

Amendment No. CA16

Conference Committee Amendment to (BDR 23-415)
Senate Bill No. 98 Second Reprint

Proposed by: Conference Committee

Amendment Box: Replaces Amendment No. CA14.

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JMK/MSM



Date: 6/6/2011

S.B. No. 98—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)



SENATE BILL NO. 98—SENATOR HARDY

PREFILED JANUARY 25, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 relating to ~~mediation during the process of~~ collective bargaining ~~;~~ ~~revising provisions relating to certain reports on final agreements~~ between local government employers and employee organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1.3 of this bill revises provisions relating to mediation between local governments and~~ **Existing law states that certain persons may, and certain persons may not, be members of** employee organizations ~~during~~ **for the purposes of** collective bargaining. (NRS 288.140) ~~Sections 1, 1.7, 3 and 4~~ **Section 6 of this bill** ~~require~~ **sets forth** that the ~~reports made by the chief executive officer of a local government or the superintendent of a school district to the local government or to the board of trustees of the school district, respectively, concerning the fiscal impact of a collective bargaining agreement between the local government and~~ **following persons are prohibited from being a member of** an employee organization ~~include information relating to the estimated total cost of the agreement and the difference in that cost and the total cost of the immediately preceding agreement.~~ **;** **(1) supervisory employees who have additional authority on behalf of the employer to make budgetary decisions and decisions relating to collective bargaining; (2) doctors and physicians who are employed by a local government employer; and (3) attorneys who are employed by a local government employer and assigned to a civil division, department or agency, except for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.**

Under existing law, a supervisory employee is prohibited from being a member of the same bargaining unit as the employees under his or her direction. (NRS 288.170) Section 5 of this bill revises the definition of "supervisory employee" (NRS 288.075) to create a second subset of supervisory employees who, on behalf of their employer, make budgetary decisions and decisions relating to collective bargaining. Section 8 of this bill makes technical changes to reflect that section 5 now sets forth two subsets of supervisory employees.

Existing law sets forth the subjects over which local government employers and recognized employee organizations are required to bargain (mandatory bargaining), and the subjects that are reserved to such an employer without negotiation. (NRS 288.150)

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Section 7 of this bill adds to the list of mandatory bargaining topics the reopening of collective bargaining agreements in instances of fiscal emergency.

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

1 **Section 1.** ~~[NRS 288.152 is hereby amended to read as follows:~~

2 ~~288.152 Any new, extended or modified collective bargaining agreement or~~
3 ~~similar agreement between a local government employer and an employee~~
4 ~~organization must be approved by the governing body of the local government~~
5 ~~employer at a public hearing. The chief executive officer of the local government~~
6 ~~shall report to the local government the fiscal impact of the agreement. *The report*~~
7 ~~*must include, without limitation:*~~

8 ~~1. *The estimated total cost of the agreement, including, without limitation,*~~
9 ~~*the estimated total cost of the employees' portion of contributions to the Public*~~
10 ~~*Employees' Retirement System that the local government employer will pay on*~~
11 ~~*behalf of the employees during the period of the agreement in lieu of equivalent*~~
12 ~~*base salary increases or cost of living increases, or both, in the employees'*~~
13 ~~*salaries; and*~~

14 ~~2. *The difference between the estimated total cost of the agreement and the*~~
15 ~~*total cost of the immediately preceding agreement between the parties.] (Deleted*~~
16 ~~*by amendment.)*~~

17 **Sec. 1.3.** ~~[NRS 288.190 is hereby amended to read as follows:~~

18 ~~288.190 Except [in cases to which] as otherwise provided in NRS 288.205 +~~
19 ~~[and 288.215 apply:]~~

