

SENATE BILL NO. 328—SENATOR BEERS

MARCH 19, 2007

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing educational personnel.
(BDR 34-473)

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; prohibiting the board of trustees of a school district from employing or reemploying a person as an administrator unless that person has certain experience in a classroom; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The board of trustees of a school district is authorized to employ a superintendent of schools, teachers and all other necessary employees. (NRS 391.100, 391.110, 391.120) **Section 1** of this bill prohibits the board of trustees of a school district from employing or reemploying a person as an administrator unless: (1) if the person holds a license to teach, he provides instruction in a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district; or (2) if the person does not hold a license to teach, he personally observes a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district.

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) **Section 5** of this bill requires an administrator who is responsible for evaluating a teacher to personally observe that teacher in the classroom for not less than 1 hour during each evaluation period. If a deficiency is discovered during the evaluation process, every effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) **Section 6** of this bill requires that, if an administrator admonishes a teacher, an admonition must include a description of the deficiencies of the teacher and the actions that are necessary to correct those deficiencies.



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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district shall not employ or reemploy a person as an administrator unless the person has:

(a) If he holds a license to teach, provided instruction in a classroom for at least 1 day during each semester; or

(b) If he does not hold a license to teach, personally observed a classroom for at least 1 day during each semester,

↪ in the year immediately preceding the date of his employment or the date of his reemployment, as applicable.

2. As used in this section, "administrator" means each person employed by a school district to provide administrative service at the:

(a) District level, including, without limitation, the superintendent of schools of the school district;

(b) School level, including, without limitation, a principal or vice principal; or

(c) Both the district level and the school level.

↪ The term does not include a teacher whose working time is primarily spent providing instruction in a classroom.

Sec. 2. NRS 391.100 is hereby amended to read as follows:

391.100 1. ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.

2. A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

3. A person who is employed as a teacher, regardless of the date of hire, must possess, on or before July 1, 2006, the qualifications required by 20 U.S.C. § 6319(a) if he teaches:

(a) English, reading or language arts;

(b) Mathematics;

(c) Science;

(d) Foreign language;

(e) Civics or government;

(f) Economics;



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- 1 (g) Geography;
- 2 (h) History; or
- 3 (i) The arts.

4 4. The board of trustees of a school district:

5 (a) May employ teacher aides and other auxiliary,
6 nonprofessional personnel to assist licensed personnel in the
7 instruction or supervision of children, either in the classroom or at
8 any other place in the school or on the grounds thereof. A person
9 who is initially hired as a paraprofessional by a school district on or
10 after January 8, 2002, to work in a program supported with Title I
11 money must possess the qualifications required by 20 U.S.C. §
12 6319(c). A person who is employed as a paraprofessional by a
13 school district, regardless of the date of hire, to work in a program
14 supported with Title I money must possess, on or before January 8,
15 2006, the qualifications required by 20 U.S.C. § 6319(c). For the
16 purposes of this paragraph, a person is not "initially hired" if he has
17 been employed as a paraprofessional by another school district or
18 charter school in this State without an interruption in employment
19 before the date of hire by his current employer.

20 (b) Shall establish policies governing the duties and
21 performance of teacher aides.

22 5. Each applicant for employment pursuant to this section,
23 except a teacher or other person licensed by the Superintendent of
24 Public Instruction, must, as a condition to employment, submit to
25 the school district a full set of his fingerprints and written
26 permission authorizing the school district to forward the fingerprints
27 to the Central Repository for Nevada Records of Criminal History
28 for its report on the criminal history of the applicant and for
29 submission to the Federal Bureau of Investigation for its report on
30 the criminal history of the applicant.

31 6. Except as otherwise provided in subsection 7, the board of
32 trustees of a school district shall not require a licensed teacher or
33 other person licensed by the Superintendent of Public Instruction
34 pursuant to NRS 391.033 who has taken a leave of absence from
35 employment authorized by the school district, including, without
36 limitation:

- 37 (a) Sick leave;
- 38 (b) Sabbatical leave;
- 39 (c) Personal leave;
- 40 (d) Leave for attendance at a regular or special session of the
41 Legislature of this State if the employee is a member thereof;
- 42 (e) Maternity leave; and
- 43 (f) Leave permitted by the Family and Medical Leave Act of
44 1993, 29 U.S.C. §§ 2601 et seq.,



1 ↳ to submit a set of his fingerprints as a condition of return to or
2 continued employment with the school district if the employee is in
3 good standing when the employee began the leave.

