

ASSEMBLY BILL NO. 86—ASSEMBLYMAN SEGERBLOM

PREFILED JANUARY 7, 2011

Referred to Committee on Education

SUMMARY—Makes various changes relating to school employees.
(BDR 34-131)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 education; prescribing certain rights for licensed and unlicensed employees of school districts; revising provisions governing investigations of and disciplinary action against licensed teachers; revising provisions relating to the compensation of certain licensed employees who are reinstated; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 7 and 8 of this bill provide specified rights for a school employee in a meeting with an administrator or representative of a school district which may result in disciplinary action against the school employee or which involves a complaint made by the school employee concerning his or her working conditions or the manner in which he or she is treated. **Section 9** of this bill authorizes the suspension of an unlicensed employee with loss of pay at any time after a due process hearing has been held and requires that an unlicensed employee who is dismissed be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for the dismissal do not exist. **Section 9** also provides that such an unlicensed employee is not required to mitigate his or her damages. **Section 10** of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights specified by **sections 2-10** of this bill.

Section 11 of this bill requires that, if a school district conducts an investigation of or intends to take disciplinary action against a licensed teacher, at least one licensed teacher or administrator must be involved with the investigation or decisions on the disciplinary action.

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section 13** of this bill requires that compensation, plus interest, be paid for all missed days of work.



* A B 8 6 *

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

1 **Section 1.** Chapter 391 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 11, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3, 4 and 5 of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Administrator” has the meaning ascribed to it in*
9 *NRS 391.311.*

10 **Sec. 4.** *“Representative of a school district” means any*
11 *person employed, appointed or retained by the board of trustees of*
12 *a school district to investigate or otherwise act on behalf of the*
13 *school district in any matter that may result in disciplinary action*
14 *against a school employee, or any complaint made by a school*
15 *employee concerning his or her working conditions or the manner*
16 *in which he or she is treated at work.*

17 **Sec. 5.** *“School employee” means any licensed or unlicensed*
18 *person employed by the board of trustees of a school district. The*
19 *term does not include a person who is employed on a temporary*
20 *basis or a person who is employed as an independent contractor.*

21 **Sec. 6. 1.** *The provisions of sections 2 to 10, inclusive, of*
22 *this act apply to an administrator if the matter may result in*
23 *disciplinary action against the administrator or if the*
24 *administrator makes a complaint concerning his or her working*
25 *conditions or the manner in which he or she is treated at work.*

26 **2.** *The provisions of sections 2 to 10, inclusive, of this act do*
27 *not apply to:*

28 **(a)** *Any school employee who is governed by a collective*
29 *bargaining agreement negotiated pursuant to chapter 288 of NRS,*
30 *to the extent of any conflict between the provisions of the*
31 *negotiated agreement and the provisions of sections 2 to 10,*
32 *inclusive, of this act.*

33 **(b)** *Action taken by an administrator or representative of a*
34 *school district which is verbal or written, which is not*
35 *investigatory in nature and which is not intended to result in the*
36 *admonition, suspension, demotion, transfer or dismissal of a*
37 *school employee.*

38 **Sec. 7. 1.** *Except as otherwise provided in subsection 2 of*
39 *section 6 of this act or other specific statute, any meeting between*
40 *a school employee and an administrator or representative of a*



1 *school district that may result in disciplinary action against the*
2 *school employee is subject to the provisions of this section.*

3 2. *If a meeting is governed by this section, the administrator*
4 *or representative of the school district shall, not less than 48 hours*
5 *before the meeting, provide written notice of the meeting to the*
6 *school employee and, if the employee is governed by a collective*
7 *bargaining agreement negotiated pursuant to chapter 288 of NRS,*
8 *to the recognized bargaining agent of the employee.*

9 3. *The notice required by subsection 2 must include, without*
10 *limitation:*

11 (a) *The date, time and place of the meeting;*

12 (b) *The purpose of the meeting; and*

13 (c) *The name and title of each representative of the school*
14 *district who will be present at the meeting on behalf of the school*
15 *district.*

16 4. *If a meeting governed by this section is convened to*
17 *consider an allegation of improper conduct or performance by an*
18 *employee, the notice required by subsection 2 must provide the*
19 *employee with notice of the specific concern to be discussed.*

20 5. *If a meeting that is not otherwise subject to the provisions*
21 *of this section is held between a school employee and an*
22 *administrator or a representative of a school district and, during*
23 *the meeting, the administrator or representative raises an issue*
24 *which subjects the meeting to the provisions of this section, the*
25 *school employee must, upon request, be granted an immediate*
26 *continuance of the meeting for not less than 48 hours. If a*
27 *continuance is requested, the administrator or representative shall*
28 *comply with the requirements of this section before reconvening*
29 *the meeting.*

30 6. *If a meeting that involves a licensed teacher is held*
31 *pursuant to this section and, as a result of that meeting, the school*
32 *district proceeds with investigation of or disciplinary action*
33 *against the teacher, at least one representative of the school*
34 *district involved with the investigation or decisions concerning the*
35 *disciplinary action must be a licensed teacher or administrator.*

36 **Sec. 8. 1.** *A school employee who wishes to request a*
37 *meeting concerning his or her working conditions or the manner*
38 *in which he or she is treated at work may, in writing, notify the*
39 *administrator or representative of the school district of the*
40 *complaint and request such a meeting.*

41 2. *If a meeting is requested pursuant to subsection 1, the*
42 *administrator or representative of the school district shall, not less*
43 *than 48 hours before the meeting, provide written notice of the*
44 *meeting to the school employee and, if the employee is governed by*



