

SENATE BILL NO. 273—SENATOR GOICOECHEA (BY REQUEST)

MARCH 15, 2017

JOINT SPONSOR: ASSEMBLYMAN ELLISON

Referred to Committee on Education

SUMMARY—Revises provisions relating to the dismissal of a probationary employee of a school district. (BDR 34-582)

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 school personnel; revising provisions relating to the dismissal of a probationary employee of a school district; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines “probationary employee,” for provisions relating to
2 educational personnel, as a licensed administrator or teacher who is employed by a
3 school district on a contract basis for a specified period and who has no right to
4 employment after the specified period. (NRS 391.650) Existing law makes the
5 board of trustees of a school district the employing authority for all licensed
6 employees of the district and only the board is authorized to dismiss a licensed
7 employee. (NRS 391.100) If a probationary employee receives notice that he or she
8 will be dismissed before the end of the current school year, existing law authorizes
9 the employee to request an expedited arbitration hearing before dismissal.
10 (NRS 391.820)

11 **Sections 4-6** of this bill provide additional procedures for the dismissal of a
12 probationary employee of a school district. **Section 4** requires the superintendent of
13 a school district to provide certain written notice to a probationary employee not
14 less than 15 business days before the superintendent intends to file a
15 recommendation to dismiss the employee with the board of trustees of the school
16 district. **Section 4** also authorizes a probationary employee to request an expedited,
17 nonbinding arbitration hearing before a recommendation to dismiss is filed by the
18 superintendent with the board of trustees. **Section 5** of this bill provides certain
19 procedures for such an expedited hearing and requires an arbitrator in such a
20 hearing to consider whether the dismissal of the probationary employee would



21 violate the legal rights of the probationary employee provided by federal or state
22 law or the dismissal would be arbitrary or capricious. **Section 5** further requires the
23 superintendent to either: (1) file the written report of the arbitrator and a
24 recommendation to dismiss the probationary employee with the board of trustees;
25 or (2) provide written notice to the employee that dismissal will not be
26 recommended to the board of trustees. If the superintendent files a recommendation
27 to dismiss the employee, **section 6** requires the board of trustees to determine
28 whether to accept this recommendation at its next regularly scheduled meeting and
29 provide written notice of its decision to the probationary employee. Finally, **section**
30 **6** provides that the decision of the board of trustees relating to dismissal of the
31 probationary employee is final and not subject to judicial review or appeal.

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

1 **Section 1.** NRS 388A.533 is hereby amended to read as
2 follows:

3 388A.533 1. All employees of a charter school shall be
4 deemed public employees.

5 2. The governing body of a charter school may make all
6 decisions concerning the terms and conditions of employment with
7 the charter school and any other matter relating to employment with
8 the charter school. In addition, the governing body may make all
9 employment decisions with regard to its employees pursuant to NRS
10 391.650 to 391.830, inclusive, *and sections 4, 5 and 6 of this act*,
11 unless a collective bargaining agreement entered into by the
12 governing body pursuant to chapter 288 of NRS contains separate
13 provisions relating to the discipline of licensed employees of a
14 school.

15 3. Upon the request of the governing body of a charter school,
16 the board of trustees of a school district shall, with the permission of
17 the licensed employee who is seeking employment with the charter
18 school, transmit to the governing body a copy of the employment
19 record of the employee that is maintained by the school district. The
20 employment record must include, without limitation, each
21 evaluation of the licensed employee conducted by the school district
22 and any disciplinary action taken by the school district against the
23 licensed employee.

24 **Sec. 2.** NRS 388B.410 is hereby amended to read as follows:

25 388B.410 1. All employees of an achievement charter school
26 shall be deemed public employees and are not employees of the
27 Department.

28 2. Except as otherwise provided in a collective bargaining
29 agreement entered into by the governing body of an achievement
30 charter school pursuant to chapter 288 of NRS, the principal of an
31 achievement charter school may make:



1 (a) All decisions concerning the terms and conditions of
2 employment with the achievement charter school and any other
3 matter relating to employment with the achievement charter school;
4 and

5 (b) All employment decisions with regard to the employees of
6 the achievement charter school pursuant to NRS 391.650 to
7 391.830, inclusive **H**, and sections 4, 5 and 6 of this act.

8 3. Upon the request of the governing body of an achievement
9 charter school, the board of trustees of a school district shall, with
10 the permission of the licensed employee who is seeking employment
11 with the achievement charter school, transmit to the governing body
12 a copy of the employment record of the employee that is maintained
13 by the school district. The employment record must include, without
14 limitation, each evaluation of the licensed employee conducted by
15 the school district and any disciplinary action taken by the school
16 district against the licensed employee.

17 **Sec. 3.** Chapter 391 of NRS is hereby amended by adding
18 thereto the provisions set forth as sections 4, 5 and 6 of this act.

