

ASSEMBLY BILL NO. 121—ASSEMBLYMAN YEAGER

PREFILED FEBRUARY 9, 2017

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to collective bargaining between local government employers and employee organizations. (BDR 23-621)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 collective bargaining; prohibiting a local government employer from unilaterally implementing certain changes in terms and conditions of employment for a specified period after the end of the term or expiration of a collective bargaining agreement; requiring the employer, during that period, to continue to pay compensation and monetary benefits as provided in the agreement; generally providing that any increase in compensation and monetary benefits provided for in a successor agreement is effective retroactively to the end of the most recent term or expiration date of the last agreement; making mandatory the provision of certain leave to employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a collective bargaining agreement between a local
2 government employer and an employee organization is deemed to expire for certain
3 purposes at the end of the term stated in the agreement, even if the agreement itself
4 provides otherwise. Thereafter, the employer is generally prohibited from
5 increasing the amount of compensation or monetary benefits paid to employees
6 governed by the agreement until a successor agreement becomes effective. (NRS
7 288.155) **Section 1** of this bill removes these provisions and requires the employer
8 to continue to pay compensation and monetary benefits as provided in the last
9 agreement, including any agreed-upon promotional, step or merit increases in
10 compensation or monetary benefits, until a successor agreement becomes effective
11 or the employee organization ceases to be the recognized bargaining agent for the
12 employees involved.



13 If a successor agreement provides for an increase in compensation or monetary
14 benefits, **section 1** further provides that any such increase is effective retroactively
15 to the end of the most recent term or expiration date of the last agreement except:
16 (1) as the parties otherwise agree; or (2) in the case of an agreement settled by an
17 arbitrator, as otherwise provided in the final offer accepted by the arbitrator.
18 **Sections 2-4** of this bill make similar changes to provisions governing the award of
19 a fact finder or arbitrator. (NRS 288.200, 288.215, 288.217)

20 Existing law authorizes a local government employer to provide leave to any of
21 its employees for time spent by an employee in providing services for an employee
22 organization, conditioned upon: (1) payment or reimbursement of the cost of the
23 leave by the affected employee organization; or (2) bargaining concessions by the
24 employee organization which offset the cost of the leave. (NRS 288.225) **Section 5**
25 of this bill makes the provision of such leave mandatory, not discretionary, under
26 these conditions. In addition, if such leave was provided by a local government
27 employer as of June 1, 2015, to a given number of employees, **section 5** provides
28 that bargaining concessions are deemed to have been made by the employee
29 organization for the past, present and future costs of providing the leave to that
30 number of employees.

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

1 **Section 1.** NRS 288.155 is hereby amended to read as follows:
2 288.155 1. A collective bargaining agreement ~~f~~

3 ~~—(a) May~~ *may* extend beyond the term of office of any member
4 or officer of the local government employer.

5 ~~[(b) Expires for the purposes of this section at the end of the~~
6 ~~term stated in the agreement, notwithstanding any provision of the~~
7 ~~agreement that it remain in effect, in whole or in part, after the end~~
8 ~~of that term until a successor agreement becomes effective.~~

9 ~~—2. Except as otherwise provided in subsection 3 and~~
10 ~~notwithstanding any provision of the collective bargaining~~
11 ~~agreement to the contrary, upon the expiration of a collective~~
12 ~~bargaining agreement, if no successor agreement is effective and~~
13 ~~until a successor agreement becomes effective, a local government~~
14 ~~employer shall not pay to or on behalf of any employee in the~~
15 ~~affected bargaining unit any compensation or monetary benefits in~~
16 ~~any amount greater than the amount in effect as of the expiration of~~
17 ~~the collective bargaining agreement.~~

18 ~~—3. The provisions of subsection 2 do not prohibit a local~~
19 ~~government employer from paying:~~

20 ~~—(a) An increase in compensation or monetary benefits during the~~
21 ~~first quarter of the next ensuing fiscal year of the local government~~
22 ~~employer after the expiration of a collective bargaining agreement;~~
23 ~~or~~



1 ~~—(b) An increase in the employer’s portion of the matching~~
2 ~~contribution rate for employees and employers in accordance with~~
3 ~~an adjustment in the rate of contributions pursuant to NRS 286.450.]~~

4 **2. Notwithstanding the end of the term or expiration of a**
5 **collective bargaining agreement, a local government employer:**

6 **(a) Shall continue to pay the compensation and monetary**
7 **benefits provided for in the agreement, including, without**
8 **limitation, any promotional, step or merit increases in**
9 **compensation or monetary benefits; and**

10 **(b) Shall not, without negotiation, modify any term or**
11 **condition of employment relating to a mandatory subject of**
12 **bargaining for employees in the bargaining unit,**

13 **↪ until a successor agreement becomes effective or the affected**
14 **employee organization ceases to be the recognized bargaining**
15 **agent for the unit, whichever occurs first.**

16 **3. Except as otherwise agreed by the local government**
17 **employer and employee organization or, where applicable, as**
18 **otherwise provided in the final offer accepted by an arbitrator**
19 **pursuant to NRS 288.215 or 288.217, any increase in**
20 **compensation or monetary benefits provided for in a successor**
21 **agreement is effective retroactively to the end of the most recent**
22 **term or expiration date of the last agreement.**

23 **Sec. 2.** NRS 288.200 is hereby amended to read as follows:

24 288.200 Except in cases to which NRS 288.205 and 288.215,
25 or NRS 288.217 apply:

26 1. If:

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

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

31 ↪ either party to the dispute, at any time after April 1, may submit
32 the dispute to an impartial fact finder for the findings and
33 recommendations of the fact finder. The findings and
34 recommendations of the fact finder are not binding on the parties
35 except as provided in subsections 5, 6 and 11. The mediator of a
36 dispute may also be chosen by the parties to serve as the fact finder.

