

SENATE BILL NO. 241—SENATOR ROBERSON

MARCH 10, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to collective bargaining.
(BDR 23-1030)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to collective bargaining; excluding school administrators from membership in a bargaining unit for the purposes of collective bargaining; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law generally requires a local government employer to engage in
2 collective bargaining with the recognized employee organization, if any, for each
3 bargaining unit among its employees. (NRS 288.150) Existing law also requires
4 employees in certain supervisory and administrative positions, including certain
5 school administrators, to be members of a different bargaining unit from the
6 employees they supervise and entirely excludes certain other employees from
7 membership in a bargaining unit. (NRS 288.140, 288.170) **Section 1** of this bill
8 excludes school administrators from membership in a bargaining unit, with the
9 result that such administrators may not engage in collective bargaining with their
10 employer. **Sections 2, 3 and 4** of this bill make conforming changes.

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

1 **Section 1.** NRS 288.170 is hereby amended to read as follows:
2 288.170 1. Each local government employer which has
3 recognized one or more employee organizations shall determine,
4 after consultation with the recognized organization or organizations,
5 which group or groups of its employees constitute an appropriate
6 unit or units for negotiating. The primary criterion for that
7 determination must be the community of interest among the
8 employees concerned.



* S B 2 4 1 *

2. A *school administrator, including, without limitation, a* principal, assistant principal, ~~for 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]~~, *must be excluded from any* bargaining unit.

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

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

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

6. As used in this section:

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

(b) "Supervisory employee" means a supervisory employee described in paragraph (a) of subsection 1 of NRS 288.075.

Sec. 2. NRS 391.166 is hereby amended to read as follows:

391.166 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed



1 to attract and retain those employees. The program must be
2 negotiated pursuant to chapter 288 of NRS , *insofar as the*
3 *provisions of that chapter apply to those employees*, and must
4 include, without limitation, the attraction and retention of:

5 (a) Licensed teachers, school psychologists, school librarians,
6 school counselors and administrators employed at the school level
7 who have been employed in that category of position for at least 5
8 years in this State or another state and who are employed in schools
9 which are at-risk, as determined by the Department pursuant to
10 subsection 8; and

11 (b) Teachers who hold a license or endorsement in the field of
12 mathematics, science, special education, English as a second
13 language or other area of need within the school district, as
14 determined by the Superintendent of Public Instruction.

15 3. A program of incentive pay established by a school district
16 must specify the type of financial incentives offered to the licensed
17 educational personnel. Money available for the program must not be
18 used to negotiate the salaries of individual employees who
19 participate in the program.

20 4. If the board of trustees of a school district wishes to receive
21 a grant of money from the Grant Fund, the board of trustees shall
22 submit to the Department an application on a form prescribed by the
23 Department. The application must include a description of the
24 program of incentive pay established by the school district.

25 5. The Superintendent of Public Instruction shall compile a list
26 of the financial incentives recommended by each school district that
27 submitted an application. On or before December 1 of each year, the
28 Superintendent shall submit the list to the Interim Finance
29 Committee for its approval of the recommended incentives.

30 6. After approval of the list of incentives by the Interim
31 Finance Committee pursuant to subsection 5 and within the limits of
32 money available in the Grant Fund, the Department shall provide
33 grants of money to each school district that submits an application
34 pursuant to subsection 4 based upon the amount of money that is
35 necessary to carry out each program. If an insufficient amount of
36 money is available to pay for each program submitted to the
37 Department, the amount of money available must be distributed pro
38 rata based upon the number of licensed employees who are
39 estimated to be eligible to participate in the program in each school
40 district that submitted an application.

41 7. An individual employee may not receive as a financial
42 incentive pursuant to a program an amount of money that is more
43 than \$3,500 per year.

44 8. The Department shall, in consultation with representatives
45 appointed by the Nevada Association of School Superintendents and



1 the Nevada Association of School Boards, develop a formula for
2 identifying at-risk schools for purposes of this section. The formula
3 must be developed on or before July 1 of each year and include,
4 without limitation, the following factors:

5 (a) The percentage of pupils who are eligible for free or
6 reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

7 (b) The transiency rate of pupils;

8 (c) The percentage of pupils who are limited English proficient;

9 (d) The percentage of pupils who have individualized education
10 programs; and

11 (e) The percentage of pupils who drop out of high school before
12 graduation.

13 9. The board of trustees of each school district that receives a
14 grant of money pursuant to this section shall evaluate the
15 effectiveness of the program for which the grant was awarded. The
16 evaluation must include, without limitation, an evaluation of
17 whether the program is effective in recruiting and retaining the
18 personnel as set forth in subsection 2. On or before December 1 of
19 each year, the board of trustees shall submit a report of its
20 evaluation to the:

21 (a) Governor;

22 (b) State Board;

23 (c) Interim Finance Committee;

24 (d) If the report is submitted in an even-numbered year, Director
25 of the Legislative Counsel Bureau for transmittal to the next regular
26 session of the Legislature; and

27 (e) Legislative Committee on Education.

28 **Sec. 3.** NRS 391.168 is hereby amended to read as follows:

29 391.168 1. The board of trustees of each school district shall:

30 (a) Establish a program of performance pay and enhanced
31 compensation for the recruitment and retention of licensed teachers
32 and administrators which must be negotiated pursuant to chapter
33 288 of NRS ~~§~~, *insofar as the provisions of that chapter apply to*
34 *those employees*; and

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

37 2. The program of performance pay and enhanced
38 compensation established by a school district pursuant to subsection
39 1 must have as its primary focus the improvement in the academic
40 achievement of pupils and must give appropriate consideration to
41 implementation in at-risk schools. In addition, the program may
42 include, without limitation, the following components:

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



- 1 (b) Professional development;
- 2 (c) Group incentives; and
- 3 (d) Multiple assessments of individual teachers and
- 4 administrators, with primary emphasis on individual pupil
- 5 improvement and growth in academic achievement, including,
- 6 without limitation, portfolios of instruction, leadership and
- 7 professional growth, and other appropriate measures of teacher and
- 8 administrator performance which must be considered.

9 **Sec. 4.** NRS 391.3116 is hereby amended to read as follows:

10 391.3116 Excluding the provisions of NRS 391.3129, the
11 provisions of NRS 391.311 to 391.3197, inclusive, do not apply to a
12 teacher ~~[- administrator,]~~ or other licensed employee who has
13 entered into a contract with the board negotiated pursuant to chapter
14 288 of NRS if the contract contains separate provisions relating to
15 the board's right to dismiss or refuse to reemploy the employee . ~~for~~
16 ~~demote an administrator.]~~

17 **Sec. 5.** Insofar as they conflict with the provisions of such an
18 agreement, the amendatory provisions of this act do not apply
19 during the current term of any collective bargaining agreement
20 entered into before the effective date of this act, but do apply to any
21 extension or renewal of such an agreement and to any collective
22 bargaining agreement entered into on or after the effective date of
23 this act. For the purposes of this section, the term of a collective
24 bargaining agreement ends on the date provided in the agreement,
25 notwithstanding any provision of the agreement that it remains in
26 effect, in whole or in part, after that date until a successor agreement
27 becomes effective.

28 **Sec. 6.** This act becomes effective upon passage and approval.