19 **Sec. 4. 1.** *If the superintendent intends to recommend the*
20 *dismissal of a probationary employee to the board before the end*
21 *of a contract year, the superintendent must provide written notice*
22 *to the employee, by registered or certified mail, not less than 15*
23 *business days before making the recommendation to the board.*

24 2. *The written notice required pursuant to subsection 1 must:*

25 (a) *Include a statement of the reasons for the recommendation*
26 *to dismiss the probationary employee;*

27 (b) *Inform the probationary employee that he or she may*
28 *request an expedited hearing pursuant to the Expedited Labor*
29 *Arbitration Procedures established by the American Arbitration*
30 *Association or its successor organization, by filing a written*
31 *request with the superintendent not later than 10 business days*
32 *after receiving notice from the superintendent pursuant to*
33 *subsection 1; and*

34 (c) *Include notice of the laws which govern the employment of*
35 *a probationary employee of a school district which are contained*
36 *in this chapter.*

37 3. *If a written request for an expedited hearing is not filed by*
38 *the probationary employee pursuant to subsection 2, the*
39 *superintendent may recommend the dismissal of the probationary*
40 *employee to the board.*

41 **Sec. 5. 1.** *If a timely request for an expedited hearing is*
42 *made pursuant to section 4 of this act, the superintendent must not*
43 *take any further action relating to the recommendation to dismiss*
44 *the probationary employee until the written report from the*



1 arbitrator is filed with the superintendent and the probationary
2 employee pursuant to subsection 2.

3 2. An arbitrator shall hold an expedited hearing and file a
4 written report with the superintendent and the probationary
5 employee who requested the hearing pursuant to section 4 of this
6 act in the manner prescribed by the Expedited Labor Arbitration
7 Procedures established by the American Arbitration Association
8 or its successor organization. The only issues the arbitrator may
9 consider are whether the dismissal of the probationary employee
10 would:

11 (a) Violate the legal rights of the probationary employee
12 provided by federal law or the laws of this State; or

13 (b) Be arbitrary or capricious.

14 3. At the expedited hearing, the superintendent must provide
15 evidence of at least one reason to recommend the dismissal of the
16 probationary employee, which must include, without limitation, at
17 least one reason provided in the written notice required pursuant
18 to paragraph (a) of subsection 2 of section 4 of this act. To rebut
19 such evidence, the probationary employee must prove that each
20 reason:

21 (a) Violates the legal rights of the probationary employee
22 provided by federal law or the laws of this State; or

23 (b) Is arbitrary or capricious.

24 4. The written report filed by the arbitrator pursuant to
25 subsection 2 is not binding upon the superintendent or the board.

26 5. The provisions of NRS 38.206 to 38.248, inclusive, do not
27 apply to an expedited hearing, the written report of an arbitrator
28 or any other portion of an arbitration conducted pursuant to this
29 section.

30 6. Not later than 5 business days after the superintendent
31 receives the written report from the arbitrator pursuant to
32 subsection 2, the superintendent shall:

33 (a) If the superintendent intends to recommend the dismissal
34 of the probationary employee, file with the board the report and a
35 written recommendation to dismiss, and provide to the employee,
36 by registered or certified mail, written notice of the filing of the
37 recommendation and the date, time and location of the next
38 regularly scheduled meeting of the board at which the
39 recommendation to dismiss the employee will be considered; or

40 (b) If the superintendent does not intend to recommend the
41 dismissal of the probationary employee, provide to the employee,
42 by registered or certified mail, written notice that dismissal of the
43 employee will not be recommended to the board and that no
44 further action will be taken against the employee.



1 **Sec. 6. 1. If the superintendent files with the board a**
2 **written recommendation to dismiss a probationary employee**
3 **pursuant to section 4 or 5 of this act, the board shall determine**
4 **whether to accept the recommendation at the next regularly**
5 **scheduled meeting of the board and provide to the employee, by**
6 **registered or certified mail, written notice of its decision not later**
7 **than 5 business days after the meeting.**

8 **2. The decision of the board relating to the dismissal of a**
9 **probationary employee is final and binding and is not subject to**
10 **judicial review or appeal.**

11 **Sec. 7.** NRS 391.650 is hereby amended to read as follows:

12 391.650 As used in NRS 391.650 to 391.830, inclusive, **and**
13 **sections 4, 5 and 6 of this act**, unless the context otherwise requires:

14 1. “Administrator” means any employee who holds a license as
15 an administrator and who is employed in that capacity by a school
16 district.

17 2. “Board” means the board of trustees of the school district in
18 which a licensed employee affected by NRS 391.650 to 391.830,
19 inclusive, **and sections 4, 5 and 6 of this act** is employed.