4 7. ~~[A]~~ **The** board of trustees of a school district may ask the
5 Superintendent of Public Instruction to require a person licensed by
6 the Superintendent of Public Instruction pursuant to NRS 391.033
7 who has taken a leave of absence from employment authorized by
8 the school district to submit a set of his fingerprints as a condition of
9 return to or continued employment with the school district if the
10 board of trustees has probable cause to believe that the person has
11 committed a felony or an offense involving moral turpitude during
12 the period of his leave of absence.

13 8. The board of trustees of a school district may employ or
14 appoint persons to serve as school police officers. If the board of
15 trustees of a school district employs or appoints persons to serve as
16 school police officers, the board of trustees shall employ a law
17 enforcement officer to serve as the chief of school police who is
18 supervised by the superintendent of schools of the school district.
19 The chief of school police shall supervise each person appointed or
20 employed by the board of trustees as a school police officer. In
21 addition, persons who provide police services pursuant to subsection
22 9 or 10 shall be deemed school police officers.

23 9. The board of trustees of a school district in a county that has
24 a metropolitan police department created pursuant to chapter 280 of
25 NRS may contract with the metropolitan police department for the
26 provision and supervision of police services in the public schools
27 within the jurisdiction of the metropolitan police department and on
28 property therein that is owned by the school district. If a contract is
29 entered into pursuant to this subsection, the contract must make
30 provision for the transfer of each school police officer employed by
31 the board of trustees to the metropolitan police department. If the
32 board of trustees of a school district contracts with a metropolitan
33 police department pursuant to this subsection, the board of trustees
34 shall, if applicable, cooperate with appropriate local law
35 enforcement agencies within the school district for the provision and
36 supervision of police services in the public schools within the school
37 district and on property owned by the school district, but outside the
38 jurisdiction of the metropolitan police department.

39 10. The board of trustees of a school district in a county that
40 does not have a metropolitan police department created pursuant to
41 chapter 280 of NRS may contract with the sheriff of that county for
42 the provision of police services in the public schools within the
43 school district and on property therein that is owned by the school
44 district.



Sec. 3. NRS 391.110 is hereby amended to read as follows:

391.110 1. ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* board of trustees of a school district may:

(a) Employ any person whom the board of trustees determines is qualified to serve as the superintendent of schools of the school district. The Commission may require the superintendent of any school district to hold a master's degree.

(b) Define his powers and fix his duties.

(c) Fix his salary.

2. If the board of trustees of a school district employs a person who is not licensed as an administrator to serve as the superintendent of schools, the board of trustees shall employ a person who is licensed as an administrator to oversee the academic programs of the public schools within the school district.

3. A superintendent of schools may be employed for an initial term not to exceed 4 years. The term of any subsequent employment may be of any duration.

4. A superintendent of schools may be dismissed at any time for cause.

5. A superintendent of schools may administer oaths or affirmations relating to public schools.

Sec. 4. NRS 391.120 is hereby amended to read as follows:

391.120 1. ~~[Boards]~~ *Except as otherwise provided in section 1 of this act, the board* of trustees of ~~[the school districts]~~ *a school district* in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.

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

3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. The board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.



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

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

(b) The designated assignment, as that term is defined by the Department, ~~[of Education,]~~ of the employee.

Sec. 5. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~[no]~~ *not* later than:

(a) December 1;

(b) February 1; and

(c) April 1,

↪ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. *An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for at least 1 hour during each evaluation period.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~[no]~~ *not* later than ~~[February 15]~~ *March 1* of the current school year. The notice must include the



1 reasons for the potential decision not to reemploy or refer to the
2 evaluation in which the reasons are stated. Such a notice is not
3 required if the probationary employee has received a letter of
4 admonition during the current school year.

5 5. Each postprobationary teacher must be evaluated at least
6 once each year. *An administrator charged with the evaluation of a*
7 *postprobationary teacher shall personally observe the performance*
8 *of the teacher in the classroom for at least 1 hour during each*
9 *evaluation period.*

10 6. The evaluation of a probationary teacher or a
11 postprobationary teacher must ~~[, if]~~ :

12 (a) If necessary, include recommendations for improvements in
13 his performance. ~~[A reasonable effort must be made to assist the~~
14 ~~teacher to correct any deficiencies noted in the evaluation.]~~

15 (b) *Include a description of the action that will be taken to*
16 *assist the teacher in correcting any deficiencies reported in the*
17 *evaluation.*

18 (c) *Include a statement by the administrator who evaluated the*
19 *teacher indicating the amount of time that the administrator*
20 *personally observed the performance of the teacher in the*
21 *classroom.*

22 7. The teacher must receive a copy of each evaluation not later
23 than 15 days after the evaluation. A copy of the evaluation and the
24 teacher's response must be permanently attached to the teacher's
25 personnel file. *Upon the request of a teacher, a reasonable effort*
26 *must be made to assist the teacher to correct those deficiencies*
27 *reported in the evaluation of the teacher for which the teacher*
28 *requests assistance.*

