

SENATE BILL NO. 78—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE CITY OF RENO)

PREFILED DECEMBER 15, 2010

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing collective bargaining between local government employers and local government employees. (BDR 23-316)

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 local governments; revising provisions governing collective bargaining between local government employers and local government employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 2** of this bill authorizes a local government employer to disseminate to
2 the public information regarding the status of negotiations between the employer
3 and an employee organization and the proposals that the two entities make to each
4 other during such negotiations. **Section 3** of this bill provides that if the Legislature
5 enacts or amends a law and the effect of the enactment or amendment is to create
6 new or increased monetary obligations on the part of a local government employer
7 with respect to employees of the local government who are covered by a collective
8 bargaining agreement, the applicable agreement or agreements are required to be
9 reopened immediately for the purpose of negotiating changes thereto in an amount
10 sufficient to offset the new or increased monetary obligations. **Section 4** of this bill,
11 with regard to the situation in which the balances of certain funds of a local
12 government fall below certain prescribed levels, authorizes a local government
13 employer to suspend salary increases and benefit increases related to salary
14 provided for in the collective bargaining agreement for the remaining period of the
15 agreement. However, **section 4** also requires that the increases so suspended be the
16 subject of future contractual negotiations.

17 Existing law provides that, as between a local government employer and a
18 recognized employee organization, certain subject matters are within the scope of
19 mandatory bargaining, whereas other subject matters are reserved to the local
20 government employer without negotiation. Existing law also provides that a local



21 government employer is not precluded from negotiating subject matters reserved to
22 the local government employer. In addition, a local government employer is
23 required to discuss subject matters outside the scope of mandatory bargaining but is
24 not required to negotiate those matters. (NRS 288.150) **Section 5** of this bill
25 prohibits a local government employer from negotiating or discussing any subject
26 matter not enumerated as being within the scope of mandatory bargaining.

27 Under existing law, unresolved labor disputes between a local government
28 employer and firefighters or police officers are subject to binding arbitration and
29 are handled under different procedures than disputes involving other types of local
30 government employees. (NRS 288.205, 288.215) **Section 9** of this bill eliminates
31 such binding arbitration and the different procedures for firefighters and police
32 officers.

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 the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *Notwithstanding any provision of this chapter to the*
4 *contrary, a local government employer has the right to disseminate*
5 *to the public information regarding:*

6 1. *The status of any negotiations conducted between the local*
7 *government employer and any employee organization.*

8 2. *The proposals that the local government employer and any*
9 *employee organization make to each other during such*
10 *negotiations.*

11 **Sec. 3.** 1. *Notwithstanding the provisions of any collective*
12 *bargaining agreement negotiated pursuant to this chapter to the*
13 *contrary, if the Legislature enacts or amends any law and the*
14 *effect of the law as enacted or amended is such as to require a*
15 *local government employer to incur an additional or increased*
16 *monetary obligation with respect to a local government employee*
17 *who is subject to a collective bargaining agreement, all collective*
18 *bargaining agreements between the local government employer*
19 *and the employee organization representing the affected local*
20 *government employee must be reopened automatically for the*
21 *purpose of negotiating amendments to such agreements to offset*
22 *the additional or increased monetary obligation.*

23 2. *If a collective bargaining agreement is reopened in*
24 *accordance with subsection 1 and the local government employer*
25 *and employee organization are unable to reach an agreement, all*
26 *provisions of this chapter pertaining to mediation and fact-finding*
27 *that are otherwise applicable to the employee organization covered*
28 *by the affected collective bargaining agreement apply.*

29 **Sec. 4.** 1. *A local government employer may, for the*
30 *remaining term of a collective bargaining agreement, suspend*



1 *salary increases or benefit increases related to salary, or both,*
2 *provided for in the collective bargaining agreement if the local*
3 *government's budgeted ending fund balance or projected ending*
4 *fund balance for general or special revenue funds which receive*
5 *revenue from property taxes or the Local Government Tax*
6 *Distribution Account is less than 8.3 percent of the total budgeted*
7 *expenditures for the respective fund, excluding capital outlay.*

8 *2. Any salary increases or benefit increases related to salary*
9 *that are suspended as authorized pursuant to subsection 1 must be*
10 *the subject of future contract negotiations for the affected*
11 *collective bargaining agreement.*

12 **Sec. 5.** NRS 288.150 is hereby amended to read as follows:

13 288.150 1. Except as *otherwise* provided in subsection 4,
14 every local government employer shall negotiate in good faith
15 through one or more representatives of its own choosing concerning
16 the mandatory subjects of bargaining set forth in subsection 2 with
17 the designated representatives of the recognized employee
18 organization, if any, for each appropriate bargaining unit among its
19 employees. If either party so requests, agreements reached must be
20 reduced to writing.

