

CHAPTER.....

AN ACT relating to local governments; revising provisions relating to collective bargaining between local government employers and employee organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires a local government employer to engage in collective bargaining with the recognized employee organization, if any, for each bargaining unit among its employees. In particular, existing law establishes certain mandatory subjects of bargaining in the negotiation of such collective bargaining agreements. Among those mandatory subjects are sick leave, vacation leave, holidays and other paid or unpaid leaves of absence. (NRS 288.150) **Section 2** of this bill clarifies that leave provided by a local government employer to an employee for time spent by the employee in performing duties or providing services for an employee organization is a mandatory subject of collective bargaining.

Under existing law, if a local government employer and an employee organization that represents local government employees, other than teachers and educational support personnel, fail to resolve a disputed issue in negotiating a collective bargaining agreement, either party may submit the dispute to an impartial fact finder. Before submitting the dispute to the fact finder, the parties may agree to make the findings and recommendation of the fact finder final and binding. If the parties cannot agree, either party may request the formation of a panel to determine whether the findings and recommendations of the fact finder on certain issues are to be final and binding. (NRS 288.200) **Sections 3 and 7** of this bill remove or repeal the provisions relating to such panels. **Section 3** also provides that the findings and award of the fact finder are final and binding on the parties. **Sections 1 and 6** of this bill make conforming changes.

Existing law establishes certain procedures and requirements applicable to the fact-finding process in negotiations between local government employers and recognized employee organizations representing firefighters and police officers. (NRS 288.205, 288.215) Those procedures and requirements differ in certain respects from the procedures and requirements applicable to fact-finding in labor negotiations involving other local government employees. **Section 4** of this bill makes additional changes applicable only to labor disputes involving firefighters and police officers. Specifically, **section 4** provides that unless the parties to the dispute agree to make the findings of the fact finder final and binding: (1) the report of the fact finder must include recommendations for settlement of the dispute, in lieu of an award; and (2) the findings and recommendations of the fact finder are not binding on the parties.

Existing law authorizes a local government employer to provide leave to an employee for time spent by the employee in performing duties or providing services for an employee organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer. (NRS 288.225) **Section 5** of this bill provides that unless the terms of the agreement between a local government employer and an employee organization provide otherwise, if the local government employer agrees to provide such leave, there is a rebuttable presumption that the full cost of such



leave has been offset by the value of concessions made by the employee organization.

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

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

Section 1. NRS 288.045 is hereby amended to read as follows:
288.045 “Fact-finding” means the formal procedure by which an investigation of a labor dispute is conducted by ~~one person, a panel or a board~~ *a fact finder* at which:

1. Evidence is presented; and
2. A written report is issued by the fact finder describing the issues involved , *making findings* and setting forth recommendations for settlement ~~which may or may not be binding as provided in NRS 288.200.~~ *or an award.*

Sec. 2. 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 consistent with the provisions of this chapter ~~11~~ , *including, without limitation, leave granted pursuant to NRS 288.225 for time spent by an employee in performing duties or providing services for an employee organization.*
- (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) Except as otherwise provided in subsection 6, 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) Except as otherwise provided in subsections 7 and 9, the policies for the transfer and reassignment of teachers.

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

(w) Procedures consistent with the provisions of subsection 4 for the reopening of collective bargaining agreements for additional, further, new or supplementary negotiations during periods of fiscal emergency.

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:

(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 that a fiscal emergency exists. For the purposes of this section, 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. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 388A.330, the new governing body may terminate the employment of any teachers or other employees of the charter school, and any provision of any agreement negotiated pursuant to this chapter that provides otherwise is unenforceable and void.

7. The board of trustees of a school district in which a school is designated as a turnaround school pursuant to NRS 388G.400 or the principal of such a school, as applicable, may take any action authorized pursuant to NRS 388G.400, including, without limitation:

(a) Reassigning any member of the staff of such a school; or

(b) If the staff member of another public school consents, reassigning that member of the staff of the other public school to such a school.

8. Any provision of an agreement negotiated pursuant to this chapter which differs from or conflicts in any way with the provisions of subsection 7 or imposes consequences on the board of trustees of a school district or the principal of a school for taking any action authorized pursuant to subsection 7 is unenforceable and void.

9. The board of trustees of a school district may reassign any member of the staff of a school that is converted to an achievement charter school pursuant to NRS 388B.200 to 388B.230, inclusive, and any provision of any agreement negotiated pursuant to this chapter which provides otherwise is unenforceable and void.

10. 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.

11. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

12. As used in this section, "achievement charter school" has the meaning ascribed to it in NRS 385.007.

Sec. 3. 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 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}~~ **award** 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 the submission of the dispute to fact finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.}~~

~~—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] 8, the fact finder [; whether the fact finder's recommendations are to be binding or not,] shall base [such recommendations or] the 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 to grant monetary benefits and the fact finder's ~~frecommendations or~~ award.

~~[8-] The award is final and binding on the parties.~~

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



(a) The issues of the parties submitted pursuant to ~~subsection 3;~~ *this section;*

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

(c) The overall fiscal impact of the findings and ~~recommendations;~~ *award*, which must not include a discussion of the details of the report.

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

~~9;~~ 7. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and ~~recommendations;~~ *award*. The report must include, without limitation, an analysis of the impact of the findings and ~~recommendations;~~ *award* on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

~~10;~~ 8. Any sum of money which is maintained in a fund whose balance is required by law to be:

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

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

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

~~11;~~ 9. The issues which may be included in *an award by a panel's order pursuant to subsection 6* ~~fact finder~~ 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;~~

10. Except for the period prescribed by subsection 6, any time limit prescribed by this section may be extended by agreement of the parties.

Sec. 4. NRS 288.205 is hereby amended to read as follows:

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



~~111~~ (a) If the parties have not reached agreement by April 10, either party may submit the dispute to an impartial fact finder at any time for the findings of the fact finder.

~~121~~ (b) In a regular legislative year, the fact-finding hearing must be stayed up to 20 days after the adjournment of the Legislature sine die.

~~131~~ (c) *Unless the parties otherwise agree, before the submission of the dispute to fact-finding, to make the findings of the fact finder on all or any specified issues final and binding on the parties:*

(1) The report of the fact finder must include recommendations for settlement on the issues submitted to the fact finder, in lieu of an award;

(2) The provisions of NRS 288.200 applicable to an award apply to the recommendations of the fact finder; and

(3) The findings and recommendations of the fact finder are not binding on the parties.

2. Any time limit prescribed by this section ~~for NRS 288.200~~ may be extended by agreement of the parties.

Sec. 5. NRS 288.225 is hereby amended to read as follows:

288.225 1. A local government employer may agree to provide leave to any of its employees for time spent by the employee in performing duties or providing services for an employee organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer pursuant to this chapter.

2. Unless the terms of the agreement between a local government employer and an employee organization provide otherwise, if the local government employer agrees to provide leave to any of its employees as described in subsection 1, there is a rebuttable presumption that the full cost of such leave has been offset by the value of concessions made by the employee organization. The presumption created by this subsection may only be rebutted by clear and convincing evidence.

Sec. 6. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby 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, 62I.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. 7. NRS 288.201, 288.202 and 288.203 are hereby repealed.

Sec. 8. This act becomes effective on July 1, 2017.

