

Nevada System of Higher Education

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SUBJECT: AB 224 – Collective Bargaining for Professional Employees

NSHE currently remains *NEUTRAL* on this bill because we support collective bargaining for our professional employees, which is evidenced by the Board’s Professional Staff Collective Bargaining Regulations, which have been in place for over 33 years, and its active collective bargaining agreements (CBA) with the professional employees of the College of Southern Nevada (“CSN”), Truckee Meadows Community College (“TMCC”), and Western Nevada College (“WNC”).

However, NSHE’s *NEUTRAL* position is subject to the following serious concerns with this bill being addressed:

1. AB 224 incorrectly purports to **authorize** the Board to collectively bargain¹ and seeks to prescribe the **powers** of the Board of Regents rather than the **duties**, which is in direct violation of the Article 11, Sec. 7 of the Nevada Constitution². Many of the mandatory **terms** of collective bargaining agreements set forth in AB 224 infringe upon the Board’s constitutional autonomy in matters of employee management and collective bargaining.³ This bill also unconstitutionally seeks to repeal the Board’s longstanding Professional Staff Collective Bargaining Regulations, which have been in place for over 33 years. (Board of Regents *Handbook*, Title 4, Chapter 4, Section 10).
2. This bill diminishes the Board’s and the faculty’s right to bargain. Current Board policy requires every CBA to be ratified by “the professional employees represented by an employee organization.” (Board of Regents *Handbook*, Title 4, Chapter 4, Section 10). Moreover, the terms of every CBA must be negotiated in good faith on behalf of the employees represented. Here, it is not clear that all faculty fully understand and support the **terms** set forth in this bill. As such, it is inappropriate strip the Board and faculty of their rights to negotiate the **terms** of their own CBAs.
3. AB 224 substantially interferes with the **terms** of existing CBAs by setting forth **terms** currently bargained for in law. While there is a provision in Sec. 66 of the bill that grandfathers in existing CBAs, these terms are required to apply to any extension or renewal of those agreements.

¹ AB 224, §65

² Nev. Const., Art. 11, §7 (stating that the Legislature’s power over the Board of Regents is to define their **duties** and the Board of Regents is to “control and manage the affairs of the University and the funds.”)

³ One example of a term that violates the NV Constitution is when AB 224 authorizes the EMRB to designate a professional organization as an exclusive representative, review annual reports of professional organizations, hear complaints and grievances from professional organizations, deny the Board of Regents’ decision to withdraw recognition of a professional organization, and preside over the election and decertification of an exclusive representative. AB 224, §§2, 19, 26-32, 57-59. The Nevada Constitution granted the Board of Regents this power when it authorized the Board of Regents to “control and manage the affairs of the University and the funds.” Nev. Const., art. 11, §7. The Legislature cannot shift this power from the Board of Regents to the EMRB.

4. AB 224 sets a dangerous precedent by establishing collective bargaining *terms* in law. Collective bargaining is already taking place at NSHE institutions, and this bill creates a slippery slope by providing a second forum to negotiate terms of collective bargaining agreements during legislative sessions.
5. Finally, AB 224 has a significant fiscal impact on NSHE. As we have learned from what has been required in the collective bargaining of classified employees, the administration of these agreements will require the funding of additional positions and processes. Failure to sufficiently staff for these responsibilities creates legal risk to the Board and its institutions. A fiscal note has been provided.

In summary, NSHE has serious concerns with AB 224 because:

- 1) it sets forth mandatory *terms* of collective bargaining that infringe upon the Board's constitutional autonomy in matters of employee management and collective bargaining;
- 2) it diminishes the Board's and the faculty's right to bargain;
- 3) it substantially interferes with the terms of existing CBAs that are extended or renewed;
- 4) it creates a slippery slope by providing a second forum to negotiate terms of collective bargaining agreements during legislative sessions, and
- 5) it has a significant fiscal impact on NSHE.

As noted, NSHE currently remains neutral on this bill, in an effort to allow the sponsors to address our concerns. We reserve the right to oppose the measure if this version is not amended.

Alternatively, NSHE would like to propose a simple resolution to all of these concerns. Rather than setting forth collective bargaining *terms* in law, NSHE would like to propose that the Legislature mandate in law that the Board has a *duty* to collectively bargain with its professional employees and establish and maintain Board policy that allows effective collective bargaining to take place. This alternative is consistent with the Nevada Constitution, preserves the rights of faculty, does not interfere with existing CBAs, and minimizes fiscal impacts.