37 2. If the parties are unable to agree on an impartial fact finder
38 or a panel of neutral arbitrators within 5 days, either party may
39 request from the American Arbitration Association or the Federal
40 Mediation and Conciliation Service a list of seven potential fact
41 finders. If the parties are unable to agree upon which arbitration
42 service should be used, the Federal Mediation and Conciliation
43 Service must be used. Within 5 days after receiving a list from the
44 applicable arbitration service, the parties shall select their fact finder
45 from this list by alternately striking one name until the name of only



1 one fact finder remains, who will be the fact finder to hear the
2 dispute in question. The employee organization shall strike the first
3 name.

4 3. The local government employer and employee organization
5 each shall pay one-half of the cost of fact-finding. Each party
6 shall pay its own costs of preparation and presentation of its case in
7 fact-finding.

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

13 5. The parties to the dispute may agree, before the submission
14 of the dispute to fact-finding, to make the findings and
15 recommendations on all or any specified issues final and binding on
16 the parties.

17 6. If the parties do not agree on whether to make the findings
18 and recommendations of the fact finder final and binding, either
19 party may request the formation of a panel to determine whether the
20 findings and recommendations of a fact finder on all or any
21 specified issues in a particular dispute which are within the scope of
22 subsection 11 are to be final and binding. The determination must be
23 made upon the concurrence of at least two members of the panel and
24 not later than the date which is 30 days after the date on which the
25 matter is submitted to the panel, unless that date is extended by the
26 Commissioner of the Board. Each panel shall, when making its
27 determination, consider whether the parties have bargained in good
28 faith and whether it believes the parties can resolve any remaining
29 issues. Any panel may also consider the actions taken by the parties
30 in response to any previous fact-finding between these parties, the
31 best interests of the State and all its citizens, the potential fiscal
32 effect both within and outside the political subdivision, and any
33 danger to the safety of the people of the State or a political
34 subdivision.

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

39 (a) A preliminary determination must be made as to the financial
40 ability of the local government employer based on all existing
41 available revenues as established by the local government employer
42 and within the limitations set forth in NRS 354.6241, with due
43 regard for the obligation of the local government employer to
44 provide facilities and services guaranteeing the health, welfare and
45 safety of the people residing within the political subdivision.



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

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

15 ➤ The fact finder's report must contain the facts upon which the
16 fact finder based the fact finder's determination of financial ability
17 to grant monetary benefits and the fact finder's recommendations or
18 award. *Except as otherwise agreed by the parties, any increase in*
19 *compensation or monetary benefits awarded by the fact finder is*
20 *retroactive to the end of the most recent term or expiration date of*
21 *the last contract.*

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

26 (a) The issues of the parties submitted pursuant to ~~subsection~~
27 ~~3-1~~ *this section*;

28 (b) The report of findings and recommendations of the fact
29 finder; and

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

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

35 9. The chief executive officer of the local government shall
36 report to the local government the fiscal impact of the findings and
37 recommendations. The report must include, without limitation, an
38 analysis of the impact of the findings and recommendations on
39 compensation and reimbursement, funding, benefits, hours, working
40 conditions or other terms and conditions of employment.

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

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



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

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

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

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

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

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

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

16 288.215 1. As used in this section:

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

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

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

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

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

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

42 (a) The parties to the dispute; or

43 (b) Any interested person.

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



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

3 (a) All existing available revenues as established by the local
4 government employer and within the limitations set forth in NRS
5 354.6241, with due regard for the obligation of the local government
6 employer to provide facilities and services guaranteeing the health,
7 welfare and safety of the people residing within the political
8 subdivision.

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

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

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

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

26 10. The arbitrator shall, within 10 days after the final offers are
27 submitted, accept one of the written statements, on the basis of the
28 criteria provided in NRS 288.200, and shall report the decision to
29 the parties. The decision of the arbitrator is final and binding on the
30 parties. ~~Any award of~~ *Except as otherwise agreed by the parties*
31 *or provided in the final offer accepted by the arbitrator, any*
32 *increase in compensation or monetary benefits awarded by the*
33 *arbitrator is retroactive to the end of the most recent term or*
34 *expiration date of the last contract.*

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

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

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

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

45 (a) The issues submitted pursuant to subsection 3;



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

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

5 ➤ The arbitrator must not be asked to discuss the decision during
6 the meeting.

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

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

14 288.217 1. The provisions of this section govern negotiations
15 between school districts and employee organizations representing
16 teachers and educational support personnel.

