

Amendment No. 536

Assembly Amendment to Assembly Bill No. 409 (BDR 23-1048)

Proposed by: Assembly Committee on Government Affairs**Amendment Box:** Replaces Amendment No. 340.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 409 (§ 7.5).

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.

WBD/HAC



Date: 4/20/2009

A.B. No. 409—Makes various changes concerning the Local Government
Employee-Management Relations Board. (BDR 23-1048)



ASSEMBLY BILL NO. 409—ASSEMBLYMEN BOBZIEN, PIERCE, ANDERSON; CLABORN, KIRKPATRICK, KOIVISTO, LESLIE AND MCCLAIN

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning the Local Government Employee-Management Relations Board. (BDR 23-1048)

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 public employees; requiring the Local Government Employee-Management Relations Board to conduct certain hearings using certain hearing officers; revising provisions governing the appointment of members to the Board; ~~eliminating the Board's authority to appoint certain officers;~~ revising the periods within which the Board must hear and decide certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Local Government Employee-Management Relations Board has exclusive jurisdiction to hear and determine complaints brought by local government employers, local government employees or employee organizations concerning various aspects of collective bargaining. (NRS 288.110) The Board also has jurisdiction to consider appeals filed by employee organizations that are aggrieved by the determinations of local government employers concerning which employee groups may constitute bargaining units for purposes of collective bargaining. (NRS 288.170) **Section 3** of this bill requires the Board to conduct the proceedings concerning such complaints or appeals using a hearing officer assigned by the Hearings Division of the Department of Administration. ~~officers~~ officer selected by the parties from a list of arbitrators obtained from the Federal Mediation and Conciliation Service or by appointing the Commissioner of the Board to serve as hearing officer. **Section 4** of this bill requires a hearing officer to prepare and submit to the Board a record of the proceedings concerning the complaint or appeal and to include in the record findings of fact, proposed conclusions of law and a proposed decision or order. **Section 5** of this bill requires the Board to issue its final decision or order upon the completion of its review of the record submitted by the hearing ~~officers.~~ officer. **Section 11** of this bill requires the Board to issue its final decision not later than 1 year after the filing of a complaint if the matter is heard by a hearing officer and not later than 180 days after the filing of a complaint if the Board hears the complaint in the absence of an evidentiary hearing or decides a contested matter without a hearing. (NRS 288.110)

Under existing law, the Board may not consider any complaint or appeal that is filed more than 6 months after the occurrence which is the subject of the complaint or appeal. (NRS 288.110) **Section 11** of this bill reduces this period to 180 days.

Section 7 of this bill requires that ~~(the final)~~ each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the

Board in similar cases unless the Board includes in ~~to final~~ the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the complaint or appeal at issue.

Section 7.5 of this bill requires the Board to charge and collect a fee, not to exceed \$200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding.

Under existing law, the Local Government Employee-Management Relations Board consists of three members who are appointed by the Governor. (NRS 288.080) Section 9 of this bill provides that the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each appoint one member of the Board.

~~Section 10 of this bill eliminates the Board's authority under existing law to employ a Commissioner and a Secretary. (NRS 288.090) Sections 12-18 of this bill eliminate various references to the Commissioner. (NRS 288.034, 288.190, 288.200, 288.201, 288.202, 288.203.)~~

Section 10.5 of this bill increases the salary that a member of the Board is entitled to receive from a maximum of \$80 to a maximum of \$150 for each day in which he is engaged in the business of the Board.

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 ~~7.4~~ 7.5 inclusive, of this act.

Sec. 2. ~~“Hearing officer” means a hearing officer, appeals officer or special appeals officer assigned by the Chief of the Hearings Division of the Department of Administration to conduct hearings in contested matters on behalf of the Board.~~ (Deleted by amendment.)

Sec. 3. 1. ~~[Except as otherwise provided in subsection 5 of NRS 288.110, if] If the Board decides to hear and determine any complaint or appeal filed with the Board pursuant to this chapter ~~that requires the taking of testimony or other evidence,~~ the Board shall ~~request that the Chief of the Hearings Division of the Department of Administration assign~~ appoint a hearing officer to conduct the proceedings concerning the complaint or appeal on behalf of the Board. ~~[The Board shall include in its request a short and plain statement of the matters at issue.~~~~

~~2. The Chief of the Hearings Division of the Department of Administration shall assign a hearing officer within 30 days after he receives the request.~~

~~3. A hearing officer assigned pursuant to this section must be an attorney admitted to practice in this State.~~

~~4. The Board shall, within the limits of legislative appropriations, reimburse the Department of Administration for the services of a hearing officer at a rate not to exceed \$100 per hour.]~~

2. Except as otherwise provided in this section, the Board shall appoint as its hearing officer the person selected by the parties from a list of seven arbitrators obtained from the Federal Mediation and Conciliation Service. The parties shall alternately strike one name from the list until the name of only one person remains. The parties must determine by the toss of a coin which party will strike the first name. Each party shall pay one-half of the fee charged by the hearing officer appointed pursuant to this subsection.