20 3. “Demotion” means demotion of an administrator to a
21 position of lesser rank, responsibility or pay and does not include
22 transfer or reassignment for purposes of an administrative
23 reorganization.

24 4. “Immorality” means:

25 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
26 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,
27 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an
28 act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405,
29 inclusive, 453.560 or 453.562; or

30 (b) An act forbidden by NRS 201.540 or any other sexual
31 conduct or attempted sexual conduct with a pupil enrolled in an
32 elementary or secondary school. As used in this paragraph, “sexual
33 conduct” has the meaning ascribed to it in NRS 201.520.

34 5. “Postprobationary employee” means an administrator or a
35 teacher who has completed the probationary period as provided in
36 NRS 391.820 and has been given notice of reemployment. The term
37 does not include a person who is deemed to be a probationary
38 employee pursuant to NRS 391.730.

39 6. “Probationary employee” means:

40 (a) An administrator or a teacher who is employed for the period
41 set forth in NRS 391.820; and

42 (b) A person who is deemed to be a probationary employee
43 pursuant to NRS 391.730.



1 7. "Superintendent" means the superintendent of a school
2 district or a person designated by the board or superintendent to act
3 as superintendent during the absence of the superintendent.

4 8. "Teacher" means a licensed employee the majority of whose
5 working time is devoted to the rendering of direct educational
6 service to pupils of a school district.

7 **Sec. 8.** NRS 391.660 is hereby amended to read as follows:

8 391.660 Excluding the provisions of NRS 391.730, 391.825
9 and 391.830, the provisions of NRS 391.650 to 391.830, inclusive,
10 *and sections 4, 5 and 6 of this act* do not apply to a teacher or other
11 licensed employee who has entered into a contract with the board
12 negotiated pursuant to chapter 288 of NRS if the contract contains
13 separate provisions relating to the board's right to dismiss or refuse
14 to reemploy the employee.

15 **Sec. 9.** NRS 391.755 is hereby amended to read as follows:

16 391.755 1. Whenever an administrator charged with
17 supervision of a licensed employee believes it is necessary to
18 admonish the employee for a reason that the administrator believes
19 may lead to demotion or dismissal or may cause the employee not to
20 be reemployed under the provisions of NRS 391.750, the
21 administrator shall:

22 (a) Except as otherwise provided in subsection 3, bring the
23 matter to the attention of the employee involved, in writing, stating
24 the reasons for the admonition and that it may lead to the
25 employee's demotion, dismissal or a refusal to reemploy him or her,
26 and make a reasonable effort to assist the employee to correct
27 whatever appears to be the cause for the employee's potential
28 demotion, dismissal or a potential recommendation not to reemploy
29 him or her; and

30 (b) Except as otherwise provided in NRS 391.760, allow
31 reasonable time for improvement, which must not exceed 3 months
32 for the first admonition.

33 ➤ The admonition must include a description of the deficiencies of
34 the ~~teacher~~ *employee* and the action that is necessary to correct
35 those deficiencies.

36 2. An admonition issued to a licensed employee who, within
37 the time granted for improvement, has met the standards set for the
38 employee by the administrator who issued the admonition must be
39 removed from the records of the employee together with all
40 notations and indications of its having been issued. The admonition
41 must be removed from the records of the employee not later than 3
42 years after it is issued.

43 3. An administrator need not admonish an employee pursuant
44 to paragraph (a) of subsection 1 if ~~this or her employment will be~~
45 ~~terminated pursuant to NRS 391.820.~~ *the administrator has been*



1 *informed by the superintendent that the superintendent intends to*
2 *recommend the dismissal of the employee to the board in the*
3 *manner set forth in sections 4, 5 and 6 of this act.*

4 4. A licensed employee is subject to immediate dismissal or a
5 refusal to reemploy according to the procedures provided in NRS
6 391.650 to 391.830, inclusive, *and sections 4, 5 and 6 of this act*
7 without the admonition required by this section, on grounds
8 contained in paragraphs (b), (f), (g), (h), (p), (s) and (t) of subsection
9 1 of NRS 391.750.

10 **Sec. 10.** NRS 391.820 is hereby amended to read as follows:
11 391.820 Except as otherwise provided in NRS 391.825:

12 1. A probationary employee is employed on a contract basis for
13 three 1-year periods and has no right to employment after any of the
14 three probationary contract years.

15 2. The board shall notify each probationary employee in
16 writing during the first, second and third school years of the
17 employee's probationary period whether the employee is to be
18 reemployed for the second or third year of the probationary period
19 or for the fourth school year as a postprobationary employee. Such
20 notice must be provided:

21 (a) On or before May 1; or

22 (b) On or before May 15 of an odd-numbered year so long as the
23 board notifies the employee of the extension by April 1.

