

1 STATE OF NEVADA  
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
3 RELATIONS BOARD  
4

5 AIRPORT AUTHORITY OPERATIONS  
6 PROFESSIONAL ASSOCIATION, )

7 Petitioner, )

8 vs. )

9 AIRPORT AUTHORITY OF WASHOE  
10 COUNTY, )

11 Respondent. )

ITEM NO. 508A

CASE NO. A1-045729

DECISION

12 For Petitioner: Scott Gordon, President

13 For Respondent: Charles P. Cockerill, Esq.

14 STATEMENT OF THE CASE

15 On November 19, 2001, Petitioner AIRPORT AUTHORITY OPERATIONS  
16 PROFESSIONAL ASSOCIATION (hereafter "Association") filed a "Petition for Applicability"  
17 concerning the time limits of NRS 288.200 as it affects Article 17 of its collective bargaining  
18 agreement (hereafter "CBA") with Respondent AIRPORT AUTHORITY OF WASHOE  
19 COUNTY (hereafter "Airport Authority"). More specifically, that Article 17 state in pertinent  
20 part as follows:

21 C. Effective July 1, 2000, this Article will be reopened for  
22 renegotiation. This reopening shall be in addition to the two (2)  
23 Articles allowed for reopening each year of this Agreement per  
24 Article 23.

Article 23 of the parties' CBA states in pertinent part:

25 B. During each fiscal year of this Agreement, two (2)  
26 articles may be reopened for negotiation by each party.

27 The Association's petition states (pg. 3, l. 13-16) "knowing that the [Airport Authority]  
28 begins its budgeting for the following fiscal year in December, [the Association] felt the  
negotiated item would go into effect with the fiscal year beginning July of 2001 allowing more

1 than ample time in meeting the February 1<sup>st</sup> date” specified in NRS 288.180(1). The Petition  
2 further alleged that the Association “does not believe a reasonable person would agree that an  
3 employee organization would enter into negotiations (understanding the potential fiscal impact to  
4 their employer) not allowing enough time for planning or meeting any of the statutory time limits  
5 established by NRS 288.”

6 The Airport Authority has seven (7) positions available for operations officers; however,  
7 there are only four (4) officers at the current time. All four are Association members.

8 On or about June 24, 2000, the Association requested the Airport Authority to reopen  
9 Article 17 for negotiations (Exhibit 4). The Airport Authority replied on or about June 27, 2000  
10 (Exhibit 10) and on or about July 6, 2000 (Exhibit 6). The parties met and ground rules were  
11 established. (Exhibit 11.) The Association presented its first proposal of Article 17 changes on  
12 July 14, 2000 (Exhibit 12), presented a second proposal of Article 17 changes on August 3, 2000  
13 (Exhibit 13), a third proposal on August 22, 2000 (Exhibit 14), and its final proposal on October  
14 19, 2000 (Exhibit 15).

15 The Airport Authority presented its proposals on September 12, 2000 (Exhibit 16) and on  
16 December 4, 2000 (Exhibits 17, 18, 19, and 20).

17 On October 3, 2000, the Airport Authority notified the Association that it had “placed  
18 itself beyond the timeframe required to apply the statutory procedures afforded in NRS 288 [for  
19 fact finding] and cannot, in reality, submit this issue either to fact-finding or mediation.”  
20 (Exhibit 21.)

21 Apparently the parties continued to negotiate on Article 17 and other articles, and on  
22 January 19, 2001, the Association emailed the Airport Authority about setting the negotiation  
23 schedule through March, 2001 (Exhibit 22). The Airport Authority emailed a response on  
24 January 23, 2001 that it had already submitted its final offer and if the Association did not accept  
25 it, then it was the Airport Authority’s belief “that both parties are at impasse.” (Exhibit 22.)

26 Letters were exchanged between the parties and this Board in July and August 2001  
27 (Exhibits 6, 7, and 8). On July 6, 2001, the Airport Authority asserted its position again to the  
28 Association that the parties were “at impasse and the deadline for submitting the dispute to fact-

1 finding has long since passed.” (Exhibit 1.) The Association filed its “Petition for  
2 Applicability” on November 19, 2001, and the Airport Authority filed its response on December  
3 10, 2001. Pre-hearing briefs/statements were filed by the Airport Authority on February 7, 2002  
4 and by the Association on February 11, 2002.

5 On July 23, 2002, the parties presented oral arguments and one witness (Diane Nichols of  
6 the Airport Authority) testified. Ms. Nichols stated it was her understanding that the Article 17  
7 reopener was for the fiscal year 2000/2001, even though that fiscal year had already started on  
8 July 1, 2000 and that was the first date that Article 17 could be reopened. She testified that it  
9 could be reopened any year thereafter, but the first opportunity for reopening was July 1, 2000.  
10 Interestingly, the CBA at issue was only recently negotiated in relation to the events herein;  
11 namely, the parties signed the document in January 2000 with the CBA’s effective beginning  
12 July 1, 1999 through June 30, 2003. This is contrary to the Association’s assertions in its  
13 petition that the reopener was for the term 2001/2002, and is interesting in light of NRS  
14 288.180(1), which requires that the “employee organization shall give notice on or before  
15 February 1” to the employer “concerning any matter which is subject to negotiation . . . [and if it]  
16 requires the budgeting of money.”

