

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

In the Matter of the)
)ORMSBY COUNTY TEACHERS ASSOCIATION,)
)No. Al-045274)
)Petitioner,)
)vs.)
)CARSON CITY SCHOOL DISTRICT, THE)
BOARD OF TRUSTEES OF THE CARSON)
SCHOOL DISTRICT, DR. WILLIAM VAN)
PATTEN, TRUSTEE, MRS. ALICE NOTEWARE,)
TRUSTEE, MR. EDWIN BULLIS, TRUSTEE,)
MR. HENRY CLAYTON, TRUSTEE,)
MR. WILLIAM FURLONG, TRUSTEE, MR. GENE)
MILLIGAN, TRUSTEE, and MR. LEROY)
RUPERT, TRUSTEE,)
)Respondents.)
)D E C I S I O N

This petition was filed requesting the Board issue a declaratory ruling that leave is a negotiable item under NRS 288.150.

After the petition had been set for hearing, the parties agreed that it be submitted on the record without hearing; an order to that effect was signed and filed December 16, 1974.

We would generally turn directly to a consideration of whether the subject matter is significantly related to wages, hours and conditions of employment. However, in this instance there is another statute which deals directly with the subject of leave. NRS 391.180(5) provides:

Boards of trustees shall prescribe such rules and regulations for sick leave, sabbatical leave, personal leave, professional leave, military leave and such other leave as they determine to be necessary or desirable for employees.

Since it appears a finding that leave is significantly related to wages, hours and conditions of employment under NRS 288.150 and therefore the subject of mandatory negotiation would be in conflict with the provisions of NRS 391.180(5), we turn to a consideration of the rules of statutory construction

employed in this State to reconcile such conflicting enactments.

In Lamb v. Mirin, 90 Nev. _____, _____, 526 P.2d 80, 82 (1974), the Nevada Supreme Court set forth a long-standing rule of statutory construction: "...the latest expression by the legislature on the subject, ... has superseded any inconsistent provisions of prior legislative enactments." NRS 288.150 was originally enacted in 1969. Stats. of Nev., 1969, ch. 650, §10, pps. 1377-1378. The statutory language requiring negotiation on wages, hours and conditions of employment was not altered by a 1971 amendment to the statute. On the other hand, NRS 391.180 was enacted in 1956 (Stats. of Nev., 1956, ch. 32, §340, pps. 154-155) but, the present wording of NRS 391.180(5) was not added until 1971. Stats. of Nev., 1971, ch. 362, §1, pps. 648-649. 1973 amendments to the statute did not alter the wording of section 5.

Under the "later enactment" test of Lamb, supra, it would appear that the subsequent passage of NRS 391.180(5) was intended to remove leave from the area of mandatory negotiation.

Another test for determining which of two conflicting statutes governs is set forth in Ronnow v. City of Las Vegas, 57 Nev. 332, 365, 65 P.2d 133, 146 (1937):

Where one statute deals with a subject in general and comprehensive terms, and another deals with another part of the same subject in a more minute and definite way, the special statute, to the extent of any necessary repugnancy, will prevail over the general one.

The specificity of the leave provisions of NRS 391.180(5), as opposed to the use of the general term "conditions of employment" in NRS 288.150, supports a finding that the subsequent enactment of this specific statutory provision was intended to remove leave from the area of mandatory negotiation.

Under either the "later enactment" test or the "general vs. specific" test, we are constrained to conclude that the determination of what types of leave are necessary or desirable is vested

in the board of trustees of the Carson City School District and is not the subject of mandatory negotiation between the parties.

FINDINGS OF FACT

1. That the petitioner is a local government employee organization duly recognized by the respondent school district as the exclusive negotiating representative for the certified teaching personnel at the respondent school district.

2. That the respondent school district is a local government employer.

3. That the respondent school district refused to negotiate the subject of leave asserting that the area was rendered non-negotiable by the enactment of NRS 391.180(5).

4. That on April 2, 1974, this petition was filed seeking an order from the Board that the subject of leave was negotiable.

5. That pursuant to an agreement of the parties, the matter was ordered submitted without hearing on December 16, 1974.

6. That the subsequent enactment of the specific provisions of NRS 391.180(5) forecloses the Board from finding the subject of leave to be negotiable.

CONCLUSIONS OF LAW

1. That under the provisions of NRS Chapter 288, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this petition.

2. That the petitioner is a local government employee organization as defined in NRS 288.040.

3. That the respondent is a local government employer within the term as defined in NRS 288.060.

4. That the petitioner is duly recognized by the respondent school district as the exclusive bargaining representative for the certified teaching personnel at the respondent school district.

5. That the respondent school district refused to negotiate the subject of leave asserting that the area was rendered non-negotiable by the enactment of NRS 391.180(5).

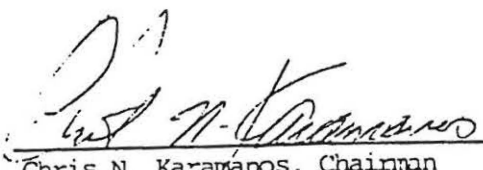
6. That on April 2, 1974, this petition was filed seeking an order from the Board that the subject of leave was negotiable.

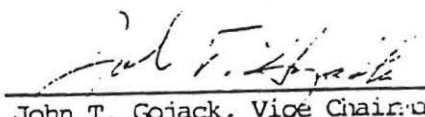
7. That pursuant to an agreement of the parties, the matter was ordered submitted without hearing on December 16, 1974.

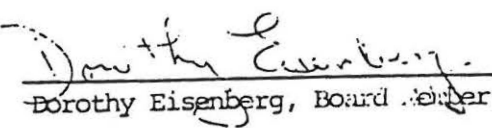
8. That the subsequent enactment of the specific provisions of NRS 391.180(5) removes from the area of mandatory negotiation the subject of leave.

The parties shall proceed with their negotiations in conformity with this decision.

Dated this 10th day of February, 1975.


Chris N. Karamanos, Chairman


John T. Gojack, Vice Chairman


Dorothy Eisenberg, Board Member