

**Amendment No. 794**

Senate Amendment to Assembly Bill No. 395 First Reprint (BDR 23-1020)

**Proposed by:** Senate Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

HAC



Date: 5/16/2009

A.B. No. 395—Provides for workplace relations discussions and agreements for certain state employees. (BDR 23-1020)



ASSEMBLY BILL NO. 395—ASSEMBLYMEN AIZLEY, BUCKLEY; BOBZIEN,  
KIRKPATRICK, LESLIE, PIERCE AND SMITH

MARCH 16, 2009

JOINT SPONSOR: SENATOR PARKS

Referred to Committee on Government Affairs

SUMMARY—Provides for workplace relations discussions and agreements for certain state employees. (BDR 23-1020)

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

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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 state employees; authorizing discussions of workplace relations for certain state employees; expanding the duties of the Personnel Commission to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Title 23 of NRS governs public employment. This bill authorizes discussions of workplace relations between the State and certain state employees. **Sections 18-20** of this bill expand the duties of the Personnel Commission to include hearing and deciding disputes between the State and certain state employees. **Section 21** of this bill authorizes certain state employees to organize and join employee organizations, or refrain from engaging in that activity, and, as applicable, to discuss workplace relations through exclusive representatives. **Section 22** of this bill establishes requirements concerning workplace relations agreements. **Sections 24 and 25** of this bill prescribe certain unfair labor practices in the context of discussions of workplace relations. **Section 27** of this bill provides for the creation and organization of workplace relations units of state employees. **Sections 28-31** of this bill provide for the election or designation of exclusive representatives of workplace relations units. **Section 32** of this bill requires the exclusive representative of a workplace relations unit to engage in discussions of workplace relations with the Executive Department of the State Government on behalf of the employees within the unit.

**Section 34** of this bill requires the Executive Department and an exclusive representative to begin negotiations regarding a workplace relations agreement within 60 days after one party notifies the other of a desire to negotiate. **Sections 35-38** of this bill provide for mediation, arbitration and judicial review of disputes between the Executive Department and a workplace relations unit. **Section 40** of this bill authorizes certain supplemental discussions between the Executive Department and the exclusive representative of a workplace relations

unit of any terms and conditions of employment that do not affect all the employees of the workplace relations unit. Section 42.3 of this bill authorizes the State to suspend the applicability of a workplace relations agreement in situations of emergency. Section 42.5 requires that any workplace relations agreement be posted on the Internet website of the State, if any.

Section 44.3 of this bill revises the authority of the Governor to appoint the members of the Personnel Commission by requiring the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one of the members to the Commission. (NRS 284.030)

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

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~42.4~~ 42.6 inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Arbitration” means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.*

Sec. 4. (Deleted by amendment.)

Sec. 4.5. *“Commission” means the Personnel Commission created by NRS 284.030.*

Sec. 5. *“Confidential employee” means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.*

Sec. 6. *“Discussions of workplace relations” means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.*

Sec. 7. 1. *“Employee” means a person who:*

(a) *Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the Nevada System of Higher Education; or*

(b) *Is employed by the Public Employees’ Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.*

2. *The term does not include:*

(a) *A managerial employee whose primary function, as determined by the Commission, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;*

(b) *An elected official and any person appointed to fill a vacancy in an elected office;*

(c) *A confidential employee;*

1       (d) *A temporary employee who is employed for a fixed period of 4 months or*  
2 *less;*

3       (e) *A commissioned officer and an enlisted member of the Nevada National*  
4 *Guard;*

5       (f) *A justice of the Supreme Court and a judge of a district court;*

6       (g) *Inmates of state institutions even though they may be receiving*  
7 *compensation for services performed for the institution; or*

8       (h) *Any person employed by the Legislature.*

9       Sec. 8. *“Exclusive representative” means an employee organization that, as*  
10 *a result of designation by the Commission, has the exclusive right to represent all*  
11 *employees within a workplace relations unit and to negotiate with the Executive*  
12 *Department pursuant to this chapter concerning the terms and conditions of*  
13 *employment for those employees.*

14       Sec. 9. *“Executive Department” means an agency, board, bureau,*  
15 *commission, department, division, elected officer or any other unit of the*  
16 *Executive Department of State Government.*

17       Sec. 10. *“Fair share agreement” means an agreement between an*  
18 *employer and an exclusive representative under which any of the employees in a*  
19 *workplace relations unit are required to pay a proportionate share of the costs of*  
20 *discussions of workplace relations, the administration of a workplace relations*  
21 *agreement and the negotiation of other matters affecting the terms and*  
22 *conditions of employment.*