20 ~~1. [Anytime before March 1, the dispute may be submitted to a mediator, if~~
21 ~~both parties agree. Anytime after March 1,] *If the parties to a negotiation have*~~
22 ~~*failed to reach an agreement after at least four meetings of negotiation, either*~~
23 ~~*party involved [in negotiations] may request a mediator. If the parties do not agree*~~
24 ~~*upon a mediator, [the Commissioner shall submit to the parties a list of seven*~~
25 ~~*potential mediators.] either party may request from the American Arbitration*~~
26 ~~*Association or the Federal Mediation and Conciliation Service a list of seven*~~
27 ~~*potential mediators. If the parties are unable to agree upon which mediation*~~
28 ~~*service should be used, the Federal Mediation and Conciliation Service must be*~~
29 ~~*used.*~~ The parties shall select their mediator from the list by alternately striking one
30 ~~name until the name of only one mediator remains, who will be the mediator to hear~~
31 ~~the dispute. The employee organization shall strike the first name.~~

32 ~~2. If mediation is [agreed to or] requested pursuant to subsection 1, the~~
33 ~~mediator must be selected at the time the parties agree upon a mediator or, if the~~
34 ~~parties do not agree upon a mediator, within 5 days after the parties receive the list~~
35 ~~of potential mediators. [from the Commissioner.]~~

36 ~~3. The mediator shall bring the parties together as soon as possible and, unless~~
37 ~~otherwise agreed upon by the parties, attempt to settle the dispute within 30 days~~
38 ~~after being notified of the mediator's selection as mediator. The mediator may~~
39 ~~establish the times and dates for meetings and compel the parties to attend but has~~
40 ~~no power to compel the parties to agree.~~

41 ~~4. [The] *If the parties do not use a mediator provided by the Federal*~~
42 ~~*Mediation and Conciliation Service, the local government employer and employee*~~
43 ~~*organization each shall pay one half of the cost of mediation. Each party shall pay*~~
44 ~~*its own costs of preparation and presentation of its case in mediation.*~~

1 ~~5. If the dispute is submitted to a mediator and then submitted to a fact finder,~~
2 ~~the mediator shall, within 15 days after the last meeting between the parties, give to~~
3 ~~the Commissioner of the Board a report of the efforts made to settle the dispute.]~~

4 **(Deleted by amendment.)**

5 **Sec. 1.7.** ~~[NRS 288.200 is hereby amended to read as follows:~~

6 ~~288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217~~
7 ~~apply:~~

8 ~~1. If:~~

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

11 ~~(b) The parties have participated in mediation and by April 1, have not reached~~
12 ~~agreement;~~

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

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

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

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

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

37 ~~6. If the parties do not agree on whether to make the findings and~~
38 ~~recommendations of the fact finder final and binding, either party may request the~~
39 ~~formation of a panel to determine whether the findings and recommendations of a~~
40 ~~fact finder on all or any specified issues in a particular dispute which are within the~~
41 ~~scope of subsection 11 are to be final and binding. The determination must be made~~
42 ~~upon the concurrence of at least two members of the panel and not later than the~~
43 ~~date which is 30 days after the date on which the matter is submitted to the panel,~~
44 ~~unless that date is extended by the Commissioner of the Board. Each panel shall,~~
45 ~~when making its determination, consider whether the parties have bargained in~~
46 ~~good faith and whether it believes the parties can resolve any remaining issues. Any~~
47 ~~panel may also consider the actions taken by the parties in response to any previous~~
48 ~~fact finding between these parties, the best interests of the State and all its citizens,~~
49 ~~the potential fiscal effect both within and outside the political subdivision, and any~~
50 ~~danger to the safety of the people of the State or a political subdivision.~~

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

4 ~~(a) A preliminary determination must be made as to the financial ability of the~~
5 ~~local government employer based on all existing available revenues as established~~
6 ~~by the local government employer and within the limitations set forth in NRS~~
7 ~~254.6241, with due regard for the obligation of the local government employer to~~
8 ~~provide facilities and services guaranteeing the health, welfare and safety of the~~
9 ~~people residing within the political subdivision.~~

