

Local Government Employee-Management Relations Board E-Newsletter

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Board Rules on SB 241 for Second Time

Item 816; Case 2015-031; Police Officers Association of the Clark County School District v. Clark County School District. This case addressed one issue; namely whether the school district's suspension of step increases after the expiration of a collective bargaining agreement (CBA) was a unilateral change and thus an unfair labor practice.

The parties had entered into a CBA in 2013, which contained a provision for step increases. It also contained an evergreen clause, allowing the CBA to roll over for another year from July 1, 2014 through June 30, 2015. On July 1, 2015 CCSD suspended all step increases as the parties had not yet entered into a new CBA.

The Board noted that SB 241 was signed into law on June 1, 2015 and a provision in that law prohibited another renewal of the CBA on July 1, 2015. This determination was similar to the first part of the Board's decision between SEIU, Local 1107 and Clark County (Item 810), which had been affirmed on judicial review. Accordingly, CCSD had not acted early in the suspension of the step increases.

Now the only issue was whether the suspension of step increases was a unilateral change. In its first decision on SB 241, the Board held that step increases were allowed by SB 241 when parties were out of contract because they were part of a "system of pay." On judicial review the District Court disagreed, reversing the EMRB on this issue. In deciding this case, the Board elected to conform to the District Court's decision. Accordingly, the Board reversed course from its prior decision and sided with CCSD that it was indeed proper for CCSD to suspend the step increases, given the provisions contained in SB 241.

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.

Board Declines to Appeal District Court SB 241 Decision

On July 14th, the Board unanimously directed the Attorney General's Office not to appeal the District Court's decision and order on SB 241 (please see last newsletter), when it would otherwise be the proper time to appeal.

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On the Horizon

The next meeting of the Board will be a four-day meeting in Las Vegas, which will run from August 15th through August 18th. The agenda for this meeting will be issued on August 8th. The Board is scheduled to hear three cases. The first is 2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas. This hearing is a continuation of the hearing held in June, which already covered three days. One additional day is needed to complete the hearing.

The second case is A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department. This case involves an administrative transfer by LVMPD, which the Complainant contends was done in lieu of discipline. Sgt. Quick was transferred from the SWAT unit when he supported an officer who had been disciplined by LVMPD as a result of the standoff in Bunkerville. The department denies the allegations.

The final case for August is 2015-013, Eric Brown v. Las Vegas Metropolitan Police Department. This case involves an alleged unilateral change and transfer of Officer Brown by LVMPD, after he had complained about an alleged department policy prohibiting the ticketing of Nation of Islam members distributing literature in street medians. The department denies the allegations.

No Date Yet Set for Legislative Commission

The next meeting of the Legislative Commission has not yet been set. But when they do meet, two issues affecting the EMRB are expected to be on the agenda. The first is the recommendation of the Sunset Subcommittee to both keep the EMRB as an agency and to also expand the size of the Board from three members to five members. The second expected agenda item is approval or rejection of the amendments to the agency's regulations, previously adopted by the Board. We shall keep you informed as to when the meeting might take place in case you would like to attend the meeting.

Status of Court Cases

From time-to-time we like to inform you of cases in which a party has filed a petition for judicial review of the Board's decision. The EMRB currently has nine cases on a PJR or on appeal at the Nevada Supreme Court. This month we report on four of these while next month we will report on several more:

Daniel Woychiehowsky v. City of Sparks: This is a petition for judicial review. The Board ruled in favor of the City of Sparks, deferring to the decision of the arbitrator in the case. The Court has denied the request for judicial review as a companion case was currently before the Nevada Supreme Court (Case No. 68805). The Court indicated Woychiehowsky could refile once a remittitur was filed in the companion case.

Laura Conklin v. City of Reno: This is a petition for judicial review. The Board ruled in favor of the City of Reno, deferring to the decision of the arbitrator in the case. Briefing is complete and oral argument has been set for July 18th.

Las Vegas Metropolitan Police Department v. EMRB and David O'Leary: This case is a petition for judicial review from an EMRB decision that found the local government had discriminated against the employee based upon political reasons. On June 18th the District Court affirmed the EMRB's decision. The deadline for LVMPD to appeal is July 14th.

Education Support Employees Association v. EMRB, and Clark County School District: This is a petition for judicial review from an EMRB decision in favor of the Clark County School District, which upheld certain CCSD hiring policies regarding school bus drivers for temporary assignments during the summer months. ESEA argued the hiring policies were mandatory subjects of bargaining and challenged the policies. The opening brief and answering briefs have been filed. The reply brief is due August 10th.

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 will hear three cases in August. The first is a continuation of a prior hearing begun in June, 2015-017, North Las Vegas Police Supervisors Association v. City of North Las Vegas. The two new cases are: A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department and 2015-013, Eric Brown v. Las Vegas Metropolitan Police Department.

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 eight 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

2016-004, Richard Marshall v. Nye County

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

2016-012, Nevada State Education Association v. Silver State Charter Schools

Annual Invoices Due by July 31st

As reported previously, the EMRB mailed the annual invoices on June 20th. The invoices were mailed to the official contact person at each government. You should have already received the invoice, which is payable by July 31st. Many of you have already paid your invoice – and to you we say “Thank you.” 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.

Did you know

that each July the three Board members are required by law to elect a Chairman and Vice-Chairman? This year the Board kept the officers the same for the third consecutive year by re-electing Philip E. Larson as Chairman and Brent C. Eckersley, Esq., as Vice-Chairman. Sandra Masters continues to serve as the third Board member. Did you also know that the agency is run by only two staff members? The daily operations of the EMRB are administered by the Commissioner and the Board Secretary.

“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.