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ASSEMBLY BILL NO. 561—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 26, 2007

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Referred to Committee on Government Affairs

SUMMARY—Makes various changes to the Local Government Employee-Management Relations Act. (BDR 23-759)

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.

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AN ACT relating to local government employees; setting forth the requirements for challenging the recognition of an employee organization as the exclusive representative of a bargaining unit; revising the requirements for recognition of an employee organization if a bargaining unit is not represented; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law sets forth the requirements for an employee organization to apply  
2 to a local government employer for recognition as the representative of a  
3 bargaining unit of local government employees. (NRS 288.160) **Section 11** of this  
4 bill requires an employee organization that is applying to a local government for  
5 recognition as the exclusive representative of a bargaining unit which is not  
6 currently represented by any employee organization to submit a verified  
7 membership list showing that the majority of the local government employees in  
8 the bargaining unit are members of the employee organization. **Sections 2-8** of this  
9 bill set forth the requirements for a rival employee organization to challenge the  
10 recognition of an employee organization as the exclusive representative of a  
11 bargaining unit.

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

**Section 1.** Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *“Rival employee organization” means an employee organization that has challenged the recognition of another employee organization pursuant to section 3 of this act.*

**Sec. 3. 1.** *If a local government employer has recognized an employee organization pursuant to NRS 288.160, a rival employee organization may challenge the recognition of the recognized employee organization by submitting a petition to the recognized employee organization and the local government employer. The petition must be submitted by personal delivery or by certified mail, return receipt requested. The petition may only be submitted during the period:*

*(a) Beginning upon the filing of notice by the recognized employee organization pursuant to NRS 288.180 of its desire to negotiate a successor agreement and ending upon the commencement of negotiations for such an agreement; or*

*(b) Beginning 242 days before the expiration date of the existing collective bargaining agreement and ending 212 days before the expiration of the collective bargaining agreement.*

**2.** *A petition submitted pursuant to subsection 1 must include, without limitation:*

*(a) A copy of the rival employee organization’s constitution and bylaws, if any;*

*(b) A roster of the rival employee organization’s officers, if any, and representatives;*

*(c) A pledge in writing not to strike against the local government employer under any circumstances; and*

*(d) Either:*

*(1) A verified membership list of the rival employee organization, signed under penalty of perjury, showing that the rival employee organization represents a majority of the local government employees in a bargaining unit which the rival employee organization is seeking to represent; or*

*(2) Interest cards signed by a majority of the local government employees in a bargaining unit which the rival employee organization is seeking to represent, accompanied by an alphabetized list of the local government employees who have signed such interest cards.*

**Sec. 4. 1.** *An interest card submitted pursuant to section 3 of this act:*



(a) *Must be:*

(1) *Signed by a local government employee who is a member of the bargaining unit that the rival employee organization is seeking to represent; and*

(2) *Dated within 1 year of the date on which the rival employee organization submits the interest card.*

(b) *Must include a statement setting forth that the local government employee signing the interest card thereby requests that a representative election be held to determine which employee organization, if any, shall represent the bargaining unit.*

2. *A rival employee organization may not submit an interest card pursuant to section 3 of this act if the local government employee who signed the interest card notifies the rival employee organization, in writing, that he revokes his request for a representative election.*

**Sec. 5. 1.** *Within 20 days after a rival employee organization files a petition pursuant to section 3 of this act:*

(a) *The local government employer must provide the recognized employee organization and the rival employee organization with a verified list of all local government employees who are in the bargaining unit as of the ending date of the most recent payroll period preceding the date on which the petition was submitted pursuant to section 3 of this act.*

(b) *The recognized employee organization and the rival employee organization may enter into an agreement with a certified public accountant to verify whether the rival employee organization represents a majority of the local government employees in the bargaining unit by comparing:*

(1) *The list of all local government employees who are in the bargaining unit as of the ending date of the most recent payroll period, as submitted by the local government employer pursuant to paragraph (a); and*

(2) *The membership list or the interest cards, as applicable, submitted by the rival employee organization pursuant to section 3 of this act.*

2. *If the rival employee organization and the recognized employee organization do not enter into an agreement with a certified public accountant pursuant to subsection 1:*

(a) *The local government employer shall select a certified public accountant to perform the verification described in paragraph (b) of that subsection; and*

(b) *The rival employee organization must reimburse the local government employer for the cost of the services provided by the certified public accountant selected pursuant to paragraph (a).*



1   ↪ The local government employer may require that the rival  
2 employee organization pay to the local government employer a  
3 deposit in an amount not to exceed the maximum amount  
4 established by the Board as the reasonable cost of the services of  
5 the certified public accountant. If the rival employee organization  
6 fails to pay such deposit to the local government employer, the  
7 local government employer shall take no further action with  
8 respect to the rival employee organization's challenge.

9   **Sec. 6.** 1. Except as otherwise provided in section 8 of this  
10 act, if the review of the petition conducted pursuant to section 5 of  
11 this act shows that a majority of the local government employees  
12 in the bargaining unit signed interest cards or the verified  
13 membership list shows that the rival employee organization  
14 represents a majority of the employees in the bargaining unit, the  
15 Board shall hold an initial election.

16   2. The Board shall determine whether an election must be  
17 conducted by mail or through the casting of ballots at one or more  
18 polling places.

19   3. The following choices must be included in all ballots for an  
20 initial election:

21   (a) The rival employee organization that filed a petition  
22 pursuant to section 3 of this act;

23   (b) The recognized employee organization; and

24   (c) A choice for "no representation."