23       Sec. 11. *“Grievance” means an act, omission or occurrence which an*  
24 *employee or an exclusive representative constitutes in his belief an injustice*  
25 *relating to any condition arising out of the relationship between an employer and*  
26 *an employee, including, without limitation, working hours, working conditions,*  
27 *membership in an organization of employees or the interpretation of any law,*  
28 *regulation or agreement.*

29       Sec. 12. *“Mediation” means assistance by an impartial third party to*  
30 *reconcile differences between the Executive Department and an exclusive*  
31 *representative through interpretation, suggestion and advice.*

32       Sec. 13. *“Professional employee” means an employee engaged in work*  
33 *that:*

34       1. *Is predominately intellectual and varied in character as opposed to*  
35 *routine mental, manual, mechanical or physical work;*

36       2. *Involves the consistent exercise of discretion and judgment in its*  
37 *performance;*

38       3. *Is of such a character that the result accomplished or produced cannot*  
39 *be standardized in relation to a given period; and*

40       4. *Requires advanced knowledge in a field of science or learning*  
41 *customarily acquired through a prolonged course of specialized intellectual*  
42 *instruction and study in an institution of higher learning, as distinguished from*  
43 *general academic education, an apprenticeship or training in the performance of*  
44 *routine mental or physical processes.*

45       Sec. 14. *“Supervisory employee” means an employee who has authority to:*

46       1. *Hire, transfer, suspend, lay off, recall, promote, discharge, assign,*  
47 *reward or discipline other employees, or who has the responsibility to direct such*  
48 *employees; or*

49       2. *Adjust the grievances of other employees or effectively recommend such*  
50 *an action, if the exercise of that authority requires the use of independent*  
51 *judgment and is not of a routine or clerical nature.*

52       ↪ *The exercise of such authority shall not be deemed to place the employee in*  
53 *supervisory employee status unless the exercise of such authority occupies a*

1 *significant portion of the employee's workday. Nothing in this section may be*  
2 *construed to mean that an employee who has been given incidental*  
3 *administrative duties is classified as a supervisory employee.*

4 *Sec. 15. "Terms and conditions of employment" includes, without*  
5 *limitation:*

- 6 *1. Hours and working conditions;*
- 7 *2. Grievances;*
- 8 *3. Discipline and discharge; and*
- 9 *4. Any other term or condition of employment that does not require an*  
10 *appropriation from the Legislature to be given effect.*

11 *Sec. 16. "Workplace relations unit" means a collection of employees that*  
12 *the Commission has established as a workplace relations unit pursuant to section*  
13 *27 of this act.*

14 *Sec. 17. 1. The Legislature hereby finds and declares that there is a great*  
15 *need to:*

16 *(a) Promote orderly and constructive relations between the State and its*  
17 *employees; and*

18 *(b) Increase the efficiency of State Government.*

19 *2. It is therefore within the public interest that the Legislature enact*  
20 *provisions:*

21 *(a) Granting certain state employees the right to associate with others in*  
22 *organizing and choosing representatives for the purpose of discussing workplace*  
23 *relations;*

24 *(b) Requiring the State to recognize, negotiate and discuss workplace*  
25 *relations with employee organizations that represent state employees and to enter*  
26 *into written agreements evidencing the result of discussions of workplace*  
27 *relations; and*

28 *(c) Establishing standards and procedures that protect the rights of state*  
29 *employees, the Executive Department and the people of the State.*

30 *Sec. 18. 1. The Commission may adopt rules governing:*

31 *(a) Proceedings before the Commission pursuant to this chapter;*

32 *(b) Procedures for fact-finding;*

33 *(c) The recognition of exclusive representatives;*

34 *(d) The establishment of workplace relations units; and*

35 *(e) Such other matters as are necessary for the Commission to carry out its*  
36 *duties pursuant to this chapter.*

37 *2. The Commission may hear and determine any complaint arising out of*  
38 *the interpretation of, or performance under, the provisions of this chapter by the*  
39 *Executive Department, an employee or an exclusive representative. The*  
40 *Commission shall conduct a hearing within 90 days after it decides to hear a*  
41 *complaint. If the Commission finds, after a hearing, that the complaint has merit,*  
42 *the Commission may order any person to refrain from the action complained of*  
43 *or to restore to the party aggrieved any benefit of which he has been deprived by*  
44 *that action. The Commission shall issue its decision within 120 days after the*  
45 *hearing on the complaint is completed.*

46 *3. Any party aggrieved by the failure of any person to obey an order of the*  
47 *Commission issued pursuant to subsection 2, or the Commission at the request of*  
48 *such a party, may apply to a court of competent jurisdiction for a prohibitory or*  
49 *mandatory injunction to enforce the order.*

50 *4. The Commission may not consider any complaint or appeal filed more*  
51 *than 6 months after the occurrence which is the subject of the complaint or*  
52 *appeal.*

53 *5. The Commission may decide without a hearing a contested matter:*

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

3       (b) Upon agreement of all the parties.

