

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.

~

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 provisions relating to the payment of contributions to the System; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 With certain exceptions, retired public employees receive retirement  
2 allowances through membership in and contributions to the Public Employees’  
3 Retirement System. (Chapter 286 of NRS) With certain exceptions, the public  
4 employer and the public employee each pay a matching portion of the contribution  
5 unless the public employer or public employee has elected for the public employer  
6 to pay the public employee’s share of the contribution on his or her behalf. (NRS  
7 286.410, 286.421, 286.425) **Sections 1 and 2** of this bill allow for a provision of a  
8 collective bargaining agreement entered into between certain groups of employees  
9 in the classified service of the Executive Department of the State Government and  
10 the Executive Department to establish a negotiated rate for employee contributions,  
11 rather than a matching rate, and require the employer to pay the remainder of  
12 contributions required on behalf of the employee. **Section 1** provides that such a  
13 contribution paid on behalf of an employee is not required to be returned to the  
14 employee. **Section 2** prohibits the salary of an employee from being reduced to  
15 counterbalance the increased contribution made by the employer on the behalf of  
16 the employee.

17 Existing law authorizes certain groups of employees in the classified service of  
18 the Executive Department of the State Government to engage in collective  
19 bargaining with the Executive Department concerning wages, hours and other terms



20 and conditions of employment for such employees. (NRS 288.400-288.630)  
21 Existing law establishes the subjects of mandatory bargaining for such employees  
22 and the subject matters which are not within the scope of mandatory bargaining and  
23 are reserved to the Executive Department. Matters which are neither subject to  
24 mandatory bargaining or reserved to the Executive Department are required to be  
25 discussed by the Executive Department, but are not required to be negotiated. (NRS  
26 288.500) Matters relating to contributions to the Public Employees' Retirement  
27 System are neither a mandatory or a reserved subject for such bargaining. (NRS  
28 288.150, 288.500) **Section 3** of this bill makes the payment of a portion of the  
29 employee contribution rate by the employer to the System a mandatory subject of  
30 collective bargaining for certain groups of employees in the classified service of the  
31 Executive Department of the State Government. **Section 4** of this bill prohibits a  
32 provision of a collective bargaining agreement relating to such a payment from  
33 becoming effective unless the provision also requires the salary of each such  
34 employee who has elected to have his or her employer pay all contributions to the  
35 System on his or her behalf to be increased by a rate which results in an equivalent  
36 increase in compensation to that which results from such a payment.

---

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  
4 that is actuarially determined for police officers and firefighters and  
5 for regular members, depending upon the retirement fund in which  
6 the member is participating ~~is~~ *and whether the member is part of a*  
7 *bargaining unit that has negotiated a certain employee*  
8 *contribution rate pursuant to NRS 288.500 which is contained as*  
9 *a provision of a collective bargaining agreement that is approved*  
10 *pursuant to NRS 288.555 and for which the Legislature*  
11 *appropriated sufficient money to give the provision effect.*

12 (b) Except as otherwise provided in subsection 2, adjusted on  
13 the first monthly retirement reporting period commencing on or  
14 after July 1 of each odd-numbered year based on the actuarially  
15 determined contribution rate indicated in the biennial actuarial  
16 valuation and report of the immediately preceding year. The  
17 adjusted rate must be rounded to the nearest one-quarter of 1  
18 percent.

19 2. The employee's portion of the matching contribution rate for  
20 employees and employers must not be adjusted in accordance with  
21 the provisions of paragraph (b) of subsection 1 if:

22 (a) The existing rate is lower than the actuarially determined rate  
23 but within one-quarter of 1 percent of the actuarially determined  
24 rate.

25 (b) The existing rate is higher than the actuarially determined  
26 rate but is within 1 percent of the actuarially determined rate. If the



1 existing rate is more than 1 percent higher than the actuarially  
2 determined rate, the existing rate must be reduced by the amount by  
3 which it exceeds 1 percent above the actuarially determined rate.

4 3. From each payroll during the period of the employee's  
5 membership, the employer shall deduct the amount of the member's  
6 contributions and transmit the deduction to the Board at intervals  
7 designated and upon forms prescribed by the Board. The  
8 contributions must be paid on compensation earned by a member  
9 from the member's first day of service.

