

Amendment No. 158

Senate Amendment to Senate Bill No. 166	(BDR 23-556)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



SENATE BILL NO. 166—SENATORS PAZINA; DALY,
DONDERO LOOP AND NGUYEN

FEBRUARY 16, 2023

JOINT SPONSORS: ASSEMBLYMEN HIBBETTS AND YUREK

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to collective bargaining by public employees. (BDR 23-556)

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 collective bargaining; revising the definition of “supervisory employee” for the purposes of collective bargaining for local government and state employees; revising the provisions relating to bargaining units of state employees who are peace officers or supervisory employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits employees who exercise certain duties under a paramilitary command structure from being deemed supervisory employees solely due to the exercise of such duties. (NRS 288.138) **Section 1** of this bill also excludes from being deemed supervisory employees solely due to the exercise of certain duties under a paramilitary command structure certain employees who provide civilian support services to a law enforcement agency.

Existing law requires the Government Employee-Management Relations Board to establish one bargaining unit per group for certain occupational groups of employees of the Executive Department, including category I, category II and category III peace officers and supervisory employees from all occupational groups. (NRS 288.515) **Section 2** of this bill ~~re~~ ~~quires~~ requires the Board to establish a separate bargaining unit for supervisory employees who are: ~~(1)~~ **(1)** category I ~~;~~ ~~and~~ **peace officers;** ~~(2)~~ **(2)** category II ~~;~~ ~~and~~ **peace officers;** ~~(3)~~ **(3)** category III peace officers; and ~~(4)~~ **(4) firefighters.** **Section 2** also provides that a bargaining unit for peace officers must be composed exclusively of peace officers.

Section 3 of this bill provides that the amendatory provisions of this bill do not apply during the current term of any collective bargaining agreement entered into before July 1, 2023.

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

Section 1. NRS 288.138 is hereby amended to read as follows:

288.138 1. "Supervisory employee" includes:

(a) Any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. If any of the following persons perform some, but not all, of the foregoing duties under a paramilitary command structure, such a person shall not be deemed a supervisory employee solely because of such duties:

(1) A police officer, as defined in NRS 288.215;

(2) A firefighter, as defined in NRS 288.215; ~~or~~

(3) A person who:

(I) Has the powers of a peace officer pursuant to NRS 289.150, 289.170, 289.180 or 289.190; and

(II) Is a local government employee who is authorized to be in a bargaining unit pursuant to the provisions of this chapter ~~H~~; *or*

(4) A person who:

(I) Provides civilian support services to a law enforcement agency;
and

(II) Is an employee who is authorized to be in a bargaining unit pursuant to the provisions of this chapter.

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

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

(2) Make budgetary decisions; and

(3) Be consulted on decisions relating to collective bargaining,

↳ if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.

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

Sec. 2. NRS 288.515 is hereby amended to read as follows:

288.515 1. ~~The~~ *Except as otherwise provided in subsection 2, the* Board shall establish one bargaining unit for each of the following occupational groups of employees of the Executive Department:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

1 (b) Administrative and clerical employees, including, without limitation, legal
 2 support staff and employees whose work involves general office work, or keeping
 3 or examining records and accounts.

4 (c) Technical aides to professional employees, including, without limitation,
 5 computer programmers, tax examiners, conservation employees and regulatory
 6 inspectors.

7 (d) Professional employees who do not provide health care, including, without
 8 limitation, engineers, scientists and accountants.

9 (e) Professional employees who provide health care, including, without
 10 limitation, physical therapists and other employees in medical and other professions
 11 related to health.

12 (f) Employees, other than professional employees, who provide health care and
 13 personal care, including, without limitation, employees who provide care for
 14 children.

15 (g) Category I peace officers.

16 (h) Category II peace officers.

17 (i) Category III peace officers.

18 (j) Supervisory employees from all occupational groups ~~and~~ *other than*
 19 *firefighters and category I, category II or category III peace officers.*

20 (k) Firefighters.

21 *(l) Supervisory employees who are category I ~~and~~ peace officers.*

22 *(m) Supervisory employees who are category II ~~and~~ peace officers.*

23 *(n) Supervisory employees who are category III peace officers.*

24 *(o) Supervisory employees who are firefighters.*

25 *2. Any bargaining unit established for peace officers pursuant to subsection*
 26 *1 must be composed exclusively of peace officers.*

27 **3.** The Board shall determine the classifications of employees within each
 28 bargaining unit. The parties to a collective bargaining agreement may assign a new
 29 classification to a bargaining unit based upon the similarity of the new classification
 30 to other classifications within the bargaining unit. If the parties to a collective
 31 bargaining agreement do not agree to the assignment of a new classification to a
 32 bargaining unit, the Board must assign a new classification to a bargaining unit
 33 based upon the similarity of the new classification to other classifications within the
 34 bargaining unit.

35 ~~3-3~~ **4.** As used in this section:

36 (a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

37 (b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

38 (c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

39 (d) "Professional employee" means an employee engaged in work that:

40 (1) Is predominately intellectual and varied in character as opposed to
 41 routine mental, manual, mechanical or physical work;

42 (2) Involves the consistent exercise of discretion and judgment in its
 43 performance;

44 (3) Is of such a character that the result accomplished or produced cannot
 45 be standardized in relation to a given period; and

46 (4) Requires advanced knowledge in a field of science or learning
 47 customarily acquired through a prolonged course of specialized intellectual
 48 instruction and study in an institution of higher learning, as distinguished from
 49 general academic education, an apprenticeship or training in the performance of
 50 routine mental or physical processes.

51 (e) "Supervisory employee" has the meaning ascribed to it in paragraph (a) of
 52 subsection 1 of NRS 288.138.

1 **Sec. 3.** Insofar as they conflict with the provisions of such an agreement, the
2 amendatory provisions of this act do not apply during the current term of any
3 collective bargaining agreement entered into before July 1, 2023, but do apply to
4 any extension or renewal of such an agreement and to any collective bargaining
5 agreement entered into on or after July 1, 2023. For the purposes of this section, the
6 term of a collective bargaining agreement ends on the date provided in the
7 agreement, notwithstanding the provisions of NRS 288.550 or any provision of the
8 agreement that it remains in effect, in whole or in part, after that date until a
9 successor agreement becomes effective.

10 **Sec. 4.** This act becomes effective on July 1, 2023.