1 *a collective bargaining agreement negotiated pursuant to chapter*
2 *288 of NRS, to the recognized bargaining agent of the employee.*

3 3. *The notice required by subsection 2 must include, without*
4 *limitation:*

5 (a) *The date, time and place of the meeting;*

6 (b) *The purpose of the meeting; and*

7 (c) *The name and title of each representative of the school*
8 *district who will be present at the meeting on behalf of the school*
9 *district.*

10 **Sec. 9.** 1. *Except as otherwise provided in subsection 2, if*
11 *sufficient grounds for dismissal of an unlicensed employee do not*
12 *exist, the unlicensed employee must be reinstated with, and is*
13 *entitled to, full compensation, plus interest at the rate established*
14 *pursuant to NRS 99.040, for all missed days of work. The*
15 *unlicensed employee is not required to mitigate his or her*
16 *damages.*

17 2. *An unlicensed employee may be suspended with loss of pay*
18 *at any time after a hearing has been held which affords due*
19 *process. An unlicensed employee may be suspended more than*
20 *once in 1 year, but the total number of days of suspension must*
21 *not exceed 20 in 1 year. Unless circumstances otherwise require,*
22 *the suspensions must be progressively longer.*

23 3. *Any decision of a hearing officer that is inconsistent with*
24 *this section is invalid to the extent of the inconsistency.*

25 **Sec. 10.** 1. *The board of trustees of each school district*
26 *shall adopt and enforce a written policy prohibiting administrators*
27 *or agents of the school district from committing an act or making*
28 *a statement which is intended to convince school employees to*
29 *waive their rights pursuant to sections 2 to 10, inclusive, of this*
30 *act.*

31 2. *The policy must include penalties for a violation of the*
32 *policy.*

33 3. *The school district shall ensure that a copy of the policy is*
34 *provided to each employee who is employed by the school district.*
35 *The principal of each school within the school district shall ensure*
36 *that the policy is reviewed during a staff meeting at the school at*
37 *least annually.*

38 **Sec. 11.** *If the board of trustees of a school district conducts*
39 *an investigation of a teacher or intends to take disciplinary action*
40 *against a teacher, at least one representative of the school district*
41 *involved with the investigation or decisions concerning the*
42 *disciplinary action must be a teacher or administrator.*

43 **Sec. 12.** NRS 391.311 is hereby amended to read as follows:

44 391.311 As used in NRS 391.311 to 391.3197, inclusive, *and*
45 *section 11 of this act*, unless the context otherwise requires:



1 1. "Administrator" means any employee who holds a license as
2 an administrator and who is employed in that capacity by a school
3 district.

4 2. "Board" means the board of trustees of the school district in
5 which a licensed employee affected by NRS 391.311 to 391.3197,
6 inclusive, is employed.

7 3. "Demotion" means demotion of an administrator to a
8 position of lesser rank, responsibility or pay and does not include
9 transfer or reassignment for purposes of an administrative
10 reorganization.

11 4. "Immorality" means:

12 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
13 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,
14 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337,
15 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

16 (b) An act forbidden by NRS 201.540 or any other sexual
17 conduct or attempted sexual conduct with a pupil enrolled in an
18 elementary or secondary school. As used in this paragraph, "sexual
19 conduct" has the meaning ascribed to it in NRS 201.520.

20 5. "Postprobationary employee" means an administrator or a
21 teacher who has completed the probationary period as provided in
22 NRS 391.3197 and has been given notice of reemployment.

23 6. "Probationary employee" means an administrator or a
24 teacher who is employed for the period set forth in NRS 391.3197.

25 7. "Superintendent" means the superintendent of a school
26 district or a person designated by the board or superintendent to act
27 as superintendent during the absence of the superintendent.

28 8. "Teacher" means a licensed employee the majority of whose
29 working time is devoted to the rendering of direct educational
30 service to pupils of a school district.

31 **Sec. 13.** NRS 391.314 is hereby amended to read as follows:

32 391.314 1. If a superintendent has reason to believe that
33 cause exists for the dismissal of a licensed employee and the
34 superintendent is of the opinion that the immediate suspension of
35 the employee is necessary in the best interests of the pupils in the
36 district, the superintendent may suspend the employee without
37 notice and without a hearing. Notwithstanding the provisions of
38 NRS 391.312, a superintendent may suspend a licensed employee
39 who has been officially charged but not yet convicted of a felony or
40 a crime involving moral turpitude or immorality. If the charge is
41 dismissed or if the employee is found not guilty, the employee must
42 be reinstated with back pay, plus interest, and normal seniority. The
43 superintendent shall notify the employee in writing of the
44 suspension.



2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is entitled to continue to receive his or her salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with *, and is entitled to,* full compensation, plus interest ~~+~~ *at the rate established pursuant to NRS 99.040, for all missed days of work.*

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that the employee will repay any amounts paid to him or her pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his or her salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if the employee is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his or her arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his or her arrest or the date on which his or her employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his or her right to a speedy trial while suspended may receive ~~no~~ *not* more than 12 months of back pay and seniority upon reinstatement if the employee is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds



1 contained in NRS 391.312. An employee may be suspended more
2 than once during the employee's contract year, but the total number
3 of days of suspension may not exceed 20 in 1 contract year. Unless
4 circumstances require otherwise, the suspensions must be
5 progressively longer.

6 **Sec. 14.** This act becomes effective on July 1, 2011.

