

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:

1 Title 23 of NRS governs public employment. This bill authorizes discussions of
2 workplace relations between the State and certain state employees. **Sections 18-20**
3 of this bill expand the duties of the Personnel Commission to include hearing and
4 deciding disputes between the State and certain state employees. **Section 21** of this
5 bill authorizes certain state employees to organize and join employee organizations,
6 or refrain from engaging in that activity, and, as applicable, to discuss workplace
7 relations through exclusive representatives. **Section 22** of this bill establishes
8 requirements concerning workplace relations agreements. **Sections 24 and 25** of
9 this bill prescribe certain unfair labor practices in the context of discussions of
10 workplace relations. **Section 27** of this bill provides for the creation and
11 organization of workplace relations units of state employees. **Sections 28-31** of this
12 bill provide for the election or designation of exclusive representatives of



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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)

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 42.6 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*



1 *Department and the exclusive representative of the workplace*
2 *relations unit pursuant to this chapter.*

3 **Sec. 7. 1. "Employee" means a person who:**

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

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

11 **2. The term does not include:**

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

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

22 (c) *A confidential employee;*

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

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

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

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

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

33 **Sec. 8. "Exclusive representative" means an employee**
34 *organization that, as a result of designation by the Commission,*
35 *has the exclusive right to represent all employees within a*
36 *workplace relations unit and to negotiate with the Executive*
37 *Department pursuant to this chapter concerning the terms and*
38 *conditions of employment for those employees.*

39 **Sec. 9. "Executive Department" means an agency, board,**
40 *bureau, commission, department, division, elected officer or any*
41 *other unit of the Executive Department of State Government.*

42 **Sec. 10. "Fair share agreement" means an agreement**
43 *between an employer and an exclusive representative under which*
44 *any of the employees in a workplace relations unit are required to*
45 *pay a proportionate share of the costs of discussions of workplace*



1 *relations, the administration of a workplace relations agreement*
2 *and the negotiation of other matters affecting the terms and*
3 *conditions of employment.*

4 **Sec. 11.** *“Grievance” means an act, omission or occurrence*
5 *which an employee or an exclusive representative constitutes in*
6 *his belief an injustice relating to any condition arising out of the*
7 *relationship between an employer and an employee, including,*
8 *without limitation, working hours, working conditions,*
9 *membership in an organization of employees or the interpretation*
10 *of any law, regulation or agreement.*

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

15 **Sec. 13.** *“Professional employee” means an employee*
16 *engaged in work that:*

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

19 2. *Involves the consistent exercise of discretion and judgment*
20 *in its performance;*

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

23 4. *Requires advanced knowledge in a field of science or*
24 *learning customarily acquired through a prolonged course of*
25 *specialized intellectual instruction and study in an institution of*
26 *higher learning, as distinguished from general academic*
27 *education, an apprenticeship or training in the performance of*
28 *routine mental or physical processes.*

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

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

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

38 ↪ *The exercise of such authority shall not be deemed to place the*
39 *employee in supervisory employee status unless the exercise of*
40 *such authority occupies a significant portion of the employee’s*
41 *workday. Nothing in this section may be construed to mean that*
42 *an employee who has been given incidental administrative duties*
43 *is classified as a supervisory employee.*

44 **Sec. 15.** *“Terms and conditions of employment” includes,*
45 *without limitation:*



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

6 **Sec. 16.** *“Workplace relations unit” means a collection of*
7 *employees that the Commission has established as a workplace*
8 *relations unit pursuant to section 27 of this act.*

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

11 *(a) Promote orderly and constructive relations between the*
12 *State and its employees; and*

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

14 2. *It is therefore within the public interest that the Legislature*
15 *enact provisions:*

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

19 *(b) Requiring the State to recognize, negotiate and discuss*
20 *workplace relations with employee organizations that represent*
21 *state employees and to enter into written agreements evidencing*
22 *the result of discussions of workplace relations; and*

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

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

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

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

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

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

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

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



3. Any party aggrieved by the failure of any person to obey an order of the Commission issued pursuant to subsection 2, or the Commission 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 Commission may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

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

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

(b) Upon agreement of all the parties.

