

ASSEMBLY BILL NO. 483—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 28, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing collective bargaining between local governmental employers and employee organizations. (BDR 23-1337)

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

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local governments; revising provisions governing the timing of certain events for collective bargaining between local governmental employers and employee organizations; 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 288.190 is hereby amended to read as follows:
2 288.190 Except in cases to which NRS 288.205 and 288.215
3 apply:
4 1. Anytime before ~~July~~ **March** 1, the dispute may be
5 submitted to a mediator, if both parties agree. ~~{On or after July 1 but~~
6 ~~before July 5,}~~ **Anytime after March 1,** either party involved in
7 negotiations may request a mediator. If the parties do not agree upon
8 a mediator, the Commissioner shall submit to the parties a list of
9 seven potential mediators. The parties shall select their mediator
10 from the list by alternately striking one name until the name of only
11 one mediator remains, who will be the mediator to hear the dispute.
12 The employee organization shall strike the first name.
13 2. If mediation is agreed to or requested pursuant to subsection
14 1, the mediator must be selected ~~{on or before July 15.}~~ **at the time**
15 **the parties agree upon a mediator or, if the parties do not agree**



1 *upon a mediator, within 5 days after the parties receive the list of*
2 *potential mediators from the Commissioner.*

3 3. The mediator shall bring the parties together as soon as
4 possible and, unless otherwise agreed upon by the parties, attempt to
5 settle the dispute ~~no later than July 31,~~ *within 30 days after being*
6 *notified of his selection as mediator.* He may establish the times
7 and dates for meetings and compel the parties to attend but has no
8 power to compel the parties to agree.

9 4. The local government employer and employee organization
10 each shall pay one-half of the cost of mediation. Each party shall
11 pay its own costs of preparation and presentation of its case in
12 mediation.

13 5. If the dispute is submitted to a mediator and then submitted
14 to a fact finder, the mediator shall, ~~before August 15,~~ *within 15*
15 *days after the last meeting between the parties,* give to the
16 Commissioner of the Board a report of the efforts made to settle the
17 dispute.

18 **Sec. 2.** NRS 288.200 is hereby amended to read as follows:

19 288.200 Except in cases to which NRS 288.205 and 288.215,
20 or NRS 288.217 apply:

21 1. If:

22 (a) The parties have participated in mediation and by ~~August~~
23 *April 1*, have not reached agreement; or

24 (b) The bargaining unit represented by the employee
25 organization contains fewer than 30 persons,

26 ~~either party to the dispute, at any time~~ ~~up to September 20,~~ *after*
27 *April 1*, may submit the dispute to an impartial fact finder for his
28 findings and recommendations. His findings and recommendations
29 are not binding on the parties except as provided in subsections 5, 6
30 and 9. The mediator of a dispute may also be chosen by the parties
31 to serve as the fact finder.

32 2. If the parties are unable to agree on an impartial fact finder
33 within 5 days, either party may request from the American
34 Arbitration Association or the Federal Mediation and Conciliation
35 Service a list of seven potential fact finders. If the parties are unable
36 to agree upon which arbitration service should be used, the Federal
37 Mediation and Conciliation Service must be used. ~~The~~ *Within 5*
38 *days after receiving a list from the applicable arbitration service,*
39 *the parties shall select their fact finder from this list by alternately*
40 *striking one name until the name of only one fact finder remains,*
41 *who will be the fact finder to hear the dispute in question. The*
42 *employee organization shall strike the first name.*

43 3. The local government employer and employee organization
44 each shall pay one-half of the cost of fact-finding. Each party shall



1 pay its own costs of preparation and presentation of its case in
2 fact-finding.

3 4. A schedule of dates and times for the hearing must be
4 established ~~{before October 20}~~ *within 10 days after the selection of*
5 *the fact finder pursuant to subsection 2*, and the fact finder shall
6 report his findings and recommendations to the parties to the dispute
7 within 30 days after the conclusion of the fact-finding hearing.

8 5. The parties to the dispute may agree, before the submission
9 of the dispute to fact-finding, to make the findings and
10 recommendations on all or any specified issues final and binding on
11 the parties.

12 6. If the parties do not agree on whether to make the findings
13 and recommendations of the fact finder final and binding, either
14 party may request the formation of a panel to determine whether the
15 findings and recommendations of a fact finder on all or any
16 specified issues in a particular dispute which are within the scope of
17 subsection 9 are to be final and binding. The determination must be
18 made upon the concurrence of at least two members of the panel and
19 not later than ~~{October 20}~~ *the date which is 30 days after the date*
20 *on which the matter is submitted to the panel*, unless that date is
21 extended by the Commissioner of the Board. Each panel shall, when
22 making its determination, consider whether the parties have
23 bargained in good faith and whether it believes the parties can
24 resolve any remaining issues. Any panel may also consider the
25 actions taken by the parties in response to any previous fact-finding
26 between these parties, the best interests of the State and all its
27 citizens, the potential fiscal effect both within and outside the
28 political subdivision, and any danger to the safety of the people of
29 the State or a political subdivision.

