

SENATE BILL NO. 78—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE CITY OF RENO)

PREFILED DECEMBER 15, 2010

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing collective bargaining between local government employers and local government employees. (BDR 23-316)

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 local governments; revising provisions governing collective bargaining between local government employers and local government employees; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

**Section 2** of this bill authorizes a local government employer to disseminate to the public information regarding the status of negotiations between the employer and an employee organization and the proposals that the two entities make to each other during such negotiations. **Section 3** of this bill provides that if the Legislature enacts or amends a law and the effect of the enactment or amendment is to create new or increased monetary obligations on the part of a local government employer with respect to employees of the local government who are covered by a collective bargaining agreement, the applicable agreement or agreements are required to be reopened immediately for the purpose of negotiating changes thereto in an amount sufficient to offset the new or increased monetary obligations. **Section 4** of this bill, with regard to the situation in which the balances of certain funds of a local government fall below certain prescribed levels, authorizes a local government employer to suspend salary increases and benefit increases related to salary provided for in the collective bargaining agreement for the remaining period of the agreement. However, **section 4** also requires that the increases so suspended be the subject of future contractual negotiations.

Existing law provides that, as between a local government employer and a recognized employee organization, certain subject matters are within the scope of mandatory bargaining, whereas other subject matters are reserved to the local government employer without negotiation. Existing law also provides that a local



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government employer is not precluded from negotiating subject matters reserved to the local government employer. In addition, a local government employer is required to discuss subject matters outside the scope of mandatory bargaining but is not required to negotiate those matters. (NRS 288.150) **Section 5** of this bill prohibits a local government employer from negotiating or discussing any subject matter not enumerated as being within the scope of mandatory bargaining.

Under existing law, unresolved labor disputes between a local government employer and firefighters or police officers are subject to binding arbitration and are handled under different procedures than disputes involving other types of local government employees. (NRS 288.205, 288.215) **Section 9** of this bill eliminates such binding arbitration and the different procedures for firefighters and police officers.

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

**Section 1.** Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2.** *Notwithstanding any provision of this chapter to the contrary, a local government employer has the right to disseminate to the public information regarding:*

*1. The status of any negotiations conducted between the local government employer and any employee organization.*

*2. The proposals that the local government employer and any employee organization make to each other during such negotiations.*

**Sec. 3.** *1. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter to the contrary, if the Legislature enacts or amends any law and the effect of the law as enacted or amended is such as to require a local government employer to incur an additional or increased monetary obligation with respect to a local government employee who is subject to a collective bargaining agreement, all collective bargaining agreements between the local government employer and the employee organization representing the affected local government employee must be reopened automatically for the purpose of negotiating amendments to such agreements to offset the additional or increased monetary obligation.*

*2. If a collective bargaining agreement is reopened in accordance with subsection 1 and the local government employer and employee organization are unable to reach an agreement, all provisions of this chapter pertaining to mediation and fact-finding that are otherwise applicable to the employee organization covered by the affected collective bargaining agreement apply.*

**Sec. 4.** *1. A local government employer may, for the remaining term of a collective bargaining agreement, suspend*



1 *salary increases or benefit increases related to salary, or both,*  
2 *provided for in the collective bargaining agreement if the local*  
3 *government's budgeted ending fund balance or projected ending*  
4 *fund balance for general or special revenue funds which receive*  
5 *revenue from property taxes or the Local Government Tax*  
6 *Distribution Account is less than 8.3 percent of the total budgeted*  
7 *expenditures for the respective fund, excluding capital outlay.*

8 2. *Any salary increases or benefit increases related to salary*  
9 *that are suspended as authorized pursuant to subsection 1 must be*  
10 *the subject of future contract negotiations for the affected*  
11 *collective bargaining agreement.*

12 **Sec. 5.** NRS 288.150 is hereby amended to read as follows:

13 288.150 1. Except as *otherwise* provided in subsection 4,  
14 every local government employer shall negotiate in good faith  
15 through one or more representatives of its own choosing concerning  
16 the mandatory subjects of bargaining set forth in subsection 2 with  
17 the designated representatives of the recognized employee  
18 organization, if any, for each appropriate bargaining unit among its  
19 employees. If either party so requests, agreements reached must be  
20 reduced to writing.

