

Amendment No. 1101

Assembly Amendment to Senate Bill No. 478 First Reprint (BDR 23-1043)

Proposed by: Assembly Committee on Government Affairs

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

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



Date: 6/2/2017

S.B. No. 478—Revises provisions relating to certain disciplinary action against state employees. (BDR 23-1043)



SENATE BILL NO. 478—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 27, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to certain disciplinary action against state employees. (BDR 23-1043)

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

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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 state employees; revising provisions governing the dismissal, involuntary demotion or suspension of a permanent classified employee in the state service; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an appointing authority to take certain actions when dismissing, involuntarily demoting or suspending a permanent classified employee in the state service or conducting an internal administrative investigation which may result in the dismissal, involuntary demotion or suspension of a permanent classified employee. (NRS 284.385, 284.387; NAC 284.655) **Section 2** of this bill requires an appointing authority to provide an employee with notice of the allegations against the employee within 30 days after the appointing authority becomes aware, or reasonably should have become aware, of the allegations. ~~and requires the appointing authority to provide such notice before commencing any part of the internal administrative investigation into those allegations.~~

Existing law requires an appointing authority to complete an internal administrative investigation and make a determination whether to dismiss, involuntarily demote or suspend an employee within 90 days after providing the employee with notice of the allegations, unless the appointing authority obtains approval for an extension of time. (NRS 284.387) **Section 2** prohibits an appointing authority from dismissing, involuntarily demoting or suspending an employee based on allegations if the investigation into those allegations does not result in a determination regarding disciplinary action within the prescribed time period.

Existing law authorizes a permanent employee to appeal a dismissal, involuntary demotion or suspension in a hearing before the hearing officer of the Personnel Commission. (NRS 284.390) If the employee requests such a hearing, **section 3** of this bill requires the appointing authority of the employee to produce and allow the employee or his or her representative to inspect or receive a copy of any document or evidence related to the internal investigation leading to the employee's dismissal, involuntary demotion or suspension within 5 days after a request is made by the employee or his or her representative.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 284.387 is hereby amended to read as follows:

284.387 1. An employee who is the subject of an internal administrative investigation that could lead to disciplinary action against the employee pursuant to NRS 284.385 must be:

(a) Provided notice in writing of the allegations against the employee *within 30 days after the date on which the appointing authority becomes aware, or reasonably should have become aware, of the allegations. The notice must be provided* before ~~any part of the investigation begins and before~~ the employee is questioned regarding the allegations. ~~[-and]~~

(b) Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented.

2. An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Administrator upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

3. If the appointing authority does not make a determination within 90 days after the employee is provided notice of the allegations or within any extended time period approved pursuant to subsection 2, the appointing authority shall not take any disciplinary action against the employee pursuant to NRS 284.385 which is based on those allegations.

Sec. 3. NRS 284.390 is hereby amended to read as follows:

284.390 1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Commission to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. Upon verification that a request for a hearing has been made pursuant to subsection 1, the appointing authority of the employee who was the subject of the internal administrative investigation shall, within 5 days after receiving a request by the employee or his or her representative, produce and allow the employee or his or her representative to inspect or receive a copy of any document concerning the internal administrative investigation, including, without limitation, any

1 *recordings, notes, transcripts of interviews or other documents or evidence*
2 *related to the internal administrative investigation.*

3 4. The employee may represent himself or herself at the hearing or be
4 represented by an attorney or other person of the employee's own choosing.

5 ~~4+~~ 5. Technical rules of evidence do not apply at the hearing.

6 ~~5+~~ 6. After the hearing and consideration of the evidence, the hearing officer
7 shall render a decision in writing, setting forth the reasons therefor.

8 ~~6+~~ 7. If the hearing officer determines that the dismissal, demotion or
9 suspension was without just cause as provided in NRS 284.385, the action must be
10 set aside and the employee must be reinstated, with full pay for the period of
11 dismissal, demotion or suspension.

12 ~~7+~~ 8. The decision of the hearing officer is binding on the parties.

13 ~~8+~~ 9. Any petition for judicial review of the decision of the hearing officer
14 must be filed in accordance with the provisions of chapter 233B of NRS.

15 **Sec. 4.** This act becomes effective on July 1, 2017.