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

22 (a) Salary or wage rates or other forms of direct monetary
23 compensation.

24 (b) Sick leave.

25 (c) Vacation leave.

26 (d) Holidays.

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

28 (f) Insurance benefits.

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

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

33 (i) Discharge and disciplinary procedures.

34 (j) Recognition clause.

35 (k) The method used to classify employees in the bargaining
36 unit.


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

38 (m) Protection of employees in the bargaining unit from
39 discrimination because of participation in recognized employee
40 organizations consistent with the provisions of this chapter.

41 (n) No-strike provisions consistent with the provisions of this
42 chapter.

43 (o) Grievance and arbitration procedures for resolution of
44 disputes relating to interpretation or application of collective
45 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.
- 8 3. Those subject matters which are not within the scope of
- 9 mandatory bargaining and which are reserved to the local
- 10 government employer without negotiation include  , *without*
- 11 *limitation:*

12 (a) Except as otherwise provided in paragraph (u) of subsection

13 2, the right to hire, direct, assign or transfer an employee, but

14 excluding the right to assign or transfer an employee as a form of

15 discipline.

16 (b) The right to reduce in force or lay off any employee because

17 of lack of work or lack of money, subject to paragraph (v) of

18 subsection 2.

19 (c) The right to determine:

20 (1) Appropriate staffing levels and work performance

21 standards, except for safety considerations;

22 (2) The content of the workday, including without limitation

23 workload factors, except for safety considerations;

24 (3) The quality and quantity of services to be offered to the

25 public; and

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

27 (d) Safety of the public.

28 *↳ A local government employer shall not negotiate or discuss*

29 *subject matters which are outside the scope of mandatory*

30 *bargaining.*

31 4. Notwithstanding the provisions of any collective bargaining

32 agreement negotiated pursuant to this chapter, a local government

33 employer is entitled to take whatever actions may be necessary to

34 carry out its responsibilities in situations of emergency such as a

35 riot, military action, natural disaster or civil disorder. Those actions

36 may include the suspension of any collective bargaining agreement

37 for the duration of the emergency. Any action taken under the

38 provisions of this subsection must not be construed as a failure to

39 negotiate in good faith.

40 5. The provisions of this chapter, including without limitation

41 the provisions of this section, recognize and declare the ultimate

42 right and responsibility of the local government employer to manage

43 its operation in the most efficient manner consistent with the best

44 interests of all its citizens, its taxpayers and its employees.



1 6. ~~[This section does not preclude, but this chapter does not~~
2 ~~require the local government employer to negotiate subject matters~~
3 ~~enumerated in subsection 3 which are outside the scope of~~
4 ~~mandatory bargaining. The local government employer shall discuss~~
5 ~~subject matters outside the scope of mandatory bargaining but it is~~
6 ~~not required to negotiate those matters.~~

7 ~~—7.]~~ Contract provisions presently existing in signed and ratified
8 agreements as of May 15, 1975, at 12 p.m. remain negotiable.

9 **Sec. 6.** NRS 288.170 is hereby amended to read as follows:

10 288.170 1. Each local government employer which has
11 recognized one or more employee organizations shall determine,
12 after consultation with the recognized organization or organizations,
13 which group or groups of its employees constitute an appropriate
14 unit or units for negotiating. The primary criterion for that
15 determination must be the community of interest among the
16 employees concerned.

17 2. A principal, assistant principal or other school administrator
18 below the rank of superintendent, associate superintendent or
19 assistant superintendent shall not be a member of the same
20 bargaining unit with public school teachers unless the school district
21 employs fewer than five principals but may join with other officials
22 of the same specified ranks to negotiate as a separate bargaining
23 unit.

24 3. A head of a department of a local government, an
25 administrative employee or a supervisory employee must not be a
26 member of the same bargaining unit as the employees under the
27 direction of that department head, administrative employee or
28 supervisory employee. Any dispute between the parties as to
29 whether an employee is a supervisor must be submitted to the
30 Board. An employee organization which is negotiating on behalf of
31 two or more bargaining units consisting of firefighters or police
32 officers ~~[as defined in NRS 288.215,]~~ may select members of the
33 units to negotiate jointly on behalf of each other, even if one of the
34 units consists of supervisory employees and the other unit does not.

35 4. Confidential employees of the local government employer
36 must be excluded from any bargaining unit but are entitled to
37 participate in any plan to provide benefits for a group that is
38 administered by the bargaining unit of which they would otherwise
39 be a member.

40 5. If any employee organization is aggrieved by the
41 determination of a bargaining unit, it may appeal to the Board.
42 Subject to judicial review, the decision of the Board is binding upon
43 the local government employer and employee organizations
44 involved. The Board shall apply the same criterion as specified in
45 subsection 1.