10 4. Any employee whose position is determined after July 1,  
11 1971, to be eligible under the early retirement provisions for police  
12 officers and firefighters shall contribute the additional contributions  
13 required of police officers and firefighters from July 1, 1971, to the  
14 date of the employee's enrollment under the Police and Firefighters'  
15 Retirement Fund, if employment in this position occurred before  
16 July 1, 1971, or from date of employment in this position to the date  
17 of the employee's enrollment under the Police and Firefighters'  
18 Retirement Fund, if employment occurs later.

19 5. Except as otherwise provided in NRS 286.430, the System  
20 shall guarantee to each member the return of at least the total  
21 employee contributions which the member has made and which  
22 were credited to the member's individual account. *The*  
23 *contributions guaranteed pursuant to this subsection must exclude*  
24 *any contributions made by a public employer on the behalf of the*  
25 *member pursuant to a collective bargaining agreement.* These  
26 contributions may be returned to the member, the member's estate  
27 or beneficiary or a combination thereof in monthly benefits, a lump-  
28 sum refund or both.

29 6. Members with disabilities who are injured on the job and  
30 receive industrial insurance benefits for temporary total disability  
31 remain contributing members of the System for the duration of the  
32 benefits if and while the public employer continues to pay the  
33 difference between these benefits and the member's regular  
34 compensation. The public employer shall pay the employer  
35 contributions on these benefits.

36 **Sec. 2.** NRS 286.421 is hereby amended to read as follows:

37 286.421 1. A public employer that elected to pay on behalf of  
38 its employees the contributions required by subsection 1 of NRS  
39 286.410 before July 1, 1983, shall continue to do so, but a public  
40 employer may not elect to pay those contributions on behalf of its  
41 employees on or after July 1, 1983 ~~§~~, *unless required to do so by a*  
42 *provision of a collective bargaining agreement that is approved*  
43 *pursuant to NRS 288.555 and for which the Legislature*  
44 *appropriated sufficient money to give the provision effect.*



1 2. An employee of a public employer that did not elect to pay  
2 on behalf of its employees the contributions required by subsection  
3 1 of NRS 286.410 before July 1, 1983, may elect to:

4 (a) Pay the contribution required by subsection 1 of NRS  
5 286.410 on the employee's own behalf; or

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

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

12 (a) Payment of the employee's portion of the contributions  
13 pursuant to subsection 1 must be:

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

16 (2) ~~Counterbalanced~~ *Except as otherwise provided in a*  
17 *provision of a collective bargaining agreement that is approved*  
18 *pursuant to NRS 288.555 and for which the Legislature*  
19 *appropriated sufficient money to give the provision effect,*  
20 *counterbalanced* by equivalent reductions in employees' salaries.

21 (b) The average compensation from which the amount of  
22 benefits payable pursuant to this chapter is determined must be  
23 ~~increased~~:

24 (1) *Increased* with respect to each month beginning after  
25 June 30, 1975, by 50 percent of the contribution made by the public  
26 employer ~~or~~ *or such lesser rate as is contained in a provision of a*  
27 *collective bargaining agreement that is approved pursuant to NRS*  
28 *288.555 and for which the Legislature appropriated sufficient*  
29 *money to give the provision effect;* and ~~must not be~~

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

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

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

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



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

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

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

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

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

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

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

33 9. Public employers other than the State of Nevada shall pay  
34 the entire employee contribution for those employees who  
35 contribute to the Police and Firefighters' Retirement Fund on and  
36 after July 1, 1981.

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

38 288.500 1. For the purposes of collective bargaining,  
39 supplemental bargaining and other mutual aid or protection,  
40 employees have the right to:

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

45 (b) Refrain from engaging in such activity.