4       6. The Commission may award reasonable costs, which may include  
5 attorney's fees, to the prevailing party.

6       **Sec. 19.** 1. For the purpose of hearing and deciding appeals or  
7 complaints, the Commission may issue subpoenas requiring the attendance of  
8 witnesses before it, together with all books, memoranda, papers and other  
9 documents relative to the matters under investigation, administer oaths and take  
10 testimony thereunder.

11       2. The district court in and for the county in which any hearing is being  
12 conducted by the Commission may compel the attendance of witnesses, the giving  
13 of testimony and the production of books and papers as required by any subpoena  
14 issued by the Commission.

15       3. If a witness refuses to attend or testify or produce any papers required by  
16 such a subpoena, the Commission may report to the district court in and for the  
17 county in which the hearing is pending by petition, setting forth:

18       (a) That due notice has been given of the time and place of attendance of the  
19 witness or the production of the books and papers;

20       (b) That the witness has been subpoenaed in the manner prescribed in this  
21 chapter; and

22       (c) That the witness has failed and refused to attend or produce the papers  
23 required by the subpoena before the Commission in the hearing named in the  
24 subpoena, or has refused to answer questions propounded to him in the course of  
25 such hearing,

26       and asking for an order of the court compelling the witness to attend and  
27 testify or produce the books or papers before the Commission.

28       4. The court, upon petition of the Commission, shall enter an order  
29 directing the witness to appear before the court at a time and place to be fixed by  
30 the court in such order, the time to be not more than 10 days after the date of the  
31 order, and then and there show cause why he has not attended or testified or  
32 produced the books or papers before the Commission. A certified copy of the  
33 order must be served upon the witness. If it appears to the court that the  
34 subpoena was regularly issued by the Commission, the court shall thereupon  
35 enter an order that the witness appear before the Commission at the time and  
36 place fixed in the order and testify or produce the required books or papers, and  
37 upon failure to obey the order, the witness must be dealt with as for contempt of  
38 court.

39       **Sec. 20.** Every hearing and determination of an appeal or complaint by the  
40 Commission is a contested case subject to the provisions of law which govern the  
41 administrative decision and judicial review of such cases.

42       **Sec. 21.** 1. For the purposes of discussions of workplace relations,  
43 supplemental discussions of workplace relations and other mutual aid or  
44 protection, employees have the right to:

45       (a) Organize, form, join and assist employee organizations, engage in  
46 discussions of workplace relations and supplemental discussions of workplace  
47 relations through exclusive representatives and engage in other concerted  
48 activities; and

49       (b) Refrain from engaging in such activity.

50       2. Discussions of workplace relations and supplemental discussions of  
51 workplace relations entail a mutual obligation of the Executive Department and  
52 an exclusive representative to meet at reasonable times and to discuss workplace  
53 relations in good faith with respect to:

- 1 (a) *The terms and conditions of employment;*
- 2 (b) *The negotiation of an agreement;*
- 3 (c) *The resolution of any question arising under an agreement; and*
- 4 (d) *The execution of a written contract incorporating the provisions of an*
- 5 *agreement, if requested by either party.*

6 **Sec. 22. 1. Each workplace relations agreement must be in writing and**

7 **must include, without limitation:**

8 (a) *A procedure to resolve grievances which culminates in final and binding*

9 *arbitration;*

10 (b) *A provision which provides that an officer of the Executive Department*

11 *may, upon written authorization by an employee within the workplace relations*

12 *unit, withhold a sufficient amount of money from the salary or wages of the*

13 *employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive*

14 *representative of the workplace relations unit; and*

15 (c) *At the election of the exclusive representative, and notwithstanding any*

16 *other provision of law, a fair share agreement.*

17 2. *Except as otherwise provided in subsection 3, the procedure to resolve*

18 *grievances required in an agreement pursuant to paragraph (a) of subsection 1 is*

19 *the exclusive means available for resolving grievances related to the*

20 *administration of the agreement.*

21 3. *An employee in a workplace relations unit may pursue a grievance*

22 *related to any disciplinary action taken against him by his employer through:*

23 (a) *The procedure provided in the agreement pursuant to paragraph (a) of*

24 *subsection 1; or*

25 (b) *Any procedure available to him pursuant to the provisions of chapter 284*

26 *of NRS,*

27 *but once the employee has properly filed his grievance pursuant to paragraph*

