STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL #1607, Complainant, vs. CITY OF NORTH LAS VEGAS, Respondent.	ITEM: 794 CASE NO. A1-046067
NORTH LAS VEGAS POLICE OFFICERS ASSOCIATION, Complainant, vs. CITY OF NORTH LAS VEGAS, Respondent.	CONSOLIDATED WITH CASE NO. A1-046069 **ORDER**

For Complainant: International Association Of Fire Fighters, Local #1607 and their attorney Thomas J. Donaldson, Esq.

For Complainant: North Las Vegas Police Officers Association and their attorney Jeffrey F. Allen, Esq.

For Respondent: City of North Las Vegas and their attorney Richard Gordon, Esq.

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's Administrative Procedures Act. A hearing was held in this matter on March 11, 2014 in Las Vegas, Nevada.

These consolidated cases concern Resolution No. 2475 enacted by Respondent City of North Las Vegas which suspended portions of the collective bargaining agreements between the

City and, among others, Complainants in these matters the International Association of Firefighters, Local 1607 and the North Las Vegas Police Officers Association (collectively "the Associations"). The complaints filed by the Associations assert that in adopting Resolution No. 2475, the City has committed a prohibited labor practice in violation of NRS 288.270(1)(e) by making a unilateral change to a mandatory subject of bargaining. Included in the City's answer to these complaints is the defense that its actions were prompted by an emergency and were therefore permissible under NRS 288.150(4). The City's claimed emergency is characterized by the City as a financial emergency.

NRS 288.150(4) reserves the right to a local government employer to take whatever actions are necessary, including the suspension of collective bargaining agreements, in order for that employer to "carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder." NRS 288.150(4). This subsection further states that if an employer is acting pursuant to this subsection, then those actions "...must not be construed as a failure to negotiate in good faith." Id.

All parties to this matter have previously presented a stipulated request to bifurcate this case into two sequential stages, which we granted. In this, the first stage, the Board's consideration is limited to the threshold legal question of whether the term "emergency" in NRS 288.150(4) may include a financial emergency. For the reasons set forth below, we conclude that "emergency" does not include a financial emergency.

Analysis

Pursuant to NRS 288.110(2), this Board is specifically authorized to interpret the Act. Our objective when doing so is to give effect to the legislative intent behind the statutory provisions of the Act. We look first to the plain language of a statute.

The plain language of NRS 288.150(4) states:

> Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

While this subsection does provide examples of "situations of emergency," it does not directly address whether a local government employer's financial emergency, that is to say its inability to pay the bargained-for salaries and benefits of its employees, constitutes an emergency. However our consideration is not limited solely to subsection 4. When construing a specific subsection of a statute, the statute should be considered as a whole and be read so as to give meaning to all of its parts and subsections. Building & Constr. Trades Council v. Public Works Bd., 108 Nev. 605, 610, 836 P.2d 633, 636 (1992). Therefore, we look to other provisions contained in NRS 288.150 to inform our interpretation of subsection 4.

Two other provisions contained within NRS 288.150 (but outside of subsection 4) establish the proper course of action for a local government employer to take when facing a financial shortfall. We address each in turn.

Management's Right to Address a Lack of Money by Conducting Layoffs

Subsection 3(b) of NRS 288.150 specifically addresses a scenario where a local government employer experiences a "lack of money." This subsection provides that a local government employer retains as a management right the authority to "...reduce in force or lay off any employee because of lack of work or lack of money..." NRS 288.150(3)(b).

The implications of this statutory language are quite clear. If an employer is experiencing a lack of money, it may address that lack of money by conducting a reduction in force.[1] This subsection, which does specifically refer to a "lack of money," does not mention a management right to suspend portions of a collective bargaining agreement.

Moreover, this language establishing the employer's right to conduct a reduction in force as a specific response to an employer's lack of money was enacted by the legislature in 1975[2] as part of the same bill that simultaneously added the language to qualify an emergency "...such as riot, military action, natural disaster or civil disorder." Act of May 18, 1975, ch. 539, §15, 1975 Nev. Stat. at 921. It would be counterintuitive to conclude that the legislature granted an employer the right to address a lack of funds by conducting layoffs while simultaneously including authority for a local government employer to circumvent that process. See Harris Associates v. Clark County School Dist., 119 Nev. 638, 644, 81 P.3d 532, 535-536 (2003).