3. The Board shall appoint the Commissioner to act as the hearing officer for a complaint or appeal if both parties request the appointment.

4. The Board may appoint the Commissioner to act as the hearing officer for a complaint or appeal at the request of one party if the party demonstrates to the satisfaction of the Board that the payment of the party's share of a fee charged by a hearing officer appointed by the Board pursuant to subsection 2 is likely to impose an undue financial burden or hardship on the party. In determining whether to appoint the Commissioner to act as a hearing officer, the Board shall consider the complexity of the matters in dispute that are likely to affect the amount of the fee charged by a hearing officer appointed pursuant to subsection 2 and any factor that is relevant to the party's ability to pay the fee, including, without limitation, the size or membership of the party, its financial resources, and any budgetary or other financial constraints.

~~Sec. 4. 1. [The Board shall, upon the assignment of a hearing officer:~~

~~(a) Notify the parties to the complaint or appeal of his assignment; and~~
~~(b) Submit to the hearing officer the original complaint or appeal filed with the Board and any other pleadings, correspondence and other documents concerning the complaint or appeal that are in the Board's possession.~~

~~2. The] A hearing officer appointed by the Board shall:~~

~~(a) Conduct the proceedings concerning the complaint or appeal on behalf of the Board in accordance with the procedures established by this chapter, chapter 233B of NRS and any other applicable statutes and regulations;~~

~~(b) Commence the hearing on the complaint or appeal within 60 days after his assignment; and] appointment;~~

~~(c) Prepare findings of fact and proposed conclusions of law on every material issue, based on the evidence and arguments presented to him and shall prepare a proposed order or decision consistent with his findings and conclusions, the provisions of this chapter and the regulations of the Board and any relevant prior order or decision of the Board; and~~

~~(d) Prepare , provide to each party and submit to the Board for its review the record of the proceedings not later than 60 days after the conclusion of the hearing. The record must comply with NRS 233B.121 and include, without limitation, findings of fact, proposed conclusions of law and a proposed decision or order that complies with NRS 233B.125. Each party shall pay one-half of the cost to prepare the record, including, without limitation, the cost to prepare a transcript of any oral proceedings.~~

~~3.] 2. A party to any complaint or appeal is entitled to be represented at any hearing conducted pursuant to this section by counsel, by an elected or appointed representative of the party, or both. A nonattorney representative of an employee organization must be a member of the organization.~~

Sec. 5. 1. The Board shall review the record of the proceedings in any complaint or appeal submitted to it by a hearing officer, including, without limitation, the proposed decision or order of the hearing officer. In conducting its review of the proposed decision or order, the Board:

(a) Shall confine its review to the record submitted by the hearing officer. If the Board determines, on its own motion or on the motion of any party, that additional evidence must be taken on any issue, the Board shall remand the matter to the hearing officer.

(b) May not substitute its judgment for that of the hearing officer as to any finding of fact that is supported by substantial evidence.

2. Upon completion of its review, the Board may:

(a) Approve the proposed decision or order of the hearing officer, with or without modification; or

(b) Reject the proposed decision or order and remand the complaint or appeal to the hearing officer for further proceedings.

3. If the Board modifies or rejects the proposed decision or order of the hearing officer, including, without limitation, any finding of fact or proposed conclusion of law separately stated therein, the Board must fully set forth in its final decision or order the factual and legal basis for its modification ~~or~~ rejection.

4. The Board shall issue its final decision or order in any complaint or appeal not later than 60 days after it receives the completed record from the hearing officer.

Sec. 6. Except as otherwise provided in subsection 4 of NRS 288.110 or specifically ordered by the Board, the parties to any proceeding may by stipulation waive any limitation of time set forth in NRS 288.110 and sections ~~(3, 4 and 5 of this act.~~

Sec. 7. ~~The final~~ Each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in ~~the final~~ the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the case at issue.

Sec. 7.5. 1. Except as otherwise provided in this section, the Board shall charge and collect a fee, not to exceed \$200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding. The Board shall establish the amount of the fee by regulation.

2. The Board may, at the request of a party, waive the filing fee if payment of the fee would cause a financial hardship to a party or would be otherwise inconsistent with the purposes of this chapter.

3. All fees and other money received by the Board pursuant to the provisions of this chapter must be deposited in banks, credit unions or savings and loan associations in the State of Nevada and expended solely for the purposes of this chapter. The money so deposited does not revert to the State General Fund.