28 *(a) or (b), he may not proceed to file his grievance in the alternative manner.*

29 4. *If there is a conflict between a provision of an agreement between the*

30 *Executive Department and an exclusive representative and:*

31 (a) *Any regulation adopted by the Executive Department, the provision of the*

32 *agreement prevails unless the provision of the agreement is outside of the lawful*

33 *scope of discussions of workplace relations.*

34 (b) *An existing statute, the provision of the agreement may not be given*

35 *effect unless the Legislature amends the existing statute in such a way as to*

36 *eliminate the conflict.*

37 **Sec. 23. 1. A fair share agreement included in a workplace relations**

38 **agreement pursuant to section 22 of this act must not be for an amount exceeding**

39 **the amount of dues uniformly required of members.**

40 2. *An amount agreed to be paid pursuant to a fair share agreement must*

41 *not include any fees for contributions relating to the election or support of any*

42 *candidate for political office.*

43 3. *This section does not prohibit an employee from making voluntary*

44 *political contributions in conjunction with his payment pursuant to a fair share*

45 *agreement.*

46 **Sec. 24. 1. It is a prohibited practice for the Executive Department or its**

47 **designated representative willfully to:**

48 (a) *Refuse to engage in discussions of workplace relations or otherwise fail*

49 *to discuss workplace relations in good faith with an exclusive representative,*

50 *including, without limitation, refusing to engage in mediation or arbitration.*

51 (b) *Interfere with, restrain or coerce an employee in the exercise of any right*

52 *guaranteed pursuant to this chapter.*

1       (c) Dominate, interfere with or assist in the formation or administration of  
2       an employee organization.

3       (d) Discriminate in regard to hiring, tenure or any terms and conditions of  
4       employment to encourage or discourage membership in an employee  
5       organization.

6       (e) Discharge or otherwise discriminate against an employee because the  
7       employee has:

8           (1) Signed or filed an affidavit, petition or complaint or has provided any  
9           information or given any testimony pursuant to this chapter; or

10          (2) Formed, joined or chosen to be represented by an employee  
11          organization.

12       (f) Discriminate because of race, color, religion, sex, sexual orientation, age,  
13       disability, national origin, or political or personal reasons or affiliations.

14       (g) Deny rights accompanying a designation as an exclusive representative.

15       2. It is a prohibited practice for an employee organization or its designated  
16       agent willfully to:

17           (a) When acting as an exclusive representative, refuse to engage in  
18           discussions of workplace relations or otherwise fail to discuss workplace relations  
19           in good faith with the Executive Department, including, without limitation,  
20           refusing to engage in mediation or arbitration.

21           (b) Interfere with, restrain or coerce an employee in the exercise of any right  
22           guaranteed pursuant to this chapter.

23       (c) Discriminate because of race, color, religion, sex, sexual orientation, age,  
24       disability, national origin, or political or personal reasons or affiliations.

25       **Sec. 25. 1.** To establish that a party committed a prohibited practice in  
26       violation of section 24 of this act, the party aggrieved by the practice must:

27           (a) File a complaint with the Commission not later than 6 months after the  
28           alleged prohibited practice occurred; and

29           (b) Send a copy of the complaint to the other party by certified mail, return  
30           receipt requested, or by any other method authorized by the Commission.

31       2. Not later than 10 days after receiving a complaint pursuant to paragraph  
32       (b) of subsection 1, a party shall file a response to the complaint with the  
33       Commission.

34       3. The Commission shall conduct a preliminary investigation of the  
35       complaint. Based on its investigation:

36           (a) If the Commission determines that the complaint has no basis in law or  
37           fact, the Commission shall dismiss the complaint.

38           (b) If the Commission determines that the complaint may have a basis in law  
39           or fact, the Commission shall order a hearing to be conducted in accordance  
40           with:

41           (1) The provisions of chapter 233B of NRS that apply to a contested case;  
42           and

43           (2) The rules adopted by the Commission pursuant to section 18 of this  
44           act.

45       4. If the Commission finds at the hearing that the party accused in the  
46       complaint has committed a prohibited practice, the Commission:

47           (a) Shall order the party to cease and desist from engaging in the prohibited  
48           practice; and

49           (b) May order any other affirmative relief that is necessary to remedy the  
50           prohibited practice.

51       5. The Commission may petition the district court for enforcement of its  
52       orders.



6. Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.

Sec. 26. 1. The Commission may appoint a hearing officer to conduct a hearing that the Commission is otherwise required to conduct pursuant to section 25 of this act.