1 6. As used in this section ~~[, “confidential”]~~ :

2 (a) “*Confidential* employee” means an employee who is
3 involved in the decisions of management affecting collective
4 bargaining.

5 (b) “*Firefighters*” means those persons who are salaried
6 employees of a fire prevention or suppression unit organized by a
7 political subdivision of the State and whose principal duties are
8 controlling and extinguishing fires.

9 (c) “*Police officers*” means those persons who are salaried
10 employees of a police department or other law enforcement agency
11 organized by a political subdivision of the State and whose
12 principal duties are to enforce the law.

13 **Sec. 7.** NRS 288.190 is hereby amended to read as follows:

14 288.190 ~~[Except in cases to which NRS 288.205 and 288.215~~
15 ~~apply:]~~

16 1. Anytime before March 1, the dispute may be submitted to a
17 mediator, if both parties agree. Anytime after March 1, either party
18 involved in negotiations may request a mediator. If the parties do
19 not agree upon a mediator, the Commissioner shall submit to the
20 parties a list of seven potential mediators. The parties shall select
21 their mediator from the list by alternately striking one name until the
22 name of only one mediator remains, who will be the mediator to
23 hear the dispute. The employee organization shall strike the first
24 name.

25 2. If mediation is agreed to or requested pursuant to subsection
26 1, the mediator must be selected at the time the parties agree upon a
27 mediator or, if the parties do not agree upon a mediator, within 5
28 days after the parties receive the list of potential mediators from the
29 Commissioner.

30 3. The mediator shall bring the parties together as soon as
31 possible and, unless otherwise agreed upon by the parties, attempt to
32 settle the dispute within 30 days after being notified of the
33 mediator’s selection as mediator. The mediator may establish the
34 times and dates for meetings and compel the parties to attend but
35 has no power to compel the parties to agree.

36 4. The local government employer and employee organization
37 each shall pay one-half of the cost of mediation. Each party shall
38 pay its own costs of preparation and presentation of its case in
39 mediation.

40 5. If the dispute is submitted to a mediator and then submitted
41 to a fact finder, the mediator shall, within 15 days after the last
42 meeting between the parties, give to the Commissioner of the Board
43 a report of the efforts made to settle the dispute.



1 **Sec. 8.** NRS 288.200 is hereby amended to read as follows:

2 288.200 Except in cases to which ~~[NRS 288.205 and 288.215,~~
3 ~~or] NRS 288.217 [apply:] *applies:*~~

4 1. If:

5 (a) The parties have failed to reach an agreement after at least
6 six meetings of negotiations; and

7 (b) The parties have participated in mediation and by April 1,
8 have not reached agreement,

9 ➔ either party to the dispute, at any time after April 1, may submit
10 the dispute to an impartial fact finder for the findings and
11 recommendations of the fact finder. The findings and
12 recommendations of the fact finder are not binding on the parties
13 except as provided in subsections 5, 6 and 11. The mediator of a
14 dispute may also be chosen by the parties to serve as the fact finder.

15 2. If the parties are unable to agree on an impartial fact finder
16 or a panel of neutral arbitrators within 5 days, either party may
17 request from the American Arbitration Association or the Federal
18 Mediation and Conciliation Service a list of seven potential fact
19 finders. If the parties are unable to agree upon which arbitration
20 service should be used, the Federal Mediation and Conciliation
21 Service must be used. Within 5 days after receiving a list from the
22 applicable arbitration service, the parties shall select their fact finder
23 from this list by alternately striking one name until the name of only
24 one fact finder remains, who will be the fact finder to hear the
25 dispute in question. The employee organization shall strike the first
26 name.

27 3. The local government employer and employee organization
28 each shall pay one-half of the cost of fact-finding. Each party shall
29 pay its own costs of preparation and presentation of its case in
30 fact-finding.

31 4. A schedule of dates and times for the hearing must be
32 established within 10 days after the selection of the fact finder
33 pursuant to subsection 2, and the fact finder shall report the findings
34 and recommendations of the fact finder to the parties to the dispute
35 within 30 days after the conclusion of the fact-finding hearing.

36 5. The parties to the dispute may agree, before the submission
37 of the dispute to fact-finding, to make the findings and
38 recommendations on all or any specified issues final and binding on
39 the parties.

40 6. If the parties do not agree on whether to make the findings
41 and recommendations of the fact finder final and binding, either
42 party may request the formation of a panel to determine whether the
43 findings and recommendations of a fact finder on all or any
44 specified issues in a particular dispute which are within the scope of
45 subsection 11 are to be final and binding. The determination must be



1 made upon the concurrence of at least two members of the panel and
2 not later than the date which is 30 days after the date on which the
3 matter is submitted to the panel, unless that date is extended by the
4 Commissioner of the Board. Each panel shall, when making its
5 determination, consider whether the parties have bargained in good
6 faith and whether it believes the parties can resolve any remaining
7 issues. Any panel may also consider the actions taken by the parties
8 in response to any previous fact-finding between these parties, the
9 best interests of the State and all its citizens, the potential fiscal
10 effect both within and outside the political subdivision, and any
11 danger to the safety of the people of the State or a political
12 subdivision.

