

# Local Government Employee-Management Relations Board E-Newsletter

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June 2016

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## District Court Weighs in on SB 241 Case

On June 22th Judge Linda Bell issued her decision and order in the case of Clark County v. EMRB and SEIU, Local 1107. This case was a Petition for Judicial Review of a decision rendered by the EMRB last fall. As you may recall, this was the first case presented to the EMRB concerning the interpretation of several provisions of SB 241, which was enacted into law on June 1, 2015.

Three major issues were presented for review and decision by the court. The first issue concerned as to when SB 241 took effect between the two parties; namely Clark County and SEIU, Local 1107. On this issue the Court affirmed the decision of the EMRB that the prohibition of evergreen clauses forced the expiration of the current CBA on June 30, 2015, and that because of this prohibition the CBA could not yet roll-over once again. In this regard, the Court disagreed with both the County, which claimed the law took effect on June 1, 2015, and SEIU, which claimed because the original CBA took effect prior to the new law that the prohibition on evergreen clauses could not affect even a roll-over after June 1<sup>st</sup>.

The second issue concerned the issue of paid union leave. The EMRB order held that there was a rebuttable presumption that consideration had been given in an existing CBA, based upon two statutes found in NRS Chapter 47. The Court disagreed, stating that the specific provision in SB 241 on this subject trumped the general provisions of other laws, opining that "[a]pplying the presumption outlined by the EMRB is unreasonable in light of another, more specific, controlling statute." It thus remanded the issue back to the EMRB for a further fact-finding and a determination of what amount of union leave was bargained for under the 2012 CBA.

The final issue concerned the County's suspension of step increases. The Court found that the suspension was premature when it was done in June. However, the Court also found that the suspension was lawful as of July 1<sup>st</sup>, which reversed the decision of the EMRB on this matter. The EMRB had held that Section 1.3 of SB 241 did not pertain to "systems of pay" such as step increases. The Court found that the EMRB incorrectly interpreted the statute and that the plain meaning of Section 1.3 was meant to prohibit the increase of any employee wages unless the union agreed to them in a CBA. It thus remanded this portion of the EMRB decision for further findings consistent with the judge's decision and order.

A copy of the judge's decision will be sent to you upon request.

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## On the Horizon

The next meeting of the Board will be a five-day meeting in Carson City, which will run from July 11<sup>th</sup> through July 15<sup>th</sup>. The agenda has already been issued. The Board is scheduled to hear three cases. The first is 2016-011, Lyon County Education Association v. Lyon County School District. The association alleges that the school district allowed an official from another union to represent a school teacher at her request, despite LCEA being the recognized bargaining agent. The second case is 2015-029, Melissa Reed v. Storey County & Antinoro, in which it is alleged that an employee was terminated for personal reasons and/or discrimination on the basis of her sex, which is denied by the Respondents. The third case is 2016-008, IAFF, Local 2251 v. Carson City, which is an appeal of a bargaining unit determination in which the Respondent denied adding employees to the bargaining unit, which work at a certain rescue station.

## Sunset Subcommittee Makes Recommendations

As you may recall, several months ago the EMRB and thirty other boards and commissions were selected for review by the Sunset Subcommittee of the Legislative Commission. The Sunset Subcommittee is tasked with determining whether various boards and commissions are to be terminated, combined, remain as is or otherwise be modified. On June 16<sup>th</sup> the Sunset Subcommittee made two recommendations affecting the EMRB. First, the committee recommended keeping the EMRB as an agency. Secondly, it recommended that the size of the Board be expanded from three members to five members, with at least three of the members being from southern Nevada. The proposal would allow the Board to hear cases in panels of three Board members, which would allow for a 67% increase in the number of hearings held per year. These recommendations will now be forwarded to the Legislative Commission. If approved by that body, the proposals will be translated into a bill draft request, to be introduced at the 2017 session of the state legislature. No date has yet been set for the next meeting of the Legislative Commission.

## Annual Invoices Have Been Mailed

The EMRB mailed the annual invoices on June 20<sup>th</sup>. The invoices were mailed to the official contact person at each government. You should have already received the invoice, which is payable by July 31<sup>st</sup>. If you have not yet received the invoice, please call our office immediately. If you have received the invoice, please forward it to the appropriate person or section that approves invoices for payment. If, because of your local government's bill approval and paying process you need a little extra time to remit the payment, please call our office and we will work with you.

## Status of Proposed Regulations

On June 15<sup>th</sup> the Board held a public hearing on proposed regulation R034-16. No one attended the public hearing while one written comment was entered into the record. The Board then approved the regulation as drafted by the Legislative Counsel Bureau (LCB). The regulation, and supporting documents, have now been forwarded to the LCB, which will schedule it for approval by the Legislative Commission at its next meeting, whose date has yet to be set. The proposal does 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 attachment of exhibits to complaints, answers and pre-hearing statements. A copy of the proposed regulation may be found on our website.

## 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:

Three cases are set for July: 2016-011, Lyon County Education Association v. Lyon County School District; 2015-029, Melissa Reed v. Storey County & Antinoro; and 2016-008, IAFF, Local 2251 v. Carson City.

The Board will hear two cases in August: A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department and 2015-013, Eric Brown v. Las Vegas Metropolitan Police Department will also be added to August.

In September the Board is scheduled to hear 2015-019, Pamela Dittmar v. Teamsters Local 14 and City of North Las Vegas. The following month the Board has scheduled to hear 2015-017, Bonner & Washington v. City of North Las Vegas.

There are six additional cases waiting for a hearing date beyond those listed above:

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

2015-028, Bonvicin & Moore v. City of North Las Vegas

2015-034, Las Vegas Peace Officers Association v. City of Las Vegas

2016-007, Thomas O'Neil v. City of Las Vegas

2016-009, Burt & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2016-010, Krumme & PMSA v. Las Vegas Metropolitan Police Department

## Updated Nevada Law Library on CD Now Available

The Legislative Counsel Bureau has just issued an updated version of the Nevada Law Library on CD, which is available for purchase on its website. The product contains the updated version of the state statutes resulting from the last session of the legislature, as well as updated regulations and Supreme Court decisions. We mention this product to you as the EMRB's enabling statute, NRS 288, underwent significant changes at the last session. We have also modified our regulations several times. Also note that the product contains the actual text of all EMRB orders numbered 400 and above (we are still working on 1-399). All of these items are searchable. For those not wishing to purchase the product, we do have these updated items on our website.

## Special SB 241 Provision Affecting School Negotiations

Section 1.6 of SB 241 (codified at NRS 288.217) makes changes to collective bargaining for school districts and school unions. Not later than 330 days before the expiration of a CBA the parties must select an arbitrator, who shall schedule a 3-day hearing to begin no later than June 10<sup>th</sup> or 60 days before the expiration of the CBA, and shall render a decision in time such that a new CBA will be in place prior to the expiration of the current CBA. Since many school CBA's expire on June 30, 2017, this effectively means that any CBA expiring at that time will require the parties to select an arbitrator by August 4<sup>th</sup> of this year! Accordingly, we highly suggest you consult with your legal counsel on this issue.

### "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.