

Amendment No. 467

Senate Amendment to Senate Bill No. 388	(BDR 23-131)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: Yes 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.

TJO/HAC



Date: 4/20/2023

S.B. No. 388—Revises provisions relating to certain public employees.
(BDR 23-131)



SENATE BILL NO. 388—SENATOR SCHEIBLE

MARCH 27, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to certain public employees. (BDR 23-131)

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

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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 public employees; ~~authorizing contributions to the Public Employees' Retirement System to be made by an employer on behalf of certain employees pursuant to a collective bargaining agreement;~~ authorizing certain collective bargaining agreements entered into by the Executive Department of the State Government to contain **certain Public Employees' Retirement** System; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[With certain exceptions, retired public employees receive retirement allowances through membership in and contributions to the Public Employees' Retirement System. (Chapter 286 of NRS) With certain exceptions, the public employer and the public employee each pay a matching portion of the contribution unless the public employer or public employee has elected for the public employer to pay the public employee's share of the contribution on his or her behalf. (NRS 286.410, 286.421, 286.425) Sections 1 and 2 of this bill allow for a provision of a collective bargaining agreement entered into between certain groups of employees in the classified service of the Executive Department of the State Government and the Executive Department to establish a negotiated rate for employee contributions, rather than a matching rate, and require the employer to pay the remainder of contributions required on behalf of the employee. Section 1 provides that such a contribution paid on behalf of an employee is not required to be returned to the employee. Section 2 prohibits the salary of an employee from being reduced to counterbalance the increased contribution made by the employer on the behalf of the employee.]~~

Existing law authorizes certain groups of employees in the classified service of the Executive Department of the State Government to engage in collective bargaining with the Executive Department concerning wages, hours and other terms and conditions of employment for such employees. (NRS 288.400-288.630) Existing law establishes the subjects of mandatory bargaining for such employees and the subject matters which are not within the scope of mandatory bargaining and are reserved to the Executive Department. Matters which are neither subject to mandatory bargaining or reserved to the Executive Department are required to be discussed by the Executive Department, but are not required to be negotiated. (NRS 288.500) Matters relating to contributions to the Public Employees' Retirement System are neither a mandatory or a reserved subject for such bargaining. (NRS 288.150, 288.500)

26 Existing law also provides that, with certain exceptions, payment of a public
 27 employee's portion of contributions to the Public Employees' Retirement System must
 28 be: (1) made in lieu of equivalent basic salary increases or cost-of-living increases, or
 29 both; or (2) counterbalanced by equivalent reductions in employees' salaries. (NRS
 30 286.421) Section 3 of this bill makes ~~the payment of a portion of the employee contribution~~
 31 rate by the employer to the System] a mandatory subject of collective bargaining for certain
 32 groups of employees in the classified service of the Executive Department of the State
 33 Government [~~Section 4 of this bill prohibits a provision of a collective bargaining agreement~~
 34 relating to such a payment from becoming effective unless the provision also requires the
 35 salary of each such employee who has elected to have his or her employer pay all
 36 contributions to the System on his or her behalf to be increased by a rate which results in an
 37 equivalent increase in compensation to that which results from such a payment.] **whether: (1)**
 38 **the payment of the employees' portion of the contributions to the Public Employees'**
 39 **Retirement System must be: (1) made in lieu of equivalent basic salary increases or cost-**
 40 **of-living increases, or both; or (2) counterbalanced by equivalent reductions in the**
 41 **employees' salaries.**