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

Sec. 19. 1. For the purpose of hearing and deciding appeals or complaints, the Commission may issue subpoenas requiring the attendance of witnesses before it, 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 Commission 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 Commission.

3. If a witness refuses to attend or testify or produce any papers required by such a subpoena, the Commission 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 the subpoena before the Commission in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

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



1 4. The court, upon petition of the Commission, shall enter an
2 order directing the witness to appear before the court at a time and
3 place to be fixed by the court in such order, the time to be not
4 more than 10 days after the date of the order, and then and there
5 show cause why he has not attended or testified or produced the
6 books or papers before the Commission. A certified copy of the
7 order must be served upon the witness. If it appears to the court
8 that the subpoena was regularly issued by the Commission, the
9 court shall thereupon enter an order that the witness appear
10 before the Commission at the time and place fixed in the order and
11 testify or produce the required books or papers, and upon failure
12 to obey the order, the witness must be dealt with as for contempt of
13 court.

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

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

21 (a) Organize, form, join and assist employee organizations,
22 engage in discussions of workplace relations and supplemental
23 discussions of workplace relations through exclusive
24 representatives and engage in other concerted activities; and

25 (b) Refrain from engaging in such activity.

26 2. Discussions of workplace relations and supplemental
27 discussions of workplace relations entail a mutual obligation of
28 the Executive Department and an exclusive representative to meet
29 at reasonable times and to discuss workplace relations in good
30 faith with respect to:

31 (a) The terms and conditions of employment;

32 (b) The negotiation of an agreement;

33 (c) The resolution of any question arising under an
34 agreement; and

35 (d) The execution of a written contract incorporating the
36 provisions of an agreement, if requested by either party.

37 **Sec. 22.** 1. Each workplace relations agreement must be in
38 writing and must include, without limitation:

39 (a) A procedure to resolve grievances which culminates in
40 final and binding arbitration;

41 (b) A provision which provides that an officer of the Executive
42 Department may, upon written authorization by an employee
43 within the workplace relations unit, withhold a sufficient amount
44 of money from the salary or wages of the employee pursuant to



1 *NRS 281.129 to pay dues or similar fees to the exclusive*
2 *representative of the workplace relations unit; and*

3 *(c) At the election of the exclusive representative, and*
4 *notwithstanding any other provision of law, a fair share*
5 *agreement.*

6 *2. Except as otherwise provided in subsection 3, the*
7 *procedure to resolve grievances required in an agreement*
8 *pursuant to paragraph (a) of subsection 1 is the exclusive means*
9 *available for resolving grievances related to the administration of*
10 *the agreement.*

11 *3. An employee in a workplace relations unit may pursue a*
12 *grievance related to any disciplinary action taken against him by*
13 *his employer through:*

14 *(a) The procedure provided in the agreement pursuant to*
15 *paragraph (a) of subsection 1; or*

16 *(b) Any procedure available to him pursuant to the provisions*
17 *of chapter 284 of NRS,*

18 *↳ but once the employee has properly filed his grievance pursuant*
19 *to paragraph (a) or (b), he may not proceed to file his grievance in*
20 *the alternative manner.*

21 *4. If there is a conflict between a provision of an agreement*
22 *between the Executive Department and an exclusive representative*
23 *and:*

24 *(a) Any regulation adopted by the Executive Department, the*
25 *provision of the agreement prevails unless the provision of the*
26 *agreement is outside of the lawful scope of discussions of*
27 *workplace relations.*

28 *(b) An existing statute, the provision of the agreement may not*
29 *be given effect unless the Legislature amends the existing statute*
30 *in such a way as to eliminate the conflict.*

31 **Sec. 23.** *1. A fair share agreement included in a workplace*
32 *relations agreement pursuant to section 22 of this act must not be*
33 *for an amount exceeding the amount of dues uniformly required*
34 *of members.*

35 *2. An amount agreed to be paid pursuant to a fair share*
36 *agreement must not include any fees for contributions relating to*
37 *the election or support of any candidate for political office.*

