the amendatory provisions of sections 8 and 9 of this act
24 are applicable to any employee:

25 (a) Whose license expires or is revoked, or who fails for any
26 other reason to maintain his license in force, on or after the effective
27 date of this act.

28 (b) Who:

29 (1) Fails for any reason to maintain his license in force
30 before the effective date of this act; and

31 (2) Has not, as of the effective date of this act, received a
32 hearing before a hearing officer or arbitrator pursuant to NRS
33 391.311 to 391.3197, inclusive.

34 2. The superintendent of schools of a school district that
35 employs a person described in paragraph (b) of subsection 1, shall,
36 as soon as practicable after the effective date of this act, provide
37 notice to the employee in the manner required by section 4 of this
38 act. Upon issuance of the notice, the employee shall be deemed to
39 have the rights, remedies and duties set forth in sections 2 to 6,
40 inclusive, of this act.

41 **Sec. 11.** This act becomes effective upon passage and
42 approval.

