

Amendment No. 368

Assembly Amendment to Assembly Bill No. 182 (BDR 23-646)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD an appropriation where one does not currently exist in A.B. 182.

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) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

JWP/MSN



Date: 4/14/2015

A.B. No. 182—Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)



ASSEMBLY BILL NO. 182—ASSEMBLYMEN KIRNER, WHEELER, HAMBRICK; DICKMAN, EDWARDS, ELLISON, GARDNER, JONES, NELSON AND OSCARSON

FEBRUARY 19, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; ~~prohibiting~~ authorizing a local government employer ~~from entering~~ to enter into an agreement to pay dues to an employee organization through deductions from compensation; prohibiting such an employer from providing paid leave or paying compensation or benefits for time spent by an employee in providing services to an employee organization; authorizing the Local Government Employee-Management Relations Board to appoint a Deputy Commissioner; declaring the right of a local government employee to resign from an employee organization at any time; prohibiting the inclusion of certain employees in a bargaining unit; revising provisions relating to a reduction in force; providing that a collective bargaining agreement between a local government employer and a recognized employee organization expires for certain purposes at the end of the term stated in the agreement; requiring public notice of certain offers made in collective bargaining; eliminating final and binding fact-finding except upon the election of the governing body; removing a portion of the budgeted ending fund balance of certain governmental funds from the scope of collective bargaining and from consideration by a fact finder; eliminating statutory impasse arbitration for firefighters, police officers, teachers and educational support personnel; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law does not prohibit a local government employer from providing for the payment of dues to an employee organization through deductions from the compensation of employees, and such deductions are a mandatory subject of collective bargaining. (NRS 288.150) **Section 1** of this bill ~~prohibits~~ provides that such an arrangement ~~and is lawful pursuant to an agreement that recognizes the right of every employee to resign from the employee organization at any time, free of any obligation to pay dues.~~ **Section 1** also bars

a local government employer from providing paid leave or paying any compensation or monetary benefits to an employee for time spent by the employee in performing duties or providing services to an employee organization.

The Local Government Employee-Management Relations Board has been created to administer the provisions governing labor relations between local government employers and employee organizations. (NRS 288.080, 288.110) The Board is authorized by existing law to appoint a Commissioner, who serves in the unclassified service of the State. (NRS 288.090) Section 2.5 of this bill additionally authorizes the Board to appoint a Deputy Commissioner and section 13.5 of this bill makes an appropriation for that purpose.

Existing law establishes the right of every local government employee to join or refrain from joining an employee organization. (NRS 288.140) Section 3 of this bill provides that a local government employee is also free to resign from an employee organization at any time, without any obligation to pay dues accruing before, on or after the date of the resignation.

Existing law excludes certain local government employees from membership in a bargaining unit and requires employees in certain supervisory and administrative positions to be members of a different bargaining unit from the employees they supervise. (NRS 288.140, 288.170) Sections 2, 3 and 7 of this bill consolidate those provisions and exclude certain school administrators, firefighters and police officers, and other employees in supervisory and administrative positions from membership in any bargaining unit. Existing law also excludes confidential employees from membership in a bargaining unit. (NRS 288.170) Section 7 also expands the definition of "confidential employee" to include any employee whose duties entail access to proprietary or confidential information.

Under existing law, a local government employer is entitled, without bargaining, to effectuate a reduction in force or layoff because of a lack of work or lack of money. (NRS 288.150) Section 4 of this bill revises those provisions to authorize a reduction in force or layoff because of a reduction or elimination of services, budgetary reallocation of expenditures or loss of revenues, or whenever the local government employer determines that such action is in the best interest of the local government employer. If a local government employer eliminates or reduces any service provided by its employees, determines that a reduction in force or layoff is appropriate, section 5 of this bill authorizes the employer to effectuate a layoff or reduction in force directed to those employees on the basis of any factors it deems appropriate, without regard to the seniority of those employees, sets forth various factors that the local government employer may consider in determining whether to lay off a given employee.

Section 6 of this bill is directed to "evergreen" language in a collective bargaining agreement, pursuant to which the agreement remains in effect beyond the end of its stated term until a successor agreement becomes effective. Notwithstanding any such provision, section 6 generally provides that upon the end of the term stated in a collective bargaining agreement, and until a successor agreement becomes effective, a local government employer shall not increase any compensation or monetary benefits paid to or on behalf of employees in the affected bargaining unit.