17 Ms. Nichols claims that Exhibit 12 supports her belief because of the dates in the  
18 proposal dated 7-14-00 (Exhibit 12), and more specifically paragraph F thereto. The dates  
19 mentioned in Paragraph F (Exhibit 12) refers to the last pay period in December 2000 and the  
20 first pay period in January 2001; these dates would be in the Airport Authority’s fiscal year  
21 2000/2001. However, Exhibit 13 reflects dates of December 2001 and January 2002 (Paragraph  
22 F) which would be the fiscal year of 2001/2002; Exhibit 14 (Paragraph E) reflects dates of  
23 December 2001 and dates beginning in January 2002, which would be the fiscal year beginning  
24 2001/2002; and Exhibit 15 (Paragraphs C and D) refers to December 2001, which would be the  
25 Airport Authority’s fiscal year 2001/2002. Furthermore, Mr. Gary Litzsinger represented to this  
26 Board, on behalf of the Association, that Exhibit 12 was basically printed off the computer  
27 without the dates being changed from the first/initial negotiations with the Airport Authority. It  
28 is also interesting to note the close dates of the revisions in the proposed Article 17, namely:

1 Exhibit 12 was offered 7-14-00, Exhibit 13 was offered 8-3-00, and Exhibit 14 was offered 8-22-  
2 00.

3 Thereafter, the Board deliberated on this matter on the 30<sup>th</sup> day of July, 2002, noticed in  
4 accordance with Nevada's Open Meeting Law, and finds and orders as follows:

5 **FINDINGS OF FACT**

6 1. NRS 288.180(1) states in pertinent part that an employee organization who desires to  
7 negotiate a matter affecting the governmental employer's "budgeting of money," the employee  
8 organization "shall give written notice of that desire to the local government employer" by  
9 February 1. The use of the word "shall" makes it a mandatory requirement.

10 2. NRS 288.200(1) allows small employee organizations of less than 30 members, or if  
11 the parties have mediated and by August 1 have not reached an agreement, to "submit a dispute  
12 to an impartial factfinder for his findings and recommendations" by September 20. NRS  
13 288.200 thereafter sets forth further deadline/dates by which certain actions must be taken.

14 3. The Association contains fewer than 30 members, the parties to this action have  
15 voluntarily participated in mediation, and a dispute still remains pertaining to the Article 17 of  
16 the parties' CBA.

17 4. Without interpreting Article 17, Paragraph C, of the parties' CBA, it plainly and  
18 unambiguously states that Article 17 cannot be reopened until July 1, 2000. The article does not  
19 state for which fiscal year the parties would negotiate, but only that Article 17 will be reopened  
20 effective July 1, 2000.

21 5. It is undisputed that the Association requested negotiations on Article 17 on June 24,  
22 2000 (Exhibit 4).

23 6. It is undisputed that the Airport Authority's fiscal years begin on July 1<sup>st</sup> of each year  
24 and conclude on June 30 of each year.

25 7. Pursuant to NRS 288.180(1), an employee organization such as the Association  
26 involved herein must request by February 1 to negotiate with its governmental employer, such as  
27 the Airport Authority, on matters affecting the budget.

1 8. The statutory times for requesting and participating in factfinding for the fiscal years  
2 2000/2001 and 2001/2002 have elapsed, as noted in the Airport Authority's correspondence of  
3 October 3, 2000 (Exhibit 21).

4 9. The Association is thus precluded from requesting factfinding for the fiscal years  
5 2000/2001 and 2001/2002.

6 10. Based upon the testimony of Ms. Nichols, Article 17 was to be reopened effective  
7 July 1, 2000. This does not preclude the Association from seeking factfinding for the fiscal year  
8 2002/2003 pursuant to statute over any matter in dispute between the parties.

9 11. Should any finding of fact be more properly construed as a conclusion of law, may it  
10 be so deemed.

### 11 CONCLUSIONS OF LAW

12 1. The Local Government Employee-Management Relations Board has jurisdiction over  
13 the parties and the subject matters of the complaint on file herein pursuant to the provisions of  
14 NRS Chapter 288.

15 2. The Airport Authority is a local government employer as defined in NRS 288.060.

16 3. The Association is an employee organization as defined by NRS 288.040.

17 4. The statutory times for factfinding for the fiscal year 2000/2001 and 2001/2002 have  
18 expired.

19 5. This matter is appropriate for factfinding for the fiscal year 2002/2003.

20 6. Should any conclusion be more properly construed as a finding of fact, may it be so  
21 deemed.

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1 **DECISION AND ORDER**

2 IT IS SO ORDERED.

3 IT IS FURTHER ORDERED that the parties shall bear their own costs and attorney's  
4 fees.

5 DATED this 30<sup>th</sup> day of July, 2002.

6 LOCAL GOVERNMENT EMPLOYEE-  
7 MANAGEMENT RELATIONS BOARD

8 BY:   
9

10 JOHN E. BICKS, ESQ., Chairman

11 BY:   
12

13 JAMES E. WILKERSON, SR., Vice-Chairman

14 BY:   
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16 JANET TROST, ESQ., Member  
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