

## Amendment No. 565

Senate Amendment to Senate Bill No. 154 (BDR 23-779)

**Proposed by:** Senators Horsford, Care, Carlton, Coffin, Copening, Lee, Parks, Schneider, Wiener and Woodhouse**Amendment Box:** Replaces Amendments Nos. 558 and 560.  
Consistent with Amendment No. 375.**Amends:** Summary: Yes Title: Yes 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.

RBL



Date: 4/21/2009

S.B. No. 154—Revises provisions governing mandatory bargaining with employees of local government employers. (BDR 23-779)



SENATE BILL NO. 154—SENATORS BREEDEN,  
WOODHOUSE; AND WIENER

FEBRUARY 23, 2009

JOINT SPONSORS: ASSEMBLYMEN SEGERBLOM,  
MANENDO, ANDERSON; AND AIZLEY

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing ~~[negotiations by]~~ **employment practices of** certain **governmental** employers. ~~[with recognized employee organizations.]~~ (BDR 23-779)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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 ~~[local government ; expanding]~~ **governmental employment; revising requirements for the transfer of certain state employees; revising provisions governing** the subjects that are within the scope of mandatory bargaining; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

***Section 1 of this bill requires a state government employer to meet with a permanent classified employee or the representative of the employee, if any, before transferring the employee from one position to another position to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer.***

Under existing law, certain subjects are within the scope of mandatory bargaining between a local government employer and a recognized employee organization, whereas other subjects are reserved to the local government employer without negotiation. This bill ~~[(1) makes policies for transfer and reassignment a subject within the scope of mandatory bargaining for all employees instead of just for teachers ; and (2) further]~~ ***requires that a representative of a local government employer meet with a representative of the recognized employee organization before an employee, other than a teacher, is transferred to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer. This bill also*** expands the scope of mandatory bargaining to include any matter significantly related to an enumerated subject within the scope of mandatory bargaining, but only upon written request from a recognized employee organization. (NRS 288.150)

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

Before a permanent classified employee may be transferred from one position to another position, a representative of the employer must meet with the employee or a representative of the employee, if any, to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer.

Sec. 2. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as *otherwise* provided in subsection ~~4~~ 5, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining ~~set forth in subsection 2~~ *described in subsections 2 and 3* with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. ~~The~~ *Except as otherwise provided in subsection 3, the* scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
  - (b) Sick leave.
  - (c) Vacation leave.
  - (d) Holidays.
  - (e) Other paid or nonpaid leaves of absence.
  - (f) Insurance benefits.
  - (g) Total hours of work required of an employee on each workday or workweek.
  - (h) Total number of days' work required of an employee in a work year.
  - (i) Discharge and disciplinary procedures.
  - (j) Recognition clause.
  - (k) The method used to classify employees in the bargaining unit.
  - (l) Deduction of dues for the recognized employee organization.
  - (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
  - (n) No-strike provisions consistent with the provisions of this chapter.
  - (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
  - (p) General savings clauses.
  - (q) Duration of collective bargaining agreements.
  - (r) Safety of the employee.
  - (s) Teacher preparation time.
  - (t) Materials and supplies for classrooms.
  - (u) The policies ~~Policies~~ for the transfer and reassignment of teachers ~~employees~~.
  - (v) Procedures for reduction in workforce.
3. *In addition to the subjects enumerated in subsection 2, a matter shall be deemed to be a mandatory subject of bargaining if:*
- (a) *The matter is significantly related to one or more of the subjects enumerated in subsection 2; and*

(b) *The recognized employee organization, if any, for the appropriate bargaining unit submits to the applicable local government employer a written request asking that the matter be included within the scope of mandatory bargaining.*

*↳ The provisions of this subsection do not apply with respect to subject matters which are reserved to a local government employer without negotiation pursuant to subsection 4.*

4. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the ~~the~~ right to hire, direct, ~~for~~ assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline. *Before an employee may be transferred pursuant to this paragraph, a representative of the local government employer must meet with a representative of the recognized employee organization to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the local government employer.*

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including , without limitation , workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

~~4.4~~ 5. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer 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 collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

~~5.5~~ 6. The provisions of this chapter, including , without limitation , the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

~~6.6~~ 7. This section does not preclude ~~the~~ *the local government employer from negotiating*, but this chapter does not require the local government employer to negotiate , subject matters enumerated in subsection ~~4.4~~ 4 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining , but it is not required to negotiate those matters.

~~7.7~~ 8. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

~~Sec. 2.1~~ Sec. 3. 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

1 (b) The bargaining unit represented by the employee organization contains  
2 fewer than 30 persons,  
3 either party to the dispute, at any time after April 1, may submit the dispute to an  
4 impartial fact finder for his findings and recommendations. His findings and  
5 recommendations are not binding on the parties except as provided in subsections  
6 5, 6 and 9. The mediator of a dispute may also be chosen by the parties to serve as  
7 the fact finder.

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

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

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

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

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

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

45 (a) A preliminary determination must be made as to the financial ability of the  
46 local government employer based on all existing available revenues as established  
47 by the local government employer and within the limitations set forth in NRS  
48 354.6241, with due regard for the obligation of the local government employer to  
49 provide facilities and services guaranteeing the health, welfare and safety of the  
50 people residing within the political subdivision.

51 (b) Once the fact finder has determined in accordance with paragraph (a) that  
52 there is a current financial ability to grant monetary benefits, he shall use normal  
53 criteria for interest disputes regarding the terms and provisions to be included in an

1 agreement in assessing the reasonableness of the position of each party as to each  
2 issue in dispute and he shall consider whether the Board found that either party had  
3 bargained in bad faith.

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

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

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

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

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

16 9. The issues which may be included in a panel's order pursuant to subsection  
17 6 are:

18 (a) Those ~~enumerated in subsection 2~~ *described in subsections 2 and 3* of  
19 NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that  
20 year by an existing collective bargaining agreement between the parties; and

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

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

25 ~~[Sec. 3.]~~ **Sec. 4.** This act becomes effective on July 1, 2009.