



# Government Employee- Management Relations Board

Nevada Department of Business and Industry



3300 W. Sahara Avenue Suite 260 • Las Vegas • NV • 89102  
www.emrb.nv.gov • emrb@business.nv.gov • (702) 486-4504

July 2019

## Members of the Board

Brent C. Eckersley, Esq., Chair  
Sandra Masters, Vice-Chair  
Cam Walker, Board Member  
Gary Cottino, Board Member  
Vacancy, Board Member

## Staff

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

## Implementation of Collective Bargaining for State Executive Branch Employees

The EMRB has had some inquiries as what steps are being taken to implement the provisions of SB 135, which authorizes collective bargaining for certain classified employees within the Executive Branch of state government. Below is a recap of our activities and plans for going forward:

### Amendment of Agency Administrative Rules

The agency needs to change its administrative rules to make current provisions apply to the state government and labor organizations, as well as to add additional rules for things unique to the collective bargaining process at the state level. To this end the first of two public workshops was held on July 10<sup>th</sup>, at which time the EMRB received conceptual level comments from interested persons. The agency is now drafting language, which will be presented to the Legislative Counsel Bureau by the end of the month, at which time the LCB will undertake the formal drafting. Once the formal draft is received back, the EMRB will hold a second public workshop to receive comments on the actual language and then subsequently hold a public hearing. After adopted by the EMRB, final approval will need to come from the Legislative Commission, which the EMRB hopes will happen this year.

### Determination of Bargaining Units

SB 135 creates 11 unique bargaining units for state employees. By July 31<sup>st</sup> the Division of Human Resource Management is to submit a document which will list the more than 1300 state job classifications along with a recommendation as to which bargaining unit each job classification is to be assigned. Once received, the EMRB will publish the report, which will start a 20-day period for labor organizations to object to any of the recommendations. The Board will then hold a series of hearings and issue an order in this regard by the end of October, which will then kick off the period for labor organizations to file petitions to seek recognition for a bargaining unit.

### Work Programs

The EMRB has already submitted a work program to receive the necessary funds to hire a third person for the office. This work program is on the August 15<sup>th</sup> agenda of the Interim Finance Committee. If approval is granted then the goal is for the agency to have the person on-board in October.

The EMRB is also now working on a work program to receive the necessary funds to conduct up to 11 initial elections for the 11 bargaining units. This item is expected to be on the October IFC meeting, so that the funds would be available in time for any elections that might be needed soon thereafter.

## Inside This Issue

- 1 **Implementation of Collective Bargaining for State Executive Branch Employees**
- 2 **Recent Decisions**
- 2 **On the Horizon** – Learn about upcoming meetings
- 3 **In the Queue** – See the cases waiting to be heard
- 3 **Payments on Annual Assessments Due July 31<sup>st</sup>**
- 3 **Please Fix Your Pleadings**

### List of Panels

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

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

## 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 843; Case 2018-006; Charles Ebarb v. Clark County.** The Board ordered the matter to be bifurcated, with the hearing on whether the Board should defer to the arbitrator's decision heard first. The matter was assigned to the full Board as the Commissioner had designated the case one of statewide significance over the issue as to whether the EMRB should continue to place the burden of proof over deferral on the party seeking not to defer or whether the burden should instead be switched to place the burden on the party seeking deferral, as the NLRB had done in recent years. The Board in this case elected to keep the burden on the Complainant, noting that unlike the NLRB *Babcock* case, in this case the underlying arbitral proceedings had been transcribed and thus the Board had the information necessary to determine whether the prongs of the limited deferral doctrine had been met.

As to the dispute itself, the EMRB defers to an arbitrator's decision if: (1) the arbitration proceedings were fair and regular; (2) the parties agreed to be bound; (3) the decision was not clearly repugnant to the purposes and policies of the EMRA; (4) the contractual issue was factually similar to the unfair labor practice issue(s); and (5) the arbitrator was presented generally with the facts relevant to resolving the unfair labor practice(s). In this case the Board held that the various prongs had not been met, primarily due to the local government refusing to turn over audio recordings of investigative interviews to the Complainant and also due to not calling the primary accuser of the Complainant as a witness but instead substituting the investigator as the witness, who then testified as to what the accuser and others had stated in their interviews. The Board then ordered the parties to brief the issue as to what remedies should be ordered in the case.

