

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 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:

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

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

1 **Section 1.** NRS 288.153 is hereby amended to read as follows:
2 288.153 Any new, extended or modified collective bargaining
3 agreement or similar agreement between a local government
4 employer and an employee organization must be approved by the
5 governing body of the local government employer at a public
6 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.*

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



1 cost of mediation. Each party shall pay its own costs of preparation
2 and presentation of its case in mediation.

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

7 **Sec. 1.7.** NRS 288.200 is hereby amended to read as follows:

8 288.200 Except in cases to which NRS 288.205 and 288.215,
9 or NRS 288.217 apply:

10 1. If:

11 (a) The parties have failed to reach an agreement after at least
12 six meetings of negotiations; and

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

15 ➔ either party to the dispute, at any time after April 1, may submit
16 the dispute to an impartial fact finder for the findings and
17 recommendations of the fact finder. The findings and
18 recommendations of the fact finder are not binding on the parties
19 except as provided in subsections 5, 6 and 11. The mediator of a
20 dispute may also be chosen by the parties to serve as the fact finder.

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

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

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

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



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

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

(a) A preliminary determination must be made as to the financial ability of the local government employer based on 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) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board 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



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1 to grant monetary benefits and the fact finder's recommendations or
2 award.

3 8. Within 45 days after the receipt of the report from the fact
4 finder, the governing body of the local government employer shall
5 hold a public meeting in accordance with the provisions of chapter
6 241 of NRS. The meeting must include a discussion of:

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

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

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

13 ➔ The fact finder must not be asked to discuss the decision during
14 the meeting.

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

18 ~~and~~ :

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

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

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

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

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

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

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

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



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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.

Sec. 2. (Deleted by amendment.)

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

288.215 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



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1 NRS 354.6241, with due regard for the obligation of the local
2 government employer to provide facilities and services guaranteeing
3 the health, welfare and safety of the people residing within the
4 political subdivision.

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

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

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

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

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

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

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

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

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

38 (a) The issues submitted pursuant to subsection 3;

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

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

43 ➔ The arbitrator must not be asked to discuss the decision during
44 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~~;~~ ;

(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, 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



1 contract the arbitrator must consider the ability to pay over the life
2 of the contract being negotiated or arbitrated.

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

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

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

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

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

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

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

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

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

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

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

37 ➔ The arbitrator must not be asked to discuss the decision during
38 the meeting.

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

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



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(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.

