

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS CITY EMPLOYEES'
PROTECTIVE & BENEFIT ASSOCIATION,

Petitioner,

-vs-

NEVADA BUSINESS SERVICES,

Respondent.

ITEM NO. 315-A

CASE NO. A1-045536

DECLARATORY ORDER

For Petitioner: Christopher G. Gellner, Esq.

For Respondent: Robert S. Sylvain, Esq.
LAS VEGAS CITY ATTORNEY'S OFFICE

For the EMRB: Salvatore C. Gugino, Chairman
Tamara Barengo, Vice Chairman
Howard Ecker, Board Member

STATEMENT OF THE CASE

On June 15, 1993, the Board issued a Declaratory Order in the above-captioned Case, reading, in pertinent part, as follows:

That (the issue of) whether or not the parties' failure to participate in mediation effectively precludes factfinding is contingent upon the number of employees in the bargaining unit, pursuant to NRS 288.200(1). That fact will be established either by mutual agreement between the parties or, in the alternative, by determination of the Board, following deliberation on the evidence and argument provided by the parties in post-hearing briefs to be filed within twenty (20) days from the date of this Order . . . (Parenthetical clause added.)

DISCUSSION

As stated in the aforementioned Declaratory Order, when negotiations for a collective bargaining agreement reach

1 impasse, NRS 288.190(1) provides (for other than firemen and
2 police officers), in pertinent part:

3 Anytime before July 1, the dispute may be
4 submitted to a mediator, if both parties agree.
5 On or after July 1 but before July 5, either party
6 involved in negotiations may request a mediator.
7 ...

8 NRS 288.200(1) provides (for other than firemen, police
9 officers and school district employees), in pertinent part:

10 If:

11 (a) The parties have participated in
12 mediation and by August 1, have not reached agree-
13 ment; or

14 (b) The bargaining unit represented by the
15 employee organization contains fewer than 30
16 persons,

17 either party to the dispute, at any time up to
18 September 20, may submit the dispute to an
19 impartial factfinder for his findings and
20 recommendations. ...

21 The legislature, in adopting the language contained in
22 NRS 288.190(1) and NRS 288.200(1), supra, clearly intended
23 (for other than firemen, police officers and school district
24 employees) that factfinding be available only to parties who
25 have participated in mediation or bargaining units containing
26 fewer than 30 persons.

27 In the instant case, neither the Association nor Nevada
28 Business Services requested mediation pursuant to NRS
29 288.190(1). Since the parties did not participate in
30 mediation as set forth in NRS 288.200(1)(a), a resolution of
31 this issue (whether or not the parties' failure to participate
32 in mediation precludes factfinding) depends upon whether or
33 not the bargaining unit contains fewer than 30 persons.

1 Subsequent to the Board's issuance of the aforementioned
2 Declaratory Order, the parties have been unable to reach
3 agreement as to the number of employees in the bargaining
4 unit.

5 The Post-Hearing and/or Pre-Hearing Briefs filed by the
6 parties indicates that their disagreement as to the number of
7 employees in the bargaining unit hinges upon different
8 interpretations of the labor agreement; i.e., Petitioner
9 contends Article 2 - SCOPE OF AGREEMENT defines and limits the
10 bargaining unit to the classifications listed therein (and
11 only 27 employees occupy positions so classified), while
12 Respondent contends that the bargaining unit consists of "all
13 classified personnel in the workforce except those persons
14 hereinafter excluded under subsection 2" (subsection 2
15 excludes confidential employees, administrative employees and
16 employees in other bargaining units), and there are more than
17 40 classified personnel in the workforce, not including the
18 employees excluded under subsection 2. In other words,
19 Respondent contends that the bargaining unit includes the
20 classifications listed in Article 2, but it is not limited to
21 said classifications.

22 After due deliberation at its meeting of August 12, 1993
23 (noticed pursuant to Nevada's Open Meeting Law), the Board has
24 determined that a broad, rather than a narrow, construction or
25 interpretation of Article 2 is appropriate in this case.
26 Interpreting the language of Article 2 broadly leads to the
27 conclusion that the bargaining unit is not limited to the
28

1 classifications listed therein, and the bargaining unit does
2 in fact encompass all classified personnel in the workforce,
3 except those excluded by subsection 2 of Article 2.
4 Accordingly, there are not "fewer than 30 persons" in the
5 bargaining unit.

6 In view of that stated above, the Board hereby

7 ORDERS AND DECLARES:

8 1. That the parties' failure to participate in
9 mediation has effectively precluded factfinding pursuant to
10 NRS 288.200(1); and

11 2. That each party shall bear its own fees and costs in
12 the above-captioned matter.

13 DATED this 10th day of ^{September}~~August~~, 1993.

14 LOCAL GOVERNMENT EMPLOYEE-
15 MANAGEMENT RELATIONS BOARD

16 By Tamara Barengo
17 TAMARA BARENGO, Chairman

18 By Salvatore C. Gugino
19 SALVATORE C. GUGINO, Member
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