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

1 **Section 1.** ~~NRS 286.410 is hereby amended to read as follows:~~
 2 ~~286.410 1. The employee contribution rate must be:~~
 3 ~~(a) The matching contribution rate for employees and employers that is~~
 4 ~~actuarially determined for police officers and firefighters and for regular members,~~
 5 ~~depending upon the retirement fund in which the member is participating [~~] and~~~~
 6 ~~whether the member is part of a bargaining unit that has negotiated a certain~~
 7 ~~employee contribution rate pursuant to NRS 289.500 which is contained as a~~
 8 ~~provision of a collective bargaining agreement that is approved pursuant to NRS~~
 9 ~~289.555 and for which the Legislature appropriated sufficient money to give the~~
 10 ~~provision effect.~~
 11 ~~(b) Except as otherwise provided in subsection 2, adjusted on the first monthly~~
 12 ~~retirement reporting period commencing on or after July 1 of each odd numbered~~
 13 ~~year based on the actuarially determined contribution rate indicated in the biennial~~
 14 ~~actuarial valuation and report of the immediately preceding year. The adjusted rate~~
 15 ~~must be rounded to the nearest one-quarter of 1 percent.~~
 16 ~~2. The employee's portion of the matching contribution rate for employees~~
 17 ~~and employers must not be adjusted in accordance with the provisions of paragraph~~
 18 ~~(b) of subsection 1 if:~~
 19 ~~(a) The existing rate is lower than the actuarially determined rate but within~~
 20 ~~one-quarter of 1 percent of the actuarially determined rate.~~
 21 ~~(b) The existing rate is higher than the actuarially determined rate but is within~~
 22 ~~1 percent of the actuarially determined rate. If the existing rate is more than 1~~
 23 ~~percent higher than the actuarially determined rate, the existing rate must be~~
 24 ~~reduced by the amount by which it exceeds 1 percent above the actuarially~~
 25 ~~determined rate.~~
 26 ~~3. From each payroll during the period of the employee's membership, the~~
 27 ~~employer shall deduct the amount of the member's contributions and transmit the~~
 28 ~~deduction to the Board at intervals designated and upon forms prescribed by the~~
 29 ~~Board. The contributions must be paid on compensation earned by a member from~~
 30 ~~the member's first day of service.~~
 31 ~~4. Any employee whose position is determined after July 1, 1971, to be~~
 32 ~~eligible under the early retirement provisions for police officers and firefighters~~
 33 ~~shall contribute the additional contributions required of police officers and~~

1 firefighters from July 1, 1971, to the date of the employee's enrollment under the
 2 Police and Firefighters' Retirement Fund, if employment in this position occurred
 3 before July 1, 1971, or from date of employment in this position to the date of the
 4 employee's enrollment under the Police and Firefighters' Retirement Fund, if
 5 employment occurs later.

6 ~~5. Except as otherwise provided in NRS 286.430, the System shall guarantee~~
 7 ~~to each member the return of at least the total employee contributions which the~~
 8 ~~member has made and which were credited to the member's individual account.~~
 9 ~~The contributions guaranteed pursuant to this subsection must exclude any~~
 10 ~~contributions made by a public employer on the behalf of the member pursuant to~~
 11 ~~a collective bargaining agreement. These contributions may be returned to the~~
 12 ~~member, the member's estate or beneficiary or a combination thereof in monthly~~
 13 ~~benefits, a lump-sum refund or both.~~

14 ~~6. Members with disabilities who are injured on the job and receive industrial~~
 15 ~~insurance benefits for temporary total disability remain contributing members of the~~
 16 ~~System for the duration of the benefits if and while the public employer continues~~
 17 ~~to pay the difference between these benefits and the member's regular~~
 18 ~~compensation. The public employer shall pay the employer contributions on these~~
 19 ~~benefits.] (Deleted by amendment.)~~

20 **Sec. 2.** ~~[NRS 286.421 is hereby amended to read as follows:~~

21 ~~286.421 1. A public employer that elected to pay on behalf of its employees~~
 22 ~~the contributions required by subsection 1 of NRS 286.410 before July 1, 1983,~~
 23 ~~shall continue to do so, but a public employer may not elect to pay those~~
 24 ~~contributions on behalf of its employees on or after July 1, 1983 [.] , unless~~
 25 ~~required to do so by a provision of a collective bargaining agreement that is~~
 26 ~~approved pursuant to NRS 288.555 and for which the Legislature appropriated~~
 27 ~~sufficient money to give the provision effect.~~

