

Amendment No. 363

Senate Amendment to Senate Bill No. 98

(BDR 23-415)

Proposed by: Senate Committee on Legislative Operations and Elections**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

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.

SJA/EGO



Date: 4/25/2011

S.B. No. 98—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)



SENATE BILL NO. 98—SENATOR HARDY

PREFILED JANUARY 25, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local governments; revising provisions relating to mediation ~~[and arbitration]~~ during the process of collective bargaining; revising provisions relating to certain reports on final agreements between local government employers and employee organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Sections 1, 2 and 4 of this bill require: (1) local governments and employee organizations representing police officers or firefighters; and (2) school districts and employee organizations representing teachers and educational support personnel to take part in nonbinding mediation before submitting disputes to arbitration.~~

~~Sections 3 and 4 of this bill provide that in the arbitration process during collective bargaining: (1) between local governments and employee organizations representing firefighters or police officers; and (2) between school districts and employee organizations representing teachers and educational support personnel, the arbitrator is not bound to accept one of the final offers of the parties involved.]~~

Section 1.3 of this bill revises provisions relating to mediation between local governments and employee organizations during collective bargaining. Sections 1, 1.7, 3 and 4 of this bill require that the reports made by the chief executive officer of a local government or the superintendent of a school district to the local government or to the board of trustees of the school district, respectively, concerning the fiscal impact of a collective bargaining agreement between the local government and an employee organization include information relating to the estimated total cost of the agreement and the difference in that cost and the total cost of the immediately preceding agreement.

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

Section 1. NRS 288.153 is hereby amended to read as follows:
288.153 Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee

organization must be approved by the governing body of the local government employer at a public hearing. The chief executive officer of the local government shall report to the local government the fiscal impact of the agreement. The report must include, without limitation:

1. The estimated total cost of the agreement, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the agreement in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

2. The difference between the estimated total cost of the agreement and the total cost of the immediately preceding agreement between the parties.

~~[Section 1.]~~ **Sec. 1.3.** NRS 288.190 is hereby amended to read as follows:

288.190 Except ~~[in cases to which]~~ as otherwise provided in NRS 288.205 : ~~[and 288.215 apply:]~~

1. ~~[Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1,]~~ If the parties to a negotiation have failed to reach an agreement after at least four meetings of negotiation, either party involved ~~[in negotiations]~~ may request a mediator. If the parties do not agree upon a mediator, ~~[the Commissioner shall submit to the parties a list of seven potential mediators.]~~ either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential mediators. If the parties are unable to agree upon which mediation service should be used, the Federal Mediation and Conciliation Service must be used. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.

2. If mediation is ~~[agreed to or]~~ requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators. ~~[from the Commissioner.]~~

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. ~~[The]~~ If the parties do not use a mediator provided by the Federal Mediation and Conciliation Service, the local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.

5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to the Commissioner of the Board a report of the efforts made to settle the dispute.

Sec. 1.7. 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 failed to reach an agreement after at least ~~[six]~~ four meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The

1 findings and recommendations of the fact finder are not binding on the parties
2 except as provided in subsections 5, 6 and 11. The mediator of a dispute may also
3 be chosen by the parties to serve as the fact finder.

4 2. If the parties are unable to agree on an impartial fact finder or a panel of
5 neutral arbitrators within 5 days, either party may request from the American
6 Arbitration Association or the Federal Mediation and Conciliation Service a list of
7 seven potential fact finders. If the parties are unable to agree upon which arbitration
8 service should be used, the Federal Mediation and Conciliation Service must be
9 used. Within 5 days after receiving a list from the applicable arbitration service, the
10 parties shall select their fact finder from this list by alternately striking one name
11 until the name of only one fact finder remains, who will be the fact finder to hear
12 the dispute in question. The employee organization shall strike the first name.

13 3. The local government employer and employee organization each shall pay
14 one-half of the cost of fact-finding. Each party shall pay its own costs of
15 preparation and presentation of its case in fact-finding.

16 4. A schedule of dates and times for the hearing must be established within 10
17 days after the selection of the fact finder pursuant to subsection 2, and the fact
18 finder shall report the findings and recommendations of the fact finder to the parties
19 to the dispute within 30 days after the conclusion of the fact-finding hearing.

20 5. The parties to the dispute may agree, before the submission of the dispute
21 to fact-finding, to make the findings and recommendations on all or any specified
22 issues final and binding on the parties.

23 6. If the parties do not agree on whether to make the findings and
24 recommendations of the fact finder final and binding, either party may request the
25 formation of a panel to determine whether the findings and recommendations of a
26 fact finder on all or any specified issues in a particular dispute which are within the
27 scope of subsection 11 are to be final and binding. The determination must be made
28 upon the concurrence of at least two members of the panel and not later than the
29 date which is 30 days after the date on which the matter is submitted to the panel,
30 unless that date is extended by the Commissioner of the Board. Each panel shall,
31 when making its determination, consider whether the parties have bargained in
32 good faith and whether it believes the parties can resolve any remaining issues. Any
33 panel may also consider the actions taken by the parties in response to any previous
34 fact-finding between these parties, the best interests of the State and all its citizens,
35 the potential fiscal effect both within and outside the political subdivision, and any
36 danger to the safety of the people of the State or a political subdivision.

