

SENATE BILL NO. 168—SENATORS SETTELMAYER,
GOICOECHEA, GUSTAVSON AND LIPPARELLI

FEBRUARY 17, 2015

JOINT SPONSORS: ASSEMBLYMEN KIRNER,
O'NEILL, TROWBRIDGE AND WHEELER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to collective bargaining
by local government employers. (BDR 23-602)

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 local governments; revising provisions relating to the reopening of a collective bargaining agreement during a period of fiscal emergency; excluding certain money from collective bargaining negotiations and from consideration in determining the ability of local governments, other than school districts, to pay compensation and monetary benefits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:


1 Existing law establishes certain mandatory subjects of bargaining in the
2 negotiation of a collective bargaining agreement between a local government
3 employer and a recognized employee organization. Among these mandatory
4 subjects is a requirement that the parties bargain over procedures and requirements
5 for the reopening and renegotiation of the agreement during periods of fiscal
6 emergency. Currently, the existence of such an emergency is determined on the
7 basis of revenue shortfalls or other criteria agreed to by the parties. (NRS 288.150)
8 **Section 1** of this bill authorizes a local government to reopen a collective
9 bargaining agreement during a fiscal emergency and sets forth the circumstances
10 under which such an emergency shall be deemed to exist. The procedural
11 requirements relating to the reopening of the agreement remain a mandatory subject
12 of bargaining.

13 Existing law provides for the resolution of an impasse in collective bargaining
14 through fact-finding, arbitration or both, but imposes limitations on the money that



15 a fact finder or arbitrator may consider in determining the financial ability of a local
16 government employer to pay compensation or monetary benefits. (NRS 288.200,
17 288.215, 288.217, 354.6241) **Section 2** of this bill provides, for certain
18 governmental funds of a local government other than a school district, that a
19 budgeted ending fund balance of not more than 25 percent of the total budgeted
20 expenditures, less capital outlay, is not subject to negotiation and cannot be
21 considered by a fact finder or arbitrator in determining ability to pay.

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

- 1 **Section 1.** NRS 288.150 is hereby amended to read as follows:
2 288.150 1. Except as *otherwise* provided in subsection 4 
3 *and NRS 354.6241*, every local government employer shall
4 negotiate in good faith through one or more representatives of its
5 own choosing concerning the mandatory subjects of bargaining set
6 forth in subsection 2 with the designated representatives of the
7 recognized employee organization, if any, for each appropriate
8 bargaining unit among its employees. If either party so requests,
9 agreements reached must be reduced to writing.
- 10 2. The scope of mandatory bargaining is limited to:
11 (a) Salary or wage rates or other forms of direct monetary
12 compensation.
13 (b) Sick leave.
14 (c) Vacation leave.
15 (d) Holidays.
16 (e) Other paid or nonpaid leaves of absence.
17 (f) Insurance benefits.
18 (g) Total hours of work required of an employee on each
19 workday or workweek.
20 (h) Total number of days' work required of an employee in a
21 work year.
22 (i) Discharge and disciplinary procedures.
23 (j) Recognition clause.
24 (k) The method used to classify employees in the bargaining
25 unit.
26 (l) Deduction of dues for the recognized employee organization.
27 (m) Protection of employees in the bargaining unit from
28 discrimination because of participation in recognized employee
29 organizations consistent with the provisions of this chapter.
30 (n) No-strike provisions consistent with the provisions of this
31 chapter.
32 (o) Grievance and arbitration procedures for resolution of
33 disputes relating to interpretation or application of collective
34 bargaining agreements.



- 1 (p) General savings clauses.
- 2 (q) Duration of collective bargaining agreements.
- 3 (r) Safety of the employee.
- 4 (s) Teacher preparation time.
- 5 (t) Materials and supplies for classrooms.
- 6 (u) The 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 ~~{and requirements}~~ *consistent with the*
10 *provisions of subsection 4* 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 of~~
15 ~~revenue shortfalls or reductions relative to economic indicators such~~
16 ~~as the Consumer Price Index, as agreed upon by both parties.}~~

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

20 (a) Except as otherwise provided in paragraph (u) of subsection
21 2, the right to hire, direct, assign or transfer an employee, but
22 excluding the right to assign or transfer an employee as a form of
23 discipline.

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

27 (c) The right to determine:

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

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

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

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

35 (d) Safety of the public.