21 2. The scope of mandatory bargaining is limited to:

22 (a) Salary or wage rates or other forms of direct monetary  
23 compensation.

24 (b) Sick leave.

25 (c) Vacation leave.

26 (d) Holidays.

27 (e) Other paid or nonpaid leaves of absence.

28 (f) Insurance benefits.

29 (g) Total hours of work required of an employee on each  
30 workday or workweek.

31 (h) Total number of days' work required of an employee in a  
32 work year.

33 (i) Discharge and disciplinary procedures.

34 (j) Recognition clause.

35 (k) The method used to classify employees in the bargaining  
36 unit.

37 (l) Deduction of dues for the recognized employee organization.

38 (m) Protection of employees in the bargaining unit from  
39 discrimination because of participation in recognized employee  
40 organizations consistent with the provisions of this chapter.

41 (n) No-strike provisions consistent with the provisions of this  
42 chapter.

43 (o) Grievance and arbitration procedures for resolution of  
44 disputes relating to interpretation or application of collective  
45 bargaining agreements.



- (p) General savings clauses.
- (q) Duration of collective bargaining agreements.
- (r) Safety of the employee.
- (s) Teacher preparation time.
- (t) Materials and supplies for classrooms.
- (u) The policies for the transfer and reassignment of teachers.
- (v) Procedures for reduction in workforce.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include **H** , **without limitation:**

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

**↪ A local government employer shall not negotiate or discuss subject matters which are outside the scope of mandatory bargaining.**

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer 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 collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.



6. ~~[This section does not preclude, but this chapter does not require the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.]~~

~~—7.]~~ Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

**Sec. 6.** NRS 288.170 is hereby amended to read as follows:

288.170 1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with the recognized organization or organizations, which group or groups of its employees constitute an appropriate unit or units for negotiating. The primary criterion for that determination must be the community of interest among the employees concerned.

2. A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same bargaining unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate bargaining unit.

3. A head of a department of a local government, an administrative employee or a supervisory employee must not be a member of the same bargaining unit as the employees under the direction of that department head, administrative employee or supervisory employee. Any dispute between the parties as to whether an employee is a supervisor must be submitted to the Board. An employee organization which is negotiating on behalf of two or more bargaining units consisting of firefighters or police officers ~~[as defined in NRS 288.215,]~~ may select members of the units to negotiate jointly on behalf of each other, even if one of the units consists of supervisory employees and the other unit does not.

4. Confidential employees of the local government employer must be excluded from any bargaining unit but are entitled to participate in any plan to provide benefits for a group that is administered by the bargaining unit of which they would otherwise be a member.

5. If any employee organization is aggrieved by the determination of a bargaining unit, it may appeal to the Board. Subject to judicial review, the decision of the Board is binding upon the local government employer and employee organizations involved. The Board shall apply the same criterion as specified in subsection 1.



1 6. As used in this section ~~["confidential"]~~ :

2 (a) ***"Confidential" employee*** means an employee who is  
3 involved in the decisions of management affecting collective  
4 bargaining.

5 (b) ***"Firefighters" means those persons who are salaried***  
6 ***employees of a fire prevention or suppression unit organized by a***  
7 ***political subdivision of the State and whose principal duties are***  
8 ***controlling and extinguishing fires.***

9 (c) ***"Police officers" means those persons who are salaried***  
10 ***employees of a police department or other law enforcement agency***  
11 ***organized by a political subdivision of the State and whose***  
12 ***principal duties are to enforce the law.***

13 **Sec. 7.** NRS 288.190 is hereby amended to read as follows:

14 288.190 ~~["Except in cases to which NRS 288.205 and 288.215~~  
15 ~~apply:"]~~

16 1. Anytime before March 1, the dispute may be submitted to a  
17 mediator, if both parties agree. Anytime after March 1, either party  
18 involved in negotiations may request a mediator. If the parties do  
19 not agree upon a mediator, the Commissioner shall submit to the  
20 parties a list of seven potential mediators. The parties shall select  
21 their mediator from the list by alternately striking one name until the  
22 name of only one mediator remains, who will be the mediator to  
23 hear the dispute. The employee organization shall strike the first  
24 name.