28 ~~2. An employee of a public employer that did not elect to pay on behalf of its~~
 29 ~~employees the contributions required by subsection 1 of NRS 286.410 before July~~
 30 ~~1, 1983, may elect to:~~

31 ~~(a) Pay the contribution required by subsection 1 of NRS 286.410 on the~~
 32 ~~employee's own behalf; or~~

33 ~~(b) Have the employee's portion of the contribution paid by the employee's~~
 34 ~~employer pursuant to the provisions of NRS 286.425.~~

35 ~~3. Except for any person chosen by election or appointment to serve in an~~
 36 ~~elective office of a political subdivision or as a district judge, a judge of the Court~~
 37 ~~of Appeals or a justice of the Supreme Court of this State:~~

38 ~~(a) Payment of the employee's portion of the contributions pursuant to~~
 39 ~~subsection 1 must be:~~

40 ~~(1) Made in lieu of equivalent basic salary increases or cost of living~~
 41 ~~increases, or both; or~~

42 ~~(2) [Counterbalanced] Except as otherwise provided in a provision of a~~
 43 ~~collective bargaining agreement that is approved pursuant to NRS 288.555 and~~
 44 ~~for which the Legislature appropriated sufficient money to give the provision~~
 45 ~~effect, counterbalanced by equivalent reductions in employees' salaries.~~

46 ~~(b) The average compensation from which the amount of benefits payable~~
 47 ~~pursuant to this chapter is determined must be [increased].*~~

48 ~~(1) Increased with respect to each month beginning after June 30, 1975, by~~
 49 ~~50 percent of the contribution made by the public employer [.] or such lesser rate~~
 50 ~~as is contained in a provision of a collective bargaining agreement that is~~
 51 ~~approved pursuant to NRS 288.555 and for which the Legislature appropriated~~
 52 ~~sufficient money to give the provision effect; and [must not be]~~

~~(2) Not less than it would have been if contributions had been made by the member and the public employer separately.~~

~~In the case of any officer or judge described in this subsection, any contribution made by the public employer on the officer's or judge's behalf does not affect the officer's or judge's compensation but is an added special payment.~~

~~4. Employee contributions made by a public employer must be deposited in either the Public Employees' Retirement Fund or the Police and Firefighters' Retirement Fund as is appropriate. These contributions must not be credited to the individual account of the member and may not be withdrawn by the member upon the member's termination.~~

~~5. The membership of an employee who became a member on or after July 1, 1975, and all contributions on whose behalf were made by the member's public employer must not be cancelled upon the termination of the member's service.~~

~~6. If an employer is paying the basic contribution on behalf of an employee, the total contribution rate, in lieu of the amounts required by subsection 1 of NRS 286.410 and NRS 286.450, must be:~~

~~(a) The total contribution rate for employers that is actuarially determined for police officers and firefighters and for regular members, depending upon the retirement fund in which the member is participating.~~

~~(b) Except as otherwise provided in subsection 7, adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report of the immediately preceding year. The adjusted rate must be rounded to the nearest one quarter of 1 percent.~~

~~7. The total contribution rate for employers must not be adjusted in accordance with the provisions of paragraph (b) of subsection 6 if:~~

~~(a) The existing rate is lower than the actuarially determined rate but is within one half of 1 percent of the actuarially determined rate.~~

~~(b) The existing rate is higher than the actuarially determined rate but is within 2 percent of the actuarially determined rate. If the existing rate is more than 2 percent higher than the actuarially determined rate, the existing rate must be reduced by the amount by which it exceeds 2 percent above the actuarially determined rate.~~

~~8. For the purposes of adjusting salary increases and cost of living increases or of salary reduction, except as otherwise provided in a provision of a collective bargaining agreement that is approved pursuant to NRS 288.555 and for which the Legislature appropriated sufficient money to give the provision effect, the total contribution must be equally divided between employer and employee.~~

