

ASSEMBLY BILL NO. 377—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 22, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public employees.
(BDR 23-401)

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; deeming, under certain circumstances, a bailiff or deputy marshal to be a local government employee of the county in which he or she is appointed for the purposes of collective bargaining for local government employees; setting forth certain restrictions on collective bargaining between a county and an employee organization which represents bailiffs or deputy marshals; revising the definition of “supervisory employee” for purposes of collective bargaining for local government and state employees to include persons who provide civilian support services to a law enforcement agency; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires collective bargaining between local government
- 2 employers and local government employees and sets forth various requirements and
- 3 procedures for such collective bargaining. (NRS 288.131-288.280) Existing law
- 4 requires, in general, a local government employer to engage in good faith in
- 5 collective bargaining with the recognized employee organization, if any, for each
- 6 bargaining unit among its employees. Existing law also establishes the scope of
- 7 bargaining in collective bargaining negotiations between a local government
- 8 employer and a recognized employee organization. (NRS 288.150)
- 9 Existing law authorizes the judge of each district court to appoint a bailiff. In a
- 10 county whose population is 700,000 or more (currently only Clark County), such a
- 11 judge is authorized to appoint a deputy marshal instead of a bailiff. Under existing
- 12 law, a bailiff or deputy marshal serves at the pleasure of the judge, but his or her
- 13 salary is fixed and paid by the county wherein he or she is appointed. (NRS 3.310)



14 Existing law similarly authorizes a justice of the peace for a justice court in a
15 county whose population is 700,000 or more to appoint a deputy marshal. Under
16 existing law, the deputy marshal serves at the pleasure of the justice of the peace,
17 but his or her salary is fixed and paid by the county wherein he or she is appointed.
18 (NRS 4.353)

19 **Section 1** of this bill deems a bailiff or deputy marshal to be a local government
20 employee of the county in which he or she is appointed for the purposes of the
21 provisions governing collective bargaining negotiations between local government
22 employers and local government employees. **Sections 1 and 3** of this bill limit the
23 scope of mandatory bargaining for negotiations between a county and an employee
24 organization which represents bailiffs or deputy marshals appointed in that county
25 to certain subjects which are entirely within the control of the county. **Section 1**
26 also prohibits negotiations between those parties concerning any subject matter
27 which is within the control of the judiciary. **Section 1** provides that the provisions
28 of **section 1** apply only if a court has not recognized a bargaining unit for the
29 purposes of collective bargaining or engaged in negotiating a collective bargaining
30 agreement with a bargaining unit.

31 **Section 4** of this bill makes a conforming change to clarify that a county is
32 authorized to negotiate on behalf of a bailiff or deputy marshal pursuant to **section**
33 **1**. Existing law prohibits employees who exercise certain duties under a
34 paramilitary command structure from being deemed supervisory employees solely
35 due to the exercise of such duties. (NRS 288.138) **Section 3** of this bill also
36 excludes from being deemed supervisory employees solely due to the exercise of
37 certain duties under a paramilitary command structure certain Executive
38 Department and local government employees who provide civilian support services
39 to a law enforcement agency.

40 **Section 5** of this bill provides that the amendatory provisions of this bill do not
41 apply during the current term of any collective bargaining agreement entered into
42 before July 1, 2023.

43 **Section 2** of this bill makes a conforming change to indicate the proper
44 placement of **section 1** in the Nevada Revised Statutes.

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

1 **Section 1.** Chapter 288 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. For the purposes of this chapter, a bailiff or deputy*
4 *marshal shall be deemed to be a local government employee of the*
5 *county in which the bailiff or deputy marshal is appointed.*

6 *2. The scope of mandatory bargaining for negotiations*
7 *between a local government employer which is a county and an*
8 *employee organization which represents bailiffs or deputy*
9 *marshals appointed in that county is limited to the subjects set*
10 *forth in subsection 2 of NRS 288.150 which are entirely within the*
11 *control of the county.*

12 *3. A local government employer which is a county and an*
13 *employee organization which represents bailiffs or deputy*
14 *marshals appointed in that county shall not negotiate concerning*
15 *any subject matter which is within the control of the judiciary.*



1 **4. The provisions of this section apply only if a court has not**
2 **recognized a bargaining unit for the purposes of collective**
3 **bargaining or engaged in negotiating a collective bargaining**
4 **agreement with the employee organization for the bargaining unit.**

5 **5. As used in this section:**

6 (a) **"Bailiff" means a bailiff appointed pursuant to NRS 3.310.**

7 (b) **"Deputy marshal" means a deputy marshal appointed**
8 **pursuant to NRS 3.310 or 4.353.**

9 **Sec. 2.** NRS 288.131 is hereby amended to read as follows:

10 288.131 As used in NRS 288.131 to 288.280, inclusive, **and**
11 **section 1 of this act**, unless the context otherwise requires, the
12 words and terms defined in NRS 288.132 to 288.138, inclusive,
13 have the meanings ascribed to them in those sections.

