



# Government Employee-Management Relations Board

Nevada Department of Business and Industry

**\*\*\*PLEASE NOTE THAT THE EMRB OFFICE IS CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. SERVICES WILL CONTINUE TO BE PROVIDED ONLINE, VIA TELEPHONE AND BY EMAIL.\*\*\***  
**EMRB PROVISIONAL GUIDANCE**

3300 W. Sahara Avenue Suite 260 ▪ Las Vegas ▪ NV ▪ 89102  
emrb.nv.gov ▪ emrb@business.nv.gov ▪ (702) 486-4505

November 2020

## Members of the Board

Brent C. Eckersley, Esq., Chair  
Sandra Masters, Vice-Chair  
Gary Cottino, Board Member  
Brett K. Harris, Esq., Board Member  
Michael J. Smith, Board Member

## Staff

Bruce K. Snyder, Commissioner  
Marisu Romualdez Abellar,  
Board Secretary

## Michael J. Smith Takes Office as Newest Member of the Board



## Inside This Issue

- 1 **Michael J. Smith Takes Office as Newest Member of the Board**
- 2 **Recent Decisions**
- 2 **First COVID-19 Related Case Filed with Board**
- 2 **Actions in the Courts**
- 2 **Office Closures**
- 3 **In the Queue**
- 3 **On the Horizon**
- 3 **Annual Reports Due November 30<sup>th</sup>**

### List of Panels

Panel A Eckersley, Masters, Harris  
Panel B Masters, Harris, Smith  
Panel C Cottino, Harris, Smith  
Panel D Eckersley, Cottino, Smith  
Panel E Eckersley, Masters, Cottino

Note: The first person listed for each panel is the Presiding Officer.

Last month we mentioned as we went to press that Governor Sisolak has just filled the vacancy that had been open since April 1<sup>st</sup> of this year, which had been caused by the resignation of Cam Walker. Michael J. Smith took his oath of office at the Board meeting held on October 27<sup>th</sup>.

Mr. Smith grew up in Hernando, Mississippi and is a graduate of Rust College where he received his Bachelor of Science in Elementary Education. He also has received a Master of Arts in Education Administration and Supervision from the University of Mississippi. He is a retired High School principal with more than 30 years of experience in K-12 education in the states of Mississippi and Tennessee. He is currently an operator at the American Job Center of Nevada in Reno and the Carson City Redevelopment Authority Citizens Committee, as well as a Board Trustee with the Carson City Symphony Association. He resides in Carson City with his wife of two years, Margaret, a fifth-generation Nevadan, and puppy Louie.

We at the EMRB are pleased to welcome our newest Board member. As mentioned on the left, Mr. Smith has been assigned to serve on Panels B, C and D.

## Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

**Item 868; Case 2020-023; In re: Petition of Battle Born Firefighters Association for Designation as the Exclusive Representative of Unit K**. The Board granted the petition of the Battle Born Firefighters Association, to be recognized as the exclusive representative of Unit K, which is the State bargaining unit for full-time and seasonal firefighters. The Board found that the petitioner met the requirements for recognition under NRS 288.520 by having support from 56.4% of those in the bargaining unit, which was above the 50% plus one requirement for recognition without the holding of an election.

## First COVID-19 Related Case Filed with Board

Cases filed with the EMRB inevitably follow major societal upheavals. For example, during the Great Recession the EMRB received several cases over issues raised by the decline in revenues during this time. These cases raised issues over layoffs, as well as the definition of an emergency and whether a fiscal emergency was an emergency under NRS 288.

Now the big societal issue is the current pandemic. To this end the EMRB received on November 4<sup>th</sup> its first case related to COVID-19, filed by the Las Vegas Police Protective Association against the Las Vegas Metropolitan Police Department. In this matter LVPPA alleges that LVMPD put in place a new policy mandating that employees stay home when exhibiting symptoms consistent with either a common cold or the COVID-19 virus, coupled with a threat of discipline, and that it unilaterally implemented the policy without bargaining over the matter. LVMPD has yet to file its answer or otherwise respond to the complaint.

## Actions in the Courts

Once the EMRB issues a final order in a case, any party may file a petition for judicial review in a District Court. Usually the EMRB has several cases pending in District Court, or on appeal at the Nevada Supreme Court. Right now, the EMRB only has two such cases:

**Nevada Classified School Employees Association, Chapter 5, Nevada AFT v. Churchill County School District & EMRB**

This action was filed on June 18, 2020. The Board found that the parties' CBA provided a waiver on the duty to bargain over changes in work hours for certain employees. The Board also found that there was a misunderstanding between the parties which did not rise to the level of bad faith bargaining based on credibility determinations as well as the Board's and related NLRB precedent.

**Esmeralda County et al. v. Int'l Union of Operating Engineers Local 501 & EMRB**

The Board originally found that Esmeralda County had engaged in bad faith bargaining over an initial CBA and for improper withdrawal of recognition of the employee organization. They thereupon filed a petition for judicial review. The Fifth Judicial District Court had granted the Board's motion to dismiss with prejudice. Petitioner then filed a motion for reconsideration and a motion for relief from judgment. The court recently denied these motions, finding in favor of the Respondents.

## Office Closures

The office will be closed on Thursday, November 26<sup>th</sup> in observance of Thanksgiving and on Friday, November 27<sup>th</sup> for Family Day. We wish you and your loved ones the very best over the upcoming holiday!

## In the Queue...

Once initial pleadings, including prehearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has scheduled cases through February 2021. There are no cases waiting in the queue for a hearing date.

**December 15-17, 2020, via WebEx (Panel D)**

2020-001, AFSCME, Local 4041 v. State of Nevada et al.

**January 11-12, 2021, via WebEx (Panel B)**

2019-020, Eric Gil v. City of Las Vegas (second part of bifurcated hearing)

**January 26-28, 2021, via WebEx (Panel E)**

2020-002, AFSCME, Local 4041 v. State of Nevada et al.

**February 16-17, 2021, via WebEx (Panel C)**

2020-017, Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department

**February 17-18, 2021, via WebEx (Panel D)**

2020-021, Robert Ortiz v. SEIU, Local 1107

## On the Horizon

The Board is scheduled to meet December 15-17, 2020 via WebEx. At that time Panel D will conduct a hearing in Case 2020-001, AFSCME, Local 4041 v. State of Nevada et al. AFSCME alleges the Department of Health and Human Services failed to bargain, and unilaterally implemented, changes in the work schedules for the Developmental Service Technicians.

The Board will also continue its deliberations on 2018-026, Woodard v. Sparks Police Protective Association, which was carried over from the November 17, 2020 meeting.

## Annual Reports Due November 30th

Every local government and employee organization, as well as the State and each labor organization, must annually file a report with the EMRB each November. The forms were mailed to the official contact person at each local government and employee organization on October 16<sup>th</sup>. If you are the official contact person please complete the form and associated documents, if any, and return them to us by the November 30<sup>th</sup> deadline. If you are no longer the official contact person please forward the form to the person who should now be the official contact person. So far about 81% of the local governments, but only 41% of the labor and employee organizations, have responded. So, if you have not yet responded, please do so as soon as possible as we will be contacting non-filing entities in early December.

### "About the EMRB"

The Government Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between governments and their labor and employee organizations (i.e., unions), provides support in the process, and resolves disputes between governments, labor and employee organizations, and individual employees as they arise.