

SENATE BILL NO. 469—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 27, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to collective bargaining between a local government employer and a recognized employee organization. (BDR 23-685)

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; revising provisions relating to the reopening of a collective bargaining agreement during a period of fiscal emergency; revising provisions governing the use of a budgeted ending fund balance; 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 those mandatory subjects is a requirement that the parties bargain over procedures for the reopening and renegotiation of the agreement during a period of fiscal emergency. Existing law provides that a fiscal emergency exists for a local government employer if: (1) the amount of revenue received by the general fund of the local government employer during the immediately preceding fiscal year declined by 5 percent or more from the comparable amount of revenue received during the fiscal year before that; or (2) the local government employer, under certain circumstances, has budgeted an unreserved ending fund balance in its general fund for the current fiscal year that is equal to 4 percent or less than the actual expenditures from that fund during the immediately preceding fiscal year. (NRS 288.150) **Section 1** of this bill eliminates that method for determining the existence of a fiscal emergency and provides instead that the existence of such an emergency is determined on the basis of revenue shortfalls or other criteria agreed to by the parties as part of the negotiation of a collective bargaining agreement.

Existing law provides for the resolution of an impasse in collective bargaining through fact-finding, arbitration or both, but imposes limitations on the amount of 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 eliminates a provision of existing law which provides that, for certain governmental funds of a



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local government other than a school district, a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, is not subject to negotiation and cannot be considered by a fact finder or arbitrator in determining the local government employer's ability to pay.

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

Section 1. 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.

(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.



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- 1 (q) Duration of collective bargaining agreements.
- 2 (r) Safety of the employee.
- 3 (s) Teacher preparation time.
- 4 (t) Materials and supplies for classrooms.
- 5 (u) Except as otherwise provided in subsections 7 and 9, the
- 6 policies for the transfer and reassignment of teachers.
- 7 (v) Procedures for reduction in workforce consistent with the
- 8 provisions of this chapter.
- 9 (w) Procedures ~~consistent with the provisions of subsection 4)~~
- 10 *and requirements* for the reopening of collective bargaining
- 11 agreements *that exceed 1 year in duration* for additional, further,
- 12 new or supplementary negotiations during periods of fiscal
- 13 emergency. *The requirements for the reopening of a collective*
- 14 *bargaining agreement must include, without limitation, measures*
- 15 *of revenue shortfalls or reductions relative to economic indicators*
- 16 *such as the Consumer Price Index, as agreed upon by both*
- 17 *parties.*

18 3. Those subject matters which are not within the scope of

19 mandatory bargaining and which are reserved to the local

20 government employer without negotiation include:

21 (a) Except as otherwise provided in paragraph (u) of subsection

22 2, the right to hire, direct, assign or transfer an employee, but

23 excluding the right to assign or transfer an employee as a form of

24 discipline.

25 (b) The right to reduce in force or lay off any employee because

26 of lack of work or lack of money, subject to paragraph (v) of

27 subsection 2.

28 (c) The right to determine:

29 (1) Appropriate staffing levels and work performance

30 standards, except for safety considerations;

31 (2) The content of the workday, including without limitation

32 workload factors, except for safety considerations;

33 (3) The quality and quantity of services to be offered to the

34 public; and

35 (4) The means and methods of offering those services.

36 (d) Safety of the public.

37 4. Notwithstanding the provisions of any collective bargaining

38 agreement negotiated pursuant to this chapter, a local government

39 employer is entitled to ~~:-~~

40 ~~—(a) Reopen a collective bargaining agreement for additional,~~

41 ~~further, new or supplementary negotiations relating to compensation~~

42 ~~or monetary benefits during a period of fiscal emergency.~~

43 ~~Negotiations must begin not later than 21 days after the local~~

44 ~~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~~ **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



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(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. 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, a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, for a general fund:~~

~~—(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. This act becomes effective on July 1, 2017.