Sec. 8. ~~NRS 288.020 is hereby amended to read as follows:
288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, and section 2 of this act have the meanings ascribed to them in those sections. (Deleted by amendment.)~~

Sec. 9. NRS 288.080 is hereby amended to read as follows:

288.080 1. The Local Government Employee-Management Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom may be members of the same political party. Each member of the Board must, at the time of his appointment, have at least 5 years of experience in the field of labor-management relations.

2. The term of office of each member is 4 years ~~or~~ 2, but a member shall continue to serve after the expiration of his term until his successor is appointed. ~~A member of the Board may not serve more than 2 terms.~~

3. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each appoint ~~the members~~ one member of the Board.

Sec. 10. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chairman and one as Vice Chairman. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations :
(a) Appoint a Commissioner and a Secretary, who ~~shall~~ must be in the unclassified service of the State; and

(b) Employ such additional ~~[-employ such-]~~ clerical personnel as may be necessary, who ~~shall~~ must be in the classified service of the State.

3. The Commissioner must, at the time of his appointment, have at least 3 years of experience in the field of labor-management relations.

Sec. 10.5. NRS 288.100 is hereby amended to read as follows:

288.100 1. Each member of the Board is entitled to receive a salary of not more than ~~[\$80-]~~ \$150, as fixed by the Board, for each day in which he is engaged in the business of the Board.

2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 11. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

- (a) Proceedings before it;
- (b) Procedures for fact-finding;
- (c) The recognition of employee organizations; and
- (d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. ~~[The Board shall conduct a hearing within 90 days after it decides to hear a complaint.]~~
The Board, after a hearing ~~[-conducted pursuant to section 4 of this act-]~~ if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Board shall issue its decision within ~~[120 days]~~ 180 days after the filing of the complaint unless the Board appoints a hearing officer pursuant to section 3 of this act to conduct an evidentiary hearing, in which case the Board shall issue its decision within 1 year after the ~~hearing on~~ filing of the complaint. ~~[-is completed-]~~

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

4. The Board may not consider any complaint or appeal filed more than ~~[6 months]~~ 180 days 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.

↳ The Board shall issue its decision within 180 days after the filing of the complaint or appeal in the contested matter.

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

Sec. 12. NRS 288.120 is hereby amended to read as follows:

288.120 1. For the purpose of hearing and deciding appeals or complaints, the Board , and a hearing officer on behalf of the Board, may issue subpoenas requiring the attendance of witnesses before ~~[it-]~~ the Board or hearing officer, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board *or hearing officer* may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board *or hearing officer*.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board *or hearing officer* may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

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

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

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board *or hearing officer* in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Board *or hearing officer*.

4. The court, upon petition of the Board *or hearing officer*, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Board *or hearing officer*. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board *or hearing officer*, the court shall thereupon enter an order that the witness appear before the Board *or hearing officer* at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 13. ~~[NRS 288.190 is hereby amended to read as follows:]~~

~~288.190 — Except in cases to which NRS 288.205 and 288.215 apply:~~

~~1. Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the [Commissioner] Board shall submit to the parties a list of seven potential mediators. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.~~

~~2. If mediation is agreed to or requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators from the [Commissioner] Board.~~

~~3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 20 days after being notified of his selection as mediator. He may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.~~

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

~~5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to~~

the [Commissioner of the] Board a report of the efforts made to settle the dispute.]
(Deleted by amendment.)

Sec. 14. ~~NRS 288.200 is hereby amended to read as follows:~~

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

~~1. If:~~

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

~~(b) The bargaining unit represented by the employee organization contains fewer than 30 persons;~~

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

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

~~3. The local government employer and employee organization each shall pay one half of the cost of fact finding. Each party shall pay its own costs of preparation and presentation of its case in fact finding.~~

~~4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the fact finding hearing.~~

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

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

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

~~(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established~~

1 ~~by the local government employer and within the limitations set forth in NRS~~
2 ~~354.6241, with due regard for the obligation of the local government employer to~~
3 ~~provide facilities and services guaranteeing the health, welfare and safety of the~~
4 ~~people residing within the political subdivision.~~

5 ~~(b) Once the fact finder has determined in accordance with paragraph (a) that~~
6 ~~there is a current financial ability to grant monetary benefits, he shall use normal~~
7 ~~criteria for interest disputes regarding the terms and provisions to be included in an~~
8 ~~agreement in assessing the reasonableness of the position of each party as to each~~
9 ~~issue in dispute and he shall consider whether the Board found that either party had~~
10 ~~bargained in bad faith.~~

11 ~~➤ The fact finder's report must contain the facts upon which he based his~~
12 ~~determination of financial ability to grant monetary benefits and his~~
13 ~~recommendations or award.~~

