

SENATE BILL NO. 478—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 27, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to certain disciplinary action against state employees. (BDR 23-1043)

FISCAL NOTE: Effect on Local Government: No.
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 state employees; revising provisions governing the dismissal, involuntary demotion or suspension of a permanent classified employee in the state service; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires an appointing authority to take certain actions when
2 dismissing, involuntarily demoting or suspending a permanent classified employee
3 in the state service or conducting an internal administrative investigation which
4 may result in the dismissal, involuntary demotion or suspension of a permanent
5 classified employee. (NRS 284.385, 284.387; NAC 284.655) **Section 2** of this bill
6 requires an appointing authority to provide an employee with notice of the
7 allegations against the employee within 30 days after the appointing authority
8 becomes aware, or reasonably should have become aware, of the allegations.

9 Existing law requires an appointing authority to complete an internal
10 administrative investigation and make a determination whether to dismiss,
11 involuntarily demote or suspend an employee within 90 days after providing the
12 employee with notice of the allegations, unless the appointing authority obtains
13 approval for an extension of time. (NRS 284.387) **Section 2** prohibits an appointing
14 authority from dismissing, involuntarily demoting or suspending an employee
15 based on allegations if the investigation into those allegations does not result in a
16 determination regarding disciplinary action within the prescribed time period.

17 Existing law authorizes a permanent employee to appeal a dismissal,
18 involuntary demotion or suspension in a hearing before the hearing officer of the
19 Personnel Commission. (NRS 284.390) If the employee requests such a hearing,
20 **section 3** of this bill requires the appointing authority of the employee to produce
21 and allow the employee or his or her representative to inspect or receive a copy of
22 any document or evidence related to the internal investigation leading to the
23 employee's dismissal, involuntary demotion or suspension within 5 days after a
24 request is made by the employee or his or her representative.



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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** NRS 284.387 is hereby amended to read as follows:

3 284.387 1. An employee who is the subject of an internal
4 administrative investigation that could lead to disciplinary action
5 against the employee pursuant to NRS 284.385 must be:

6 (a) Provided notice in writing of the allegations against the
7 employee *within 30 days after the date on which the appointing*
8 *authority becomes aware, or reasonably should have become*
9 *aware, of the allegations. The notice must be provided* before the
10 employee is questioned regarding the allegations. ~~and~~

11 (b) Afforded the right to have a lawyer or other representative of
12 the employee's choosing present with the employee at any time that
13 the employee is questioned regarding those allegations. The
14 employee must be given not less than 2 business days to obtain such
15 representation, unless the employee waives the employee's right to
16 be represented.

17 2. An internal administrative investigation that could lead to
18 disciplinary action against an employee pursuant to NRS 284.385
19 and any determination made as a result of such an investigation
20 must be completed and the employee notified of any disciplinary
21 action within 90 days after the employee is provided notice of the
22 allegations pursuant to paragraph (a) of subsection 1. If the
23 appointing authority cannot complete the investigation and make a
24 determination within 90 days after the employee is provided notice
25 of the allegations pursuant to paragraph (a) of subsection 1, the
26 appointing authority may request an extension of not more than 60
27 days from the Administrator upon showing good cause for the delay.
28 No further extension may be granted unless approved by the
29 Governor.

30 3. *If the appointing authority does not make a determination*
31 *within 90 days after the employee is provided notice of the*
32 *allegations or within any extended time period approved pursuant*
33 *to subsection 2, the appointing authority shall not take any*
34 *disciplinary action against the employee pursuant to NRS 284.385*
35 *which is based on those allegations.*

36 **Sec. 3.** NRS 284.390 is hereby amended to read as follows:

37 284.390 1. Within 10 working days after the effective date of
38 an employee's dismissal, demotion or suspension pursuant to
39 NRS 284.385, the employee who has been dismissed, demoted or
40 suspended may request in writing a hearing before the hearing
41 officer of the Commission to determine the reasonableness of the
42 action. The request may be made by mail and shall be deemed



1 timely if it is postmarked within 10 working days after the effective
2 date of the employee's dismissal, demotion or suspension.

3 2. The hearing officer shall grant the employee a hearing
4 within 20 working days after receipt of the employee's written
5 request unless the time limitation is waived, in writing, by the
6 employee or there is a conflict with the hearing calendar of the
7 hearing officer, in which case the hearing must be scheduled for
8 the earliest possible date after the expiration of the 20 days.

9 3. *Upon verification that a request for a hearing has been
10 made pursuant to subsection 1, the appointing authority of the
11 employee who was the subject of the internal administrative
12 investigation shall, within 5 days after receiving a request by the
13 employee or his or her representative, produce and allow the
14 employee or his or her representative to inspect or receive a copy
15 of any document concerning the internal administrative
16 investigation, including, without limitation, any recordings, notes,
17 transcripts of interviews or other documents or evidence related to
18 the internal administrative investigation.*

19 4. The employee may represent himself or herself at the
20 hearing or be represented by an attorney or other person of the
21 employee's own choosing.

22 ~~14-~~ 5. Technical rules of evidence do not apply at the hearing.

23 ~~15-~~ 6. After the hearing and consideration of the evidence, the
24 hearing officer shall render a decision in writing, setting forth the
25 reasons therefor.

26 ~~16-~~ 7. If the hearing officer determines that the dismissal,
27 demotion or suspension was without just cause as provided in NRS
28 284.385, the action must be set aside and the employee must be
29 reinstated, with full pay for the period of dismissal, demotion or
30 suspension.

31 ~~17-~~ 8. The decision of the hearing officer is binding on the
32 parties.

33 ~~18-~~ 9. Any petition for judicial review of the decision of the
34 hearing officer must be filed in accordance with the provisions of
35 chapter 233B of NRS.

36 **Sec. 4.** This act becomes effective on July 1, 2017.



