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Senate Committee on Education

This measure may be considered for action during today's work session.

May 20, 2011

**ASSEMBLY BILL 225 (First Reprint)**

**Requires an additional probationary period for certain teachers and administrators.  
(BDR 34-876)**

**Sponsored by:** Assembly Committee on Ways and Means  
**Date Heard:** May 9, 2011; May 11, 2011; May 18, 2011  
**Fiscal Impact:** Effect on Local Government: No  
Effect on the State: No

Assembly Bill 225 provides that a postprobationary teacher or administrator who receives an unsatisfactory evaluation for two consecutive years shall be deemed to be a probationary employee and must serve an additional probationary period. In addition, the measure provides that a probationary employee who receives notice that he or she will be dismissed before completion of the current school year, may request an expedited hearing pursuant to the procedures established by the American Arbitration Association. The provisions of this measure do not apply if superseded by the terms of a collective bargaining agreement.

**Amendments:** Various amendments were proposed for this measure, as follows:

1. **The Clark County School District, the Washoe County School District, the Nevada Association of School Boards, and the Nevada Association of School Superintendents** proposes to delete Section 4 of the bill which provides that the provisions of Section 1 do not apply if superseded by the terms of a collective bargaining agreement. (Section 1 provides that a postprobationary teacher or administrator who receives an unsatisfactory evaluation for two consecutive years shall be deemed to be a probationary employee and must serve an additional probationary period). Copy of the proposal follows.
2. **The Nevada State Education Association** suggests four changes to the bill, as follows:
  - a. Provide that unsatisfactory evaluations be received and conferences concluded prior to February 1;
  - b. Provide that the arbitrator mentioned in subsection 3 of Section 5 of the bill, hold a hearing within 30 days of selection, giving parties seven days notice, and render a decision within 30 days of the hearing;
  - c. Provide a postprobationary employee receiving an unsatisfactory evaluation with intensive assistance to improve the employee's effectiveness through professional development linked to the evaluation; and

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- d. Add the reclassification of a postprobationary teacher as probationary to the definition of a demotion.

Copy of the proposal follows.

3. **Assemblywoman Debbie Smith (5-18-11)** proposes that:
  - a) In every instance where “year” appears in A.B. 225 it should be replaced with “contract year”;
  - b) In every instance the word “unsatisfactory” is used, replace with “minimally effective or ineffective.”
4. **Governor’s Office (Dale Erquiaga) (5-18-11)** proposes to:
  - a) Delete Section 4 of the bill (removes the “six words” [See Legal Counsel—this specific action to make the desired change may not be possible—may need to revise language within Section 4.]
  - b) Add to Section 5 concerning dismissals of postprobationary employees to clarify that an expedited hearing is not available to every postprobationary employees who loses postprobationary status—only to those who receive notice of dismissal.
  - c) Provides that after July 1, 2013, Section 1 of the bill should change the wording to replace the description of a postprobationary employee who receives an “unsatisfactory” evaluation, to read instead “a minimally effective or ineffective” evaluation.

# Amendment to AB 225

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**Provided by Clark County School District, Washoe County School District, Nevada Association of School Boards, and Nevada Association of School Superintendents:**

**Sec. 4.** NRS 391.3116 is hereby amended to read as follows:

The provisions of NRS 391.311 to 391.3197, inclusive, ~~and section 1 of this act~~ do not apply to a teacher, administrator, or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

**NSEA Suggested Amendments to AB 225**

**1. Due process NEW SUBSECTIONS 2 & 3 OF SECTION 1 OF THE BILL**

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, a postprobationary employee who receives an unsatisfactory evaluation for 2 consecutive years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.*

*2. Unsatisfactory evaluations of postprobationary employees must be received and conferences concluded no later than February 1.*

*3. A postprobationary employee pursuant to subsection 1 may contest an unsatisfactory evaluation by requesting an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. Any such request must be made within 10 work days after receipt of the evaluation. The arbitrator shall determine whether the evaluation complies with the provisions of any applicable collective bargaining agreement and the policies of the school district governing evaluations, and whether the evaluation's rating of overall performance of the employee is warranted. The decision of the arbitrator is final upon the parties.*

*4. The arbitrator shall, within 30 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 arbitrator's award must be submitted no later than 30 days from the date of closing the hearings.*

**3. Intensive assistance**

Add a new subsection 3

*An intensive plan of assistance must be provided a post-probationary employee who receives an unsatisfactory evaluation. The plan must ensure that a teacher or administrator is afforded a meaningful opportunity to improve his or her effectiveness through professional development that is linked to the evaluation.*

**4. Define demotion**

NRS 391.311 Definitions. As used in [NRS 391.311](#) to [391.3197](#), inclusive, unless the context otherwise requires:

3. "Demotion" means (a) demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization (b) *or the reclassification of a post probationary teacher as probationary pursuant to section 1 of the act.*

## Conceptual Amendment to AB 225

1. In every instance where "year" appears in AB 225 or AB 229 should be replaced with "contract year"
2. In every instance that the word "unsatisfactory" is used, add ", minimally effective or ineffective"

## Proposed Amendments to AB 225 and AB 229

### Explanation:

- *blue bold italics* is new language in the original bill
- *green bold italic underlining* is new language proposed in this amendment
- ~~red strikethrough~~ is deleted language in the original bill
- ~~purple double strikethrough~~ is language proposed to be deleted in this amendment
- green bold is newly added transitory language

AB 225 Amendment Intent: The intent of the amendment is to clarify and clean up sections of the bill related to expedited hearings and terms utilized when referring to evaluations. Additionally, the amendment seeks to eliminate Section 4, which amends NRS 391.3116 for purposes of this bill.

### **Section 4. Repeal by amendment**

### **Section 5, subsections (b) and (c)**

(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer ~~+~~ *pursuant to NRS 391.315 to 391.3194, inclusive, or if the employee is deemed to be a probationary employee pursuant to section 1 of this act and dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3. An expedited hearing is not available to every postprobationary employee who loses postprobationary status pursuant to section 1 of this act. The expedited hearing is available only if the employee also receives notice that he or she will be dismissed.*

(c) Refer to chapter 391 of NRS.

*3. If an employee who is deemed to be a probationary employee pursuant to section 1 of this act receives notice pursuant to subsection 1 that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply. An expedited hearing is not available to every postprobationary employee who loses postprobationary status pursuant to section 1 of this act. The expedited hearing is available only if the employee also receives notice that he or she will be dismissed.*

**New Section (effective on July 1, 2013). Section 1 of this act is hereby amended to read as follows:**

**A postprobationary employee who receives an ~~unsatisfactory~~ minimally effective or ineffective evaluation for 2 consecutive years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.**