## On the Horizon

The EMRB has cancelled the Panel B meeting previously scheduled for July 23-25, 2019 in Las Vegas. The panel currently has a vacancy due to the resignation of Philip E. Larson. Pursuant to law a panel cannot meet unless all three members are present. The EMRB has also cancelled the Panel C meeting previously scheduled for July 31, 2019 in Las Vegas for the same reason. It is our hope that the Governor will soon appoint a replacement in time for a consolidated meeting to be held August 12-15, 2019 in Las Vegas. There are currently 25 items on the agenda for this meeting. The full Board is scheduled to deliberate on a joint status report in case 2017-012, City of Las Vegas v. Las Vegas Peace Officers Association. Other major items include:

Panel B is scheduled to deliberate on the Clark County Education Association's petition to intervene in case 2019-006, Jennifer Schwartz and Karlana Kulseth v. Clark County School District and also deliberate on a petition challenging recognition in case 2019-008, Clark County v. SEIU, Local 1107.

Panel C is scheduled to deliberate on a petition and two motions to dismiss in case 2019-009, Teamsters Local 14 v. Town of Pahrump and Nye County. This case has to do with the Town of Pahrump transferring blue collar jobs to Nye County a year after those employees voted to be represented by Teamsters Local 14. Also on the agenda for this panel is case 2019-011, IAFF, Local 5046 v. Elko County Fire Protection District in which the Respondent has filed a motion to dismiss and for sanctions.

Panel D is scheduled to hear case 2018-030, Dawn Sanchez v. Clark County. Ms. Sanchez claims she was discriminated against for personal reasons, resulting in her being demoted. Other items include three motions to dismiss filed in cases 2019-003, Francis Davis v. Las Vegas Metropolitan Police Department & Las Vegas Police Protective Association, Inc. (PPACE); 2019-012, Luquisha McCray v. Clark County; and 2019-013, Las Vegas Peace Officers Supervisors Association v. City of Las Vegas.

Panel E is scheduled to deliberate on a motion to dismiss in case 2019-003, Francis Davis v. Las Vegas Metropolitan Police Department & Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE).

## 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 December 2019, although it does have openings for additional hearings during the remainder of the year:

**August 13-15, 2019, in Las Vegas (Panel D)**

2018-032, Dawn Sanchez v. Clark County

**September 4-5, 2019, in Las Vegas (en Banc)**

2018-031, Teamsters Local 14 v. Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE)

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

2018-018, Francone et al. v. Antinoro & Storey County

**October 15-17, 2019, in Las Vegas (Panel E)**

2018-031, Jason Woodard v. Sparks Police Protective Association (first part of bifurcated hearing)

**October 29-31, 2019, in Las Vegas (Panel B)**

2019-006, Jennifer Schwartz & Karlana Kulseth v. Clark County School District

**November 19-21, 2019, in Las Vegas (Panel C)**

2019-010, Leonard Cardinale v. City of North Las Vegas

**December 3-5, 2019 in Las Vegas (Panel A)**

Consolidated Case 2019-004, International Union of Operating Engineers, Local 501 v. University Medical Center

2019-007, Nye County Management Employees Association & Ronni Boskovich v. Nye County

There are two cases in the queue waiting for a hearing date:

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

2019-001, Las Vegas Police Managers & Supervisors Association v. Las Vegas Metropolitan Police Department

## Payments on Annual Assessments Due July 31<sup>st</sup>

The EMRB is a self-funded agency, receiving all its operating funds through governments paying \$6.00 for each of their employees. The EMRB does not receive any general fund revenues. As reported in last month's e-newsletter, the EMRB mailed the annual invoices on June 21<sup>st</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>.

Many of the governments have already paid their invoice – and to them 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 government's bill approval process you need extra time to remit the payment, please call our office and we will work with you.

## Please Fix Your Pleadings

This is just a reminder to all the attorneys filing documents with our agency. Please remove the word “Local” from your documents when referencing the name of our agency, which has changed with the passage of SB 135.

### “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.