37 7. Except as otherwise provided in subsection 10, any fact finder, whether the
38 fact finder's recommendations are to be binding or not, shall base such
39 recommendations or award on the following criteria:

40 (a) A preliminary determination must be made as to the financial ability of the
41 local government employer based on all existing available revenues as established
42 by the local government employer and within the limitations set forth in NRS
43 354.6241, with due regard for the obligation of the local government employer to
44 provide facilities and services guaranteeing the health, welfare and safety of the
45 people residing within the political subdivision.

46 (b) Once the fact finder has determined in accordance with paragraph (a) that
47 there is a current financial ability to grant monetary benefits, and subject to the
48 provisions of paragraph (c), the fact finder shall consider, to the extent appropriate,
49 compensation of other government employees, both in and out of the State and use
50 normal criteria for interest disputes regarding the terms and provisions to be
51 included in an agreement in assessing the reasonableness of the position of each
52 party as to each issue in dispute and the fact finder shall consider whether the Board
53 found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ The fact finder's report must contain the facts upon which the fact finder based the fact finder's determination of financial ability to grant monetary benefits and the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues of the parties submitted pursuant to subsection 3;

(b) The report of findings and recommendations of the fact finder; and

(c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➤ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation, ~~the~~ the:

(a) An analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment; and

(b) If any of the findings or recommendations of the fact finder are to be binding;

(1) The estimated total cost of any contract resulting from the findings or recommendations which are to be binding, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the contract in lieu of equivalent base salary increases of cost-of-living increases, or both, in the employees' salaries; and

(2) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

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

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

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

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

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

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

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

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

1 **Sec. 2.** ~~[NRS 288.205 is hereby amended to read as follows:~~
2 ~~288.205 In the case of an employee organization and a local government~~
3 ~~employer to which NRS 288.215 applies, the following departures from the~~
4 ~~provisions of NRS 288.200 [also] apply:~~
5 ~~1. If the parties have not reached agreement [by April 10] [,] and the parties~~
6 ~~participated in mediation pursuant to NRS 288.190, either party may submit the~~
7 ~~dispute to an impartial fact finder at any time for the findings of the fact finder.~~
8 ~~2. In a regular legislative year, the fact-finding hearing must be stayed up to~~
9 ~~20 days after the adjournment of the Legislature sine die.~~
10 ~~3. Any time limit prescribed by this section or NRS 288.200 may be extended~~
11 ~~by agreement of the parties.] (Deleted by amendment.)~~

12 **Sec. 3.** NRS 288.215 is hereby amended to read as follows:

13 288.215 1. As used in this section:

14 (a) "Firefighters" means those persons who are salaried employees of a fire
15 prevention or suppression unit organized by a political subdivision of the State and
16 whose principal duties are controlling and extinguishing fires.

17 (b) "Police officers" means those persons who are salaried employees of a
18 police department or other law enforcement agency organized by a political
19 subdivision of the State and whose principal duties are to enforce the law.

20 2. The provisions of this section apply only to firefighters and police officers
21 and their local government employers.

22 3. If the parties have not agreed to make the findings and recommendations of
23 the fact finder final and binding upon all issues, and do not otherwise resolve their
24 dispute, they shall, within 10 days after the fact finder's report is submitted, submit
25 the issues remaining in dispute to an arbitrator who must be selected in the manner
26 provided in NRS 288.200 and have the same powers provided for fact finders in
27 NRS 288.210.

28 4. The arbitrator shall, within 10 days after the arbitrator is selected, and after
29 7 days' written notice is given to the parties, hold a hearing to receive information
30 concerning the dispute. The hearings must be held in the county in which the local
31 government employer is located and the arbitrator shall arrange for a full and
32 complete record of the hearings.

33 5. At the hearing, or at any subsequent time to which the hearing may be
34 adjourned, information may be presented by:

35 (a) The parties to the dispute; or

36 (b) Any interested person.

37 6. The parties to the dispute shall each pay one-half of the costs incurred by
38 the arbitrator.

39 7. A determination of the financial ability of a local government employer
40 must be based on:

41 (a) All existing available revenues as established by the local government
42 employer and within the limitations set forth in NRS 354.6241, with due regard for
43 the obligation of the local government employer to provide facilities and services
44 guaranteeing the health, welfare and safety of the people residing within the
45 political subdivision.

46 (b) Consideration of funding for the current year being negotiated. If the
47 parties mutually agree to arbitrate a multi-year contract the arbitrator must consider
48 the ability to pay over the life of the contract being negotiated or arbitrated.

49 ➤ Once the arbitrator has determined in accordance with this subsection that there
50 is a current financial ability to grant monetary benefits, the arbitrator shall consider,
51 to the extent appropriate, compensation of other governmental employees, both in
52 and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, ~~and~~ on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ reasons for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) An analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~;

(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of firefighters or police officers, as applicable, during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

Sec. 4. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, ~~and the parties participated in mediation pursuant to NRS 288.190,~~ either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information

concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ reasons for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) An analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~ ;

(b) The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of

contributions to the Public Employees' Retirement System that the school district will pay on behalf of teachers and educational support personnel during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the salaries of the teachers and educational support personnel; and

(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 5. This act becomes effective on July 1, 2011.