17 2. Not later than 330 days before the end of the term stated in
18 their collective bargaining agreement, the parties shall select an
19 arbitrator in the manner provided in subsection 2 of NRS 288.200 to
20 conduct a hearing in the event that an impasse is declared pursuant
21 to subsection 3. The parties and the arbitrator shall schedule a
22 hearing of not less than 3 consecutive business days, to begin not
23 later than June 10 immediately preceding the end of the term stated
24 in the collective bargaining agreement or 60 days before the end of
25 that term, whichever is earlier. As a condition of his or her selection,
26 the arbitrator must agree to render a decision, if the hearing is held,
27 within the time required by subsection 9. If the arbitrator fails or
28 refuses to agree to any of the conditions stated in this subsection, the
29 parties shall immediately proceed to select another arbitrator in the
30 manner provided in subsection 2 of NRS 288.200 until an arbitrator
31 is selected who agrees to those conditions.

32 3. If the parties to a negotiation pursuant to this section have
33 failed to reach an agreement after at least eight sessions of
34 negotiation, either party may declare the negotiations to be at an
35 impasse and, after 5 days' written notice is given to the other party,
36 submit the issues remaining in dispute to the arbitrator selected
37 pursuant to subsection 2. The arbitrator has the powers provided for
38 fact finders in NRS 288.210.

39 4. The arbitrator shall, pursuant to subsection 2, hold a hearing
40 to receive information concerning the dispute. The hearing must be
41 held in the county in which the school district is located and the
42 arbitrator shall arrange for a full and complete record of the hearing.

43 5. The parties to the dispute shall each pay one-half of the costs
44 of the arbitration.



1 6. A determination of the financial ability of a school district
2 must be based on:

3 (a) All existing available revenues as established by the school
4 district and within the limitations set forth in NRS 354.6241, with
5 due regard for the obligation of the school district to provide an
6 education to the children residing within the district.

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

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

16 7. At the recommendation of the arbitrator, the parties may,
17 before the submission of a final offer, enter into negotiations. If the
18 negotiations are begun, the arbitrator may adjourn the hearing for a
19 period of 3 weeks. If an agreement is reached, it must be submitted
20 to the arbitrator, who shall certify it as final and binding.

21 8. If the parties do not enter into negotiations or do not agree
22 within 7 days after the hearing held pursuant to subsection 4, each of
23 the parties shall submit a single written statement containing its final
24 offer for each of the unresolved issues.

25 9. The arbitrator shall, within 10 days after the final offers are
26 submitted, render a decision on the basis of the criteria set forth in
27 NRS 288.200. The arbitrator shall accept one of the written
28 statements and shall report the decision to the parties. The decision
29 of the arbitrator is final and binding on the parties. ~~Any award of~~
30 *Except as otherwise agreed by the parties or provided in the final*
31 *offer accepted by the arbitrator, any increase in compensation or*
32 *monetary benefits awarded by the arbitrator is retroactive to the end*
33 *of the most recent term or* expiration date of the last contract
34 between the parties.

35 10. The decision of the arbitrator must include a statement:

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

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

40 11. Within 45 days after the receipt of the decision from the
41 arbitrator, the board of trustees of the school district shall hold a
42 public meeting in accordance with the provisions of chapter 241 of
43 NRS. The meeting must include a discussion of:

44 (a) The issues submitted pursuant to subsection 3;



1 (b) The statement of the arbitrator pursuant to subsection 10;
2 and

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

5 ➤ The arbitrator must not be asked to discuss the decision during
6 the meeting.

7 12. The superintendent of the school district shall report to the
8 board of trustees the fiscal impact of the decision. The report must
9 include, without limitation, an analysis of the impact of the decision
10 on compensation and reimbursement, funding, benefits, hours,
11 working conditions or other terms and conditions of employment.

12 13. As used in this section:

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

16 (b) "Teacher" means an employee of a school district who is
17 licensed to teach in this State and who is represented by an
18 employee organization.

19 **Sec. 5.** NRS 288.225 is hereby amended to read as follows:

20 288.225 **1.** A local government employer ~~may agree to~~
21 **shall** provide leave to any of its employees for time spent by the
22 employee in performing duties or providing services for an
23 employee organization if the full cost of such leave is paid or
24 reimbursed by the employee organization or is offset by the value of
25 concessions made by the employee organization in the negotiation
26 of an agreement with the local government employer pursuant to
27 this chapter.

28 **2.** *If such leave was provided by a local government employer*
29 *as of June 1, 2015, the employee organization shall be deemed for*
30 *the purposes of this section to have made concessions to offset the*
31 *past, present and future costs of leave for the number of employees*
32 *to whom leave was provided as of that date.*

33 **Sec. 6.** The provisions of subsection 1 of NRS 288.225, as
34 amended by section 5 of this act, do not apply during the current
35 term of any collective bargaining agreement entered into before
36 July 1, 2017, but do apply to any extension or renewal of such an
37 agreement and to any agreement entered into on or after July 1,
38 2017.

39 **Sec. 7.** This act becomes effective on July 1, 2017.