38 *3. This section does not prohibit an employee from making*
39 *voluntary political contributions in conjunction with his payment*
40 *pursuant to a fair share agreement.*

41 **Sec. 24.** *1. It is a prohibited practice for the Executive*
42 *Department or its designated representative willfully to:*

43 *(a) Refuse to engage in discussions of workplace relations or*
44 *otherwise fail to discuss workplace relations in good faith with an*



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1 *exclusive representative, including, without limitation, refusing to*
2 *engage in mediation or arbitration.*

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

5 *(c) Dominate, interfere with or assist in the formation or*
6 *administration of an employee organization.*

7 *(d) Discriminate in regard to hiring, tenure or any terms and*
8 *conditions of employment to encourage or discourage membership*
9 *in an employee organization.*

10 *(e) Discharge or otherwise discriminate against an employee*
11 *because the employee has:*

12 *(1) Signed or filed an affidavit, petition or complaint or has*
13 *provided any information or given any testimony pursuant to this*
14 *chapter; or*

15 *(2) Formed, joined or chosen to be represented by an*
16 *employee organization.*

17 *(f) Discriminate because of race, color, religion, sex, sexual*
18 *orientation, age, disability, national origin, or political or personal*
19 *reasons or affiliations.*

20 *(g) Deny rights accompanying a designation as an exclusive*
21 *representative.*

22 **2. It is a prohibited practice for an employee organization or**
23 **its designated agent willfully to:**

24 *(a) When acting as an exclusive representative, refuse to*
25 *engage in discussions of workplace relations or otherwise fail to*
26 *discuss workplace relations in good faith with the Executive*
27 *Department, including, without limitation, refusing to engage in*
28 *mediation or arbitration.*

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

31 *(c) Discriminate because of race, color, religion, sex, sexual*
32 *orientation, age, disability, national origin, or political or personal*
33 *reasons or affiliations.*

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

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

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

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



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

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

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

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

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

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

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

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

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

21 6. Any order or decision issued by the Commission pursuant
22 to this section concerning the merits of a complaint is a final
23 decision in a contested case and may be appealed pursuant to the
24 provisions of chapter 233B of NRS that apply to a contested case,
25 except that a party aggrieved by the order or decision of the
26 Commission must file a petition for judicial review not later than
27 10 days after being served with the order or decision of the
28 Commission.

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

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

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

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

40 (b) The rules adopted by the Commission pursuant to section
41 18 of this act.

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



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

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

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

7 6. Any order or decision issued by the Commission pursuant
8 to this section concerning the merits of a complaint is a final
9 decision in a contested case and may be appealed pursuant to the
10 provisions of chapter 233B of NRS that apply to a contested case,
11 except that a party aggrieved by the order or decision of the
12 Commission must file a petition for judicial review not later than
13 10 days after being served with the order or decision of the
14 Commission.

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

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

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

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

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

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

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

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

41 (g) Category III peace officers.

42 (h) Supervisory employees not otherwise included in other
43 workplace relations units.

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



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

(1) Perform emergency fire suppression; or

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

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

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

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

6. As used in this section:

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

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

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

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

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

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

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



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

(a) If either:

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

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

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

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

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

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

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

(c) A choice for "no representation."

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

3. If the choice for "no representation" receives a majority of the votes cast at the initial election or at any runoff election, the



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1 *Commission shall designate the workplace relations unit as being*
2 *without representation.*

3 *4. If an employee organization receives a majority of the*
4 *votes cast at the initial election or at any runoff election,*
5 *the Commission shall designate the employee organization as the*
6 *exclusive representative of the workplace relations unit.*

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

11 *2. An employee organization that is placed as a choice on the*
12 *ballot for an election or any employee who is eligible to vote at an*
13 *election may file with the Commission a written objection to the*
14 *results of the election. The objection must be filed not later than*
15 *10 days after the date on which the notice of the results of the*
16 *election is given by the Commission.*

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

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

24 *(a) Act as the agent and exclusive representative of all*
25 *employees within each workplace relations unit that it represents;*
26 *and*