10 ~~(b) Once the fact finder has determined in accordance with paragraph (a) that~~
11 ~~there is a current financial ability to grant monetary benefits, and subject to the~~
12 ~~provisions of paragraph (c), the fact finder shall consider, to the extent appropriate,~~
13 ~~compensation of other government employees, both in and out of the State and use~~
14 ~~normal criteria for interest disputes regarding the terms and provisions to be~~
15 ~~included in an agreement in assessing the reasonableness of the position of each~~
16 ~~party as to each issue in dispute and the fact finder shall consider whether the Board~~
17 ~~found that either party had bargained in bad faith.~~

18 ~~(c) A consideration of funding for the current year being negotiated. If the~~
19 ~~parties mutually agree to arbitrate a multiyear contract, the fact finder must~~
20 ~~consider the ability to pay over the life of the contract being negotiated or~~
21 ~~arbitrated.~~

22 ~~The fact finder's report must contain the facts upon which the fact finder based~~
23 ~~the fact finder's determination of financial ability to grant monetary benefits and~~
24 ~~the fact finder's recommendations or award.~~

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

29 ~~(a) The issues of the parties submitted pursuant to subsection 2;~~

30 ~~(b) The report of findings and recommendations of the fact finder; and~~

31 ~~(c) The overall fiscal impact of the findings and recommendations, which must~~
32 ~~not include a discussion of the details of the report.~~

33 ~~The fact finder must not be asked to discuss the decision during the meeting.~~

34 ~~9. The chief executive officer of the local government shall report to the local~~
35 ~~government the fiscal impact of the findings and recommendations. The report must~~
36 ~~include, without limitation [, an] :~~

37 ~~(a) An analysis of the impact of the findings and recommendations on~~
38 ~~compensation and reimbursement, funding, benefits, hours, working conditions or~~
39 ~~other terms and conditions of employment [,] ; and~~

40 ~~(b) If any of the findings or recommendations of the fact finder are to be~~
41 ~~bindings;~~

42 ~~(1) The estimated total cost of any contract resulting from the findings or~~
43 ~~recommendations which are to be binding, including, without limitation, the~~
44 ~~estimated total cost of the employees' portion of contributions to the Public~~
45 ~~Employees' Retirement System that the local government employer will pay on~~
46 ~~behalf of the employees during the period of the contract in lieu of equivalent~~
47 ~~base salary increases or cost of living increases, or both, in the employees'~~
48 ~~salaries; and~~

49 ~~(2) The difference between the estimated total cost of the contract and the~~
50 ~~total cost of the immediately preceding contract between the parties.~~

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

1 ~~— (a) Used only for a specific purpose other than the payment of compensation to~~
2 ~~the bargaining unit affected; or~~

3 ~~— (b) Carried forward to the succeeding fiscal year in any designated amount, to~~
4 ~~the extent of that amount.~~

5 ~~— must not be counted in determining the financial ability of a local government~~
6 ~~employer and must not be used to pay any monetary benefits recommended or~~
7 ~~awarded by the fact finder.~~

8 ~~— 11. The issues which may be included in a panel's order pursuant to~~
9 ~~subsection 6 are:~~

10 ~~— (a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of~~
11 ~~mandatory bargaining, unless precluded for that year by an existing collective~~
12 ~~bargaining agreement between the parties; and~~

13 ~~— (b) Those which an existing collective bargaining agreement between the~~
14 ~~parties makes subject to negotiation in that year.~~

15 ~~— This subsection does not preclude the voluntary submission of other issues by~~
16 ~~the parties pursuant to subsection 5.] (Deleted by amendment.)~~

17 **Sec. 2.** (Deleted by amendment.)