If an impasse is reached in collective bargaining negotiations, existing law establishes a process of fact-finding. Under existing law, the findings and recommendations of the fact finder are final and binding if the parties so agree or a statutory panel determines that the findings and recommendations are to be final and binding as to some or all of the issues in dispute. (NRS 288.200-288.203) Sections 10 and 15 of this bill eliminate the panel. Section 10 also: (1) provides that the findings and recommendations are not final and binding unless the governing body or chief executive officer of the local government employer so elects before the submission of the dispute to fact-finding; and (2) requires the governing body or chief executive officer, before submission of the dispute to fact-finding, to determine whether the fact finder will issue a decision on the basis of a single final offer by each party for all unresolved issues or a separate final offer by each party for each such issue. Sections 8-10 of this bill require public notice of the final offers made by each party during collective bargaining negotiations, mediation and fact-finding.

Existing law limits the extent to which money in certain governmental funds may be expended by a local government employer pursuant to a collective bargaining agreement or considered by a fact finder or arbitrator in determining the financial ability of the local government employer to pay monetary benefits. (NRS 288.200, 288.215, 288.217, 354.6241)

Section 13 of this bill provides that a budgeted ending fund balance for certain governmental funds of not more than ~~16.6~~ 25 percent of the total budgeted expenditures, less capital outlay: (1) is not subject to collective bargaining negotiations; and (2) must not be considered by a fact finder in resolving issues of financial ability to pay.

Under existing law, an impasse in collective bargaining negotiations involving firefighters, police officers, teachers or educational support personnel may be submitted to an arbitrator, whose decision is final and binding. (NRS 288.215, 288.217) **Section 15** repeals those provisions, eliminating the statutory right to arbitration as a means of impasse resolution.

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 a new section to read as follows:

A local government employer: ~~shall not~~
1. ~~Agree~~ May agree with any of its employees or any employee organization to deduct dues for an employee organization from the compensation of the employee. ~~It is~~ Any such agreement must provide, in accordance with NRS 288.140, that every employee governed by the agreement is entitled to resign from the employee organization at any time, free of any obligation to pay dues accruing before, on or after the date of the resignation. Any agreement that conflicts with the provisions of this subsection is void.

2. ~~Provide~~ Shall not provide paid leave or otherwise pay from public money any compensation or monetary benefits to or on behalf of any of its employees for time spent by an employee in performing duties or providing services for an employee organization.

Sec. 1.5. NRS 288.034 is hereby amended to read as follows:

288.034 "Commissioner" means the Commissioner or Deputy Commissioner appointed by the Board.

Sec. 2. NRS 288.075 is hereby amended to read as follows:

288.075 1. "Supervisory employee" means ~~+~~

~~—(a) Any~~ *any* individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. ~~+~~

~~—(b) Any individual or class of individuals appointed by the employer and having authority on behalf of the employer to:~~

~~—(1) Hire, transfer, suspend, lay off, recall, terminate, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or to effectively recommend such action;~~

~~—(2) Make budgetary decisions; and~~

~~—(3) Be consulted on decisions relating to collective bargaining;~~

~~→ if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.~~

2. Nothing in this section shall be construed to mean that an employee who has been given incidental administrative duties shall be classified as a supervisory employee.

Sec. 2.5. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chair and one as Vice Chair. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations and any other available money:

(a) Appoint a Commissioner, a Deputy Commissioner and a Secretary, who are in the unclassified service of the State; and

(b) Employ such additional clerical personnel as may be necessary, who are in the classified service of the State.

Sec. 3. NRS 288.140 is hereby amended to read as follows:

288.140 1. It is the right of every local government employee, subject to the ~~limitations~~ limitation provided in ~~subsections~~ subsection 3, ~~and 4,~~ to join any employee organization of the employee's choice, ~~or to~~ refrain from joining any employee organization ~~or resign from any employee organization at any time, free of any obligation to pay dues accruing before, on or after the date of the resignation. Any agreement that conflicts with the provisions of this subsection is void.~~ A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself or herself with respect to any condition of his or her employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

~~4. The following persons may not be a member of an employee organization:~~

~~— (a) A supervisory employee described in paragraph (b) of subsection 1 of NRS 288.075, including but not limited to appointed officials and department heads who are primarily responsible for formulating and administering management, policy and programs;~~

~~— (b) A doctor or physician who is employed by a local government employer;~~

~~— (c) Except as otherwise provided in this paragraph, an attorney who is employed by a local government employer and who is assigned to a civil law division, department or agency. The provisions of this paragraph do not apply with respect to an attorney for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011;~~

~~5. As used in this section, "doctor or physician" means a doctor, physician, homeopathic physician, osteopathic physician, chiropractic physician, practitioner of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of NRS or chapter 636 of NRS.~~

Sec. 4. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as otherwise provided in subsection 4 ~~or~~ and NRS 354.6241, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects

1 of bargaining set forth in subsection 2 with the designated representatives of the
 2 recognized employee organization, if any, for each appropriate bargaining unit
 3 among its employees. If either party so requests, agreements reached must be
 4 reduced to writing.