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

5 (a) The subjects of mandatory bargaining set forth in subsection  
6 2 of NRS 288.150, except paragraph (f) of that subsection;

7 (b) *The payment of a portion of the employee contribution rate*  
8 *established pursuant to NRS 286.410 by the employer and a*  
9 *corresponding increase in salary for each employee who has made*  
10 *an election pursuant to NRS 286.425;*

11 (c) The negotiation of an agreement;

12 ~~(e)~~ (d) The resolution of any question arising under an  
13 agreement; and

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

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

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

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

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

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



1       **Sec. 4.** NRS 288.505 is hereby amended to read as follows:

2       288.505 1. Each collective bargaining agreement must be in  
3 writing and must include, without limitation:

4       (a) A procedure to resolve grievances which applies to all  
5 employees in the bargaining unit and culminates in final and binding  
6 arbitration. The procedure must be used to resolve all grievances  
7 relating to employment, including, without limitation, the  
8 administration and interpretation of the collective bargaining  
9 agreement, the applicability of any law, rule or regulation relating to  
10 the employment and appeal of discipline and other adverse  
11 personnel actions.

12       (b) A provision which provides that an officer of the Executive  
13 Department shall, upon written authorization by an employee within  
14 the bargaining unit, withhold a sufficient amount of money from the  
15 salary or wages of the employee pursuant to NRS 281.129 to pay  
16 dues or similar fees to the exclusive representative of the bargaining  
17 unit. Such authorization may be revoked only in the manner  
18 prescribed in the authorization.

19       (c) A nonappropriation clause that provides that any provision  
20 of the collective bargaining agreement which requires the  
21 Legislature to appropriate money is effective only to the extent of  
22 legislative appropriation.

23       2. Except as otherwise provided in subsections 3 and 4, the  
24 procedure to resolve grievances required in a collective bargaining  
25 agreement pursuant to paragraph (a) of subsection 1 is the exclusive  
26 means available for resolving grievances described in that  
27 paragraph.

28       3. An employee in a bargaining unit who has been dismissed,  
29 demoted or suspended may pursue a grievance related to that  
30 dismissal, demotion or suspension through:

31       (a) The procedure provided in the agreement pursuant to  
32 paragraph (a) of subsection 1; or

33       (b) The procedure prescribed by NRS 284.390,  
34 ➔ but once the employee has properly filed a grievance in writing  
35 under the procedure described in paragraph (a) or requested a  
36 hearing under the procedure described in paragraph (b), the  
37 employee may not proceed in the alternative manner.

38       4. An employee in a bargaining unit who is aggrieved by the  
39 failure of the Executive Department or its designated representative  
40 to comply with the requirements of NRS 281.755 may pursue a  
41 grievance related to that failure through:

42       (a) The procedure provided in the agreement pursuant to  
43 paragraph (a) of subsection 1; or

44       (b) The procedure prescribed by NRS 288.115,



1 ↪ but once the employee has properly filed a grievance in writing  
2 under the procedure described in paragraph (a) or filed a complaint  
3 under the procedure described in paragraph (b), the employee may  
4 not proceed in the alternative manner.

5 5. *If a collective bargaining agreement contains a provision*  
6 *negotiated pursuant to paragraph (b) of subsection 2 of NRS*  
7 *288.500, such a provision may not be given effect unless the*  
8 *provision requires the salary of each employee who has made an*  
9 *election pursuant to NRS 286.425 to be increased by a rate which*  
10 *results in an equivalent increase in compensation as that which*  
11 *results from the payment by the employer of a portion of the*  
12 *employee contribution rate established pursuant to NRS 286.410.*

13 6. If there is a conflict between any provision of an agreement  
14 between the Executive Department and an exclusive representative  
15 and:

16 (a) Any regulation adopted by the Executive Department, the  
17 provision of the agreement prevails unless the provision of the  
18 agreement is outside of the lawful scope of collective bargaining.

19 (b) An existing statute, other than a statute described in  
20 paragraph (c), the provision of the agreement may not be given  
21 effect unless the Legislature amends the existing statute in such a  
22 way as to eliminate the conflict.

23 (c) Except as otherwise provided in NRS 284.4086, a provision  
24 of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580,  
25 the provision of the agreement prevails unless the Legislature is  
26 required to appropriate money to implement the provision, within  
27 the limits of legislative appropriations and any other available  
28 money.

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

