

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 certain 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 the subjects that are within the scope of mandatory bargaining; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, certain subjects are within the scope of mandatory
2 bargaining between a local government employer and a recognized employee
3 organization, whereas other subjects are reserved to the local government employer
4 without negotiation. This bill: (1) makes policies for transfer and reassignment a
5 subject within the scope of mandatory bargaining for all employees instead of just
6 for teachers; and (2) further expands the scope of mandatory bargaining to include
7 any matter significantly related to an enumerated subject within the scope of
8 mandatory bargaining, but only upon written request from a recognized employee
9 organization. (NRS 288.150)

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

1 **Section 1.** NRS 288.150 is hereby amended to read as follows:
2 288.150 1. Except as *otherwise* provided in subsection ~~4.~~ **5,**
3 every local government employer shall negotiate in good faith
4 through one or more representatives of its own choosing concerning



* S B 1 5 4 *

1 the mandatory subjects of bargaining ~~set forth in subsection 2~~
2 *described in subsections 2 and 3* with the designated
3 representatives of the recognized employee organization, if any, for
4 each appropriate bargaining unit among its employees. If either
5 party so requests, agreements reached must be reduced to writing.

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

8 (a) Salary or wage rates or other forms of direct monetary
9 compensation.

10 (b) Sick leave.

11 (c) Vacation leave.

12 (d) Holidays.

13 (e) Other paid or nonpaid leaves of absence.

14 (f) Insurance benefits.

15 (g) Total hours of work required of an employee on each
16 workday or workweek.

17 (h) Total number of days' work required of an employee in a
18 work year.

19 (i) Discharge and disciplinary procedures.

20 (j) Recognition clause.

21 (k) The method used to classify employees in the bargaining
22 unit.

23 (l) Deduction of dues for the recognized employee organization.

24 (m) Protection of employees in the bargaining unit from
25 discrimination because of participation in recognized employee
26 organizations consistent with the provisions of this chapter.

27 (n) No-strike provisions consistent with the provisions of this
28 chapter.

29 (o) Grievance and arbitration procedures for resolution of
30 disputes relating to interpretation or application of collective
31 bargaining agreements.

32 (p) General savings clauses.

33 (q) Duration of collective bargaining agreements.

34 (r) Safety of the employee.

35 (s) Teacher preparation time.

36 (t) Materials and supplies for classrooms.

37 (u) ~~The policies~~ *Policies* for the transfer and reassignment of
38 ~~teachers.~~ *employees.*

39 (v) Procedures for reduction in workforce.

40 3. *In addition to the subjects enumerated in subsection 2, a*
41 *matter shall be deemed to be a mandatory subject of bargaining if:*

42 (a) *The matter is significantly related to one or more of the*
43 *subjects enumerated in subsection 2; and*

44 (b) *The recognized employee organization, if any, for the*
45 *appropriate bargaining unit submits to the applicable local*



1 *government employer a written request asking that the matter be*
2 *included within the scope of mandatory bargaining.*

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

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

9 (a) ~~Except as otherwise provided in paragraph (u) of subsection~~
10 ~~2, the~~ The right to hire, direct ~~or~~ assign ~~for transfer~~ an
11 employee, but excluding the right to assign ~~for transfer~~ an
12 employee as a form of discipline.

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

16 (c) The right to determine:

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

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

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

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

24 (d) Safety of the public.

25 ~~4-1~~ 5. Notwithstanding the provisions of any collective
26 bargaining agreement negotiated pursuant to this chapter, a local
27 government employer is entitled to take whatever actions may be
28 necessary to carry out its responsibilities in situations of emergency
29 such as a riot, military action, natural disaster or civil disorder.
30 Those actions may include the suspension of any collective
31 bargaining agreement for the duration of the emergency. Any action
32 taken under the provisions of this subsection must not be construed
33 as a failure to negotiate in good faith.

34 ~~5-1~~ 6. The provisions of this chapter, including , without
35 limitation , the provisions of this section, recognize and declare the
36 ultimate right and responsibility of the local government employer
37 to manage its operation in the most efficient manner consistent with
38 the best interests of all its citizens, its taxpayers and its employees.

39 ~~6-1~~ 7. This section does not preclude ~~the~~ the local government
40 employer from negotiating, but this chapter does not require the
41 local government employer to negotiate , subject matters
42 enumerated in subsection ~~3-1~~ 4 which are outside the scope of
43 mandatory bargaining. The local government employer shall discuss
44 subject matters outside the scope of mandatory bargaining , but it is
45 not required to negotiate those matters.



~~17~~ 8. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 2. 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



1 specified issues in a particular dispute which are within the scope of
2 subsection 9 are to be final and binding. The determination must be
3 made upon the concurrence of at least two members of the panel and
4 not later than the date which is 30 days after the date on which the
5 matter is submitted to the panel, unless that date is extended by the
6 Commissioner of the Board. Each panel shall, when making its
7 determination, consider whether the parties have bargained in good
8 faith and whether it believes the parties can resolve any remaining
9 issues. Any panel may also consider the actions taken by the parties
10 in response to any previous fact-finding between these parties, the
11 best interests of the State and all its ~~citizens,~~ *residents*, the
12 potential fiscal effect both within and outside the political
13 subdivision, and any danger to the safety of the people of the State
14 or a political subdivision.

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

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

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

32 ➔ The fact finder's report must contain the facts upon which he
33 based his determination of financial ability to grant monetary
34 benefits and his recommendations or award.

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

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

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

41 ➔ must not be counted in determining the financial ability of a local
42 government employer and must not be used to pay any monetary
43 benefits recommended or awarded by the fact finder.

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



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

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

7 ➤ This subsection does not preclude the voluntary submission of
8 other issues by the parties pursuant to subsection 5.

9 **Sec. 3.** This act becomes effective on July 1, 2009.