2. A decision of the hearing officer may be appealed to the Commission.

3. On appeal to the Commission, the Commission may consider the record of the hearing or may conduct a hearing de novo. A hearing de novo conducted by the Commission must be conducted in accordance with:

(a) The provisions of chapter 233B of NRS that apply to a contested case; and

(b) The rules adopted by the Commission pursuant to section 18 of this act.

4. If the Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.

Sec. 27. 1. The Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.

2. The Commission shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.

(d) Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(e) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(f) Category I peace officers and category II peace officers.

(g) Category III peace officers.

1       (h) Supervisory employees not otherwise included in other workplace  
2 relations units.

3       (i) Employees of the Nevada System of Higher Education, except such  
4 employees who are category I peace officers.

5       (j) Employees of the State Department of Conservation and Natural  
6 Resources who:

7           (1) Perform emergency fire suppression; or

8           (2) Provide direct support to the employees described in subparagraph

9 (I).

10       3. The Commission shall, in accordance with the rules adopted pursuant to  
11 section 18 of this act, establish the exact classifications of employees within each  
12 workplace relations unit. The Commission may assign a new classification to a  
13 workplace relations unit based upon the similarity of the new classification to  
14 other classifications within the workplace relations unit.

15       4. The Commission shall not change an established workplace relations  
16 unit arbitrarily.

17       5. The Commission shall determine whether the employment functions of  
18 any group of employees performing managerial functions preclude the inclusion  
19 of those employees in a workplace relations unit.

20       6. As used in this section:

21       (a) "Category I peace officer" has the meaning ascribed to it in  
22 NRS 289.460.

23       (b) "Category II peace officer" has the meaning ascribed to it in  
24 NRS 289.470.

25       (c) "Category III peace officer" has the meaning ascribed to it in  
26 NRS 289.480.

27       Sec. 28. If no employee organization is designated as the exclusive  
28 representative of a workplace relations unit and an employee organization files  
29 with the Commission a list of its membership showing that the employee  
30 organization represents more than 50 percent of the employees within the  
31 workplace relations unit, the Commission shall designate the employee  
32 organization as the exclusive representative of the workplace relations unit  
33 without ordering an election.

34       Sec. 29. 1. If no employee organization is designated as the exclusive  
35 representative of a workplace relations unit, the Commission shall order an  
36 election to be conducted within the workplace relations unit if:

37       (a) An employee organization files with the Commission a written request for  
38 an election which includes a list of its membership showing that it represents at  
39 least 30 percent but not more than 50 percent of the employees within the  
40 workplace relations unit; and

41       (b) No other election to choose, change or discontinue representation has  
42 been conducted within the workplace relations unit during the preceding 12  
43 months.

44       2. If the Commission designates an employee organization as the exclusive  
45 representative of a workplace relations unit following an election pursuant to  
46 subsection 1 or pursuant to section 28 of this act, the Commission shall order an  
47 election:

48       (a) If either:

49           (1) Another employee organization files with the Commission a written  
50 request for an election which includes a list of its membership showing that the  
51 employee organization represents at least 50 percent of the employees within the  
52 workplace relations unit; or

1       (2) A group of employees within the workplace relations unit files with  
2 the Commission a written request for an election which includes a list showing  
3 that more than 50 percent of the employees within the workplace relations unit  
4 have requested that an election be conducted to change or discontinue  
5 representation;

6       (b) If applicable, the request filed pursuant to paragraph (a) is filed not more  
7 than 270 days and not less than 225 days before the date on which the current  
8 workplace relations agreement in effect for the workplace relations unit expires;  
9 and

10       (c) If no other election to choose, change or discontinue representation has  
11 been conducted within the workplace relations unit during the preceding 12  
12 months.

13       **Sec. 30. 1.** If the Commission orders an election within a workplace  
14 relations unit pursuant to section 29 of this act, the Commission shall order that  
15 each of the following be placed as a choice on the ballot for the election:

16       (a) If applicable, the employee organization that requested the election  
17 pursuant to section 29 of this act and the employee organization that is presently  
18 designated as the exclusive representative of the workplace relations unit;

19       (b) Any other employee organization that, on or before the date that is  
20 prescribed by the rules adopted by the Commission, files with the Commission a  
21 written request to be placed on the ballot for the election and includes with the  
22 written request a list of its membership showing that the employee organization  
23 represents at least 30 percent of the employees within the workplace relations  
24 unit; and

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

26       2. If a ballot for an election contains more than two choices and none of the  
27 choices on the ballot receives a majority of the votes cast at the initial election,  
28 the Commission shall order a runoff election between the two choices on the  
29 ballot that received the highest number of votes at the initial election.