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

- 6 (a) Salary or wage rates or other forms of direct monetary compensation.
- 7 (b) Sick leave.
- 8 (c) Vacation leave.
- 9 (d) Holidays.
- 10 (e) Other paid or nonpaid leaves of absence.
- 11 (f) Insurance benefits.
- 12 (g) Total hours of work required of an employee on each workday or
- 13 workweek.
- 14 (h) Total number of days' work required of an employee in a work year.
- 15 (i) Discharge and disciplinary procedures.
- 16 (j) Recognition clause.
- 17 (k) The method used to classify employees in the bargaining unit.
- 18 (l) Deduction of dues for the recognized employee organization ~~H~~ pursuant to

19 an agreement that is consistent with the provisions of this chapter.

20 (m) Protection of employees in the bargaining unit from discrimination
 21 because of participation in recognized employee organizations consistent with the
 22 provisions of this chapter.

23 (n) ~~###~~ No-strike provisions consistent with the provisions of this chapter.

24 (o) ~~###~~ Grievance and arbitration procedures for resolution of disputes
 25 relating to interpretation or application of collective bargaining agreements.

26 (p) ~~###~~ General savings clauses.

27 (q) ~~###~~ Duration of collective bargaining agreements.

28 (r) ~~###~~ Safety of the employee.

29 (s) ~~###~~ Teacher preparation time.

30 (t) ~~###~~ Materials and supplies for classrooms.

31 (u) ~~###~~ The policies for the transfer and reassignment of teachers.

32 (v) ~~###~~ Procedures for reduction in workforce consistent with the provisions
 33 of this chapter.

34 (w) ~~###~~ Procedures and requirements for the reopening of collective
 35 bargaining agreements that exceed 1 year in duration for additional, further, new or
 36 supplementary negotiations during periods of fiscal emergency. The requirements
 37 for the reopening of a collective bargaining agreement must include, without
 38 limitation, measures of revenue shortfalls or reductions relative to economic
 39 indicators such as the Consumer Price Index, as agreed upon by both parties.

40 3. Those subject matters which are not within the scope of mandatory
 41 bargaining and which are reserved to the local government employer without
 42 negotiation include:

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

46 (b) The right to reduce in force or lay off any employee because of a lack of
 47 work, reduction or elimination of services, budgetary reallocation of
 48 expenditures, loss of revenues or lack of money, or whenever the local
 49 government employer determines that such action is in the best interest of the
 50 local government employer, subject to paragraph (v) ~~###~~ of subsection 2. As used
 51 in this paragraph, "loss of revenues" includes, without limitation, any reduction
 52 in revenues from taxation or any decline in revenues resulting from the
 53 termination or expiration of a grant.

- (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.

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. 5. NRS 288.151 is hereby amended to read as follows:

288.151 *1. Except as otherwise provided in subsection 2, if a local government employer ~~eliminates or reduces any service provided by its employees, it may effectuate~~ determines that a layoff or reduction in its workforce ~~directed to those employees on the basis of any factors it deems appropriate, without regard to the seniority of those employees,~~ is in the best interest of the local government employer, the local government employer, in determining whether to lay off an employee, may consider, without limitation:*

- (a) The needs of the local government employer;*
- (b) The performance and any evaluations of the employee;*
- (c) Any special skills or qualifications of the employee or any license held by the employee;*
- (d) Any record of disciplinary action taken against the employee; and*
- (e) The seniority of the employee.*

2. If the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must not be based solely on the seniority of the teacher or administrator and may include, without limitation, a consideration of the following factors:

- ~~1-1~~ (a) Whether the teacher or administrator is employed in a position which is hard to fill;
- ~~1-2~~ (b) Whether the teacher or administrator has received a national board certification;
- ~~1-3~~ (c) The performance evaluations of the teacher or administrator;
- ~~1-4~~ (d) The disciplinary record of the teacher or administrator within the school district;
- ~~1-5~~ (e) The criminal record of the teacher or administrator, if any;

~~(f)~~ (g) The type of licensure held by the teacher or administrator; and
whether the degree is in a subject area that is related to his or her position.

