



Local Government Employee- Management Relations Board

Nevada Department of Business and Industry
"Growing business in Nevada"



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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 836; Case A1-046097; Thomas Knickmeyer v. Clark County Deputy Marshals Association.

Thomas Knickmeyer filed a complaint against his employee organization for breach of the duty of fair representation. The Board stayed the case in 2014, noting that a petition for judicial review had been filed in another case, which had as an issue whether the Eighth Judicial District Court was a local government employer. In September 2018 the Nevada Supreme Court dismissed the appeal and the Board thereupon lifted the stay and ordered the parties to submit a supplement in light of the Nevada Supreme Court decision. The Board dismissed Knickmeyer's case, noting "nothing in this case has swayed the Board from its prior decisions concerning court employees," stating that Knickmeyer was a Deputy Marshal and thus was a court employee and not a local government employee. Because he was not a local government employee he therefore did not have standing to file a complaint with the EMRB.

Item 837; Case 2018-017; Jared Jackson v. Clark County. Jackson had been hired to work in the County's IT department. The County later terminated his employment without a hearing, claiming that Jackson had still been on probation. Jackson claimed that his probation had expired without any meeting with his supervisors and thus this constituted a unilateral change. He also claimed that he had been discriminated against for personal or political reasons and noted that someone had filled his position without going through the civil service system.

The Board found that Jackson's probationary period had not expired since the probationary period in IT defaulted to 2080 hours and not 1040 hours. As he was still on probation, the Board held that there had been no unilateral change in that the County had not disciplined Jackson but rather had just dismissed him during his probationary period. With respect to the discrimination claim, an aggrieved employee must show sufficient evidence to support the inference that protected conduct was a motivating factor in the employer's decision. The Board held that Complainant did not meet his initial burden to support his claim that protected conduct was a factor in the County's decision. Rather, the County had received complaints, both from the user community and co-workers, to lead it to believe that Jackson was not a good fit for the department. The County also showed that it did indeed properly hire his replacement.

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List of Panels

Panel A Eckersley, Masters, Larson
Panel B Masters, Larson, Walker
Panel C Larson, Walker, Cottino
Panel D Eckersley, Walker, Cottino
Panel E Eckersley, Masters, Cottino

Note: The first person listed is the Presiding Officer of that panel.

On the Horizon

Panel E is scheduled to meet in Las Vegas on April 9-11, 2019. At that time the Board is scheduled to hear Case 2018-012, Nye County Management Employees Association v. Nye County. The Criminal Deputy District Attorneys, who work for Nye County and are currently unrepresented, have requested to be represented by the Nye County Management Employees Association. Nye County denied the request, claiming there is no community of interest between the management employees and the attorneys desiring to be added to that bargaining unit.

The full Board, as well as Panels A and D, are scheduled to meet in Las Vegas on April 22-23, 2019. At that time the Board is scheduled to hear Case 2018-006, Charles Ebarb v. Clark County and Clark County Water Reclamation District. This is the first part of a bifurcated hearing in which the Board is called to decide whether to defer to the arbitrator's decision in favor of the Respondents. Another issue in the case concerns which party bears the burden of proof under the limited deferral doctrine. The Board will also be deliberating on a motion to dismiss in an election case, will set the rates for the coming fiscal year (for invoices due July 31st), and will randomly assign cases to hearing panels.

List of Bills Affecting the EMRB

The deadline to introduce bills has now passed. Below are the bills which have been introduced. The EMRB is neutral on all bills. Please call our office if you would like a copy of the bills or other information related to them.

SENATE BILLS

SB 58 – sponsored by the Senate Committee on Government Affairs and proposed by the outgoing Controller. This bill would make collective bargaining voluntary on the part of local governments. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

SB 111 – sponsored by the Senate Committee on Government Affairs. This bill would reduce from 25% to 16.67% the amount of a local government's fund balance not subject to collective bargaining. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

SB 135 – sponsored by the Senate Committee on Government Affairs. This bill would provide for collective bargaining for state employees. Status: Referred to Senate Committee on Government Affairs. No hearing yet held. Bill marked as exempt per JSR 14.6.