18 **Sec. 3.** [NRS 288.215 is hereby amended to read as follows:

19 ~~— 288.215 1. As used in this section:~~

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

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

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

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

34 ~~— 4. The arbitrator shall, within 10 days after the arbitrator is selected, and after~~
35 ~~7 days' written notice is given to the parties, hold a hearing to receive information~~
36 ~~concerning the dispute. The hearings must be held in the county in which the local~~
37 ~~government employer is located and the arbitrator shall arrange for a full and~~
38 ~~complete record of the hearings.~~

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

41 ~~— (a) The parties to the dispute; or~~

42 ~~— (b) Any interested person.~~

43 ~~— 6. The parties to the dispute shall each pay one half of the costs incurred by~~
44 ~~the arbitrator.~~

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

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

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

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

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

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

16 ~~— 10. The arbitrator shall, within 10 days after the final offers are submitted,~~
17 ~~accept one of the written statements, on the basis of the criteria provided in NRS~~
18 ~~288.200, and shall report the decision to the parties. The decision of the arbitrator is~~
19 ~~final and binding on the parties. Any award of the arbitrator is retroactive to the~~
20 ~~expiration date of the last contract.~~

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

22 ~~— (a) Giving the arbitrator's [reason] reasons for accepting the final offer that is~~
23 ~~the basis of the arbitrator's award; and~~

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

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

29 ~~— (a) The issues submitted pursuant to subsection 2;~~

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

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

33 ~~— The arbitrator must not be asked to discuss the decision during the meeting.~~

34 ~~— 13. The chief executive officer of the local government shall report to the~~
35 ~~local government the fiscal impact of the decision. The report must include, without~~
36 ~~limitation [, an]:~~

37 ~~— (a) An analysis of the impact of the decision on compensation and~~
38 ~~reimbursement, funding, benefits, hours, working conditions or other terms and~~
39 ~~conditions of employment [];~~

40 ~~— (b) The estimated total cost of any contract resulting from the decision,~~
41 ~~including, without limitation, the estimated total cost of the employees' portion of~~
42 ~~contributions to the Public Employees' Retirement System that the local~~
43 ~~government employer will pay on behalf of firefighters or police officers, as~~
44 ~~applicable, during the period of the contract in lieu of equivalent base salary~~
45 ~~increases or cost of living increases, or both, in the employees' salaries; and~~

46 ~~— (c) The difference between the estimated total cost of the contract and the~~
47 ~~total cost of the immediately preceding contract between the parties.] (Deleted by~~
48 ~~amendment.)~~

49 **Sec. 4.** [NRS 288.217 is hereby amended to read as follows:

50 ~~— 288.217 1. The provisions of this section govern negotiations between~~
51 ~~school districts and employee organizations representing teachers and educational~~
52 ~~support personnel.~~

1 ~~2. If the parties to a negotiation pursuant to this section have failed to reach an~~
2 ~~agreement after at least four sessions of negotiation, either party may declare the~~
3 ~~negotiations to be at an impasse and, after 5 days' written notice is given to the~~
4 ~~other party, submit the issues remaining in dispute to an arbitrator. The arbitrator~~
5 ~~must be selected in the manner provided in subsection 2 of NRS 288.200 and has~~
6 ~~the powers provided for fact finders in NRS 288.210.~~

7 ~~3. The arbitrator shall, within 30 days after the arbitrator is selected, and after~~
8 ~~7 days' written notice is given to the parties, hold a hearing to receive information~~
9 ~~concerning the dispute. The hearing must be held in the county in which the school~~
10 ~~district is located and the arbitrator shall arrange for a full and complete record of~~
11 ~~the hearing.~~

12 ~~4. The parties to the dispute shall each pay one half of the costs of the~~
13 ~~arbitration.~~

14 ~~5. A determination of the financial ability of a school district must be based~~
15 ~~on:~~

16 ~~(a) All existing available revenues as established by the school district and~~
17 ~~within the limitations set forth in NRS 254.6241, with due regard for the obligation~~
18 ~~of the school district to provide an education to the children residing within the~~
19 ~~district.~~

