

Local Government Employee-Management Relations Board E-Newsletter

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Sunset Subcommittee Reviewing EMRB

On March 15th the EMRB was one of nine boards and commissions that appeared before the Sunset Subcommittee of the Legislative Commission. The purpose of the Sunset Subcommittee is to make recommendations to next year's legislature as to whether a given board or commission should be eliminated, combined or modified in some fashion in order to improve the functioning of the entity.

The subcommittee meets in a series of meetings every other year and at that time reviews approximately 30 boards and commissions. Every board and commission is required to be reviewed at least once every 10 years.

All nine boards and commissions appearing on March 15th related to employee issues. Four of the boards pertained to state employees while an additional four boards concerned workers compensation and safety issues overseen by the Division of Industrial Relations. The EMRB was the ninth board, and, of course, its mission relates to local government employees.

Bruce Snyder, EMRB Commissioner, was introduced by Department of Business and Industry Director Bruce Breslow, who also helped answer a couple questions. Also attending was EMRB Chairman Phil Larson. The EMRB gave a short history lesson as to why the agency was created back in 1969. This was followed by a description of its mission and the services it provides. Additionally, a number of the improvements made in the past two years were also discussed. Finally, a tentative proposal to expedite the hearing of cases, which is being developed as a budget proposal, was presented. This led to several good questions from the subcommittee members.

Each subcommittee member was also presented with a spiral bound booklet of useful information on the EMRB. The Sunset Subcommittee will make its decision as to the fate of the EMRB at its next meeting, which is scheduled for Thursday, April 21st at 9:00 a.m. The meeting in April will begin with public comment and thus, if interested, you will have an opportunity to express your thoughts on the EMRB prior to the subcommittee rendering its decision.

All meetings of legislative committees are video-recorded. If you would like to watch the March 15th meeting go to nv.gov and then to the state legislature, winding your way to meetings and then to archived meetings.

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On the Horizon

The next meeting of the Board will be in Las Vegas on Tuesday, April 12th through Thursday, April 14th. The agenda for the meeting will be issued on Monday, April 4th. At that time the Board is scheduled to hear two cases. The first is 2015-025, IAFF, Local 1285 v. City of Las Vegas. This case has been consolidated with 2015-032, which is between the same parties. The case stems from a decision by the City of Las Vegas to increase the percentage of patient transports done by its own fire personnel in lieu of third party ambulance services. The union alleges a number of unfair labor practices, including dominating or interfering with an employee organization; interfering with, restraining or coercing employees; and bad faith bargaining, including a unilateral change. It argues that the change affects the workload and safety of fire employees. The City denies the allegations and states it is a management right to determine how to offer its services.

Fact Finding Panel Formed

There is an obscure provision in our enabling statute. The International Union of Elevator Constructors, Local 18 and Clark County have been negotiating a new collective bargaining agreement for some time. Impasse has been declared, but the parties cannot agree on whether to make the interest arbitration binding or non-binding. The provision in our law states that when the two parties cannot agree on whether the arbitration should be binding, then either party can request the formation of a fact finding panel, whose purpose is to determine whether the arbitration is to be binding. Per the statute, the parties received a list of five names from both the State Bar of Nevada and the State Board of Accountancy. They then strike names from each list and the two selected persons then select a third member of the panel. This has now been done and the hearing on the matter has been set for April 27th, with deliberations set for the following day. The Commissioner chairs the public meeting, but has no vote. In this case Robert Spretnak is the attorney member of the panel, David Morgan is the accountant member and Valerie Weber was the third member selected by the prior two.

Proposed Regulations Progressing

The Legislative Counsel Bureau is now revising the proposed regulations we drafted in response to your suggestions discussed at the Open Forum. As soon as we receive back the official draft we will schedule the required workshop. The proposals will do four things: (1) allow for the electronic service of documents as an enhancement to the electronic filing of those same documents; (2) eliminate the requirement, for security reasons, of including the home addresses of the parties within the body of a complaint; (3) clarify the timing rules for the filing of documents by adopting the same rules as are used by the courts; and (4) prohibit the attaching of exhibits to complaints, answers and pre-hearing statements. We will be scheduling the required workshop upon receipt of the official version from the LCB.

Did you know

that the EMRB has a new Deputy Attorney General assigned to the agency. As you may recall, the former Deputy Attorney General, Scott Davis, received a promotion and was then reassigned to represent the Department of Transportation. Replacing him is Rob Werbicky. Mr. Werbicky is a graduate of the law school at American University and has been licensed to practice law in Nevada for almost twenty years. In addition to representing the EMRB Mr. Werbicky will also represent the Governor's Office of Economic Development.

Did you also know that a new provision in SB 241 prohibits school administrators whose annual salary is above a certain threshold from being in a bargaining unit? The current amount is \$120,000, which is indexed each year for inflation. It is the duty of the EMRB to annually issue a letter on April 1st, announcing the new threshold amount. If you are a school district or a school union, please look for that letter in two weeks.

In the Queue...

Once initial pleadings, including pre-hearing 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. Below is a description of the current queue:

The Board has scheduled the following case for April: 2015-025/032, IAFF, Local 1285 v. City of Las Vegas.

One case is currently scheduled for May: 2015-013, Eric Brown v. Las Vegas Metropolitan Police Department. However, it is likely that the Board will schedule one or more additional cases for May when it meets in April.

There are currently a number of cases in the queue awaiting a hearing date:

A1-046092, Washoe County School Police Officers Association v. Washoe County School District

2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas

2015-019, Pamela Dittmar v. Teamsters Local 14 & City of North Las Vegas

2015-020, International Union of Elevator Constructors v. Clark County

2015-026, Cesar Sedano & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2015-029, Melissa Reed v. Storey County & Antinoro

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 813; Case 2015-008; Education Support Employees Association v. Clark County School District. The Board found in favor of Respondent in finding no unilateral change of employment terms and conditions. Respondent changed the hiring criteria of bus drivers for temporary summer assignments and excluded applicants who had used 6 or more days of sick leave during the preceding school year. Complainant argued Respondent engaged in a prohibited labor practice by failing to negotiate the Respondent's consideration of sick leave usage as a criterion. Respondent contended that NRS 288.150(3) gives them no obligation to negotiate with an employee organization in regards to its hiring decisions. Furthermore, no party argued whether the temporary summer positions were within the scope of the employment agreement. In applying NRS 288.150, the Board determined that the Respondent may adopt whatever reasonable criteria it deems appropriate to facilitate hiring decisions.

"About the EMRB"

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