
ASSEMBLY BILL NO. 179—ASSEMBLYMEN ANDERSON, CONKLIN,
SEGERBLOM, CARRILLO; BROOKS, DALY AND NEAL

FEBRUARY 16, 2011

JOINT SPONSORS: SENATORS MANENDO AND PARKS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to disciplinary action
against a state employee. (BDR 23-841)

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 personnel; requiring that certain
procedures be followed before taking disciplinary action
against a state employee; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, an appointing authority may dismiss or demote a
2 permanent classified employee if the appointing authority considers that the
3 dismissal or demotion will serve the good of the public service, and the appointing
4 authority may suspend a permanent employee without pay for disciplinary purposes
5 for up to 30 days. (NRS 284.385) The employee may then request a hearing to
6 determine whether the dismissal, demotion or suspension was reasonable.
7 (NRS 284.390)

8 **Section 1** of this bill requires an appointing authority to provide appropriate
9 training, warnings and notice of a policy and of the procedure for disciplinary
10 action before taking disciplinary action against an employee. **Section 1** also
11 requires the appointing authority to assign one supervisor to conduct a fact-finding
12 investigation and a second supervisor to determine whether substantial evidence of
13 the allegation exists based on the investigation, if the accused employee disputes
14 the allegation that would form the basis of a disciplinary action.



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:

1. An appointing authority may not dismiss, demote or suspend without pay a permanent employee pursuant to NRS 284.385 unless:

(a) The employee has received appropriate training relating to his or her job and required duties;

(b) The appointing authority has warned the employee before taking disciplinary action pursuant to NRS 284.385, including, without limitation, by using a system of progressive discipline adopted by regulation pursuant to NRS 284.383, unless a provision of law was violated by the employee;

(c) The appointing authority has clearly communicated to the employee that a policy was in place before taking disciplinary action pursuant to NRS 284.385 for a violation of the policy;

(d) The policy which the employee violated is fair, equitable, efficient and safe; and

(e) The procedure outlined in this section is followed by the appointing authority.

2. The appointing authority shall provide each employee with a procedure approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against a state employee.

3. If an employee denies or disagrees with an allegation that forms the basis for disciplinary action, the appointing authority shall assign an unbiased supervisor who does not directly supervise the employee to conduct a fair and objective fact-finding investigation.

4. After the fact-finding investigation is complete, the appointing authority shall assign a second unbiased supervisor who does not directly supervise the employee to determine whether, based on the results of the investigation:

(a) Substantial evidence exists that the employee committed the alleged act or omission that forms the basis for disciplinary action; and

(b) Enforcement of the policy alleged to have been violated was fair and equal and the employee was not subject to disparate treatment for his or her conduct.

↪ Disciplinary action pursuant to NRS 284.385 may be taken against the employee only if both such determinations are made.

5. The investigation and determination pursuant to this section must be completed and the results provided to the employee



1 *within 90 days after the employee is provided with a written notice*
2 *pursuant to NRS 284.387.*

3 **Sec. 2.** NRS 284.385 is hereby amended to read as follows:

4 284.385 1. ~~[Am]~~ *After making the determinations required*
5 *by section 1 of this act, an* appointing authority may:

6 (a) Dismiss or demote any permanent classified employee when
7 the appointing authority considers that the good of the public service
8 will be served thereby.

9 (b) Except as otherwise provided in NRS 284.148, suspend
10 without pay, for disciplinary purposes, a permanent employee for a
11 period not to exceed 30 days.

12 2. A dismissal, involuntary demotion or suspension does not
13 become effective until the employee is notified in writing of the
14 dismissal, involuntary demotion or suspension and the reasons
15 therefor. The notice may be delivered personally to the employee or
16 mailed to the employee at the employee's last known address by
17 registered or certified mail, return receipt requested. If the notice is
18 mailed, the effective date of the dismissal, involuntary demotion or
19 suspension shall be deemed to be the date of delivery or if the letter
20 is returned to the sender, 3 days after mailing.

21 3. No employee in the classified service may be dismissed for
22 religious or racial reasons.

23 **Sec. 3.** NRS 284.387 is hereby amended to read as follows:

24 284.387 An employee who is the subject of an internal
25 administrative investigation that could lead to disciplinary action
26 against the employee pursuant to NRS 284.385 must be:

27 1. Provided notice in writing of the allegations against the
28 employee before the employee is questioned regarding the
29 allegations; and

30 2. Afforded the right to have a lawyer or other representative of
31 the employee's choosing present with the employee at any time that
32 the employee is questioned regarding those allegations. The
33 employee must be given not less than 2 business days to obtain such
34 representation, unless the employee waives the employee's right to
35 be represented. *The employee shall be deemed to have waived his*
36 *or her right to be represented unless the employee states his or her*
37 *desire to have a lawyer or other representative present after the*
38 *employee is provided notice of the allegations. Such a statement*
39 *need not be in any specific form or in writing.*

40 **Sec. 4.** This act becomes effective on July 1, 2011.