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

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

27 ~~6. At the recommendation of the arbitrator, the parties may, before the~~
28 ~~submission of a final offer, enter into negotiations. If the negotiations are begun, the~~
29 ~~arbitrator may adjourn the hearing for a period of 2 weeks. If an agreement is~~
30 ~~reached, it must be submitted to the arbitrator, who shall certify it as final and~~
31 ~~binding.~~

32 ~~7. If the parties do not enter into negotiations or do not agree within 30 days~~
33 ~~after the hearing held pursuant to subsection 3, each of the parties shall submit a~~
34 ~~single written statement containing its final offer for each of the unresolved issues.~~

35 ~~8. The arbitrator shall, within 10 days after the final offers are submitted,~~
36 ~~render a decision on the basis of the criteria set forth in NRS 288.200. The~~
37 ~~arbitrator shall accept one of the written statements and shall report the decision to~~
38 ~~the parties. The decision of the arbitrator is final and binding on the parties. Any~~
39 ~~award of the arbitrator is retroactive to the expiration date of the last contract~~
40 ~~between the parties.~~

41 ~~9. The decision of the arbitrator must include a statement:~~

42 ~~(a) Giving the arbitrator's [reason] reasons for accepting the final offer that is~~
43 ~~the basis of the arbitrator's award; and~~

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

45 ~~10. Within 45 days after the receipt of the decision from the arbitrator, the~~
46 ~~board of trustees of the school district shall hold a public meeting in accordance~~
47 ~~with the provisions of chapter 241 of NRS. The meeting must include a discussion~~
48 ~~of:~~

49 ~~(a) The issues submitted pursuant to subsection 2;~~

50 ~~(b) The statement of the arbitrator pursuant to subsection 9; and~~

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

~~1 The arbitrator must not be asked to discuss the decision during the meeting.
2 11. The superintendent of the school district shall report to the board of
3 trustees the fiscal impact of the decision. The report must include, without
4 limitation [, an] .~~

~~5 (a) An analysis of the impact of the decision on compensation and
6 reimbursement, funding, benefits, hours, working conditions or other terms and
7 conditions of employment [.] .~~

~~8 (b) The estimated total cost of any contract resulting from the decision,
9 including, without limitation, the estimated total cost of the employees' portion of
10 contributions to the Public Employees' Retirement System that the school district
11 will pay on behalf of teachers and educational support personnel during the
12 period of the contract in lieu of equivalent base salary increases or cost of living
13 increases, or both, in the salaries of the teachers and educational support
14 personnel; and~~

~~15 (c) The difference between the estimated total cost of the contract and the
16 total cost of the immediately preceding contract between the parties.~~

~~17 12. As used in this section:~~

~~18 (a) "Educational support personnel" means all classified employees of a school
19 district, other than teachers, who are represented by an employee organization.~~

~~20 (b) "Teacher" means an employee of a school district who is licensed to teach
21 in this State and who is represented by an employee organization.] (Deleted by
22 amendment.)~~

Sec. 5. NRS 288.075 is hereby amended to read as follows:

288.075 1. "Supervisory employee" means ~~[any] :~~

~~25 (a) Any individual having authority in the interest of the employer to hire,
26 transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline
27 other employees or responsibility to direct them, to adjust their grievances or
28 effectively to recommend such action, if in connection with the foregoing, the
29 exercise of such authority is not of a merely routine or clerical nature, but requires
30 the use of independent judgment. The exercise of such authority shall not be
31 deemed to place the employee in supervisory employee status unless the exercise of
32 such authority occupies a significant portion of the employee's workday [.] ; or~~

~~33 (b) Any individual or class of individuals appointed by the employer and
34 having authority on behalf of the employer to:~~

~~35 (1) Hire, transfer, suspend, lay off, recall, terminate, promote, discharge,
36 assign, reward or discipline other employees or responsibility to direct them, to
37 adjust their grievances or to effectively to recommend such action;~~

~~38 (2) Make budgetary decisions; and~~

~~39 (3) Be consulted on decisions relating to collective bargaining,
40 if, in connection with the foregoing, the exercise of such authority is not of a
41 merely routine or clerical nature, but requires the use of independent judgment.
42 The exercise of such authority shall not be deemed to place the employee in
43 supervisory employee status unless the exercise of such authority occupies a
44 significant portion of the employee's workday.~~

2. Nothing in this section shall be construed to mean that an employee who
46 has been given incidental administrative duties shall be classified as a supervisory
47 employee.