Sec. 6. NRS 288.155 is hereby amended to read as follows:

288.155 ~~{Agreements entered into between local government employers and employee organizations pursuant to this chapter may}~~

1. *A collective bargaining agreement:*

(a) *May* extend beyond the term of office of any member or officer of the local government employer.

(b) *Expires for the purposes of subsection 2 at the end of the term stated in the agreement, notwithstanding any provision of the agreement that it remains in effect, in whole or in part, after the end of that term until a successor agreement becomes effective.*

2. *Except as otherwise provided in this subsection and notwithstanding any provision of the agreement to the contrary, upon the expiration of a collective bargaining agreement, if no successor agreement is effective and until a successor agreement becomes effective, a local government employer shall not pay to or on behalf of any employee in the affected bargaining unit any compensation or monetary benefits in any amount greater than the amount in effect as of the expiration of the agreement. This subsection does not prohibit a local government employer from paying an increase in the employer's portion of the matching contribution rate for employees and employers in accordance with an adjustment in the rate of contributions pursuant to NRS 286.450.*

Sec. 7. 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.} 3. The following local government employees may not be members of a bargaining unit:~~

(a) *A supervisory employee.*

(b) *A firefighter above the rank of fire captain.*

(c) *A police officer above the rank of lieutenant.*

(d) A school administrator above the rank of ~~teacher~~ principal, including, without limitation, a ~~principal, assistant principal~~ superintendent, associate superintendent, ~~or~~ assistant superintendent ~~+~~

~~(e)~~ or any school administrator designated as a chief or assistant chief. Any employee described in this paragraph is entitled to participate in any plan to provide benefits for the bargaining unit of which he or she would otherwise be a member.

(e) An administrative employee.

~~(d)~~ (f) An attorney who is assigned to a civil or criminal law division, department or agency.

~~(e)~~ (g) A doctor or physician.

~~(f)~~ (h) A confidential employee, but such an employee is entitled to participate in any plan to provide benefits for the bargaining unit of which he or she would otherwise be a member.

Any dispute between the parties as to whether a local government employee is a type of employee excluded from a bargaining unit must be submitted to the Board.

4. 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.

~~(f)~~ 5. As used in this section:

(a) "Confidential employee" means an employee who is involved in the decisions of management affecting collective bargaining ~~+~~ or whose duties entail access to proprietary or confidential information.

~~(b) ["Supervisory employee" means a supervisory employee described in paragraph (a) of subsection 1 of NRS 288.075.]~~ "Doctor or physician" means a physician, homeopathic physician, osteopathic physician, chiropractic physician, doctor of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050 or 633.091 or chapter 634, 634A, 635 or 636 of NRS.

(c) "Firefighter" means a salaried or hourly employee of a fire prevention or suppression unit organized by a political subdivision of the State whose principal duty is to control and extinguish fires.

(d) "Police officer" means a salaried or hourly employee of a police department or other law enforcement agency organized by a political subdivision of the State whose principal duty is to enforce the law.

Sec. 8. NRS 288.180 is hereby amended to read as follows:

288.180 1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of that desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give notice on or before February 1.

2. Following the notification provided for in subsection 1, the employee organization or the local government employer may request reasonable information concerning any subject matter included in the scope of mandatory bargaining which it deems necessary for and relevant to the negotiations. The information requested must be furnished without unnecessary delay. The information must be accurate, and must be presented in a form responsive to the request and in the format in which the records containing it are ordinarily kept. If the employee organization requests financial information concerning a metropolitan police department, the

1 local government employers which form that department shall furnish the
2 information to the employee organization.

3 3. The parties shall promptly commence negotiations. As the first step, the
4 parties shall discuss the procedures to be followed if they are unable to agree on
5 one or more issues.

