

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.

~

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 investigation which may result in the
4 dismissal, involuntary demotion or suspension of a permanent classified employee.
5 (NRS 284.385, 284.387; NAC 284.655) **Section 1** of this bill requires an
6 appointing authority, before dismissing, involuntarily demoting or suspending a
7 permanent classified employee, to conduct an impartial, fact-finding investigation
8 into the allegations to determine whether evidence exists to justify the dismissal,
9 involuntary demotion or suspension, unless such an investigation is waived by the
10 employee in writing. **Section 2** of this bill requires the appointing authority to
11 provide an employee with notice of the allegations against the employee before
12 commencing any part of the investigation into those allegations.

13 Existing law requires an appointing authority to complete an internal
14 investigation and make a determination whether to dismiss, involuntarily demote or
15 suspend an employee within 90 days after providing the employee with notice of
16 the allegations, unless the appointing authority obtains approval for an extension of
17 time. (NRS 284.387) **Section 2** prohibits an appointing authority from dismissing,
18 involuntarily demoting or suspending an employee based on allegations if the
19 investigation into those allegations does not result in a determination regarding
20 disciplinary action within the prescribed time period. Additionally, **section 2**
21 requires the appointing authority to provide an employee with a copy of each
22 request and approval for the extension of time for an investigation beyond the
23 initial 90 days.

24 Existing law authorizes a permanent employee to appeal a dismissal,
25 involuntary demotion or suspension in a hearing before the hearing officer of the



* S B 4 7 8 *

26 Personnel Commission. (NRS 284.390) If the employee requests such a hearing,
27 **section 3** of this bill requires the appointing authority of the employee to produce
28 and allow the employee or his or her representative to inspect or receive a copy of
29 any document or evidence related to the internal investigation leading to the
30 employee's dismissal, involuntary demotion or suspension.

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

1 **Section 1.** NRS 284.385 is hereby amended to read as
2 follows:

3 284.385 1. An appointing authority may:

4 (a) Dismiss or demote any permanent classified employee when
5 the appointing authority considers that the good of the public service
6 will be served thereby.

7 (b) Except as otherwise provided in NRS 284.148, suspend
8 without pay, for disciplinary purposes, a permanent employee for a
9 period not to exceed 30 days.

10 2. Before a permanent classified employee is dismissed,
11 involuntarily demoted or suspended, the appointing authority must
12 ~~consult~~:

13 (a) *Consult* with the Attorney General or, if the employee is
14 employed by the Nevada System of Higher Education, the
15 appointing authority's general counsel, regarding the proposed
16 discipline ~~H~~; and

17 (b) *Conduct an impartial fact-finding investigation and make a*
18 *determination as a result of the investigation in the manner set*
19 *forth in NRS 284.387, unless the employee, in writing, admits to*
20 *the allegations on which the proposed dismissal, involuntary*
21 *suspension or demotion is based and waives the investigation.*

22 3. After ~~such consultation,~~ *compliance with the*
23 *requirements of subsection 2,* the appointing authority may take
24 such lawful action regarding the proposed discipline as it deems
25 necessary under the circumstances.

26 ~~3-~~ 4. A dismissal, involuntary demotion or suspension does
27 not become effective until the employee is notified in writing of the
28 dismissal, involuntary demotion or suspension and the reasons
29 therefor. The Commission shall adopt regulations setting forth the
30 procedures for properly notifying the employee of the dismissal,
31 involuntary demotion or suspension and the reasons therefor.

32 ~~4-~~ 5. No employee in the classified service may be dismissed
33 for religious or racial reasons.