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

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

18 ~~(b) Carried forward to the succeeding fiscal year in any designated amount, to~~
19 ~~the extent of that amount;~~

20 ~~➤ must not be counted in determining the financial ability of a local government~~
21 ~~employer and must not be used to pay any monetary benefits recommended or~~
22 ~~awarded by the fact finder.~~

23 ~~9. The issues which may be included in a panel's order pursuant to subsection~~
24 ~~6 are:~~

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

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

30 ~~➤ This subsection does not preclude the voluntary submission of other issues by~~
31 ~~the parties pursuant to subsection 5.] (Deleted by amendment.)~~

32 **Sec. 15.** ~~[NRS 288.201 is hereby amended to read as follows:]~~

33 ~~288.201 Any request for the formation of a panel to determine whether the~~
34 ~~findings and recommendations of a fact finder must be final and binding must be~~
35 ~~filed with the [Commissioner.] **Board.** The request must include:~~

36 ~~1. A list of the issues which remain unresolved and the position of each party~~
37 ~~regarding those issues;~~

38 ~~2. The requester's assessment of the fiscal effect on the local government of~~
39 ~~the requester's positions;~~

40 ~~3. An outline of any previous fact finding between the parties, which includes~~
41 ~~any recommendations and awards of a fact finder and the actions of each party in~~
42 ~~response thereto;~~

43 ~~4. A statement of whether the parties engaged in mediation regarding the~~
44 ~~current dispute;~~

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

46 ~~6. Any other information deemed necessary by the [Commissioner.] **Board.**~~

47 ~~➤ Any person filing such a request shall give written notice of the request to the~~
48 ~~Nevada State Board of Accountancy and the State Bar of Nevada.] (Deleted by~~
49 amendment.)

50 **Sec. 16.** ~~[NRS 288.202 is hereby amended to read as follows:]~~

51 ~~288.202 1. Within 5 days after receiving notice of such a request, the~~
52 ~~Nevada State Board of Accountancy and the State Bar of Nevada shall each submit~~
53 ~~to the [Commissioner.] **Board** and each party to the dispute a list of names of five of~~

~~their members who would serve on a panel and are not closely allied with any employee association or local government employer.~~

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

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

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

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

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

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

~~(b) Notify the [Commissioner] Board of their choice, and the three members shall, within 5 days after selecting the third member of the panel, notify the [Commissioner] Board of the dates when they will all be available to attend hearings.~~

~~4. [The Commissioner shall serve as a nonvoting member and also] The members of the panel shall elect one of the members to serve as the chairman of the panel.~~

~~5. If the accountant or attorney selected to serve on the panel is unable to do so, the Nevada State Board of Accountancy or State Bar of Nevada shall designate a person to replace its nominee. If the person selected by the accountant and attorney is unable to serve, they shall designate a person to replace him. [If the Commissioner is unable to serve, the Governor shall designate a person to serve in his capacity.]~~ **(Deleted by amendment.)**

Sec. 17. [NRS 288.203 is hereby amended to read as follows:]

~~288.203 1. Each person [except the Commissioner] who serves on a panel formed pursuant to NRS 288.201 is entitled to receive as compensation:~~

~~(a) One hundred fifty dollars for each day he is engaged in the business of the panel; and~~

~~(b) The per diem allowance and travel expenses provided for state officers and employees generally.~~

~~2. All claims which arise pursuant to this section must be paid from the reserve for Statutory Contingency Account upon approval by the [Commissioner] Board and the State Board of Examiners.~~ **(Deleted by amendment.)**

Sec. 18. [NRS 288.034 is hereby repealed.] (Deleted by amendment.)

Sec. 19. Notwithstanding the provisions of NRS 288.080, as amended by section 9 of this act:

1. The term of office of a member of the Local Government Employee-Management Relations Board who is serving in that capacity on June 30, 2009, ends on that date.

2. As soon as practicable after the effective date of this act:

(a) The Governor shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2011.

(b) The Majority Leader of the Senate shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2012.

(c) The Speaker of the Assembly shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2013.

~~{ 3. A person who has served as a member of the Local Government Employee Management Relations Board on or after February 2, 2009, and on or before June 30, 2009, may not be appointed to the Board. }~~

Sec. 20. The provisions of sections 2 to ~~{ 7 }~~ **7.5**, inclusive, of this act and the amendatory provisions of section 11 of this act do not apply to any complaint or appeal that was filed with the Board before the effective date of this act except to the extent that the parties, with the consent of the Board, may agree to their application.

Sec. 21. This act becomes effective upon passage and approval.

~~f~~

TEXT OF REPEALED SECTION

~~**288.034 "Commissioner" defined. "Commissioner" means the Commissioner appointed by the Board.**~~