6 4. *If the parties reach agreement through negotiations during the term of*
7 *an existing contract between the parties, the new contract must become effective*
8 *upon the expiration of the existing contract. If the parties reach agreement after*
9 *the end of that term, the new contract must be effective retroactively to the*
10 *expiration date of the last contract unless the parties otherwise agree. The parties*
11 *may agree to:*

12 *(a) Include in or exclude from the new contract any term or condition of*
13 *employment; and*

14 *(b) Make any such term or condition of employment effective prospectively*
15 *or retroactively.*

16 5. *If the parties are unable to reach agreement through negotiations, the*
17 *governing body of the local government employer shall:*

18 *(a) Publish on the Internet website, if any, of the local government the final*
19 *offers made by the parties during negotiations; and*

20 *(b) Hold a public meeting in accordance with the provisions of chapter 241*
21 *of NRS to inform the public of those offers.*

22 6. This section does not preclude, but this chapter does not require, informal
23 discussion between an employee organization and a local government employer of
24 any matter which is not subject to negotiation or contract under this chapter. Any
25 such informal discussion is exempt from all requirements of notice or time
26 schedule.

27 **Sec. 9.** NRS 288.190 is hereby amended to read as follows:

28 288.190 ~~{Except in cases to which NRS 288.205 and 288.215 apply-}~~

29 1. Anytime before March 1, the dispute may be submitted to a mediator, if
30 both parties agree. Anytime after March 1, either party involved in negotiations
31 may request a mediator. If the parties do not agree upon a mediator, the
32 Commissioner shall submit to the parties a list of seven potential mediators. The
33 parties shall select their mediator from the list by alternately striking one name until
34 the name of only one mediator remains, who will be the mediator to hear the
35 dispute. The employee organization shall strike the first name.

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

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

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

48 5. *If the parties reach agreement through mediation during the term of an*
49 *existing contract between the parties, the new contract must become effective*
50 *upon the expiration of the existing contract. If the parties reach agreement after*
51 *the end of that term, the new agreement must be effective retroactively to the*
52 *expiration date of the last contract unless the parties otherwise agree.*

6. If the dispute is submitted to a mediator and then submitted to a fact finder ~~the~~ :

(a) *The governing body of the local government employer shall:*

(1) *Publish on the Internet website, if any, of the local government the final offers made by the parties during mediation; and*

(2) *Hold a public meeting in accordance with the provisions of chapter 241 of NRS to inform the public of those offers.*

(b) *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. 10. 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 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~~ *Except as otherwise provided in subsection 5, 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~~ *Before* the submission of the dispute to fact-finding, ~~the governing body of the local government employer, or the chief executive officer of the local government employer if specifically authorized by the governing body may:~~

(a) May elect to make the findings and recommendations on all or any specified issues final and binding on the parties.

(b) Shall elect to make the provisions of subsection 6 or 7 applicable to the fact-finding and the findings and recommendations of the fact finder.

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. If the governing body or chief executive officer of the local government employer has elected pursuant to subsection 5 to make the provisions of this subsection applicable, each of the parties shall, at the conclusion of the hearing, submit a single written statement containing its final offer for all of the unresolved issues. Within 10 days after the final offers are submitted, the fact finder shall accept one of the written statements in its entirety on the basis of the criteria provided in subsection 9, and report the decision to the parties.

7. If the governing body or chief executive officer of the local government employer has elected pursuant to subsection 5 to make the provisions of this subsection applicable, each of the parties shall, at the conclusion of the hearing, submit a final written offer for each unresolved issue. Within 10 days after the final offers are submitted, the fact finder shall, for each such issue, accept one of the written statements on the basis of the criteria provided in subsection 9, and report the decision to the parties.

8. Before the fact finder makes a recommendation or award, the governing body of the local government employer shall:

(a) Publish on the Internet website, if any, of the local government the final offers made by the parties during fact-finding; and

(b) Hold a public meeting in accordance with the provisions of chapter 241 of NRS to inform the public of those offers.

~~17.1~~ 9. Except as otherwise provided in subsection ~~10.1~~ 12, 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 ~~and~~ and employees in private employment, 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~~ conduct fact-finding relating to a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

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

4 ~~10.~~ 10. Within 45 days after the receipt of the report from the fact finder, the
5 governing body of the local government employer shall hold a public meeting in
6 accordance with the provisions of chapter 241 of NRS. The meeting must include a
7 discussion of:

8 (a) The issues of the parties submitted ~~pursuant to subsection 3;~~ *to the fact*
9 *finder;*

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

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

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

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

19 ~~12.~~ 12. Any sum of money which is maintained in a fund whose balance is
20 required by law to be:

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

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

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

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

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

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

35 ~~↪ This subsection does not preclude the voluntary submission of other issues by~~
36 ~~the parties pursuant to subsection 5.~~

37 13. If the findings and recommendations of the fact finder are binding
38 pursuant to subsection 5 and are made during the term of an existing contract
39 between the parties, the findings and recommendations must become effective
40 upon the expiration of the existing contract. If the findings and recommendations
41 are made after the end of that term, they must be effective retroactively to the
42 expiration date of the last contract between the parties unless the parties
43 otherwise agree.