~~9. Public employers other than the State of Nevada shall pay the entire employee contribution for those employees who contribute to the Police and Firefighters' Retirement Fund on and after July 1, 1981.] (Deleted by amendment.)~~

Sec. 3. NRS 288.500 is hereby amended to read as follows:

288.500 1. For the purposes of collective bargaining, supplemental bargaining and other mutual aid or protection, employees have the right to:

(a) Organize, form, join and assist labor organizations, engage in collective bargaining and supplemental bargaining through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. Collective bargaining and supplemental bargaining entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to bargain in good faith with respect to:

1 (a) The subjects of mandatory bargaining set forth in subsection 2 of NRS
2 288.150, except paragraph (f) of that subsection;

3 (b) ~~[(c)] Whether, pursuant to paragraph (a) of subsection 3 of NRS~~
4 ~~286.421, the payment of [a] the employees' portion of the [employee contribution~~
5 ~~rate established pursuant to NRS 286.410 by the employer and a corresponding~~
6 ~~increase in salary for each employee who has made an election pursuant to NRS~~
7 ~~286.425,] contributions to the Public Employees' Retirement System must be:~~

8 (1) Made in lieu of equivalent basic salary increases or cost-of-living
9 increases, or both; or

10 (2) Counterbalanced by equivalent reductions in the employees' salaries;

11 (c) The negotiation of an agreement;

12 ~~[(c)]~~ (d) The resolution of any question arising under an agreement; and

13 ~~[(d)]~~ (e) The execution of a written contract incorporating the provisions of an
14 agreement, if requested by either party.

15 3. The subject matters set forth in subsection 3 of NRS 288.150 are not within
16 the scope of mandatory bargaining and are reserved to the Executive Department
17 without negotiation.

18 4. Notwithstanding the provisions of any collective bargaining agreement
19 negotiated pursuant to the provisions of NRS 288.400 to 288.630, inclusive, the
20 Executive Department is entitled to take the actions set forth in paragraph (b) of
21 subsection 6 of NRS 288.150. Any action taken under the provisions of this
22 subsection must not be construed as a failure to negotiate in good faith.

23 5. This section does not preclude, but the provisions of NRS 288.400 to
24 288.630, inclusive, do not require, the Executive Department to negotiate subject
25 matters set forth in subsection 3 which are outside the scope of mandatory
26 bargaining. The Executive Department shall discuss subject matters outside the
27 scope of mandatory bargaining but it is not required to negotiate those matters.

28 6. The Executive Department shall furnish to an exclusive representative data
29 that is maintained in the ordinary course of business and which is relevant and
30 necessary to the discussion of the subjects of mandatory bargaining described in
31 subsection 2. This subsection shall not be construed to require the Executive
32 Department to furnish to the exclusive representative any advice or training
33 received by representatives of the Executive Department concerning collective
34 bargaining.

35 7. To the greatest extent practicable, any decision issued by the Board before
36 October 1, 2019, relating to the interpretation of, or the performance under, the
37 provisions of NRS 288.150 shall be deemed to apply to any complaint arising out
38 of the interpretation of, or performance under, the provisions of this section.

39 **Sec. 4.** ~~[NRS 288.505 is hereby amended to read as follows:]~~

40 ~~— 288.505 1. Each collective bargaining agreement must be in writing and~~
41 ~~must include, without limitation:~~

42 ~~(a) A procedure to resolve grievances which applies to all employees in the~~
43 ~~bargaining unit and culminates in final and binding arbitration. The procedure must~~
44 ~~be used to resolve all grievances relating to employment, including, without~~
45 ~~limitation, the administration and interpretation of the collective bargaining~~
46 ~~agreement, the applicability of any law, rule or regulation relating to the~~
47 ~~employment and appeal of discipline and other adverse personnel actions.~~