27 *(b) In good faith and on behalf of each workplace relations*
28 *unit that it represents, individually or collectively, engage in*
29 *discussions of workplace relations with the Executive Department*
30 *concerning the terms and conditions of employment for the*
31 *employees within each workplace relations unit that it represents,*
32 *including, without limitation, any terms and conditions of*
33 *employment that are within the scope of supplemental discussions*
34 *of workplace relations pursuant to section 40 of this act.*

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

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

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



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1 **Sec. 33.** *If the Commission designates an employee*
2 *organization as the exclusive representative of a workplace*
3 *relations unit pursuant to this chapter, an officer of the Executive*
4 *Department shall not, pursuant to NRS 281.129, withhold any*
5 *amount of money from the salary or wages of an employee within*
6 *the workplace relations unit to pay dues or similar fees to an*
7 *employee organization other than the employee organization that*
8 *is the exclusive representative of the workplace relations unit.*

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

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

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

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

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

38 **3.** *The arbitrator shall begin arbitration proceedings within*
39 *60 days after his selection or any later date which is set by*
40 *agreement of the parties.*

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



1 5. The arbitrator may administer oaths or affirmations, take
2 testimony and issue and seek enforcement of subpoenas in the
3 same manner as the Commission pursuant to section 19 of this
4 act, and, except as otherwise provided in subsection 6, the
5 provisions of section 19 of this act apply to subpoenas issued by
6 the arbitrator.

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

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

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

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

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

20 3. In assessing reasonableness pursuant to subsection 2, the
21 arbitrator shall:

22 (a) Compare the terms and conditions of employment for the
23 employees within the workplace relations unit with the terms and
24 conditions of employment for other employees performing similar
25 services and for other employees generally:

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

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

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

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

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

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

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



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

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

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

11 4. If the district court reverses any part of the contested
12 portion of the decision of the arbitrator, the court shall enter an
13 order invalidating that part of the decision of the arbitrator, and
14 that part of the decision of the arbitrator is void and must not be
15 given effect.

16 **Sec. 39.** 1. If a provision of a workplace relations
17 agreement does not require an amendment to existing statute by
18 the Legislature to be given effect, the provision becomes effective
19 pursuant to the provisions of the workplace relations agreement.

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

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

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

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

44 (a) Must be in writing; and



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(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.



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

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

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

7 281.129 1. Any officer of the State, except the Legislative
8 Fiscal Officer, who disburses money in payment of salaries and
9 wages of officers and employees of the State:

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

12 (1) Charitable organizations;

13 (2) Employee credit unions;

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

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

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

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

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

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

28 284.013 1. Except as otherwise provided in subsection 4, this
29 chapter does not apply to:

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

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

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

40 2. Except as otherwise provided in subsection 3, the terms and
41 conditions of employment of all persons referred to in subsection 1,
42 including salaries not prescribed by law and leaves of absence,
43 including, without limitation, annual leave and sick and disability
44 leave, must be fixed by the appointing or employing authority
45 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.

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

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

284.030 ~~[1.]~~ There is hereby created in the Department a personnel commission composed of five members appointed ~~by the Governor.~~

~~—2.]~~ as follows:

1. The Governor shall appoint:

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

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

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

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

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



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

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

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

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

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

2. In addition to the powers and duties set forth elsewhere in this chapter ~~{,}~~ *and sections 2 to 42, inclusive, of this act*, the Commission shall:

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

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

(c) Advise and make recommendations to the Governor ~~{or}~~ *and* the Legislature relative to the personnel policy of the State.

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

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

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

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

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

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

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

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

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

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



- 1 **Sec. 47.** 1. This section and section 46.5 of this act become
2 effective upon passage and approval.
3 2. Sections 1 to 46, inclusive, of this act become effective:
4 (a) Upon passage and approval for the purpose of adopting
5 regulations and performing any other preparatory administrative
6 tasks that are necessary to carry out the provisions of this act; and
7 (b) On January 1, 2010, for all other purposes.
8 3. Section 46.7 of this act becomes effective on July 1, 2009.