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

2 284.387 1. *The investigation described in subsection 2 of*
3 *NRS 284.385 must:*

4 (a) *Commence within 20 days after the date on which the*
5 *appointing authority becomes aware of the allegations against the*
6 *employee; and*

7 (b) *Include a review of the documentation relating to the*
8 *proposed dismissal, involuntary suspension or demotion of the*
9 *employee and an interview with the employee and each potential*
10 *witness to determine whether evidence exists to justify the*
11 *dismissal, involuntary suspension or demotion of the employee.*

12 2. An employee who is the subject of an ~~internal~~
13 ~~administrative~~ investigation ~~that could lead to disciplinary action~~
14 ~~against the employee~~ **conducted** pursuant to NRS 284.385 must be:

15 (a) Provided notice in writing of the allegations against the
16 employee before *any part of the investigation begins, including,*
17 *without limitation, before* the employee is questioned regarding the
18 allegations; and

19 (b) Afforded the right to have a lawyer or other representative of
20 the employee's choosing present with the employee at any time that
21 the employee is questioned regarding those allegations. The
22 employee must be given not less than 2 business days to obtain such
23 representation, unless the employee waives the employee's right to
24 be represented.

25 ~~2.~~ 3. An ~~internal administrative~~ investigation ~~that could~~
26 ~~lead to disciplinary action against an employee~~ **conducted** pursuant
27 to NRS 284.385 and any determination made as a result of such an
28 investigation must be completed and the employee notified of any
29 disciplinary action within 90 days after the employee is provided
30 notice of the allegations pursuant to paragraph (a) of subsection ~~1.~~
31 **2.** If the appointing authority cannot complete the investigation and
32 make a determination within 90 days after the employee is provided
33 notice of the allegations pursuant to paragraph (a) of subsection ~~1.~~
34 **2,** the appointing authority may request an extension of not more
35 than 60 days from the Administrator upon showing good cause for
36 the delay. No further extension may be granted unless approved by
37 the Governor.

38 4. *The appointing authority shall provide an employee with a*
39 *copy of each request for an extension and approval of a request*
40 *for an extension made pursuant to subsection 3 before the*
41 *expiration of 90 days after the employee is provided notice of the*
42 *allegations pursuant to paragraph (a) of subsection 2 or any*
43 *extension of time approved pursuant to subsection 3, as*
44 *applicable.*



1 ***5. If the appointing authority does not make a determination***
2 ***within 90 days after the employee is provided notice of the***
3 ***allegations or within any extended time period approved pursuant***
4 ***to subsection 3, the appointing authority may not take any***
5 ***disciplinary action against the employee pursuant to NRS 284.385***
6 ***which is based on those allegations.***

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

8 284.390 1. Within 10 working days after the effective date of
9 an employee's dismissal, demotion or suspension pursuant to NRS
10 284.385, the employee who has been dismissed, demoted or
11 suspended may request in writing a hearing before the hearing
12 officer of the Commission to determine the reasonableness of the
13 action. The request may be made by mail and shall be deemed
14 timely if it is postmarked within 10 working days after the effective
15 date of the employee's dismissal, demotion or suspension.

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

22 3. ***Unless the employee waived the conduct of an investigation***
23 ***pursuant to NRS 284.385, the appointing authority of the***
24 ***employee who requests a hearing pursuant to subsection 1 shall,***
25 ***within the time prescribed by the hearing officer, produce and***
26 ***allow the employee or his or her representative to inspect or***
27 ***receive a copy of any document concerning the investigation***
28 ***conducted pursuant to NRS 284.385, including, without limitation,***
29 ***any recordings, notes, transcripts of interviews or other documents***
30 ***or evidence related to the investigation.***

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

34 ~~14~~ 5. Technical rules of evidence do not apply at the hearing.

35 ~~15~~ 6. After the hearing and consideration of the evidence, the
36 hearing officer shall render a decision in writing, setting forth the
37 reasons therefor.

38 ~~16~~ 7. If the hearing officer determines that the dismissal,
39 demotion or suspension was without just cause as provided in NRS
40 284.385, the action must be set aside and the employee must be
41 reinstated, with full pay for the period of dismissal, demotion or
42 suspension.

43 ~~17~~ 8. The decision of the hearing officer is binding on the
44 parties.



- 1 ~~18.1~~ 9. Any petition for judicial review of the decision of the
- 2 hearing officer must be filed in accordance with the provisions of
- 3 chapter 233B of NRS.
- 4 **Sec. 4.** This act becomes effective on July 1, 2017.

Ⓢ



* S B 4 7 8 *