30       3. If the choice for "no representation" receives a majority of the votes cast  
31 at the initial election or at any runoff election, the Commission shall designate  
32 the workplace relations unit as being without representation.

33       4. If an employee organization receives a majority of the votes cast at the  
34 initial election or at any runoff election, the Commission shall designate the  
35 employee organization as the exclusive representative of the workplace relations  
36 unit.

37       **Sec. 31. 1.** The Commission shall preside over all elections that are  
38 conducted pursuant to this chapter and shall determine the eligibility  
39 requirements for employees to vote in any such election.

40       2. An employee organization that is placed as a choice on the ballot for an  
41 election or any employee who is eligible to vote at an election may file with the  
42 Commission a written objection to the results of the election. The objection must  
43 be filed not later than 10 days after the date on which the notice of the results of  
44 the election is given by the Commission.

45       3. In response to a written objection filed pursuant to subsection 2 or upon  
46 its own motion, the Commission may invalidate the results of an election and  
47 order a new election if the Commission finds that any conduct or circumstances  
48 raise substantial doubt that the results of the election are reliable.

49       **Sec. 32. 1.** Except as otherwise provided in subsection 2, an exclusive  
50 representative shall:

51       (a) Act as the agent and exclusive representative of all employees within each  
52 workplace relations unit that it represents; and

1       ***(b) In good faith and on behalf of each workplace relations unit that it***  
2 ***represents, individually or collectively, engage in discussions of workplace***  
3 ***relations with the Executive Department concerning the terms and conditions of***  
4 ***employment for the employees within each workplace relations unit that it***  
5 ***represents, including, without limitation, any terms and conditions of***  
6 ***employment that are within the scope of supplemental discussions of workplace***  
7 ***relations pursuant to section 40 of this act.***

8       ***2. If an employee is within a workplace relations unit that has an exclusive***  
9 ***representative, the employee has the right to present grievances to the Executive***  
10 ***Department at any time and to have those grievances adjusted without the***  
11 ***intervention of the exclusive representative if:***

12       ***(a) The exclusive representative is given an opportunity to be present at any***  
13 ***meetings or hearings related to the adjustment of the grievance; and***

14       ***(b) The adjustment of the grievance is not inconsistent with the provisions of***  
15 ***the workplace relations agreement or any supplemental workplace relations***  
16 ***agreement then in effect.***

17       ***Sec. 33. If the Commission designates an employee organization as the***  
18 ***exclusive representative of a workplace relations unit pursuant to this chapter, an***  
19 ***officer of the Executive Department shall not, pursuant to NRS 281.129, withhold***  
20 ***any amount of money from the salary or wages of an employee within the***  
21 ***workplace relations unit to pay dues or similar fees to an employee organization***  
22 ***other than the employee organization that is the exclusive representative of the***  
23 ***workplace relations unit.***

24       ***Sec. 34. The Executive Department and an exclusive representative shall***  
25 ***begin negotiations concerning a workplace relations agreement within 60 days***  
26 ***after one party notifies the other party of the desire to negotiate.***

27       ***Sec. 35. 1. If the parties do not reach a workplace relations agreement***  
28 ***within 120 days after the date on which the parties began negotiations or any***  
29 ***later date which is set by agreement of the parties, either party may request a***  
30 ***mediator from the Federal Mediation and Conciliation Service.***

31       ***2. The mediator shall bring the parties together as soon as possible after his***  
32 ***appointment and shall attempt to settle each issue in dispute within 30 days after***  
33 ***his appointment or any later date which is set by agreement of the parties.***

34       ***Sec. 36. 1. If the mediator determines that his services are no longer***  
35 ***helpful or if the parties do not reach a workplace relations agreement through***  
36 ***mediation within 30 days after the appointment of the mediator or any later date***  
37 ***which is set by agreement of the parties, the mediator shall discontinue mediation***  
38 ***and the parties shall attempt to agree upon an impartial arbitrator.***

39       ***2. If the parties do not agree upon an impartial arbitrator within 5 days***  
40 ***after the date on which mediation is discontinued pursuant to subsection 1 or on***  
41 ***or before any later date which is set by agreement of the parties, the parties shall***  
42 ***request from the Federal Mediation and Conciliation Service a list of seven***  
43 ***potential arbitrators. The parties shall select an arbitrator from this list by***  
44 ***alternately striking one name until the name of only one arbitrator remains, and***  
45 ***that arbitrator must hear the dispute in question. The party who will strike the***  
46 ***first name must be determined by a coin toss.***

47       ***3. The arbitrator shall begin arbitration proceedings within 60 days after***  
48 ***his selection or any later date which is set by agreement of the parties.***

49       ***4. The arbitrator and the parties shall apply and follow the procedures for***  
50 ***arbitration that are prescribed by the rules adopted by the Commission. During***  
51 ***arbitration, the parties retain their respective duties to negotiate in good faith.***

52       ***5. The arbitrator may administer oaths or affirmations, take testimony and***  
53 ***issue and seek enforcement of subpoenas in the same manner as the Commission***

1 pursuant to section 19 of this act, and, except as otherwise provided in subsection  
2 6, the provisions of section 19 of this act apply to subpoenas issued by the  
3 arbitrator.