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

33 (a) A preliminary determination must be made as to the financial
34 ability of the local government employer based on all existing
35 available revenues as established by the local government employer
36 and within the limitations set forth in NRS 354.6241, with due
37 regard for the obligation of the local government employer to
38 provide facilities and services guaranteeing the health, welfare and
39 safety of the people residing within the political subdivision.

40 (b) Once the fact finder has determined in accordance with
41 paragraph (a) that there is a current financial ability to grant
42 monetary benefits, he shall use normal criteria for interest disputes
43 regarding the terms and provisions to be included in an agreement in
44 assessing the reasonableness of the position of each party as to each



1 issue in dispute and he shall consider whether the Board found that
2 either party had bargained in bad faith.

3 ➡ The fact finder's report must contain the facts upon which he
4 based his determination of financial ability to grant monetary
5 benefits and his recommendations or award.

6 8. Any sum of money which is maintained in a fund whose
7 balance is required by law to be:

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

10 (b) Carried forward to the succeeding fiscal year in any
11 designated amount, to the extent of that amount,

12 ➡ must not be counted in determining the financial ability of a local
13 government employer and must not be used to pay any monetary
14 benefits recommended or awarded by the fact finder.

15 9. The issues which may be included in a panel's order
16 pursuant to subsection 6 are:

17 (a) Those enumerated in subsection 2 of NRS 288.150 as the
18 subjects of mandatory bargaining, unless precluded for that year by
19 an existing collective bargaining agreement between the parties; and

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

22 ➡ This subsection does not preclude the voluntary submission of
23 other issues by the parties pursuant to subsection 5.

24 **Sec. 3.** NRS 288.201 is hereby amended to read as follows:

25 288.201 Any request for the formation of a panel to determine
26 whether the findings and recommendations of a fact finder must be
27 final and binding must be filed ~~no later than October 1~~ with the
28 Commissioner. The request must include:

29 1. A list of the issues which remain unresolved and the position
30 of each party regarding those issues;

31 2. The requester's assessment of the fiscal effect on the local
32 government of the requester's positions;

33 3. An outline of any previous fact-finding between the parties,
34 which includes any recommendations and awards of a fact finder
35 and the actions of each party in response thereto;

36 4. A statement of whether the parties engaged in mediation
37 regarding the current dispute;

38 5. A schedule of the dates and times set by the fact finder for
39 the hearing; and

40 6. Any other information deemed necessary by the
41 Commissioner.

42 ➡ Any person filing such a request shall give written notice of the
43 request to the Nevada State Board of Accountancy and the State Bar
44 of Nevada.



1 **Sec. 4.** NRS 288.202 is hereby amended to read as follows:

2 288.202 1. Within 5 days after receiving notice of such a
3 request, the Nevada State Board of Accountancy and the State Bar
4 of Nevada shall each submit to the Commissioner and each party to
5 the dispute a list of names of five of their members who would serve
6 on a panel and are not closely allied with any employee association
7 or local government employer.

8 2. Within 8 days after receiving the lists, the parties shall
9 choose one name from each list by alternately striking one name
10 until the names of only one attorney and one accountant remain,
11 who will each be a member of the panel. The parties shall choose
12 the member from the list of accountants separately from their choice
13 from the list of attorneys. The parties shall notify the Commissioner
14 of their selections and he shall notify the attorney and accountant
15 selected.

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

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

19 (1) Be willing to serve on the panel;

20 (2) Be a resident of this State; and

21 (3) Not be closely allied with any employee organization or
22 local government employer.

23 (b) Notify the Commissioner of their choice, and the three
24 members shall , *within 5 days after selecting the third member of*
25 *the panel*, notify the Commissioner of the dates ~~before August 10~~
26 when they will all be available to attend hearings.

27 4. The Commissioner shall serve as a nonvoting member and
28 also as the chairman of the panel.

29 5. If the accountant or attorney selected to serve on the panel is
30 unable to do so, the Nevada State Board of Accountancy or State
31 Bar of Nevada shall designate a person to replace its nominee. If the
32 person selected by the accountant and attorney is unable to serve,
33 they shall designate a person to replace him. If the Commissioner is
34 unable to serve, the Governor shall designate a person to serve in his
35 capacity.

36 **Sec. 5.** This act becomes effective on July 1, 2006.



