

SENATE BILL NO. 286—SENATOR D. HARRIS

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public employees.
(BDR 23-1012)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public employees; revising the definition of “supervisory employee” for purposes of collective bargaining for local government and state employees to include certain peace officers and persons who provide civilian support services to a law enforcement agency; revising the definition of “employee” for purposes of collective bargaining for state employees to include category II peace officers who are in the unclassified service of the State; revising the provisions relating to bargaining units of state employees who are peace officers or supervisory employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits employees who exercise certain duties under a paramilitary command structure from being deemed supervisory employees solely due to the exercise of such duties. (NRS 288.138) **Section 1** of this bill also excludes from being deemed supervisory employees solely due to the exercise of certain duties under a paramilitary command structure: (1) certain Executive Department and local government employees who have the powers of peace officers; and (2) certain Executive Department and local government employees who provide civilian support services to a law enforcement agency.

Existing law defines “employee” for purposes of collective bargaining with the Executive Department to mean a person who is : (1) employed in the classified service of the State; or (2) employed by the Nevada System of Higher education in the classified service of the State or required to be paid in accordance with the pay plan for the classified service of the State. (NRS 288.425) **Section 2** of this bill includes in the definition of “employee” persons who are employed in the classified or unclassified service of the State as category II peace officers.



* S B 2 8 6 *

Existing law requires the Government Employee-Management Relations Board to establish one bargaining unit per group for certain occupational groups of employees of the Executive Department, including category I peace officers, category II peace officers, category III peace officers and supervisory employees from all occupational groups. (NRS 288.515) **Section 3** of this bill: (1) requires the Board to establish a separate bargaining unit for supervisory employees who are category I, category II or category II peace officers; and (2) provides that a bargaining unit for peace officers must be composed exclusively of peace officers.

Section 4 of this bill provides that the amendatory provisions of this bill do not apply during the current term of any collective bargaining agreement entered into before October 1, 2021.

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

Section 1. NRS 288.138 is hereby amended to read as follows:
288.138 1. "Supervisory employee" includes:

(a) Any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. If any of the following persons perform some, but not all, of the foregoing duties under a paramilitary command structure, such a person shall not be deemed a supervisory employee solely because of such duties:

(1) A police officer, as defined in NRS 288.215;

(2) A firefighter, as defined in NRS 288.215; ~~for~~

(3) A person who:

(I) Has the powers of a peace officer pursuant to NRS 289.150 ~~to 289.170, 289.180 or 289.190;~~ *to 289.360, inclusive;* and

(II) Is ~~a local government~~ *an* employee who is authorized to be in a bargaining unit pursuant to the provisions of this chapter ~~to~~ *;* ~~or~~

(4) A person who:

(I) Provides civilian support services to a law enforcement agency; and

(II) Is an employee who is authorized to be in a bargaining unit pursuant to the provisions of this chapter.

(b) Any individual or class of individuals appointed by the employer and having authority on behalf of the employer to:



(1) Hire, transfer, suspend, lay off, recall, terminate, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or to effectively recommend such action;

(2) Make budgetary decisions; and

(3) Be consulted on decisions relating to collective bargaining,

↳ if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.

2. Nothing in this section shall be construed to mean that an employee who has been given incidental administrative duties shall be classified as a supervisory employee.

Sec. 2. NRS 288.425 is hereby amended to read as follows:

288.425 1. "Employee" means a person who:

(a) Is employed in the classified service of the State pursuant to chapter 284 of NRS; ~~for~~

(b) *Is employed as a category II peace officer, as defined in NRS 289.470, in the classified or unclassified service of the State; or*

(c) Is employed by the Nevada System of Higher Education in the classified service of the State or is required to be paid in accordance with the pay plan for the classified service of the State.

2. The term does not include:

(a) A managerial employee whose primary function, as determined by the Board, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;

(b) An elected official or any person appointed to fill a vacancy in an elected office;

(c) A confidential employee;

(d) A temporary employee who is employed for a fixed period of 4 months or less;

(e) A commissioned officer or an enlisted member of the Nevada National Guard;

(f) Any person employed by the Nevada System of Higher Education who is not in the classified service of the State or required to be paid in accordance with the pay plan of the classified service of the State; or



(g) Any person employed by the Public Employees' Retirement System who is required to be paid in accordance with the pay plan of the classified service of the State.

Sec. 3. NRS 288.515 is hereby amended to read as follows:

288.515 1. ~~[[The]]~~ *Except as otherwise provided in subsection 2, the* Board shall establish one bargaining unit for each of the following occupational groups of employees of the Executive Department:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and regulatory inspectors.

(d) Professional employees who do not provide health care, including, without limitation, engineers, scientists and accountants.

(e) Professional employees who provide health care, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(f) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(g) Category I peace officers.

(h) Category II peace officers.

(i) Category III peace officers.

(j) *Supervisory employees who are category I, category II or category III peace officers.*

(k) Supervisory employees from all occupational groups ~~[[H]]~~ *other than category I, category II or category III peace officers.*

~~[[k]]~~ (l) Firefighters.

2. *Any bargaining unit established for peace officers pursuant to subsection 1 must be composed exclusively of peace officers.*

3. The Board shall determine the classifications of employees within each bargaining unit. The parties to a collective bargaining agreement may assign a new classification to a bargaining unit based upon the similarity of the new classification to other classifications within the bargaining unit. If the parties to a collective bargaining agreement do not agree to the assignment of a new classification to a bargaining unit, the Board must assign a new classification to a bargaining unit based upon the similarity of the new classification to other classifications within the bargaining unit.



~~13.1~~ 4. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

(c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

(d) "Professional employee" means an employee engaged in work that:

(1) Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

(2) Involves the consistent exercise of discretion and judgment in its performance;

(3) Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and

(4) Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.

(e) "Supervisory employee" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 288.138.

Sec. 4. Insofar as they conflict with the provisions of such an agreement, the amendatory provisions of this act do not apply during the current term of any collective bargaining agreement entered into before October 1, 2021, but do apply to any extension or renewal of such an agreement and to any collective bargaining agreement entered into on or after October 1, 2021. For the purposes of this section, the term of a collective bargaining agreement ends on the date provided in the agreement, notwithstanding any provision of the agreement that it remains in effect, in whole or in part, after that date until a successor agreement becomes effective.

