LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

RENO POLICE PROTECTIVE ASSOCIATION, Complainant, vs. CITY OF RENO, a municipal corporation, JAMES PARKER, Chief of Police, City of Reno, and JOE LATIMORE, City Manager, City of Reno, Respondents.	)	No. 18273

ORDER DISMISSING COMPLAINT

By complaint filed November 28, 1973, the Reno Police Protective Association seeks an order from this Board directing respondents to comply with Article 24C of the collective bargaining agreement entered into between the City of Reno and the complainant pursuant to Chapter 288 of the Nevada Revised Statutes. It is alleged that the City is employing the stand-by time provision of the contract for Municipal Court appearances in contravention of the specific section of the contract relating to such appearances.

The respondents have moved to dismiss the complaint upon the ground that Chapter 288 of the Nevada Revised Statutes does not authorize this Board to interpret contested language in contracts which have resulted from collective bargaining between a local government employer and a recognized local government employee organization. Complainant, in its response, points to the provisions of NRS 288.100(2) [sic 11D] which vested this Board with jurisdiction to "hear any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer or employee organization."

It is contended that this provision, coupled with the provisions of NRS 288.150(1)[1], empower this Board to hear and determine the instant complaint.

It has long been recognized in Nevada that the jurisdiction of a state board is limited to those areas delineated in its enabling statutes. In State v. Ernst, 26 Nev. 113, 124 (1901), the Nevada Supreme Court discussed the jurisdiction of the state board of equalization: "(t)he board of equalization in this state is a creature of the statute. It possesses only limited and special powers, and in the exercise of those powers its action must comply with the provisions of the statute creating it. It can only exercise such powers as are expressly granted." More recently, in Andrews v. Nevada State Board of Cosmetology, 86 Nev. 207, 208, 467 P.2d 96,96-97(1970), the Court considered a mandamus proceeding brought to force the respondent board to issue blank subpoenas. In ruling that the Board, without an express grant of

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1. NRS 288.150(1):

> It is the duty of every local government employer, except as limited in subsection 2, to negotiate in good faith through a representative or representatives of its own choosing concerning wages, hours, and conditions of employment with the recognized employee organization, if any, for each appropriate unit among its employees. If either party requests it, agreements so reached shall be reduced to writing. Where any officer of a local government employer, other than a member of the governing body, is elected by the people and directs the work of any local government employee, such officer is the proper person to negotiate, directly or through a representative or representatives of his own choosing, in the first instance concerning any employee whose work is directed by him, but may refer to the governing body or its chosen representative or representatives any matter beyond the scope of his authority.

jurisdiction to issue subpoenas, could not infer such a power either from Chapter 644 which created it or from the Administrative Procedures Act (Chapter 233B of the Nevada Revised Statutes), the Court stated: "(t)he Board is a state administrative agency created by the Legislature pursuant to the provisions of Chapter 644 of the Nevada Revised Statutes. Its powers are limited to those powers specifically set forth in Chapter 644. As an administrative agency the Board has no general or common law powers, but only such powers as have been conferred by law expressly or by implication. ... Official powers of an administrative agency cannot be assumed by the agency, nor can they be created by the courts in the exercise of their judicial function. (Cited authority omitted.) The grant of authority to the agency must be clear."

The entire statutory scheme of Chapter 288 of the Nevada Revised Statutes, which created this Board and delineates its powers, makes no reference to an executed collective bargaining agreement entered into by a local government employer and employee organization. From the express grants of jurisdiction to this Board to hear complaints and appeals arising from the initial attempts at recognition by an employee organization through the collective bargaining process and in certain areas of prohibited practice, it must be inferred that the Legislature intended to limit our jurisdiction to these instances. Without an express grant of jurisdiction to this Board to construe the provisions of an existing collective bargaining agreement at the local government level, no such jurisdiction may be presumed.

The motion to dismiss is well taken. It is

ORDERED that the complaint be, and the same hereby is, dismissed with prejudice.

Dated this 16th day of August, 1974.

Harriet Trudell

Harriet Trudell, Chairman

John Gojack

John Gojack, Vice-Chairman