44 Sec. 11. ~~NRS 288.280 is hereby amended to read as follows:~~

45 ~~288.280 Any controversy concerning a practice prohibited [practices] by~~
46 ~~NRS 288.270 may be submitted to the Board in the same manner and with the same~~
47 ~~effect as provided in NRS 288.110, except that an alleged failure to provide~~
48 ~~information as provided by NRS 288.180 shall be heard and determined by the~~
49 ~~Board as soon as possible after the complaint is filed with the Board.] (Deleted by~~
50 amendment.)

51 Sec. 12. NRS 353.264 is hereby amended to read as follows:

52 353.264 1. The Reserve for Statutory Contingency Account is hereby
53 created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 621.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, ~~288.203~~, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153, except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk or a person designated by the Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners or to the person designated by the Clerk pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board or the person designated by the Clerk.

Sec. 13. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in **subsection 3 and** NRS 354.59891 and 354.613, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

3. For the purposes of chapter 288 of NRS, a budgeted ending fund balance of not more than ~~16.6~~ 25 percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund that receives revenue from property taxes or the Local Government Tax Distribution Account:

(a) Is not subject to negotiations with an employee organization; and

(b) Must not be considered by a fact finder in determining the financial ability of the local government to pay compensation or monetary benefits.

Sec. 13.3. NRS 391.168 is hereby amended to read as follows:

391.168 1. The board of trustees of each school district shall:

(a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS ~~and~~ insofar as the provisions of that chapter apply to those employees; and

(b) Commencing with the 2015-2016 school year, implement the program established pursuant to paragraph (a).

2. The program of performance pay and enhanced compensation established by a school district pursuant to subsection 1 must have as its primary focus the improvement in the academic achievement of pupils and must give appropriate consideration to implementation in at-risk schools. In addition, the program may include, without limitation, the following components:

(a) Career leadership advancement options to maximize the retention of teachers in the classroom and the retention of administrators;

(b) Professional development;

(c) Group incentives; and

(d) Multiple assessments of individual teachers and administrators, with primary emphasis on individual pupil improvement and growth in academic achievement, including, without limitation, portfolios of instruction, leadership and professional growth, and other appropriate measures of teacher and administrator performance which must be considered.

Sec. 13.5. 1. There is hereby appropriated from the State General Fund to the Local Government Employee-Management Relations Board the sum of \$300,000 for the purpose of employing a Deputy Commissioner pursuant to NRS 288.090, as amended by section 2.5 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2017, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2017, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 15, 2017.

Sec. 14. 1. Except as otherwise provided in subsection 2, insofar as they conflict with the provisions of such an agreement, the amendatory provisions of this act do not apply during the current term of any ~~agreement~~ :

(a) Agreement described in section 1 of this act ;

(b) Agreement described in subsection 1 of NRS 288.140, as amended by section 3 of this act; or ~~any collective~~

(c) Collective bargaining agreement,

entered into before July 1, 2015, but do apply to any extension or renewal of such an agreement and to any agreement entered into on or after July 1, 2015. For the purposes of this subsection, the term of an agreement ends on the date provided in the agreement, notwithstanding any provision of the agreement that it remains in effect, in whole or in part, after that date until a successor agreement becomes effective.

2. The provisions of paragraph ~~(d)~~ **(f)** of subsection 3 of NRS 288.170, as amended by section 7 of this act, do not apply with respect to an attorney **assigned**

1 to a civil law division for the duration of a collective bargaining agreement to
2 which the attorney is a party as of July 1, 2011.

3 **Sec. 15.** NRS 288.201, 288.202, 288.203, 288.205, 288.215 and 288.217 are
4 hereby repealed.

5 **Sec. 16.** This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

288.201 Request for formation of panel to determine whether findings and recommendations of fact finder are final and binding.

288.202 Formation of panel to determine whether findings and recommendations of fact finder are final and binding.

288.203 Compensation of members of panel; claims.

288.205 Submission of dispute between certain employees and local government employer to fact finder; Time limited for certain matters.

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

288.217 Submission of dispute between school district and employee organization to arbitrator; hearing; determination of financial ability of school district; negotiations and final offer; effect of decision of arbitrator; content of decision.