

PROPOSED REGULATION OF THE LOCAL GOVERNMENT

EMPLOYEE-MANAGEMENT RELATIONS BOARD

LCB File No. R010-15

May 12, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-13, 288.110.

A REGULATION relating to local government employees; authorizing the electronic filing of certain documents; authorizing the Commissioner of the Local Government Employee-Management Relations Board to approve a request to extend time for filing certain documents; removing certain requirements related to the filing of documents with the Board; requiring certain information to be included in the annual reports submitted to the Board by a local government employer and an employee organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Local Government Employee-Management Relations Board to make rules governing proceedings before the Board. (NRS 288.110) **Section 2** of this regulation authorizes parties in a proceeding before the Board to file certain documents with the Board electronically. **Section 3** of this regulation authorizes the Commissioner, upon written stipulation of the parties, to approve a request to extend the time for filing documents in a proceeding if the Commissioner finds that such an extension will not delay any hearing that may be authorized by the Board. **Sections 4 and 8-12** of this regulation amend existing regulations to remove the requirement for a party to a proceeding before the Board to file four copies of certain documents with the Board. **Section 6 and 7** of this regulation revise the information that a local government employer and an employee organization are required to file annually with the Board. **Section 12** of this regulation provides that a response to a petition for a declaratory order filed with the Board is no longer required to be sworn.

Section 1. Chapter 288 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. Any written document required to be filed with the Board may be filed electronically in accordance with this section.

2. If a filing party elects to file a document electronically, the filing party must first register with the Board all electronic mailing addresses authorized to send and receive electronic mail for the filing party on a form provided by the Board.

3. To be deemed filed, a document submitted electronically must be:

(a) Sent to the electronic mail address designated by the Board for receiving electronic documents;

(b) Sent from an electronic mail address registered with the Board pursuant to subsection 2; and

(c) Submitted as an attachment to the electronic mail in portable document format.

4. When a document is filed electronically in accordance with this section, the document will be stamped as filed with the date the document is received at the electronic mail address of the Board. The Board will send the filing party by electronic mail a confirmation receipt that contains the date-stamped copy of the document attached in portable document format.

5. The filing party must retain the original version of any document that was filed electronically until the filing party has exhausted all available appeals. The filing party may be required to produce the original of the document to the Commissioner upon request.

Sec. 3. 1. Upon written stipulation of the parties, the Commissioner may approve a request to extend time to file any document described in NAC 288.220 to 288.250, inclusive, if the Commissioner determines that the proposed extension of time will not delay any hearing

for the case that may be authorized by the Board. Any stipulated request for an extension that is not approved by the Commissioner must be approved by the Board.

2. This section does not prohibit a party from filing a motion to extend time for filing a document.

Sec. 4. NAC 288.070 is hereby amended to read as follows:

288.070 Except as otherwise provided in this chapter, if any written document or other written matter is filed with the Board:

1. The original ~~and four copies~~ must be signed and filed in the form of a pleading;
2. The written document or other written matter must satisfy the requirements set forth in NAC 288.231; ~~and~~
3. *The written document or other written matter must be filed in accordance with the requirements set forth in section 2 of this regulation if the written document or other written matter is filed electronically; and*
4. The filing party must serve a copy upon the opposing party, intervener and any party in interest.

Sec. 5. NAC 288.130 is hereby amended to read as follows:

288.130 If any employee organization is aggrieved by the determination of a bargaining unit, it may appeal to the Board in accordance with the provisions of NAC 288.200 to 288.375, inclusive ~~and~~, *and sections 2 and 3 of this regulation.*

Sec. 6. NAC 288.140 is hereby amended to read as follows:

288.140 Before December 1 of each year, each local government employer shall file with the Board ~~at~~ :

1. The name and contact information for the person designated by the local government employer to receive all official communications from the Board, except for those communications related to a case before the Board for which an attorney has filed an appearance; and

2. A list of all employee organizations that the employer is currently recognizing and a description of the bargaining unit for each employee organization.

Sec. 7. NAC 288.147 is hereby amended to read as follows:

288.147 ~~{Between}~~ *In addition to the requirements set forth in NRS 288.165, between November 1 and December 1 of each year, each ~~{local government}~~ employee organization shall file with the Board ~~{a}~~ :*

1. The name and contact information of the person designated by the employee organization to receive all official communications from the Board, except for those communications related to a case before the Board for which an attorney has filed an appearance; and

2. A list of its current officers and representatives , including, but not limited to, any and all elected officials and other professional representatives retained to administer the various activities of the employee organization. The employee organization may elect, appoint or retain additional or other officers and representatives subsequent thereto.