36 4. Notwithstanding the provisions of any collective bargaining
37 agreement negotiated pursuant to this chapter, a local government
38 employer is entitled to ~~{take}~~ :

39 *(a) Reopen a collective bargaining agreement for additional,*
40 *further, new or supplementary negotiations relating to*
41 *compensation or monetary benefits during a period of fiscal*
42 *emergency. Negotiations must begin not later than 21 days after*
43 *the local government employer notifies the employee organization*
44 *that a fiscal emergency exists. For the purposes of this section, a*
45 *fiscal emergency shall be deemed to exist:*



1 (1) *If the amount of revenue received by the general fund*
2 *of the local government employer during the last preceding fiscal*
3 *year from all sources, except any nonrecurring source, declined by*
4 *5 percent or more from the amount of revenue received by the*
5 *general fund from all sources, except any nonrecurring source,*
6 *during the next preceding fiscal year, as reflected in the reports of*
7 *the annual audits conducted for those fiscal years for the local*
8 *government employer pursuant to NRS 354.624; or*

9 (2) *If the local government employer has budgeted an*
10 *unreserved ending fund balance in its general fund for the current*
11 *fiscal year in an amount equal to 4 percent or less of the actual*
12 *expenditures from the general fund for the last preceding fiscal*
13 *year, and the local government employer has provided a written*
14 *explanation of the budgeted ending fund balance to the*
15 *Department of Taxation that includes the reason for the ending*
16 *fund balance and the manner in which the local government*
17 *employer plans to increase the ending fund balance.*

18 (b) *Take* whatever actions may be necessary to carry out its
19 responsibilities in situations of emergency such as a riot, military
20 action, natural disaster or civil disorder. Those actions may include
21 the suspension of any collective bargaining agreement for the
22 duration of the emergency.

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

25 5. The provisions of this chapter, including without limitation
26 the provisions of this section, recognize and declare the ultimate
27 right and responsibility of the local government employer to manage
28 its operation in the most efficient manner consistent with the best
29 interests of all its citizens, its taxpayers and its employees.

30 6. This section does not preclude, but this chapter does not
31 require, the local government employer to negotiate subject matters
32 enumerated in subsection 3 which are outside the scope of
33 mandatory bargaining. The local government employer shall discuss
34 subject matters outside the scope of mandatory bargaining but it is
35 not required to negotiate those matters.

36 7. Contract provisions presently existing in signed and ratified
37 agreements as of May 15, 1975, at 12 p.m. remain negotiable.

38 **Sec. 2.** NRS 354.6241 is hereby amended to read as follows:

39 354.6241 1. The statement required by paragraph (a) of
40 subsection 5 of NRS 354.624 must indicate for each fund set forth
41 in that paragraph:

42 (a) Whether the fund is being used in accordance with the
43 provisions of this chapter.

44 (b) Whether the fund is being administered in accordance with
45 generally accepted accounting procedures.



1 (c) Whether the reserve in the fund is limited to an amount that
2 is reasonable and necessary to carry out the purposes of the fund.

3 (d) The sources of revenues available for the fund during the
4 fiscal year, including transfers from any other funds.

5 (e) The statutory and regulatory requirements applicable to the
6 fund.

7 (f) The balance and retained earnings of the fund.

8 2. Except as otherwise provided in *subsection 3 and* NRS
9 354.59891 and 354.613, to the extent that the reserve in any fund set
10 forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the
11 amount that is reasonable and necessary to carry out the purposes
12 for which the fund was created, the reserve may be expended by the
13 local government pursuant to the provisions of chapter 288 of NRS.

14 *3. For any local government other than a school district, for*
15 *the purposes of chapter 288 of NRS, a budgeted ending fund*
16 *balance of not more than 25 percent of the total budgeted*
17 *expenditures, less capital outlay, for a general fund:*

18 *(a) Is not subject to negotiations with an employee*
19 *organization; and*

20 *(b) Must not be considered by a fact finder or arbitrator in*
21 *determining the financial ability of the local government to pay*
22 *compensation or monetary benefits.*

23 **Sec. 3.** The amendatory provisions of this act do not apply
24 during the current term of any collective bargaining agreement
25 entered into before the effective date of this act, but do apply to any
26 extension or renewal of such an agreement and to any such
27 agreement entered into on or after the effective date of this act.

28 **Sec. 4.** This act becomes effective upon passage and approval.