25 2. If mediation is agreed to or requested pursuant to subsection  
26 1, the mediator must be selected at the time the parties agree upon a  
27 mediator or, if the parties do not agree upon a mediator, within 5  
28 days after the parties receive the list of potential mediators from the  
29 Commissioner.

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

36 4. The local government employer and employee organization  
37 each shall pay one-half of the cost of mediation. Each party shall  
38 pay its own costs of preparation and presentation of its case in  
39 mediation.

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



**Sec. 8.** 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;~~ **applies:**

1. If:

(a) The parties have failed to reach an agreement after at least six 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 findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

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

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

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

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

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be



1 made upon the concurrence of at least two members of the panel and  
2 not later than the date which is 30 days after the date on which the  
3 matter is submitted to the panel, unless that date is extended by the  
4 Commissioner of the Board. Each panel shall, when making its  
5 determination, consider whether the parties have bargained in good  
6 faith and whether it believes the parties can resolve any remaining  
7 issues. Any panel may also consider the actions taken by the parties  
8 in response to any previous fact-finding between these parties, the  
9 best interests of the State and all its citizens, the potential fiscal  
10 effect both within and outside the political subdivision, and any  
11 danger to the safety of the people of the State or a political  
12 subdivision.

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

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

24 (b) Once the fact finder has determined in accordance with  
25 paragraph (a) that there is a current financial ability to grant  
26 monetary benefits, and subject to the provisions of paragraph (c),  
27 the fact finder shall consider, to the extent appropriate,  
28 compensation of other government employees, both in and out of  
29 the State and use normal criteria for interest disputes regarding the  
30 terms and provisions to be included in an agreement in assessing the  
31 reasonableness of the position of each party as to each issue in  
32 dispute and the fact finder shall consider whether the Board found  
33 that either party had bargained in bad faith.

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

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

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



1 (a) The issues of the parties submitted pursuant to subsection 3;  
2 (b) The report of findings and recommendations of the fact  
3 finder; and

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

7 ➡ The fact finder must not be asked to discuss the decision during  
8 the meeting.

9 9. The chief executive officer of the local government shall  
10 report to the local government the fiscal impact of the findings and  
11 recommendations. The report must include, without limitation, an  
12 analysis of the impact of the findings and recommendations on  
13 compensation and reimbursement, funding, benefits, hours, working  
14 conditions or other terms and conditions of employment.

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

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

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

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

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

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

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

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

33 **Sec. 9.** NRS 288.205 and 288.215 are hereby repealed.

34 **Sec. 10.** This act becomes effective upon passage and  
35 approval.

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## TEXT OF REPEALED SECTIONS

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**288.205 Submission of dispute between certain employees and local government employer to fact finder: Time limited for certain matters.** In the case of an employee organization and a local government employer to which NRS 288.215 applies, the



following departures from the provisions of NRS 288.200 also apply:

1. If the parties have not reached agreement by April 10, either party may submit the dispute to an impartial fact finder at any time for the findings of the fact finder.

2. In a regular legislative year, the fact-finding hearing must be stayed up to 20 days after the adjournment of the Legislature sine die.

3. Any time limit prescribed by this section or NRS 288.200 may be extended by agreement of the parties.

**288.215 Submission of dispute between firefighters or police officers and local government employer to arbitrator; hearing; determination of financial ability of local government employer; negotiations and final offer; effect of decision of arbitrator; content of decision.**

1. As used in this section:

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

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

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

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

4. The arbitrator shall, within 10 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 hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

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

(a) The parties to the dispute; or

(b) Any interested person.

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



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

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

(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.

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, 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 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, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

