



Government Employee-Management Relations Board

Nevada Department of Business and Industry

*****PLEASE NOTE THAT THE EMRB OFFICE IS CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. SERVICES WILL CONTINUE TO BE PROVIDED ONLINE, VIA TELEPHONE AND BY EMAIL.*****
EMRB PROVISIONAL GUIDANCE

3300 W. Sahara Avenue Suite 260 • Las Vegas • NV • 89102
emrb.nv.gov • emrb@business.nv.gov • (702) 486-4505

July 2020

Members of the Board

Brent C. Eckersley, Esq., Chair
Sandra Masters, Vice-Chair
Gary Cottino, Board Member
Brett K. Harris, Esq., Board Member
Vacant, Board Member

Staff

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

Commissioner Designates Case of Statewide Significance

Commissioner Snyder recently designated Case 2020-016, AFSCME, Local 4041 v. State of Nevada et al., as a Case of Statewide Significance. Pursuant to a provision in the agency's regulations, designating a case as such keeps all further proceedings before the full Board instead of a given panel. This case has to do with allegations by AFSCME that the State refused to bargain, but rather unilaterally implemented, furloughs for State workers. The State recently filed a motion to dismiss, arguing in part that the current pandemic qualifies as an emergency under NRS 288, which, it argues, eliminates the requirement to bargain over certain mandatory subjects of bargaining.

How to Read NRS Chapter 288

Subsequent to the passage of Senate Bill 135 in 2019, which authorized collective bargaining for certain State Executive Department classified employees, the provisions in that bill were incorporated within the existing NRS 288, which is the chapter within the Nevada Revised Statutes that governs the EMRB. To read NRS 288 one must first realize that certain sections of NRS 288 apply at both the State and local levels, while other sections are only applicable to either the State level or the local government level. NRS 288 is divided into five main sections as follows:

288.010 to 288.075 These are definitions, some of which apply to both levels while other definitions, such as employee organization or labor organizations, only apply to either the State level or local government level.

288.080 to 288.130 These provisions apply to the Board in general.

288.131 to 288.280 These provisions only apply at the local government level. They do not apply at the State level unless some provision within a section that does apply at the State level incorporates one of these sections by reference.

288.400 to 288.630 These provisions only apply at the State government level. Sometimes these sections incorporate by reference a section otherwise only applicable to local governments (see above).

288.700 to 288.715 These provisions relate to the issue of strikes and are applicable to all governments and governmental employees, including even those that are not covered by collective bargaining at all.

We hope that the above recitation will help you when using NRS 288.

Inside This Issue

- 1 **Commissioner Designates Case of Statewide Significance**
- 1 **How to Read NRS Chapter 288**
- 2 **Recent Decisions**
- 2 **Board Spot Still Open**
- 3 **In the Queue**
- 3 **Payments on Annual Assessments Due July 31st**
- 3 **On the Horizon**

List of Panels

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

Note: The first person listed for each panel is the Presiding Officer.

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 847-A; Case 2019-011; International Association of Fire Fighters, Local 5046 v. Elko County Fire Protection District.

The complaint alleged that the Respondent failed to bargain in good faith and failed to comply with requests for information. The fire protection district used to be funded out of the Elko County general fund. However, in 2018 it was created as a separate taxing district and the fire protection district then participated in a State-run wildfire protection program. It was then notified that its annual dues would to the wildfire program would go from \$400,000 to more than a million dollars. Because of this the Respondent advised the IAFF that it was not ready to negotiate on fiscal matters because it was attempting to reduce the annual dues paid, and until that was known it was fruitless to bargain over fiscal matters. The fire protection district was ultimately able to reduce its dues to \$600,000 per year. After several bargaining sessions were postponed, IAFF ultimately filed a bad faith bargaining complaint. The Board found in favor of the Respondent, noting the unique circumstances of the case which led to a two-month delay, but also noting that the Respondent had "tethered a precarious line" with respect to bad faith bargaining.

The Board also found in favor of the Respondent with respect to the second allegation. The Board noted that that a significant amount of information was requested and that the Respondent worked diligently to gather and organize the requested information, which was described by one witness as a "massive project."

Item 866; Case 2020-015; Nevada Police Union (formerly known as the Highway Patrol Association) v. State of Nevada

Department of Public Safety, et al. Respondent had filed a Motion for Preliminary Determination and Dismissal, arguing that the Complainant mischaracterized the Respondent as a local government employer; that the notice of intent did not meet the timelines under NRS 288.565(2); and that it had not in fact committed a prohibited practice. Complainant conceded the first point. The Board granted the motion to dismiss to allow the Complainant to cure the defects and further stated that the Board would not prohibit the filing of an additional motion to dismiss thereafter.

Item 867; Case 2020-013; International Association of Fire Fighters, Local #2955 & Casey Micone v. Reno-Tahoe Airport Authority.

Respondent had filed a Motion to Stay and Full or Partial Deferral, requesting that the Board stay the matter pending resolution of a contractual grievance. Complainants acknowledged that they must exhaust their contractual remedies. Accordingly, the Board stayed the case pending resolution of the grievance.

Board Spot Still Open

Cam Walker submitted his resignation to be effective at the end of December 2019, but he agreed to stay on no later than the end of March of this year if a replacement was not appointed by that time. Well, Mr. Walker served until March 31, 2020. Since then there has been no further word on a replacement Board member. So, if you know someone who you believe might be a good person to serve on the Board, please encourage that person to submit an application, by going to the Governor's page on the State of Nevada website, which is www.nv.gov. Once on the Governor's page, you will see information about Board openings and how to complete the application process.

The qualifications for a Board member include not being closely allied with any employee organization, any labor organization, the Executive Department, or any local government employer. Additionally, not more than three of the members of the Board may be members of the same political party; and that at least three of the members must reside in southern Nevada. However, given the makeup of the current Board, the latter two qualifications are not at issue with this vacancy.

The term of office of each member is four years. Although not required, it would help if you could notify the office if you know of someone who has applied. Thank you!

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 July 2020. There are no cases in the queue waiting for a hearing date.

August 13, 2020, via WebEx (Panel B)

2019-020, Eric Gil v. City of Las Vegas (first part of bifurcated hearing)

August 25-26, 2020, via WebEx (Panel E)

2018-026, Jason Woodard v. Sparks Police Protective Association (second part of bifurcated hearing)

August 27, 2020, via WebEx (Panel D)

2019-022, Veronica Howard v. Teamsters Local 14

September 15-17, 2020, via WebEx (Panel C)

2019-003, Francis Davis v. Las Vegas Metropolitan Police Department & Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE)

September 29-October 1, 2020, via WebEx (Panel A)

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

Payments on Annual Assessments Due July 31st

The EMRB is a self-funded agency, receiving all its operating funds through local governments paying \$3.00 for each of their employees and the State government paying \$6.00 per employee. 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.

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.

On the Horizon

The Board will be conducting a telephonic meeting of the full Board, as well as of Panel B, on July 28, 2020. On the agenda will be several items of routine business plus the election of the Chair and Vice Chair for the coming fiscal year.

The Board will also be conducting a meeting of the full Board, as well as Panel A and Panel B, on August 13, 2020. At that time Panel B will hold a hearing on Case 2019-020, Eric Gil v. City of Las Vegas. This is the first part of a bifurcated hearing, which will be considering whether the doctrine of equitable tolling applies in this case.

"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.