SB 153 – sponsored by Senator Atkinson. This bill would completely reverse the provisions of SB 241 from the 2015 legislative session. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

SB 158 – sponsored by Senator Harris. This bill would revise the definition of a supervisor to exclude any police officers or firefighters under a paramilitary command, unless they meet every condition for being a supervisor. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

SB 337 – sponsored by Senator Ohrenschall. This bill would adopt a majority-of-the-votes-cast standard for representation elections, thus negating the Nevada Supreme Court's decision that the standard is the majority of the votes that could have been cast. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

SB 391 – sponsored by Senator Cannizzaro. This bill would designate deputy marshals who work for a court to be county employees and thus allow them to be considered a local government employee working for a local government employer, and thus be allowed to collectively bargain. Status: Referred to Senate Judiciary Committee. Hearing set for March 28th.

SB 459 – sponsored by the Senate Committee on Government Affairs. This bill would provide for collective bargaining for state employees. Status: Referred to Senate Committee on Government Affairs. No hearing yet held.

ASSEMBLY BILLS

AB 103 – sponsored by Assemblyman Wheeler. This bill would presume that sufficient consideration had been given for any union leave in existence prior to June 1, 2015, while requiring full reimbursement for any additions to that leave agreed to on or after June 1, 2015. Status: Referred to Assembly Committee on Government Affairs; Hearing held on March 14th.

AB 277 – sponsored by Assemblyman Fumo et al. This bill would require school districts to establish, through negotiations with an employee organization, a program to increase salaries and thus encourage the recruitment and retention of licenses teachers and classified employees. Status: Referred to Assembly Committee on Education. No hearing yet held.

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 now scheduled cases through July 2019:

April 9-11, 2019, in Las Vegas (Panel E)

2018-012; Nye County Management Employees Association v. Nye County

April 22-23, 2019, in Las Vegas (Full Board) Video-Conferenced to Carson City

2018-006; Charles Ebarb v. Clark County & WRD

May 14-16, 2019, in Carson City (Panel B) Video-Conferenced to Las Vegas

2018-020; Christopher Bordes v. IAFF, Local 2055

May 28-30, 2019, in Las Vegas (Panel A)

2018-010; International Union of Operating Engineers, Local 501 v. University Medical Center

June 17-19, 2019, in Las Vegas (Panel D)

2018-032; Dawn Sanchez v. Clark County

July 1-3, 2019, in Las Vegas (Panel E)

No case yet assigned.

July 23-25, 2019, in Las Vegas (Panel B)

2017-034; Ryan Cook v. Las Vegas Metropolitan Police Department

There are two cases waiting in the queue. These and other cases which may enter the queue will be randomly assigned to a hearing panel by the Board on April 22nd:

2018-026; Jason Woodard v. Sparks Police Protective Association

2019-029; Teamsters Local 14 & Giolito v. City of Mesquite

Recent Decisions (cont'd)

Item 838; Case 2018-014; International Union of Operating Engineers, Local 501 v. Esmeralda County et al. Local 501 notified the County it wished to bargain an initial contract after the County had voluntarily recognized it. The County required the bargaining agent to read the proposal into the record during an open meeting. Several times thereafter the bargaining agent travelled several hours to attend the next County Commission meeting only not to have been on the agenda. The County never sat down with Local 501, but instead met privately in closed session without Local 501. In April 2018, the County notified Local 501 that it did not enjoy majority support and eventually unilaterally withdrew recognition. Local 501 thereupon filed a complaint alleging failure to bargain and unilateral withdrawal of recognition. The Board found in favor of Local 501 and ordered the County to immediately recognize Local 501 and to resume negotiations. The Board also ordered the County to post a notice on its bulletin boards concerning its prohibited practices and also ordered that Complainant be entitled to reasonable attorneys' fees and costs.

"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.