14 **Sec. 3.** NRS 288.138 is hereby amended to read as follows:

15 288.138 1. "Supervisory employee" includes:

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

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

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

32 (3) A person who:

33 (I) Has the powers of a peace officer pursuant to NRS
34 289.150, 289.170, 289.180 or 289.190; and

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

37 **or**

38 (4) **A person who:**

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

41 (II) **Is a local government employee who is authorized to**
42 **be in a bargaining unit pursuant to the provisions of this chapter.**

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



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

5 (2) Make budgetary decisions; and

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

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

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

17 **Sec. 4.** NRS 288.150 is hereby amended to read as follows:

18 288.150 1. Except as otherwise provided in subsection 6 and
19 NRS 354.6241, *and section 1 of this act*, every local government
20 employer shall negotiate in good faith through one or more
21 representatives of its own choosing concerning the mandatory
22 subjects of bargaining set forth in subsection 2 with the designated
23 representatives of the recognized employee organization, if any, for
24 each appropriate bargaining unit among its employees. If either
25 party so requests, agreements reached must be reduced to writing.

26 2. The scope of mandatory bargaining is limited to:

27 (a) Salary or wage rates or other forms of direct monetary
28 compensation.

29 (b) Sick leave.

30 (c) Vacation leave.

31 (d) Holidays.

32 (e) Other paid or nonpaid leaves of absence.

33 (f) Insurance benefits.

34 (g) Total hours of work required of an employee on each
35 workday or workweek.

36 (h) Total number of days' work required of an employee in a
37 work year.

38 (i) Except as otherwise provided in subsections 8 and 11,
39 discharge and disciplinary procedures.

40 (j) Recognition clause.

41 (k) The method used to classify employees in the bargaining
42 unit.

43 (l) Deduction of dues for the recognized employee organization.



1 (m) Protection of employees in the bargaining unit from
2 discrimination because of participation in recognized employee
3 organizations consistent with the provisions of this chapter.

4 (n) No-strike provisions consistent with the provisions of this
5 chapter.

6 (o) Grievance and arbitration procedures for resolution of
7 disputes relating to interpretation or application of collective
8 bargaining agreements.

9 (p) General savings clauses.

10 (q) Duration of collective bargaining agreements.

11 (r) Safety of the employee.

12 (s) Teacher preparation time.

13 (t) Materials and supplies for classrooms.

14 (u) Except as otherwise provided in subsections 9 and 11, the
15 policies for the transfer and reassignment of teachers.

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

18 (w) Procedures consistent with the provisions of subsection 6
19 for the reopening of collective bargaining agreements for additional,
20 further, new or supplementary negotiations during periods of fiscal
21 emergency.

22 3. Those subject matters which are not within the scope of
23 mandatory bargaining and which are reserved to the local
24 government employer without negotiation include:

25 (a) Except as otherwise provided in paragraph (u) of subsection
26 2, the right to hire, direct, assign or transfer an employee, but
27 excluding the right to assign or transfer an employee as a form of
28 discipline.

29 (b) The right to reduce in force or lay off any employee because
30 of lack of work or lack of money, subject to paragraph (v) of
31 subsection 2.

32 (c) The right to determine:

33 (1) Appropriate staffing levels and work performance
34 standards, except for safety considerations;

35 (2) The content of the workday, including without limitation
36 workload factors, except for safety considerations;

37 (3) The quality and quantity of services to be offered to the
38 public; and

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

40 (d) Safety of the public.

41 4. The provisions of NRS 245.063, 268.4069 and 391.1605 are
42 not subject to negotiations with an employee organization. Any
43 provision of a collective bargaining agreement negotiated pursuant
44 to this chapter which differs from or conflicts in any way with the



1 provisions of NRS 245.063, 268.4069 or 391.1605 is unenforceable
2 and void.

3 5. If the local government employer is a school district, any
4 money appropriated by the State to carry out increases in salaries or
5 benefits for the employees of the school district is subject to
6 negotiations with an employee organization.