29 **Sec. 6.** NRS 391.313 is hereby amended to read as follows:

30 391.313 1. Whenever an administrator charged with
31 supervision of a licensed employee believes it is necessary to
32 admonish the employee for a reason that he believes may lead to
33 demotion ~~[,]~~ or dismissal or *may* cause the employee not to be
34 reemployed under the provisions of NRS 391.312, he shall:

35 (a) Except as otherwise provided in subsection ~~[2.]~~ 3, bring the
36 matter to the attention of the employee involved, in writing, stating
37 the reasons for the admonition and that it may lead to his demotion,
38 dismissal or a refusal to reemploy him, and make a reasonable effort
39 to assist the employee to correct whatever appears to be the cause
40 for his potential demotion, dismissal or a potential recommendation
41 not to reemploy him; and

42 (b) Except as otherwise provided in NRS 391.314, allow
43 reasonable time for improvement, which must not exceed 3 months
44 for the first admonition.



1 ↪ *The admonition must include a description of the deficiencies*
2 *of the teacher and the action that is necessary to correct those*
3 *deficiencies.*

4 2. An admonition issued to a licensed employee who, within
5 the time granted for improvement, has met the standards set for him
6 by the administrator who issued the admonition must be removed
7 from the records of the employee together with all notations and
8 indications of its having been issued. The admonition must be
9 removed from the records of the employee not later than 3 years
10 after it is issued.

11 ~~[2-]~~ 3. An administrator need not admonish an employee
12 pursuant to paragraph (a) of subsection 1 if his employment will be
13 terminated pursuant to NRS 391.3197. If by ~~[February 15]~~ **March 1**
14 of the first or second year of his probationary period a probationary
15 employee does not receive a written notice pursuant to subsection 4
16 of NRS 391.3125 of a potential decision not to reemploy him, he
17 must receive an admonition before any such decision is made.

18 ~~[3-]~~ 4. A licensed employee is subject to immediate dismissal
19 or a refusal to reemploy according to the procedures provided in
20 NRS 391.311 to 391.3197, inclusive, without the admonition
21 required by this section, on grounds contained in paragraphs (b), (f),
22 (g), (h) and (p) of subsection 1 of NRS 391.312.

23 **Sec. 7.** NRS 391.3197 is hereby amended to read as follows:

24 391.3197 1. A probationary employee is employed on a
25 contract basis for two 1-year periods and has no right to
26 employment after either of the two probationary contract years.

27 2. The board shall notify each probationary employee in
28 writing on or before May 1 of the first and second school years of
29 his probationary period, as appropriate, whether he is to be
30 reemployed for the second year of the probationary period or for the
31 next school year as a postprobationary employee. The employee
32 must advise the board in writing on or before May 10 of the first or
33 second year of his probationary period, as appropriate, of his
34 acceptance of reemployment. If a probationary employee is assigned
35 to a school that operates all year, the board shall notify him in
36 writing, in both the first and second years of his probationary period,
37 no later than 45 days before his last day of work for the year under
38 his contract whether he is to be reemployed for the second year of
39 the probationary period or for the next school year as a
40 postprobationary employee. He must advise the board in writing
41 within 10 days after the date of notification of his acceptance or
42 rejection of reemployment for another year. Failure to advise the
43 board of his acceptance of reemployment constitutes rejection of the
44 contract.



3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~[A] If a~~ probationary employee ~~[who receives an unsatisfactory evaluation]~~ *receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee* may request a supplemental evaluation by another administrator in the school district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in ~~[the]~~ *this* State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed, ➤ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or



1 before May 10. If the person fails to accept the contract as a teacher,
2 the person shall be deemed to have rejected the offer of a contract as
3 a teacher.

4 7. An administrator who has completed his probationary period
5 pursuant to subsection 6 and is thereafter promoted to the position of
6 principal must serve an additional probationary period of 1 year in
7 the position of principal. If the administrator serving the additional
8 probationary period is not reemployed as a principal after the
9 expiration of the additional probationary period, the board of
10 trustees of the school district in which the person is employed shall,
11 on or before May 1, offer the person a contract for the ensuing
12 school year for the administrative position in which the person
13 attained postprobationary status. The person may accept the contract
14 in writing on or before May 10. If the person fails to accept such a
15 contract, the person shall be deemed to have rejected the offer of
16 employment.

17 8. Before dismissal, the probationary employee is entitled to a
18 hearing before a hearing officer which affords due process as set out
19 in NRS 391.311 to 391.3196, inclusive.

20 **Sec. 8.** This act becomes effective on July 1, 2007.

