

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.

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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 relating to mediation and arbitration during the process of collective bargaining; 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.

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

Section 1. 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, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the Commissioner shall submit to the



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1 parties a list of seven potential mediators. The parties shall select
2 their mediator from the list by alternately striking one name until the
3 name of only one mediator remains, who will be the mediator to
4 hear the dispute. The employee organization shall strike the first
5 name.

6 2. If mediation is agreed to or requested pursuant to subsection
7 1, the mediator must be selected at the time the parties agree upon a
8 mediator or, if the parties do not agree upon a mediator, within 5
9 days after the parties receive the list of potential mediators from the
10 Commissioner.

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

17 4. The local government employer and employee organization
18 each shall pay one-half of the cost of mediation. Each party shall
19 pay its own costs of preparation and presentation of its case in
20 mediation.

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

25 **Sec. 2.** NRS 288.205 is hereby amended to read as follows:

26 288.205 In the case of an employee organization and a local
27 government employer to which NRS 288.215 applies, the following
28 departures from the provisions of NRS 288.200 ~~also~~ apply:

29 1. If the parties have not reached agreement by April 10 ~~H~~ *and*
30 *the parties participated in mediation pursuant to NRS 288.190,*
31 either party may submit the dispute to an impartial fact finder at any
32 time for the findings of the fact finder.

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

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

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

39 288.215 1. As used in this section:

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

44 (b) "Police officers" means those persons who are salaried
45 employees of a police department or other law enforcement agency



1 organized by a political subdivision of the State and whose principal
2 duties are to enforce the law.

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

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

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

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

20 (a) The parties to the dispute; or

21 (b) Any interested person.

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

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

26 (a) All existing available revenues as established by the local
27 government employer and within the limitations set forth in NRS
28 354.6241, with due regard for the obligation of the local government
29 employer to provide facilities and services guaranteeing the health,
30 welfare and safety of the people residing within the political
31 subdivision.

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

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

41 8. At the recommendation of the arbitrator, the parties may,
42 before the submission of a final offer, enter into negotiations. If the
43 negotiations are begun, the arbitrator may adjourn the hearings for a
44 period of 3 weeks. An agreement by the parties is final and binding,
45 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, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

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.



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

5 (a) The issues submitted pursuant to subsection 2;

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

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

9 ➔ The arbitrator must not be asked to discuss the decision during
10 the meeting.

11 11. The superintendent of the school district shall report to the
12 board of trustees the fiscal impact of the decision. The report must
13 include, without limitation, an analysis of the impact of the decision
14 on compensation and reimbursement, funding, benefits, hours,
15 working conditions or other terms and conditions of employment.

16 12. As used in this section:

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

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

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