7 6. Notwithstanding the provisions of any collective bargaining
8 agreement negotiated pursuant to this chapter, a local government
9 employer is entitled to:

10 (a) Reopen a collective bargaining agreement for additional,
11 further, new or supplementary negotiations relating to compensation
12 or monetary benefits during a period of fiscal emergency.
13 Negotiations must begin not later than 21 days after the local
14 government employer notifies the employee organization that a
15 fiscal emergency exists. For the purposes of this section, a fiscal
16 emergency shall be deemed to exist:

17 (1) If the amount of revenue received by the general fund of
18 the local government employer during the last preceding fiscal year
19 from all sources, except any nonrecurring source, declined by 5
20 percent or more from the amount of revenue received by the general
21 fund from all sources, except any nonrecurring source, during the
22 next preceding fiscal year, as reflected in the reports of the annual
23 audits conducted for those fiscal years for the local government
24 employer pursuant to NRS 354.624; or

25 (2) If the local government employer has budgeted an
26 unreserved ending fund balance in its general fund for the current
27 fiscal year in an amount equal to 4 percent or less of the actual
28 expenditures from the general fund for the last preceding fiscal year,
29 and the local government employer has provided a written
30 explanation of the budgeted ending fund balance to the Department
31 of Taxation that includes the reason for the ending fund balance and
32 the manner in which the local government employer plans to
33 increase the ending fund balance.

34 (b) Take whatever actions may be necessary to carry out its
35 responsibilities in situations of emergency such as a riot, military
36 action, natural disaster or civil disorder. Those actions may include
37 the suspension of any collective bargaining agreement for the
38 duration of the emergency.

39 ↪ Any action taken under the provisions of this subsection must not
40 be construed as a failure to negotiate in good faith.

41 7. The provisions of this chapter, including without limitation
42 the provisions of this section, recognize and declare the ultimate
43 right and responsibility of the local government employer to manage
44 its operation in the most efficient manner consistent with the best
45 interests of all its citizens, its taxpayers and its employees.



1 8. If the sponsor of a charter school reconstitutes the governing
2 body of a charter school pursuant to NRS 388A.330, the new
3 governing body may terminate the employment of any teachers or
4 other employees of the charter school, and any provision of any
5 agreement negotiated pursuant to this chapter that provides
6 otherwise is unenforceable and void.

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

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

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

16 10. Any provision of an agreement negotiated pursuant to this
17 chapter which differs from or conflicts in any way with the
18 provisions of subsection 9 or imposes consequences on the board of
19 trustees of a school district or the principal of a school for taking
20 any action authorized pursuant to subsection 9 is unenforceable and
21 void.

22 11. The board of trustees of a school district or the governing
23 body of a charter school or university school for profoundly gifted
24 pupils may use a substantiated report of the abuse or neglect of a
25 child or a violation of NRS 201.540, 201.560, 392.4633 or 394.366
26 obtained from the Statewide Central Registry for the Collection of
27 Information Concerning the Abuse or Neglect of a Child established
28 by NRS 432.100 or an equivalent registry maintained by a
29 governmental agency in another jurisdiction for the purposes
30 authorized by NRS 388A.515, 388C.200, 391.033, 391.104 or
31 391.281, as applicable. Such purposes may include, without
32 limitation, making a determination concerning the assignment,
33 discipline or termination of an employee. Any provision of any
34 agreement negotiated pursuant to this chapter which conflicts with
35 the provisions of this subsection is unenforceable and void.

36 12. This section does not preclude, but this chapter does not
37 require, the local government employer to negotiate subject matters
38 enumerated in subsection 3 which are outside the scope of
39 mandatory bargaining. The local government employer shall discuss
40 subject matters outside the scope of mandatory bargaining but it is
41 not required to negotiate those matters.

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

44 14. As used in this section, "abuse or neglect of a child" has
45 the meaning ascribed to it in NRS 392.281.



1 **Sec. 5.** Insofar as they conflict with the provisions of such an
2 agreement, the amendatory provisions of this act do not apply
3 during the current term of any collective bargaining agreement
4 entered into before July 1, 2023, but do apply to any extension or
5 renewal of such an agreement and to any collective bargaining
6 agreement entered into on or after July 1, 2023. For the purposes of
7 this section, the term of a collective bargaining agreement ends on
8 the date provided in the agreement, notwithstanding the provisions
9 of NRS 288.550 or any provision of the agreement that remains in
10 effect, in whole or in part, after that date until a successor agreement
11 becomes effective.

12 **Sec. 6.** This act becomes effective on July 1, 2023.