4 6. The Executive Department and the exclusive representative shall each  
5 pay one-half of the cost of arbitration.

6 Sec. 37. 1. For each separate issue that is in dispute after arbitration  
7 proceedings are held pursuant to section 36 of this act, the arbitrator shall  
8 incorporate either the final offer of the Executive Department or the final offer of  
9 the exclusive representative into his decision. The arbitrator shall not revise or  
10 amend the final offer of either party on any issue.

11 2. To determine which final offers to incorporate into his decision, the  
12 arbitrator shall assess the reasonableness of:

13 (a) The position of each party as to each issue in dispute; and

14 (b) The contractual terms and provisions contained in each final offer.

15 3. In assessing reasonableness pursuant to subsection 2, the arbitrator  
16 shall:

17 (a) Compare the terms and conditions of employment for the employees  
18 within the workplace relations unit with the terms and conditions of employment  
19 for other employees performing similar services and for other employees  
20 generally:

21 (1) In public employment in comparable communities; and

22 (2) In private employment in comparable communities; and

23 (b) Consider, without limitation, such other factors as are normally or  
24 traditionally used as part of discussions of workplace relations, mediation,  
25 arbitration or other methods of dispute resolution to determine the terms and  
26 conditions of employment for employees in public or private employment.

27 4. The arbitrator shall render a written decision within 45 days after the  
28 conclusion of the arbitration proceedings or before any later date which is set by  
29 agreement of the parties.

30 5. Except as otherwise provided in section 38 of this act, each provision that  
31 is included in a decision of the arbitrator is final and binding upon the parties.

32 Sec. 38. 1. Except as otherwise provided in this section, a party may seek  
33 judicial review in the district court of the decision of an arbitrator made pursuant  
34 to section 37 of this act based upon jurisdictional grounds or upon the grounds  
35 that the decision:

36 (a) Was procured by fraud, collusion or other similar unlawful means; or

37 (b) Was not supported by competent, material and substantial evidence on  
38 the whole record and based upon the factors set forth in section 37 of this act.

39 2. If a party seeks judicial review pursuant to this section, the district court  
40 may stay the contested portion of the decision of the arbitrator until the court  
41 rules on the matter.

42 3. The district court may affirm or reverse the contested portion of the  
43 decision of the arbitrator, in whole or in part, but the court may not remand the  
44 matter to the arbitrator or require any additional fact-finding or decision making  
45 by the arbitrator.

46 4. If the district court reverses any part of the contested portion of the  
47 decision of the arbitrator, the court shall enter an order invalidating that part of  
48 the decision of the arbitrator, and that part of the decision of the arbitrator is void  
49 and must not be given effect.

50 Sec. 39. 1. If a provision of a workplace relations agreement does not  
51 require an amendment to existing statute by the Legislature to be given effect, the  
52 provision becomes effective pursuant to the provisions of the workplace relations  
53 agreement.

2. If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.

Sec. 40. 1. Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.

2. The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace relations units that the exclusive representative represents if the requirements of subsection 1 are met for each such workplace relations unit.

3. If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:

(a) Must be in writing; and

(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.

4. If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.

5. The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.

6. The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.

Sec. 41. 1. Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.

2. If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court in and for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.

3. A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.

Sec. 42. The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.

Sec. 42.3. Notwithstanding the provisions of any workplace relations agreement negotiated pursuant to this chapter, the State is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of



emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any workplace relations agreement for the duration of the emergency. Any action taken under the provisions of this section must not be construed as a failure to negotiate in good faith.

Sec. 42.5. Any workplace relations agreement entered into pursuant to this chapter must be posted on the Internet website, if any, of the State of Nevada.

Sec. 42.7. Nothing in this chapter shall be construed to authorize the violation of NRS 288.230 to 288.260, inclusive.

**Sec. 43.** NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

(1) Charitable organizations;

(2) Employee credit unions;

(3) Except as otherwise provided in paragraph (b), insurers;

(4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~Employee~~ *Except as otherwise provided in section 33 of this act, employee* organizations and labor organizations.

