

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

5 CLARK COUNTY PROSECUTORS
6 ASSOCIATION,

7 Complainant,

8 vs.

9 CLARK COUNTY,

10 Respondent.

ITEM NO. 617

CASE NO. A1-045823

ORDER

11 For Complainant: Robert Daskas, President

12 For Respondent: Mark J. Ricciardi, Esq.
13 Fisher & Phillips LLP

14 Petitioner The Clark County Prosecutors Association ("Petitioner"), representing the non-
15 supervisory attorneys within the Clark County District Attorney's Office in the criminal, family
16 support, and juvenile divisions, duly applied to respondent for recognition as a bargaining agent
17 pursuant to NAC 288.143. Respondent Clark County ("Clark County") failed to challenge said
18 application "by filing a petition, in the form of a pleading, with the Board within 10 days after
19 receipt of the application." Respondent did however express disapproval of said application by
20 correspondence.

21 Petitioner then appealed to the Local Government Employee-Management Relations
22 Board (the Board or EMRB) by the subject petition, pursuant to NRS 288.170(5), the refusal of
23 Respondent to recognize it as the bargaining agent for the employees it represents and requested
24 that the Board find Respondent's actions to constitute prohibited labor practices.

25 Respondent conceded in its answer that the non-supervisor members of the Clark County
26 Prosecutors Association enjoy a community of interest relative to bargaining matters but denying
27 that any supervisor members are appropriately in the same bargaining unit. Respondent further
3 contended by way of affirmative defense that the bargaining unit requested by Petitioner is not

1 appropriate because it omits attorneys in the Clark County Public Defenders Office and Special
2 Public Defenders Office.

3 Petitioner has brought a Motion for Partial Summary Judgment requesting that this Board
4 determine that the deputy district attorneys of Clark County constitute an appropriate bargaining
5 unit.

6 Applicable Law

7 NRS 288.170 reads in pertinent part as follows:

8 1. Each local government employer which has recognized one or more
9 employee organizations shall determine, after consultation with the recognized
10 organization or organizations, which group or groups of its employees constitute
11 an appropriate unit or units for negotiating. The primary criterion for that
12 determination must be the community of interest among the employees
13 concerned.

14 3. A head of a department of a local government, an administrative employee
15 or a supervisory employee shall not be a member of the same bargaining unit as
16 the employees under his direction. Any dispute between the parties as to whether
17 an employee is a supervisor must be submitted to the Board. An employee
18 organization which is negotiating on behalf of two or more bargaining units
19 consisting of firemen or police officers, as defined in NRS 288.215, may select
20 members of the units to negotiate jointly on behalf of each other, even if one of
21 the units consists of supervisory employees and the other unit does not.

22 4. Confidential employees of the local government employer must be
23 excluded from any bargaining unit but are entitled to participate in any plan to
24 provide benefits for a group that is administered by the bargaining unit of which
25 they would otherwise be a member.

26 5. If any employee organization is aggrieved by the determination of a
27 bargaining unit, it may appeal to the Board. Subject to judicial review, the
28 decision of the Board is binding upon the local government employer and
employee organizations involved. The Board shall apply the same criterion as
specified in subsection 1.

6. As used in this section, "confidential employee" means an employee who
is involved in the decisions of management affecting collective bargaining.

22 Discussion

23 The Board finds that there is no dispute of fact as to the requisite community interest of
24 Petitioner. Contrary to Respondent's position, NRS 288.170 does not mandate the largest
25 bargaining unit possible. While under circumstances in which there is choice, this Board has
26 favored the more economical "wall-to-wall" approach, given the choice of an already organized
27 employee organization representing a unit with requisite community interest and a larger, more
28 "wall-to-wall" organization that does not yet exist, the Board finds that the existing organization

1 constitutes "an appropriate unit" within the meaning of NRS 288.170(1). This determination is
2 in line with the following Board decisions in prior cases, adopted herein as precedent: *Nevada*
3 *Classified School Employees Association v. Douglas County School District*, Case No. A1-
4 045467 (Item No. 254, November 12, 1990) and *Nevada Classified School Employees*
5 *Association v. Douglas County School District*, Case No. A1-045526 (Item No. 302, December
6 1, 1992).

7 It is therefore ordered that Petitioner's motion requesting a determination that it
8 represents an appropriate bargaining unit in the form of non-supervisory, non-confidential deputy
9 district attorneys in the District Attorney's office criminal, family support, and juvenile divisions
10 is hereby granted.

11 It is further ordered that both parties shall submit amended pre-hearing statements within
12 twenty (20) days from the date of this order.

13 DATED this 1st day of February, 2006.

14 LOCAL GOVERNMENT EMPLOYEE-
15 MANAGEMENT RELATIONS BOARD

16 BY: Tamara E. Barenigo
17 TAMARA E. BARENGO, Chairman

18 BY: John E. Dicks
19 JOHN E. DICKS, ESQ., Vice-Chairman

20 BY: Janet Trost
21 JANET TROST, ESQ., Board Member
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