24 3. Failure of the board to notify the probationary employee in
25 writing on or before May 1 or May 15, as applicable, in the first or
26 second year of the probationary period does not entitle the employee
27 to postprobationary status.

28 4. The employee must advise the board in writing during the
29 first, second or third year of the employee's probationary period of
30 the employee's acceptance of reemployment. Such notice must be
31 provided:

32 (a) On or before May 10 if the board provided its notice on or
33 before May 1; or

34 (b) On or before May 25 if the board provided a notice of an
35 extension pursuant to paragraph (b) of subsection 2.

36 5. If a probationary employee is assigned to a school that
37 operates all year, the board shall notify the employee in writing, in
38 the first, second and third years of the employee's probationary
39 period, no later than 45 days before his or her last day of work for
40 the year under his or her contract whether the employee is to be
41 reemployed for the second or third year of the probationary period
42 or for the fourth school year as a postprobationary employee. Failure
43 of the board to notify a probationary employee in writing within the
44 prescribed period in the first or second year of the probationary
45 period does not entitle the employee to postprobationary status. The



1 employee must advise the board in writing within 10 days after the
2 date of notification of his or her acceptance or rejection of
3 reemployment for another year. Failure to advise the board of the
4 employee's acceptance of reemployment pursuant to this subsection
5 constitutes rejection of the contract.

6 6. A probationary employee who:

7 (a) Completes a 3-year probationary period;

8 (b) Receives a designation of "highly effective" or "effective"
9 on each of his or her performance evaluations for 2 consecutive
10 school years; and

11 (c) Receives a notice of reemployment from the school district
12 in the third year of the employee's probationary period,

13 ➤ is entitled to be a postprobationary employee in the ensuing year
14 of employment.

15 7. If a probationary employee is notified that the employee will
16 not be reemployed for the school year following the 3-year
17 probationary period, his or her employment ends on the last day of
18 the current school year. The notice that the employee will not be
19 reemployed must include a statement of the reasons for that
20 decision.

21 8. A new employee who is employed as an administrator to
22 provide primarily administrative services at the school level and
23 who does not provide primarily direct instructional services to
24 pupils, regardless of whether the administrator is licensed as a
25 teacher or administrator, including, without limitation, a principal
26 and vice principal, or a postprobationary teacher who is employed as
27 an administrator to provide those administrative services shall be
28 deemed to be a probationary employee for the purposes of this
29 section and must serve a 3-year probationary period as an
30 administrator in accordance with the provisions of this section. If:

31 (a) A postprobationary teacher who is an administrator is not
32 reemployed as an administrator after any year of his or her
33 probationary period; and

34 (b) There is a position as a teacher available for the ensuing
35 school year in the school district in which the person is employed,

36 ➤ the board of trustees of the school district shall, on or before
37 May 1 or May 15, as applicable, offer the person a contract as a
38 teacher for the ensuing school year. The person may accept the
39 contract in writing on or before May 10 or May 25, as applicable. If
40 the person fails to accept the contract as a teacher, the person shall
41 be deemed to have rejected the offer of a contract as a teacher.

42 9. An administrator who has completed his or her probationary
43 period pursuant to subsection 8 and is thereafter promoted to the
44 position of principal must serve an additional probationary period of
45 2 years in the position of principal. If an administrator is promoted



1 to the position of principal before completion of his or her
2 probationary period pursuant to subsection 8, the administrator must
3 serve the remainder of his or her probationary period pursuant to
4 subsection 8 or an additional probationary period of 2 years in the
5 position of principal, whichever is longer. If the administrator
6 serving the additional probationary period is not reemployed as a
7 principal after the expiration of the probationary period or additional
8 probationary period, as applicable, the board of trustees of the
9 school district in which the person is employed shall, on or before
10 May 1 or May 15, as applicable, offer the person a contract for
11 the ensuing school year for the administrative position in which the
12 person attained postprobationary status. The person may accept the
13 contract in writing on or before May 10 or May 25, as applicable. If
14 the person fails to accept such a contract, the person shall be deemed
15 to have rejected the offer of employment.

16 ~~10. If a probationary employee receives notice that he or she~~
17 ~~will be dismissed before the completion of the current school year,~~
18 ~~the probationary employee may request an expedited hearing~~
19 ~~pursuant to the Expedited Labor Arbitration Procedures established~~
20 ~~by the American Arbitration Association or its successor~~
21 ~~organization.]~~

22 **Sec. 11.** This act does not apply to a probationary employee
23 who, before July 1, 2017, received notice pursuant to subsection 10
24 of NRS 391.820, as that section existed before July 1, 2017, that the
25 superintendent of the school district intends to recommend the
26 dismissal of the employee to the board of trustees of the school
27 district.

28 **Sec. 12.** This act becomes effective on July 1, 2017.