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

**Sec. 44.** NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

1       5. *To the extent that they are inconsistent or otherwise in conflict, the*  
2 *provisions of this chapter do not apply to any terms and conditions of*  
3 *employment that are properly within the scope of and subject to the provisions of*  
4 *a workplace relations agreement or a supplemental workplace relations*  
5 *agreement that is enforceable pursuant to the provisions of sections 2 to 42,*  
6 *inclusive, of this act. As used in this subsection, "terms and conditions of*  
7 *employment" has the meaning ascribed to it in section 15 of this act.*

8       Sec. 44.3. NRS 284.030 is hereby amended to read as follows:

9       284.030 ~~[-]~~ There is hereby created in the Department a personnel  
10 commission composed of five members appointed ~~by the Governor.~~  
11 ~~—2—] as follows:~~

12       1. The Governor shall appoint:

13       (a) ~~Three members~~ *One member* who ~~are representatives~~ *is a*  
14 *representative* of the general public and ~~have~~ *has* a demonstrated interest in or  
15 knowledge of the principles of public personnel administration.

16       (b) One member who is a representative of labor and has a background in  
17 personnel administration.

18       (c) One member who is a representative of employers or managers and has a  
19 background in personnel administration.

20       2. *The Majority Leader of the Senate shall appoint one member who is a*  
21 *representative of the general public and has a demonstrated interest in or*  
22 *knowledge of the principles of public personnel administration.*

23       3. *The Speaker of the Assembly shall appoint one member who is a*  
24 *representative of the general public and has a demonstrated interest in or*  
25 *knowledge of the principles of public personnel administration.*

26       Sec. 44.5. NRS 284.040 is hereby amended to read as follows:

27       284.040 1. The members of the Commission ~~shall~~ serve at the pleasure of  
28 the ~~Governor~~ *appointing authority*, but no appointment ~~shall~~ *may* extend  
29 beyond a period of 4 years ~~from~~ *after* the date of expiration of the preceding  
30 appointment.

31       2. Continued absence from meetings ~~shall constitute~~ *constitutes* good and  
32 sufficient cause for removal of a member by the ~~Governor~~ *appointing authority*.

33       Sec. 44.7. NRS 284.065 is hereby amended to read as follows:

34       284.065 1. The Commission has only such powers and duties as are  
35 authorized by law.

36       2. In addition to the powers and duties set forth elsewhere in this chapter ~~[-]~~  
37 *and sections 2 to 42, inclusive, of this act*, the Commission shall:

38       (a) Advise the Director concerning the organization and administration of the  
39 Department.

40       (b) Report to the Governor biennially on all matters which the Commission  
41 may deem pertinent to the Department and concerning any specific matters  
42 previously requested by the Governor.

43       (c) Advise and make recommendations to the Governor ~~for~~ *and* the  
44 Legislature relative to the personnel policy of the State.

45       (d) Adopt regulations to carry out the provisions of this chapter.

46       (e) Foster the interest of institutions of learning and of civic, professional and  
47 employee organizations in the improvement of personnel standards in the state  
48 service.

49       (f) Review decisions of the Director in contested cases involving the  
50 classification or allocation of particular positions.

51       (g) Exercise any other advisory powers necessary or reasonably implied within  
52 the provisions and purposes of this chapter.

53       Sec. 45. (Deleted by amendment.)



1       **Sec. 46.** (Deleted by amendment.)

2       **Sec. 46.5.** The terms of the members of the Personnel Commission appointed  
3 by the Governor pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS  
4 284.030 expire on June 30, 2009.

5       **Sec. 46.7.** As soon as practicable on or after July 1, 2009:

6       1. The Governor shall appoint members to the Personnel Commission  
7 pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 284.030, as amended  
8 by section 44.3 of this act.

9       2. The Majority Leader of the Senate shall appoint a member to the Personnel  
10 Commission pursuant to subsection 2 of NRS 284.030, as amended by section 44.3  
11 of this act.

12       3. The Speaker of the Assembly shall appoint a member to the Personnel  
13 Commission pursuant to subsection 3 of NRS 284.030, as amended by section 44.3  
14 of this act.

15       **Sec. 47.** 1. This section and section 46.5 of this act become effective upon  
16 passage and approval.

17       2. Sections 1 to 46, inclusive, ~~{and 46.7}~~ of this act become effective ~~on~~  
18 ~~July 1, 2009.~~ :

19       (a) Upon passage and approval for the purpose of adopting regulations  
20 and performing any other preparatory administrative tasks that are necessary  
21 to carry out the provisions of this act; and

22       (b) On January 1, 2010, for all other purposes.

23       3. Section 46.7 of this act becomes effective on July 1, 2009.