

Striking by Public Sector Unions

In January 2024, the Clark County teachers union established a political action committee and filed a proposed ballot initiative that would change existing statute to give teacher unions a protected right to strike.¹ The proposal would amend the Local Government Employee-Management Relations Act, which lawmakers passed in 1969. A prior law in 1965 declared collective bargaining illegal in the public sector, but a series of disruptive demonstrations by Clark County teachers on the Las Vegas Strip led lawmakers to reverse this policy in 1969 and instead make collective bargaining mandatory.²

Union powers under this law have strengthened in the decades since then. Firefighter unions first began to promote the idea that an interruption of critical public services was too disruptive and pressed lawmakers to create a binding arbitration process in exchange for declaring strikes illegal. Arbitration is a forcible dispute-resolution process which effectively guarantees a union contract. Lawmakers acceded to this demand for firefighters in 1977 and later expanded this bargain to include police in 1985 and teachers in 1991, all at the behest of unions representing those groups.³

The ballot initiative was filed after the Clark County teachers union was enjoined from conducting what courts declared an illegal strike in September 2023. The union had organized coordinated “sick outs” in a number of schools that caused the schools to close without notice to parents or students. The union also challenged the constitutionality of Nevada’s anti-striking provisions, claiming those provisions violate federal First Amendment rights to speech and assembly.

Key Points

The striking ban was implemented at the behest of unions and to their benefit. While strikes are a tactic for unions to gain leverage during contract negotiations, it does not guarantee a union contract. Unions asked the legislature to trade striking rights for arbitration because it guarantees a union contract.

Nearly all states ban strikes by public employees. Thirty-four states expressly ban strikes by public school teachers. These bans exist across states that make public-sector collective bargaining illegal, optional, or mandatory in some form. Another seven states are silent about the legality of strikes, but also don’t require collective bargaining with teacher unions. Only nine states expressly protect teachers unions’ right to strike, but only in Hawaii and Pennsylvania do teachers have both arbitration powers and the protected right to strike.⁴

The disruption of essential services is incompatible with the state’s responsibilities. Current law declares:

“The services provided by the State and local government employers are of such nature that they cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada...[t]he continuity of such services is likewise essential and their disruption incompatible with the responsibility of the State to its people.”⁵

Court precedent has consistently upheld bans on public-sector strikes. Despite union claims that the ban

¹Nevada Secretary of State, “2024 Petitions & General Election Ballot Questions: S-02-2024.”

²See “Cost of Collective Bargaining.”

³Fred Welden, “History of Major Collective Bargaining Laws in Nevada,”

Nevada Legislative Counsel Bureau Research Division, Background Paper 93-1.

⁴Geoffrey Lawrence et al., “How Government Unions Affect State and Local Finances: An Empirical 50-State Review,” Heritage Foundation Special Report, April 2016.

⁵Nevada Revised Statutes, 288.700.

infringes on unions' First Amendment rights, courts have ruled that public employees are held in a position of public trust. They can exercise all First Amendment rights privately, but not within the context of public employment. In its response to the union lawsuit, the Clark County School District cited dozens of cases across multiple states that reached this conclusion.

Recommendations

Do not enshrine a right for public employees to strike in Nevada. Unions should not hold both a forcible dispute-arbitration process and a protected right to strike. The Clark County teachers union eventually won exactly the contract it was seeking through the structured arbitration process despite its antics.

If a teachers union organizes a strike, it should lose its arbitration powers and parents should automatically be granted control over tax dollars allocated for the benefit of their children's education.

Government-Sector Labor Laws in 2012, by State (Page 3 of 5)

	Massachusetts	Michigan	Minnesota	Mississippi	Missouri
Collective Bargaining Regime					
State Workers	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Police	Compulsory	Compulsory	Compulsory	No Law	No Law
Firefighters	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Teachers	Compulsory	Compulsory	Compulsory	No Law	No Law
Other Local	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Dispute Resolution Mechanism					
State Workers	Arbitration	None Required	Mediation	None Required	None Required
Police	Arbitration	Arbitration	Arbitration	None Required	None Required
Firefighters	Arbitration	Arbitration	Arbitration	None Required	None Required
Teachers	Arbitration	None Required	Mediation	None Required	None Required
Other Local	Arbitration	None Required	Mediation	None Required	None Required
Strikes					
State Workers	Prohibited	Prohibited	Protected	No Law	Prohibited
Police	Prohibited	Prohibited	Prohibited	No Law	No Law
Firefighters	Prohibited	Prohibited	Prohibited	No Law	Prohibited
Teachers	Prohibited	Prohibited	Protected	Prohibited	No Law
Other Local	Prohibited	Prohibited	Protected	No Law	Prohibited
Gov't Employees' Union Participation					
% Union Members	59.8	54.3	54.9	9.0	19.2
% Covered by Union Contract	63.9	55.4	56.9	13.8	23.2
Right to Work?	No	Yes (2012)	No	Yes (1960)	No
Labor Law Environment (LLE) Score	0.864	0.595	0.887	0.179	0.518

	Montana	Nebraska	Nevada	New Hampshire	New Jersey
Collective Bargaining Regime					
State Workers	Compulsory	Compulsory	Prohibited	Compulsory	Compulsory
Police	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Firefighters	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Teachers	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Other Local	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Dispute Resolution Mechanism					
State Workers	Mediation	Arbitration	None Required	Mediation	None Required
Police	Arbitration	Arbitration	Arbitration	Mediation	Arbitration
Firefighters	Mediation	Arbitration	Arbitration	Mediation	Arbitration
Teachers	Mediation	Arbitration	Arbitration	Mediation	None Required
Other Local	Mediation	Arbitration	Mediation	Mediation	None Required
Strikes					
State Workers	Protected	Prohibited	No Law	Prohibited	Prohibited
Police	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Firefighters	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Teachers	Protected	Prohibited	Prohibited	Prohibited	Prohibited
Other Local	Protected	Prohibited	Prohibited	Prohibited	Prohibited
Gov't Employees' Union Participation					
% Union Members	41.7	18.2	40.3	48.2	59.7
% Covered by Union Contract	45.5	25.0	46.4	55.1	61.2
Right to Work?	No	Yes (1946)	Yes (1951)	No	None Required
Labor Law Environment (LLE) Score	0.846	0.625	0.526	0.805	0.781

Source: Geoffrey Lawrence et al., "How Government Unions Affect State and Local Finances: An Empirical 50-State Review," Heritage Foundation Special Report, April 2016.