13 7. Except as otherwise provided in subsection 10, any fact
14 finder, whether the fact finder's recommendations are to be binding
15 or not, shall base such recommendations or award on the following
16 criteria:

17 (a) A preliminary determination must be made as to the financial
18 ability of the local government employer based on all existing
19 available revenues as established by the local government employer
20 and within the limitations set forth in NRS 354.6241, with due
21 regard for the obligation of the local government employer to
22 provide facilities and services guaranteeing the health, welfare and
23 safety of the people residing within the political subdivision.

24 (b) Once the fact finder has determined in accordance with
25 paragraph (a) that there is a current financial ability to grant
26 monetary benefits, and subject to the provisions of paragraph (c),
27 the fact finder shall consider, to the extent appropriate,
28 compensation of other government employees, both in and out of
29 the State and use normal criteria for interest disputes regarding the
30 terms and provisions to be included in an agreement in assessing the
31 reasonableness of the position of each party as to each issue in
32 dispute and the fact finder shall consider whether the Board found
33 that either party had bargained in bad faith.

34 (c) A consideration of funding for the current year being
35 negotiated. If the parties mutually agree to arbitrate a multiyear
36 contract, the fact finder must consider the ability to pay over the life
37 of the contract being negotiated or arbitrated.

38 ➤ The fact finder's report must contain the facts upon which the
39 fact finder based the fact finder's determination of financial ability
40 to grant monetary benefits and the fact finder's recommendations or
41 award.

42 8. Within 45 days after the receipt of the report from the fact
43 finder, the governing body of the local government employer shall
44 hold a public meeting in accordance with the provisions of chapter
45 241 of NRS. The meeting must include a discussion of:



1 (a) The issues of the parties submitted pursuant to subsection 3;
2 (b) The report of findings and recommendations of the fact
3 finder; and

4 (c) The overall fiscal impact of the findings and
5 recommendations, which must not include a discussion of the details
6 of the report.

7 ↪ The fact finder must not be asked to discuss the decision during
8 the meeting.

9 9. The chief executive officer of the local government shall
10 report to the local government the fiscal impact of the findings and
11 recommendations. The report must include, without limitation, an
12 analysis of the impact of the findings and recommendations on
13 compensation and reimbursement, funding, benefits, hours, working
14 conditions or other terms and conditions of employment.

15 10. Any sum of money which is maintained in a fund whose
16 balance is required by law to be:

17 (a) Used only for a specific purpose other than the payment of
18 compensation to the bargaining unit affected; or

19 (b) Carried forward to the succeeding fiscal year in any
20 designated amount, to the extent of that amount,

21 ↪ must not be counted in determining the financial ability of a local
22 government employer and must not be used to pay any monetary
23 benefits recommended or awarded by the fact finder.

24 11. The issues which may be included in a panel's order
25 pursuant to subsection 6 are:

26 (a) Those enumerated in subsection 2 of NRS 288.150 as the
27 subjects of mandatory bargaining, unless precluded for that year by
28 an existing collective bargaining agreement between the parties; and

29 (b) Those which an existing collective bargaining agreement
30 between the parties makes subject to negotiation in that year.

31 ↪ This subsection does not preclude the voluntary submission of
32 other issues by the parties pursuant to subsection 5.

33 **Sec. 9.** NRS 288.205 and 288.215 are hereby repealed.

34 **Sec. 10.** This act becomes effective upon passage and
35 approval.

TEXT OF REPEALED SECTIONS

288.205 Submission of dispute between certain employees and local government employer to fact finder: Time limited for certain matters. In the case of an employee organization and a local government employer to which NRS 288.215 applies, the



following departures from the provisions of NRS 288.200 also apply:

1. If the parties have not reached agreement by April 10, either party may submit the dispute to an impartial fact finder at any time for the findings of the fact finder.

2. In a regular legislative year, the fact-finding hearing must be stayed up to 20 days after the adjournment of the Legislature sine die.

3. Any time limit prescribed by this section or NRS 288.200 may be extended by agreement of the parties.

288.215 Submission of dispute between firefighters or police officers and local government employer to arbitrator; hearing; determination of financial ability of local government employer; negotiations and final offer; effect of decision of arbitrator; content of decision.

1. As used in this section:

(a) "Firefighters" means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

- (a) The parties to the dispute; or
- (b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.



7. A determination of the financial ability of a local government employer must be based on:

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

↳ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11;
and



(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

↳ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