Sec. 6. NRS 288.140 is hereby amended to read as follows:

288.140 1. It is the right of every local government employee, subject to the
49 ~~[limitation] limitations~~ provided in ~~[subsection] subsections 3 [.] and 4~~, to join any
50 employee organization of the employee's choice or to refrain from joining any
51 employee organization. A local government employer shall not discriminate in any
52

1 way among its employees on account of membership or nonmembership in an
2 employee organization.

3 2. The recognition of an employee organization for negotiation, pursuant to
4 this chapter, does not preclude any local government employee who is not a
5 member of that employee organization from acting for himself or herself with
6 respect to any condition of his or her employment, but any action taken on a request
7 or in adjustment of a grievance shall be consistent with the terms of an applicable
8 negotiated agreement, if any.

9 3. A police officer, sheriff, deputy sheriff or other law enforcement officer
10 may be a member of an employee organization only if such employee organization
11 is composed exclusively of law enforcement officers.

12 4. The following persons may not be a member of an employee
13 organization:

14 (a) A supervisory employee described in paragraph (b) of subsection 1 of
15 NRS 288.075, including but not limited to appointed officials and department
16 heads who are primarily responsible for formulating and administering
17 management, policy and programs.

18 (b) A doctor or physician who is employed by a local government employer.

19 (c) Except as otherwise provided in this paragraph, an attorney who is
20 employed by a local government employer and who is assigned to a civil law
21 division, department or agency. The provisions of this paragraph do not apply
22 with respect to an attorney for the duration of a collective bargaining agreement
23 to which the attorney is a party as of July 1, 2011.

24 5. As used in this section, "doctor or physician" means a doctor, physician,
25 homeopathic physician, osteopathic physician, chiropractic physician,
26 practitioner of Oriental medicine, podiatric physician or practitioner of
27 optometry, as those terms are defined or used, respectively, in NRS 630.014,
28 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of
29 NRS or chapter 636 of NRS.

30 ~~{Sec. 5.}~~ Sec. 7. NRS 288.150 is hereby amended to read as follows:

31 288.150 1. Except as provided in subsection 4, every local government
32 employer shall negotiate in good faith through one or more representatives of its
33 own choosing concerning the mandatory subjects of bargaining set forth in
34 subsection 2 with the designated representatives of the recognized employee
35 organization, if any, for each appropriate bargaining unit among its employees. If
36 either party so requests, agreements reached must be reduced to writing.

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

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

39 (b) Sick leave.

40 (c) Vacation leave.

41 (d) Holidays.

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

43 (f) Insurance benefits.

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

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

47 (i) Discharge and disciplinary procedures.

48 (j) Recognition clause.

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

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

1 (m) Protection of employees in the bargaining unit from discrimination
2 because of participation in recognized employee organizations consistent with the
3 provisions of this chapter.

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

5 (o) Grievance and arbitration procedures for resolution of disputes relating to
6 interpretation or application of collective bargaining agreements.

7 (p) General savings clauses.

8 (q) Duration of collective bargaining agreements.

9 (r) Safety of the employee.

10 (s) Teacher preparation time.

11 (t) Materials and supplies for classrooms.

12 (u) The policies for the transfer and reassignment of teachers.

13 (v) Procedures for reduction in workforce.

14 (w) Procedures and requirements for the reopening of collective bargaining
15 agreements that exceed 1 year in duration for additional, further, new or
16 supplementary negotiations during periods of fiscal emergency. The
17 requirements for the reopening of a collective bargaining agreement must
18 include, without limitation, measures of revenue shortfalls or reductions relative
19 to economic indicators such as the Consumer Price Index, as agreed upon by
20 both parties.