48 ~~(b) A provision which provides that an officer of the Executive Department~~
49 ~~shall, upon written authorization by an employee within the bargaining unit,~~
50 ~~withhold a sufficient amount of money from the salary or wages of the employee~~
51 ~~pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative~~
52 ~~of the bargaining unit. Such authorization may be revoked only in the manner~~
53 ~~prescribed in the authorization.~~

1 ~~— (c) A nonappropriation clause that provides that any provision of the collective~~
2 ~~bargaining agreement which requires the Legislature to appropriate money is~~
3 ~~effective only to the extent of legislative appropriation.~~

4 ~~— 2. Except as otherwise provided in subsections 3 and 4, the procedure to~~
5 ~~resolve grievances required in a collective bargaining agreement pursuant to~~
6 ~~paragraph (a) of subsection 1 is the exclusive means available for resolving~~
7 ~~grievances described in that paragraph.~~

8 ~~— 3. An employee in a bargaining unit who has been dismissed, demoted or~~
9 ~~suspended may pursue a grievance related to that dismissal, demotion or suspension~~
10 ~~through:~~

11 ~~— (a) The procedure provided in the agreement pursuant to paragraph (a) of~~
12 ~~subsection 1; or~~

13 ~~— (b) The procedure prescribed by NRS 284.290;~~

14 ~~— but once the employee has properly filed a grievance in writing under the~~
15 ~~procedure described in paragraph (a) or requested a hearing under the procedure~~
16 ~~described in paragraph (b), the employee may not proceed in the alternative~~
17 ~~manner.~~

18 ~~— 4. An employee in a bargaining unit who is aggrieved by the failure of the~~
19 ~~Executive Department or its designated representative to comply with the~~
20 ~~requirements of NRS 281.755 may pursue a grievance related to that failure~~
21 ~~through:~~

22 ~~— (a) The procedure provided in the agreement pursuant to paragraph (a) of~~
23 ~~subsection 1; or~~

24 ~~— (b) The procedure prescribed by NRS 288.115;~~

25 ~~— but once the employee has properly filed a grievance in writing under the~~
26 ~~procedure described in paragraph (a) or filed a complaint under the procedure~~
27 ~~described in paragraph (b), the employee may not proceed in the alternative~~
28 ~~manner.~~

29 ~~— 5. If a collective bargaining agreement contains a provision negotiated~~
30 ~~pursuant to paragraph (b) of subsection 2 of NRS 288.500, such a provision may~~
31 ~~not be given effect unless the provision requires the salary of each employee who~~
32 ~~has made an election pursuant to NRS 286.425 to be increased by a rate which~~
33 ~~results in an equivalent increase in compensation as that which results from the~~
34 ~~payment by the employer of a portion of the employee contribution rate~~
35 ~~established pursuant to NRS 286.410.~~

36 ~~— 6. If there is a conflict between any provision of an agreement between the~~
37 ~~Executive Department and an exclusive representative and:~~

38 ~~— (a) Any regulation adopted by the Executive Department, the provision of the~~
39 ~~agreement prevails unless the provision of the agreement is outside of the lawful~~
40 ~~scope of collective bargaining.~~

41 ~~— (b) An existing statute, other than a statute described in paragraph (c), the~~
42 ~~provision of the agreement may not be given effect unless the Legislature amends~~
43 ~~the existing statute in such a way as to eliminate the conflict.~~

44 ~~— (c) Except as otherwise provided in NRS 284.4086, a provision of chapter 284~~
45 ~~or 287 of NRS or NRS 288.570, 288.575 or 288.580, the provision of the~~
46 ~~agreement prevails unless the Legislature is required to appropriate money to~~
47 ~~implement the provision, within the limits of legislative appropriations and any~~
48 ~~other available money.] (Deleted by amendment.)~~

49 **Sec. 5.** This act becomes effective on July 1, 2023.