

Amendment No. 309

Assembly Amendment to Assembly Bill No. 385	(BDR 23-52)
Proposed by: Assembly Committee on Government Affairs	
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.



ASSEMBLY BILL NO. 385—ASSEMBLYWOMEN BENITEZ-THOMPSON AND BRITTNEY
MILLER

MARCH 23, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to compensation received by public officers and employees. (BDR 23-52)

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 public employment; ~~prohibiting~~ **revising provisions relating to the compensation received by** officers and employees of certain public bodies; ~~from receiving certain payments or benefits upon termination of employment; establishing the maximum allowed salaries for officers and employees of certain public bodies; including merit based salary increases and allowances for transportation in the calculation of such an officer or employee's salary for certain purposes;~~

Legislative Counsel's Digest:

~~Section 1 of~~ **With certain exceptions**, this bill ~~provides that~~ **prohibits a public body from entering into an employment contract that entitles an officer or employee of the public body to receive: (1) any fringe benefit, unless the public body has adopted a policy authorizing all persons employed in a similar position to receive the benefit; (2) any bonus, unless the bonus is based on merit and awarded at a public meeting; and (3) certain wages or other payments** upon the termination of the employment of ~~an~~ **the** officer or employee ~~of a public body, except an~~ **for cause or resignation of the** officer or employee **when an investigation relating to his or her employment is pending. This bill also prescribes certain payments and benefits to which an officer or employee of a public body is entitled or remains entitled upon termination of employment. This bill exempts from these requirements employment contracts for officers and employees of the Nevada System of Higher Education** ~~the person must not receive from the employer any: (1) wages in lieu of notice or administrative leave; (2) salary, benefits or equivalent compensation, including severance pay; (3) bonus; or (4) other form of payment.~~

~~Existing law provides that the salary of certain state employees must not exceed 95 percent of the salary for the Office of Governor. (NRS 281.123) Section 2 of this bill provides that the salary of an officer or employee of a public body whose salary is not subject to this limitation, except an officer or employee of the Nevada System of Higher Education, must not exceed 150 percent of the salary for the Office of Governor. Section 2 also revises the definition of the term "salary" for purposes of these limitations to include any: (1) increases in salary based on merit, including bonuses; and (2) allowance for transportation.~~ **and employment contracts that are negotiated pursuant to a collective bargaining agreement.**

For the purposes of this bill, the term "public body" has the same meaning as in the Open Meeting Law. (NRS 241.015)

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, ~~upon the termination of the~~ a public body shall not enter into an employment ~~of~~ contract that entitles an officer or employee of ~~of~~ the public body ~~to receive~~ from the employer any:

(a) Any fringe benefit, unless the public body has adopted a policy authorizing all persons employed by the public body in a similar position to receive the benefit.

(b) Any bonus, unless the bonus is based on merit and awarded at a public meeting.

(c) Upon the termination of the employment of the officer or employee for cause or the resignation of the officer or employee when an investigation relating to his or her employment is pending, any:

(1) Wages in lieu of notice or administrative leave;

~~(b)~~ (2) Salary, benefits or equivalent compensation, including, without limitation, severance pay;

~~(c)~~ (3) Bonus; or

~~(d)~~ (4) Other form of payment.

2. Upon the termination of the employment of an officer or employee of a public body, the person:

(a) Must be paid for any portion of accumulated annual leave and compensatory time and unused sick leave authorized by law ~~or~~ policy of the public body.

(b) Remains entitled to any pension or retirement benefit provided by the Public Employees' Retirement System or other retirement or pension program of which he or she is a member.

3. Nothing in this section shall be construed to limit or prohibit ~~of~~:

(a) A person from:

~~(a)~~ (1) Receiving compensation for past services upon his or her termination;

~~(b)~~ (2) Bringing any cause of action for wrongful or unlawful acts committed against the person relating to his or her employment or termination; or

~~(c)~~ (3) Accepting any legal or equitable relief awarded or recovered for wrongful or unlawful acts committed against the person relating to his or her employment or termination.

(b) A public body from entering into an agreement to pay the cost of purchasing credit for service on behalf of an officer or employee pursuant to NRS 286.3007 or under any other retirement or pension program, if applicable.

4. The provisions of this section do not apply to ~~officers~~:

(a) Any contract negotiated pursuant to a collective bargaining agreement.

(b) Officers and employees of the Nevada System of Higher Education.

5. As used in this section, "public body" has the meaning ascribed to it in NRS 241.015.

1 **Sec. 2.** ~~[NRS 281.122 is hereby amended to read as follows:~~

2 ~~281.123 1. Except as otherwise provided in subsection [3] 5 or NRS~~
3 ~~281.1223, or as authorized by statute referring specifically to that position, the~~
4 ~~salary of a person employed by the State or any agency of the State must not exceed~~
5 ~~95 percent of the salary for the office of Governor during the same period.~~

6 ~~2. The salary of an officer or employee of a public body whose salary is not~~
7 ~~subject to the limitations prescribed in subsection 1 must not exceed 150 percent~~
8 ~~of the salary for the Office of Governor during the same period.~~

9 ~~3. A person whose salary is subject to the limitations prescribed in this~~
10 ~~section:~~

11 ~~(a) Is entitled to receive a salary, any pension or retirement benefit provided~~
12 ~~by the Public Employees' Retirement System or other retirement or pension~~
13 ~~system of which he or she is a member and any health care benefits provided by~~
14 ~~his or her employer; and~~

15 ~~(b) Must not receive any other salary or benefit for services provided.~~

16 ~~4. As used in [subsection 1, the] this section:~~

17 ~~(a) "Public body" has the meaning ascribed to it in NRS 241.015.~~

18 ~~(b) The term "salary":~~

19 ~~[(a)] (1) Includes any:~~

20 ~~[(1)] (I) Payment received by an employee for being available to work~~
21 ~~although the employee was not actually required to perform the work;~~

22 ~~[(2)] (II) Increase in salary provided to compensate for a rise in the cost of~~
23 ~~living; and~~

24 ~~[(3)] (III) Increase in salary based on merit, including, without~~
25 ~~limitation, bonuses;~~

26 ~~[(IV) Payment received as compensation for purportedly performing~~
27 ~~additional duties []; and~~

28 ~~[(V) Allowance for transportation provided to the officer or employee~~
29 ~~pursuant to NRS 281.160.~~

30 ~~[(b)] (2) Excludes any:~~

31 ~~[(1)] (I) Payment received as compensation for overtime even if that~~
32 ~~payment is otherwise authorized by law; and~~

33 ~~[(2)] (II) Rent or utilities supplied to an employee if the employee is~~
34 ~~required by statute or regulation to live in a particular dwelling.~~

35 ~~[3.] 5. The provisions of [subsection 1] this section do not apply to the~~
36 ~~salaries of:~~

37 ~~(a) Dentists and physicians employed full time by the State; or~~

38 ~~(b) Officers and employees of the Nevada System of Higher Education.]~~

39 **(Deleted by amendment.)**

40 **Sec. 3.** The amendatory provisions of ~~[sections 1 and 2 of]~~ this act do not
41 apply to a contract entered into before October 1, 2021, but do apply to any renewal
42 or extension of such a contract.