25   4. If none of the choices on the ballot receives a majority of  
26 the votes cast at an initial election, the Board shall order a runoff  
27 election between the two choices on the ballot that received the  
28 highest number of votes at the initial election.

29   5. If the choice for "no representation" receives a majority of  
30 the votes cast at an initial election or at any runoff election, the  
31 Board shall designate the bargaining unit as being without  
32 representation.

33   6. If the rival employee organization or the recognized  
34 employee organization receives a majority of the votes cast at an  
35 initial election or at any runoff election, the Board shall designate  
36 such employee organization as the exclusive representative of the  
37 collective bargaining unit.

38   **Sec. 7.** A local government employer and one or more  
39 employee organizations may agree in writing, without appealing to  
40 the Board, to hold a representative election to determine whether  
41 an employee organization or a rival employee organization  
42 represents the majority of the local government employees in a  
43 bargaining unit. Participation by the Board and its staff in an  
44 agreed election is subject to the approval of the Board.



1     **Sec. 8. 1. A local government employer shall withdraw**  
2     **recognition from an employee organization which:**

3     **(a) Disavows its pledge not to strike against the local**  
4     **government employer under any circumstances; or**

5     **(b) Participates in an election held pursuant to section 6 or 7**  
6     **of this act and does not receive a majority of the votes cast at such**  
7     **election.**

8     **2. A local government employer may withdraw recognition**  
9     **from an employee organization which:**

10    **(a) Fails to present a copy of each change in its constitution or**  
11    **bylaws, if any, or to give notice of any change in the roster of its**  
12    **officers, if any, and representatives;**

13    **(b) Ceases to be supported by a majority of the local**  
14    **government employees in the bargaining unit for which it is**  
15    **recognized; or**

16    **(c) Fails to negotiate in good faith with the local government**  
17    **employer,**

18    **↪ if it first receives the written permission of the Board.**

19     **Sec. 9.** NRS 288.020 is hereby amended to read as follows:

20     288.020 As used in this chapter, unless the context otherwise  
21     requires, the words and terms defined in NRS 288.025 to 288.075,  
22     inclusive, **and section 2 of this act** have the meanings ascribed to  
23     them in those sections.

24     **Sec. 10.** NRS 288.110 is hereby amended to read as follows:

25     288.110 1. The Board may **adopt regulations and** make rules  
26     governing:

27     (a) Proceedings before it;

28     (b) Procedures for fact-finding;

29     (c) The recognition of employee organizations; and

30     (d) The determination of bargaining units.

31     2. The Board may hear and determine any complaint arising  
32     out of the interpretation of, or performance under, the provisions of  
33     this chapter by any local government employer, local government  
34     employee or employee organization. The Board shall conduct a  
35     hearing within 90 days after it decides to hear a complaint. The  
36     Board, after a hearing, if it finds that the complaint is well taken,  
37     may order any person to refrain from the action complained of or to  
38     restore to the party aggrieved any benefit of which he has been  
39     deprived by that action. The Board shall issue its decision within  
40     120 days after the hearing on the complaint is completed.

41     3. Any party aggrieved by the failure of any person to obey an  
42     order of the Board issued pursuant to subsection 2, or the Board at  
43     the request of such a party, may apply to a court of competent  
44     jurisdiction for a prohibitory or mandatory injunction to enforce the  
45     order.



4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

**Sec. 11.** NRS 288.160 is hereby amended to read as follows:

288.160 1. ~~[An]~~ *If no employee organization is recognized as the exclusive representative of a bargaining unit, an* employee organization may apply to a local government employer for recognition by presenting:

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

(b) A roster of its officers, if any, and representatives; ~~[and]~~

(c) A pledge in writing not to strike against the local government employer under any circumstances ~~[ ]~~; and

*(d) A verified membership list, signed under penalty of perjury, showing that the majority of the local government employees in the bargaining unit which the employee organization is seeking to represent are members of the employee organization.*

↪ A local government employer shall not recognize as representative of its employees any employee organization which has not adopted, in a manner valid under its own rules, the pledge required by paragraph (c).

2. ~~[If an]~~ *An* employee organization ~~[, at or after the time of its application for recognition, presents a verified membership list showing that it represents a majority of the employees in a bargaining unit, and if the employee organization is]~~ *that satisfies the requirements set forth in subsection 1 must be* recognized by the local government employer ~~[, it shall be]~~ *as* the exclusive bargaining agent of the local government employees in that bargaining unit.

~~[3. A local government employer may withdraw recognition from an employee organization which:~~

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

~~—(b) Disavows its pledge not to strike against the local government employer under any circumstances;~~

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



~~—(d) Fails to negotiate in good faith with the local government employer,~~

~~→ if it first receives the written permission of the Board.~~

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

~~5. The parties may agree in writing, without appealing to the Board, to hold a representative election to determine whether an employee organization represents the majority of the local government employees in a bargaining unit. Participation by the Board and its staff in an agreed election is subject to the approval of the Board.]~~

**Sec. 12.** NRS 288.195 is hereby amended to read as follows:

288.195 Whenever an employee organization enters into negotiations with a local government employer, pursuant to NRS 288.140 to 288.220, inclusive, *and sections 3 to 8, inclusive, of this act*, such employee organization may be represented by an attorney licensed to practice law in the State of Nevada.

**Sec. 13.** This act becomes effective on July 1, 2007.

