

Amendment No. 494

Assembly Amendment to Assembly Bill No. 179

(BDR 23-841)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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 underlining* is newly added transitory language.

AAK/WLK



Date: 4/22/2011

A.B. No. 179—Revises provisions relating to disciplinary action against a state employee. (BDR 23-841)



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

Legislative Counsel's Digest:

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

~~{Section 1 of this bill requires an appointing authority to provide appropriate training, warnings and notice of a policy and of the procedure for disciplinary action before taking disciplinary action against an employee. Section 1 also requires the appointing authority to assign one supervisor to conduct a fact finding investigation and a second supervisor to determine whether substantial evidence of the allegation exists based on the investigation, if the accused employee disputes the allegation that would form the basis of a disciplinary action.} Section 1.5 of this bill requires an appointing authority to provide each employee of the appointing authority with a copy of a policy approved by the Personnel Commission that explains certain information relating to disciplinary action. Section 2 of this bill requires an appointing authority to consult with the Attorney General or, if the appointing authority is part of the Nevada System of Higher Education, its general counsel, regarding any proposed disciplinary action before imposing the disciplinary action. Section 3 of this bill requires certain investigations relating to disciplinary action against a public employee to be completed within 90 days after the employee is given notice of the allegations or investigation and provide for an extension of that time period.~~

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 284.383 is hereby amended to read as follows:

284.383 1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

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

284.385 1. An ~~After making the determinations required by section 1 of this act, an~~ appointing authority may:

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

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

2. Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline.

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

~~3.4~~ 4. No employee in the classified service may be dismissed for religious or racial reasons.

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

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

~~1.1~~ (a) Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

~~1.2~~ (b) Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented. ~~The employee shall be deemed to have waived~~

~~his or her right to be represented unless the employee states his or her desire to have a lawyer or other representative present after the employee is provided notice of the allegations. Such a statement need not be in any specific form or in writing.~~

2. An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Director upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

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