21 3. Those subject matters which are not within the scope of mandatory
22 bargaining and which are reserved to the local government employer without
23 negotiation include:

24 (a) Except as otherwise provided in paragraph (u) of subsection 2, the right to
25 hire, direct, assign or transfer an employee, but excluding the right to assign or
26 transfer an employee as a form of discipline.

27 (b) The right to reduce in force or lay off any employee because of lack of
28 work or lack of money, subject to paragraph (v) of subsection 2.

29 (c) The right to determine:

30 (1) Appropriate staffing levels and work performance standards, except for
31 safety considerations;

32 (2) The content of the workday, including without limitation workload
33 factors, except for safety considerations;

34 (3) The quality and quantity of services to be offered to the public; and

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

36 (d) Safety of the public.

37 4. Notwithstanding the provisions of any collective bargaining agreement
38 negotiated pursuant to this chapter, a local government employer is entitled to take
39 whatever actions may be necessary to carry out its responsibilities in situations of
40 emergency such as a riot, military action, natural disaster or civil disorder. Those
41 actions may include the suspension of any collective bargaining agreement for the
42 duration of the emergency. Any action taken under the provisions of this subsection
43 must not be construed as a failure to negotiate in good faith.

44 5. The provisions of this chapter, including without limitation the provisions
45 of this section, recognize and declare the ultimate right and responsibility of the
46 local government employer to manage its operation in the most efficient manner
47 consistent with the best interests of all its citizens, its taxpayers and its employees.

48 6. This section does not preclude, but this chapter does not require the local
49 government employer to negotiate subject matters enumerated in subsection 3
50 which are outside the scope of mandatory bargaining. The local government
51 employer shall discuss subject matters outside the scope of mandatory bargaining
52 but it is not required to negotiate those matters.

1 7. Contract provisions presently existing in signed and ratified agreements as
2 of May 15, 1975, at 12 p.m. remain negotiable.

3 **Sec. 8. NRS 288.170 is hereby amended to read as follows:**

4 288.170 1. Each local government employer which has recognized one or
5 more employee organizations shall determine, after consultation with the
6 recognized organization or organizations, which group or groups of its employees
7 constitute an appropriate unit or units for negotiating. The primary criterion for that
8 determination must be the community of interest among the employees concerned.

9 2. A principal, assistant principal or other school administrator below the rank
10 of superintendent, associate superintendent or assistant superintendent shall not be a
11 member of the same bargaining unit with public school teachers unless the school
12 district employs fewer than five principals but may join with other officials of the
13 same specified ranks to negotiate as a separate bargaining unit.

14 3. A head of a department of a local government, an administrative employee
15 or a supervisory employee must not be a member of the same bargaining unit as the
16 employees under the direction of that department head, administrative employee or
17 supervisory employee. Any dispute between the parties as to whether an employee
18 is a supervisor must be submitted to the Board. An employee organization which is
19 negotiating on behalf of two or more bargaining units consisting of firefighters or
20 police officers, as defined in NRS 288.215, may select members of the units to
21 negotiate jointly on behalf of each other, even if one of the units consists of
22 supervisory employees and the other unit does not.

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

27 5. If any employee organization is aggrieved by the determination of a
28 bargaining unit, it may appeal to the Board. Subject to judicial review, the decision
29 of the Board is binding upon the local government employer and employee
30 organizations involved. The Board shall apply the same criterion as specified in
31 subsection 1.

32 6. As used in this section ~~["confidential"]~~ :

33 (a) "Confidential" employee means an employee who is involved in the
34 decisions of management affecting collective bargaining.

35 (b) "Supervisory employee" means a supervisory employee described in
36 paragraph (a) of subsection 1 of NRS 288.075.

37 **Sec. 9.** This act becomes effective on July 1, 2011.