



Local Government Employee- Management Relations Board

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



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Members of the Board

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

Staff

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

Janus v. AFSCME, Council 31

In the past month the EMRB has had several inquiries as to what effect there might be for local governments and employee organizations, given the decision of the United State Supreme Court in Janus, which was issued in late June. This article is written pursuant to those inquiries for informational purposes only. Any conclusions herein are solely those of the Commissioner and may or may not reflect the opinion of the Board.

Janus was a state employee in Illinois, whose job was within a bargaining unit represented by AFSCME, Council 31. He elected not to be a member but was still required to pay an agency fee in lieu of dues, which was allowed by state law. The agency fee covered union expenditures attributable to collective bargaining but not to political projects. The fee was 78.06% of the amount of dues. He filed suit, claiming that the agency fee violated his first amendment rights in that he did not support the union's collective bargaining objectives.

The Supreme Court held that "forcing free and independent individuals to endorse ideas they find objectionable" violated the First Amendment. In doing so the Court found that the issue of "free riders" was insufficient to overcome the First Amendment objections.

How does this case affect local government employees in Nevada? The short answer is it does not affect local government employees. It should first be noted that both Illinois and Nevada state laws do not require employees to become members. Therefore, the only issue is whether a non-member must pay a fee in lieu of dues when an employee elects to not be a member. In Independent Guard Association v. Wackenhut Services, 90 Nev. 1998 (1974), the Nevada Supreme Court held agency fees violated Nevada's right-to-work statute, NRS 613.250. This was 44 years prior to Janus.

But in 2000 the Nevada Supreme Court subsequently held in Cone et al. v. SEIU, Local 1107, UMC and EMRB, 116 Nev. 473, that local government employees who elect not to be members may be charged a fee by their employee organization for specific services rendered, such as grievance representation or representation at disciplinary hearings.

Board Appoints Officers for Coming Year

On July 12th the Board, sitting en banc, appointed Brent C. Eckersley, Esq., as the Chair for the coming fiscal year (July 2018 through June 2019). The Board also appointed Sandra Masters as the Vice Chair. This is the second consecutive year that both members will serve in these roles. Philip E. Larson was also sworn into another four-year term after having been reappointed by Governor Sandoval.

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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.

EMRB's 50th Anniversary: Guest Columnist Carole Vilardo

The EMRB officially came into existence on April 28, 1969. In the run-up to our 50th anniversary next April, each of our e-newsletters will have a guest columnist. This month's guest columnist is Carole Vilardo, who served on the Board in its early years and who is more widely known throughout the state for her 30 years of work with the Nevada Taxpayers Association, where she became one of the state's most well-respected authorities on its tax structure. Each month's guest columnist will have the freedom to write what pleases him or her. We only asked that they not comment on pending cases. The opinions of our guest columnists may not necessarily reflect those of the Board or staff of the EMRB. Here is this month's message from Carole Vilardo:

I was appointed to the EMRB by Governor O'Callaghan in 1977 and served until 1981. At that time, NRS 288 required an eight-member panel to make a recommendation to the Governor as to who should be named to the Board. The panel consisted of four members representing the bargaining units and four members representing local governments. Additionally, the board consisted of only three members, the other members being Dorothy Eisenberg, chair and John Gojack, vice chair at the time I was appointed. Staff included the commissioner, Sally Davis and a part-time secretary. Also at that time, the budget was part of the state's general fund, not the current local government assessment; there were no last best offers; no appeals panels; and the list of items subject to collective bargaining was not as extensive.

Hearings during that period were just as likely to have a representative of the bargaining unit and management of the local government state their case before the board as they were to have an attorney plead their case. During the first few hearings during my term, the deliberations of the board were conducted in closed sessions. It took a while to get used to the change of having the deliberations conducted in open sessions; a change, which has since reverted back to closed hearings.

Congratulations to the EMRB commissioners, board members and staff that have guided the provisions of NRS 288 - The Dodge Act - to meet the needs of and facilitate the bargaining process during the first 50 years. May the next 50 years be as successful.

On the Horizon

The next meeting of the Board, which will be held in Las Vegas and video-conferenced to Carson City, will be Tuesday, August 14th through Thursday, August 16th. At that time Panel C is scheduled to hear two cases. The first is 2017-028, [Elizabeth Bantz v. Washoe County School District](#). This is the first part of a bifurcated hearing in which the issue is whether equitable tolling excuses the filing of the complaint beyond the six-month statutory deadline. If it does then the merits of the case will be heard the next time the panel meets. If not, then the case could be dismissed.

The second case is 2018-003, [UMC v. SEIU, Local 1107](#). This case involves Clinical Nurse Supervisors who work at the hospital. UMC contends that Local 1107's request for voluntary recognition of the nurses is procedurally insufficient, and even if not, that the nurses in question should not be allowed to be in the bargaining unit as they meet the definition of a supervisor. Local 1107 contends that a majority of the Clinical Nurse Supervisors do want to be within the bargaining unit. It also contends that the nurses do not meet the definition of a supervisor under NRS 288 and thus they legally can be represented by an employee organization.

Two additional panel meetings will occur the end of August. On August 28th through August 30th Panel A will meet to hear 2018-005, Police Administrators Association of the Clark County School District v. Clark County School District. This case involves an allegation of bad faith bargaining to alleged failure of CCSD to keep the status quo.

Also, on August 29th Panel E will meet to decide a case heard in July as to whether Sergeants who work for the City of Elko can belong to the rank-and-file bargaining unit of police officers or whether they should instead be in their own bargaining unit. The case hinges on whether the Sergeants are supervisory employees. During that same meeting Panel E will also need to deliberate on four outstanding motions.

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 October 2018.

August 14-16, 2018 in Las Vegas, video-conferenced to Carson City (Panel C)

2017-028, Elizabeth Bantz v. Washoe County School District

2018-003, UMC v. SEIU, Local 1107

August 28-30, 2018 in Las Vegas (Panel A)

2018-005, Police Administrators Association of the CCSD v. Clark County School District

September 12-14, 2018 in Las Vegas (Panel D)

2018-007, Jarod Jackson v. Clark County

October 9-11, 2018 in Las Vegas (Panel E)

2018-001, Ruben Murillo v. Clark County Education Association

October 15-17, 2018 in Las Vegas (Panel B)

2018-006, Charles Ebarb v. Clark County & Clark County Water Reclamation District

Payments on Annual Assessments due By July 31st

The EMRB is a self-funded agency, receiving all of its operating funds through local 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 19th. 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.

About 80% of the local 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 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.

Board Okays Election for Library District

On June 12th the full Board approved the holding of an election for the part-time employees who work for the Las Vegas-Clark County Library District. The purpose of the election is to determine whether those part-time employees wish to be represented by Teamsters Local 14. The election will have two phases. First, eligible employees will have the opportunity to cast a ballot by mail. This will then be followed by three days of in-person voting at three of the larger urban libraries, for those employees who did not vote by mail. The ballots will be counted on October 25th.

"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.