Fiscal Emergency Re-Opener Clause

Prior to 2011, a reduction in force was the only remedy provided in the Act to address financial shortfalls. In 2011 the Act was amended to make available a second option for local government employers to be able to address a severe financial shortfall. NRS 288.150(2)(w) now obligates employers and bargaining agents to negotiate upon demand a re-opener clause into a collective bargaining agreement in order to allow for re-opening of negotiations in the event of a fiscal emergency. NRS 288.150(2)(w). That amendment did not revise the language in subsection 4 of NRS 288.150. Act of June 16, 2011, ch. 477, 2011 Nev. Stat. 2899.

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[1] Management's right to conduct a layoff does not include the right to unilaterally determine the procedure for conducting a reduction in force or layoff , which is a mandatory subject of bargaining under NRS 288.150(2)(v). Service Employees Int'l Union, Local 1107 v. Clark County, Item No. 713A, EMRB Case No. A1-045965 (October 5, 2010).

[2] This language originally read "lack of funds," but was changed in 1987 to its current language reading "lack of money." Act of June 17, 1987, ch. 640, 1987 Stat. Nev. 1497. We do not view this change to be substantial.

In sum, the legislature has clearly contemplated that a local government employer may experience unexpected financial shortfalls and has expressly provided for two different processes that may be employed in order to address such scenarios – conducting layoffs due to a "lack of money," and negotiating a re-opener clause in situations of "fiscal emergency." Nowhere in NRS 288.150 does it suggest that a local government employer may suspend a collective bargaining agreement due to a "lack of money" or "fiscal emergency." Where the legislature has specifically enumerated certain remedies, these operate to the exclusion of others that have not been expressly stated. Desert Irrigation Ltd. v. State, 113 Nev. 1049, 1060, 944 P.2d 835, 842 (applying the maxim of "*expressio unius est exclusio alterius,* the expression of one thing is the exclusion of another").

Both layoff procedures and the re-opener clause provisions are mandatory subjects of bargaining under NRS 288.150. Thus each of these remedies is firmly grounded in the collective bargaining relationship and is faithful to the overall purpose of the Act. The same cannot be said of a unilateral suspension of collective bargaining agreements prompted by a financial shortfall. If an employer were permitted to suspend collective bargaining when experiencing a financial shortfall, then the bargaining requirements of both NRS 288.150(2)(v) and NRS 288.150(2)(w) would be rendered a nullity. This would not be an acceptable interpretation of NRS 288.150. Clark County School Dist. v. Local Government Emp. Management Relations Bd., 90 Nev. 442, 530 P.2d 114 (1974).

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Conclusion of Law

For the foregoing reasons, we conclude that the term "situations of emergency" in NRS 288.150(4) does not include a financial shortfall, even if labeled a "financial emergency" by a local government employer. This result is compelled by the statutory language in the Act which is beyond the authority of this Board to alter. A legislative change would be required in order to bring a financial emergency within the scope of NRS 288.150(4).

We also admonish that this decision should not be read in such a manner so as to limit the authority of local government employers to act pursuant to NRS 288.150(4) in authentic situations of emergency.

As this case has been bifurcated and this decision does not fully resolve the underlying prohibited labor practice charges brought by the Association, we order that the second stage of this matter be set for hearing in April of 2014.

DATED the 17th day of March, 2014.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
PHILIP E. LARSON, Chairman

BY: _____
SANDRA MASTERS, Vice-Chairman

BY: _____
BRENT C. ECKERSLEY, ESQ. Board Member

STATE OF NEVADA

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NORTH LAS VEGAS POLICE OFFICERS ASSOCIATION, Complainant, vs. CITY OF NORTH LAS VEGAS, Respondent.	CONSOLIDATED WITH CASE NO. A1-046069 **NOTICE OF ENTRY OF ORDER**

To: International Association of Fire Fighters, Local #1607 and their attorney Thomas J. Donaldson, Esq.

To: North Las Vegas Police Officers Association and their attorney Jeffrey F. Allen, Esq.

To: City of North Las Vegas and their attorney Richard Gordon, Esq.

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on March 17, 2014.

A copy of said order is attached hereto.

DATED this 17th day of March, 2014.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY Yvonne Martinez

YVONNE MARTINEZ, Executive Assistant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 17th day of March, 2014, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

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