

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

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In the Matter of a  
Petition for Declaratory Ruling  
CITY OF HENDERSON, NEVADA,  
Petitioner.

CASE NO. A1-045374

D E C I S I O N

THE CITY OF HENDERSON (hereinafter "CITY") filed a Petition requesting a declaratory ruling from the LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD (hereinafter "BOARD") that attendance at or participation in a meeting of elected officials by a local government employee organization, its members, or its officers, is a prohibited practice within the meaning of NRS 288.270(2)(b). The CITY further alleges that it is a prohibited practice pursuant to NRS 288.270(2)(b) to breach ground rules agreed upon prior to the beginning of negotiations by the designated bargaining representatives of a local government employer and local government employee organization.

Pursuant to Rule 4.02 of the General Rules of the BOARD, the CITY served copies of its Petition on all employee organizations recognized by the CITY. None of these organizations responded. Since the Petition was unopposed, the CITY moved to have the BOARD proceed and compel a hearing on the matter. The Motion was denied; an Order to that effect was signed and filed on April 1, 1983. Pursuant to Board Rules 4.075(3) and 4.08, the BOARD chose to proceed and render its decision without a hearing.

This written decision is prepared in conformity with NRS 233B.125, which requires the final decision contain findings of fact and conclusions of law separately stated.

### STATEMENT OF CASE

On April 4, 1982, the President of the HENDERSON POLICE OFFICERS' ASSOCIATION (hereinafter "ASSOCIATION") appeared before the members of the Henderson City Council at a public council meeting and addressed the members concerning negotiations between the CITY and the ASSOCIATION. Several of his comments were directed to the progress of the negotiations and the results, or lack of results, achieved to date. Petitioner contends this conduct was an attempt by the ASSOCIATION to negotiate directly with the elected officials, constituting "end-run bargaining", as well as a violation of the "ground rules" agreed upon by the parties.

1. "End-run bargaining" is a prohibited practice in Nevada.

NRS Chapter 288 does not expressly address "end-run bargaining", which is generally defined as direct or indirect communications by an employer or employee organization to someone other than the designated bargaining representatives appointed by the parties to conduct negotiations as have other jurisdictions. (See, O.R.S. 243.650, et seq.; and Iowa Code Ann. Sec. 72-5415.)

In Ormsby County Teachers' Assn. v. Carson City School District, Cast No. A1-045339, Item No. 114 (1981), the BOARD determined that NRS 288.150(1) precludes the employer from engaging in such practices as "end-run bargaining".

While neither party to a negotiation should be allowed to circumvent the process in order to secure negotiation items which it might not otherwise have been able to achieve at the bargaining table, the conduct of the ASSOCIATION at the Henderson City Council meeting does not constitute a prohibited practice when viewed in light of statutory provisions.

2. Attendance and participation by the Association at an open meeting did not violate NRS 288.270(2)(b).

The legislature has provided under NRS Chapter 241, Nevada's Open Meeting Law, that all meetings of a public body must be open and public, and that all persons have the right to attend such meetings except as otherwise provided by statute.

In the instant case, the President of the ASSOCIATION attended such an open and public meeting. Nothing within NRS Chapter 288 or NRS Chapter 241 abridges the right of an employee organization or its representatives to attend such a meeting or participate in a public discussion.

In the case of Crowfoot Elementary School District No. 89 v. Public Employee Relations Board, 529 P.2d 405 (Or.App. 1974), the Court held that O.R.S. 243.672(2), the statute providing that it would be an unfair labor practice for a public employee or labor organization to communicate during periods of negotiation with officials other than those designated to represent the employer, did not render a public employee labor organization or its constituent members guilty of an unfair labor practice by virtue of their attendance at, or their otherwise lawful participation in, a meeting open to the public under Oregon's open meeting law. Id. at 407.

Accordingly, this BOARD holds that NRS 288.270(2)(b) does not render the local government employee organization, its members, or its officers, guilty of a prohibited practice by virtue of their attendance or participation in a meeting open to the public; nor will the alleged violation of ground rules be considered a prohibited practice in this instance.


#### FINDINGS OF FACT

1. That the Petitioner, CITY OF HENDERSON, is a local government employer.
2. That the HENDERSON POLICE OFFICERS' ASSOCIATION is a local government employee organization.
3. That the President of the HENDERSON POLICE OFFICERS' ASSOCIATION attended and participated in an open and public meeting of the Henderson City Council.
4. That the President of the ASSOCIATION did not attempt to negotiate directly with the elected officials of the CITY.

#### CONCLUSIONS OF LAW

1. That pursuant to the provisions of the Nevada Revised Statutes Chapter 288, the LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD possesses original jurisdiction over the parties and subject matter of this Petition. NRS 288.110.
2. That the Petitioner, CITY OF HENDERSON, is a local government employer within the term as defined in NRS 288.060.
3. That the HENDERSON POLICE OFFICERS' ASSOCIATION is a local government employee organization within the terms as defined in NRS 288.040.
4. That attendance or participation by a local government employee organization or its constituents at an open and public meeting pursuant to NRS 288.241 does not constitute a prohibited practice under NRS 288.270(2)(b).

LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

By   
Elizabeth S. Foremaster, Chairman

By   
Salvatore C. Gugino, Board Member

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