Sec. 8. NAC 288.200 is hereby amended to read as follows:

288.200 1. In addition to any other applicable requirements set forth in NAC 288.231, a complaint must include:

(a) The full name and address of the complainant;

(b) The full name and address of the respondent;

(c) A clear and concise statement of the facts constituting the alleged practice sufficient to raise a justiciable controversy under chapter 288 of NRS, including the time and place of the occurrence of the particular acts and the names of persons involved; and

(d) The legal authority under which the complaint is made.

2. The complainant shall file ~~an original and four copies of the~~ a complaint with the Board in the form of a pleading and shall serve a copy by certified mail on all parties in interest at their last known addresses.

Sec. 9. NAC 288.220 is hereby amended to read as follows:

288.220 1. The respondent may file an answer in the form of a pleading and not later than 20 days after the receipt of a complaint.

2. The answer must contain a clear and concise statement of the facts which constitute a defense. The respondent must specifically admit, deny or explain each of the allegations in the complaint unless he or she is without knowledge, in which case the respondent shall so state and the statement shall be deemed a denial. Any allegation in the complaint not specifically denied in the answer, unless it is stated in the answer that the respondent is without knowledge, shall be deemed to be admitted to be true.

3. If an answer is not made within the prescribed time, the dilatory party is precluded, except with the consent of the opposing party or the Board, from asserting any affirmative defense in the proceeding.

4. An ~~original and four copies of the~~ answer must be signed and filed with the Board.

Sec. 10. NAC 288.250 is hereby amended to read as follows:

288.250 Not later than 20 days after the service of the answer, unless otherwise ordered by the Board, each party shall ~~submit to~~ **file with** the Board the ~~original and four copies of the~~ prehearing statement of the party which includes:

1. A plain and concise statement of the issues of fact and law to be determined by the Board which have not been resolved by negotiation or otherwise;
2. A memorandum of law or points and authorities in support of the party's position, including a list of significant differences or close similarities of the issue or issues to any prior determinations of the Board;
3. A list of witnesses and their qualifications, including a brief summary of their expected testimony; and
4. An estimate, to the nearest hour, of the time needed for the presentation of the party's position.

Sec. 11. NAC 288.345 is hereby amended to read as follows:

288.345 In any proceeding, the presiding officer may order briefs to be filed within a reasonable time. ~~An original and four copies of each~~ **Each** brief must be filed with the Board and must be accompanied by a certificate showing service on each party of record as provided in NAC 288.200.

Sec. 12. NAC 288.390 is hereby amended to read as follows:

- 288.390
1. Any party served with a petition for a declaratory order may respond to the petition within 20 days by filing ~~the original and four copies of~~ his or her ~~sworn~~ response with the Board. The responding party shall also serve a copy of the response upon the petitioner.
 2. The response must include:

- (a) The full name and address of the petitioner;
- (b) The full name and address of the respondent;
- (c) A clear and concise statement of the facts, including the time and place of the occurrence of the particular acts described in the petition and the names of persons involved; and
- (d) A memorandum of authorities, including legal authorities in support of or in opposition to any position or contention raised by the petitioner.

3. A party requesting a petition for a declaratory order may file a reply to any response filed pursuant to this section within 10 days after the date on which the response is served.

Sec. 13. NAC 288.338 is hereby repealed.

TEXT OF REPEALED SECTION

288.338 Proposed findings of fact and conclusions of law. (NRS 288.110)

1. The Board may require any party of record to file proposed findings of fact and conclusions of law at the close of the proceedings. The Board will require the designated party to file these proposed findings and conclusions within 30 days after the hearing date. No decision, report or recommended order may be made until after the expiration of this fixed time.

2. Each proposed finding of fact and conclusion of law must be clearly and concisely stated and numbered.

3. An original and four copies of findings of fact and conclusions of law, accompanied by a certificate of service, must be filed by each party with the Commissioner and one copy must be served upon each party of record.

4. Any party of record may petition the Board for an extension of time in which to file proposed findings of fact and conclusions of law, but in no case may the extension exceed 60 days before the date required by subsection 2 of NRS 288.110 for the issuance of a decision by the Board.

5. Any party upon whom a proposed finding of fact and conclusion of law has been served has 10 days from receipt of a copy of the proposed findings of fact and conclusions of law to submit to the Board objections and proposed modifications to those findings and conclusions.