

Amendment No. 941

Assembly Amendment to Senate Bill No. 168 First Reprint (BDR 23-602)

Proposed by: Assemblywoman Kirkpatrick

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

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) 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: 5/22/2015

S.B. No. 168—Revises provisions relating to collective bargaining by local government employers. (BDR 23-602)



SENATE BILL NO. 168--SENATORS SETTELMAYER,
GOICOECHEA, GUSTAVSON AND LIPPARELLI

FEBRUARY 17, 2015

JOINT SPONSORS: ASSEMBLYMEN KIRNER,
O'NEILL, TROWBRIDGE AND WHEELER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to collective bargaining by local government employers. (BDR 23-602)

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 the reopening of a collective bargaining agreement during a period of fiscal emergency; excluding certain money from collective bargaining negotiations and from consideration in determining the ability of local governments ~~to pay compensation and monetary benefits; and providing other matters properly relating thereto.~~ ~~to pay compensation and monetary benefits; and providing other matters properly relating thereto.~~

Legislative Counsel's Digest:

Existing law establishes certain mandatory subjects of bargaining in the negotiation of a collective bargaining agreement between a local government employer and a recognized employee organization. Among these mandatory subjects is a requirement that the parties bargain over procedures and requirements for the reopening and renegotiation of the agreement during periods of fiscal emergency. Currently, the existence of such an emergency is determined on the basis of revenue shortfalls or other criteria agreed to by the parties. (NRS 288.150) **Section 1.5** of this bill authorizes a local government to reopen a collective bargaining agreement during a fiscal emergency and sets forth the circumstances under which such an emergency shall be deemed to exist. The procedural requirements relating to the reopening of the agreement **generally** remain a mandatory subject of bargaining. **Before a local government may reopen an agreement, section 1 of this bill requires that the local government notify each affected employee organization and the Committee on Local Government Finance, and the Committee must concur that such an emergency exists.**

Existing law provides for the resolution of an impasse in collective bargaining through fact-finding, arbitration or both, but imposes limitations on the money that a fact finder or arbitrator may consider in determining the financial ability of a local government employer to pay compensation or monetary benefits. (NRS 288.200, 288.215, 288.217, 354.6241) **Section 2** of this bill provides ~~for certain governmental funds of a local government other than a school district, that (a budgeted) an amount equal to an ending fund balance of not more than 12.5 percent of the (total budgeted expenditures, less capital outlay,)~~ **16.6 percent of the general fund**

and all the other funds and accounts of a local government, combined, is not subject to negotiation and cannot be considered by a fact finder or arbitrator in determining ability to pay.

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:

1. If a local government employer determines that a fiscal emergency exists as defined by paragraph (a) of subsection 4 of NRS 288.150, it shall give written notice of its determination to the recognized employee organization, if any, for each bargaining unit among its employees and to the Committee on Local Government Finance. The notice must be accompanied by a copy of any audit report or other document on which the local government employer has relied in making its determination.

2. The Committee on Local Government Finance shall promptly conduct a public hearing on the matter and determine whether a fiscal emergency exists as described in subsection 1. Not later than 10 days after the close of the hearing, the Committee shall give written notice of its determination to the local government employer and each recognized employee organization, if any. If the Committee determines that a fiscal emergency exists, the local government employer may proceed as provided in subsection 4 of NRS 288.150.

~~Section 1.~~ **Sec. 1.5.** NRS 288.150 is hereby amended to read as follows:

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

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days' work required of an employee in a work year.
- (i) Discharge and disciplinary procedures.
- (j) Recognition clause.
- (k) The method used to classify employees in the bargaining unit.
- (l) Deduction of dues for the recognized employee organization.
- (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- (n) No-strike provisions consistent with the provisions of this chapter.
- (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective 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 consistent with the provisions of this chapter.

(w) Procedures ~~and requirements~~ *consistent with the provisions of subsection 4* for the reopening of collective bargaining agreements ~~that exceed 1 year in duration~~ for additional, further, new or supplementary negotiations during periods of fiscal emergency. ~~The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.~~

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:

(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.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to ~~take~~:

(a) Reopen a collective bargaining agreement for additional, further, new or supplementary negotiations relating to compensation or monetary benefits during a period of fiscal emergency. Negotiations must begin not later than 21 days after the local government employer notifies the employee organization receive notice pursuant to section 1 of this act of the determination of the Committee on Local Government Finance that a fiscal emergency exists. For the purposes of this section, ~~if~~ and section 1 of this act, a fiscal emergency shall be deemed to exist:

(1) If the amount of revenue received by the general fund of the local government employer during the last preceding fiscal year from all sources, except any nonrecurring source, declined by 5 percent or more from the amount of revenue received by the general fund from all sources, except any nonrecurring source, during the next preceding fiscal year, as reflected in the reports of the annual audits conducted for those fiscal years for the local government employer pursuant to NRS 354.624; or

(2) If the local government employer has budgeted an unreserved ending fund balance in its general fund for the current fiscal year in an amount equal to 4 percent or less of the actual expenditures from the general fund for the last preceding fiscal year, and the local government employer has provided a written

explanation of the budgeted ending fund balance to the Department of Taxation that includes the reason for the ending fund balance and the manner in which the local government employer plans to increase the ending fund balance.

(b) 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. 2. 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 ~~any local government other than a school district~~ for the purposes of chapter 288 of NRS, ~~it is budgeted~~ an amount equal to an ending fund balance of not more than 16.6 percent of the total budgeted expenditures, less capital outlay, for a general fund ~~and all the other funds and accounts of the local government, combined.~~

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

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

Sec. 3. The amendatory provisions of this act do not apply during the current term of any collective bargaining agreement entered into before the effective date of this act, but do apply to any extension or renewal of such an agreement and to any such agreement entered into on or after the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.