

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

ORMSBY COUNTY EDUCATION)
ASSOCIATION,)

ITEM NO. 333

Complainant,)

CASE NO. A1-045549

-vs-)

DECISION

CARSON CITY SCHOOL DISTRICT and)
the CARSON CITY BOARD OF SCHOOL)
TRUSTEES,)

Respondents.)

For Complainant: Michael W. Dyer, Esq.
DYER, MCDONALD & LAWRENCE

For Respondents: Todd Russell, Esq.
ALLISON, MacKENZIE, HARTMAN,
SOUMBENIOTIS & RUSSELL, LTD.

STATEMENT OF THE CASE

On or about May 25, 1993, the Trustees of the District approved increases in the health insurance premiums that employees pay for their dependents, effective July 1, 1993. Prior to July 1, 1993, the health insurance premiums for employees' dependents were subsidized by the District. The Trustees' action resulted in the following increases in the premiums that employees pay for their dependents:

a. The premium paid by an employee for a spouse was increased from \$123.74 to \$202.56 per month, a 64% increase.

b. The premium paid by an employee for a child was increased from \$97.56 to \$144.07 per month, a 48% increase.

c. The premium paid by an employee for a spouse and one or more children was increased from \$219.49 to \$346.63 per month, a 58% increase.

Pursuant to the collective bargaining agreement the District has continued to pay one hundred percent (100%) of the health

1 insurance premiums for full-time employees.

2 The Association contends that health insurance premiums
3 for employee dependents is a mandatory bargaining subject
4 pursuant to NRS 288.150(2)(a) and (f), and that the District's
5 unilateral increase in said premiums was a prohibited practice
6 in violation of NRS 288.270(1)(e).

7 The District concedes that health insurance premiums for
8 employees is a mandatory bargaining subject, pursuant to NRS
9 288.150(2)(f), but contends that the District is prohibited by
10 law from paying or subsidizing insurance premiums for employee
11 dependents.

12 DISCUSSION

13 I

14 **HEALTH INSURANCE PREMIUMS FOR EMPLOYEE 15 DEPENDENTS IS A SUBJECT OF MANDATORY 16 BARGAINING PURSUANT TO NRS 288.150(2)(a) 17 AND (f).**

18 It is firmly established in past decisions of this Board
19 that employee dependent health insurance benefits and premiums
20 are a subject of mandatory bargaining. International
21 Association of Firefighters, Local 731 vs. The City of Reno,
22 EMRB Case No. A1-045466, Item No. 257 (February 1991); and
23 Clark County Public Employees Association, SEIU Local 1107 vs.
24 Housing Authority of the City of Las Vegas, EMRB Case No.
25 A1-045478, Item No. 270 (July 1991).

26 In Clark County Public Employees Association, this Board
27 found that the Housing Authority had violated its duty to
28 bargain by unilaterally imposing a change in the cost of
dependent health coverage premiums. Similarly, in

1 International Association of Firefighters, we determined that
2 health insurance rates for employees' dependents would have
3 been a mandatory subject of negotiation but for the
4 contractual waiver between the parties which superceded the
5 statute.

6 We have never accepted or adopted a narrow statutory
7 interpretation of the term "insurance benefits" as set forth
8 in NRS 288.450(2)(f). A subject not specifically enumerated
9 in NRS 288.150 as a negotiable subject is nevertheless a
10 mandatory subject of bargaining if it bears a "significant
11 relationship" to wages, hours and working conditions. Truckee
12 Meadows Fire Protection District vs. International Association
13 of Firefighters, Local 2487 and State of Nevada Local
14 Government Employee-Management Relations Board, 109 Nev. Adv.
15 Op. 57, 849 P.2d 343 (1993). Whether an employee's family is
16 provided insurance coverage, and at what cost, are critical
17 concerns with direct impact upon the employee. In this day of
18 spiraling medical costs, health insurance for oneself and
19 one's family oftentimes becomes an employee's primary concern
20 - above all other issues of wages and benefits. As the Iowa
21 Supreme Court stated in Charles City, etc. v. Pub. Emp. Rel.
22 Bd., 275 N.W.2d 766 (1979):

23 . . . the distinction between public employees and
24 their dependents in provision of health insurance
25 would be spurious, since the practical effect of
dependent coverage is of direct and immediate
benefit for the employee himself.

26 We agree and therefore hold that health insurance
27 premiums for employee dependents is a subject of mandatory
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1 bargaining under NRS 233.150(2)(a) and (2)(f).

2 II

3 THE DISTRICT IS NOT STATUTORILY PROHIBITED
4 FROM EXPENDING SCHOOL DISTRICT FUNDS TO PAY
5 OR SUBSIDIZE HEALTH INSURANCE PREMIUMS FOR
6 EMPLOYEE DEPENDENTS.

7 The District contends that NRS 387.205 specifically
8 delineates the authorized uses for school district funds, and
9 since payment or subsidization of health insurance premiums
10 for employee dependents is not specifically stated therein,
11 the District is statutorily prohibited from paying or
12 subsidizing said premiums. Additionally, the District cites
13 NRS 287.010, Policy No. 424 of the Board of Trustee, Carson
14 City School District, and NRS 287.044 as allegedly supporting
15 its position that the expenditure of school district funds for
16 payment or subsidization of health insurance premiums is
17 prohibited.

18 First, we reject the District's reliance upon NRS
19 387.205 as a statute which prohibits the payment of dependent
20 health insurance premiums. NRS 387.205 is clearly a general
21 enabling statute which simply authorizes general categories of
22 expenditures. For example, it does not specifically authorize
23 the payment of any employee wages, nor does it specifically
24 authorize the payment of any employee benefits. Rather, it
25 broadly authorizes the expenditure of funds for the
26 "maintenance and operation of public schools". NRS
27 387.205(a). It does not purport to present an exhaustive list
28 of appropriate expenditures, and we reject such a constrained
interpretation of the statute. We find that the payment of

1 wages and benefits is an integral part of the "maintenance and
2 operation" of a public school and is therefore authorized
3 under the statute.

4 Second, the District relies upon NRS 287.010 as support
5 for its position of a statutory ban on the payment of employee
6 dependent health premiums. Again we find this argument
7 unfounded.

8 A reading of NRS 287.010(1) establishes clearly and
9 unambiguously the authorization for employee dependent health
10 benefits. It states:

11 The governing body of any ... school district ...
12 may:

13 1. Adopt and carry into effect a system of
14 group life, accident or health insurance ... for
15 the benefit of its officers and employees, and the
16 dependents of officers and employees who elect to
accept the insurance and who, where necessary,
have authorized the governing body to make
deductions from their compensation for the
premiums on the insurance.

17 This statute clearly enables a school district to
18 provide health insurance to dependents, but does not attempt
19 to address payment responsibilities. It merely requires that
20 employees, "where necessary", authorize deductions for payment
21 of premiums. Whether such deductions are necessary or are not
22 necessary, or how that is to be determined, is not addressed
23 in this statute. The statute, while informative regarding the
24 authority of the District to provide dependent health
25 insurance, is not illustrative on how these costs are to be
26 borne.

27 The District also relies on NRS 287.044 for its position
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1 that the costs of dependent health insurance must be paid in
2 full by the employee. First, we hold that this statute
3 applies to state officers and employees only and not to school
4 districts. The statute falls under the sub-heading entitled,
5 "Group Insurance for State Officers and Employees." NRS
6 287.010, discussed previously, falls under the sub-heading
7 "Group Insurance and Medical and Hospital Services for
8 Officers and Employees of Counties, Cities, School Districts
9 and Other Public Agencies." It is apparent that the relevant
10 statutes for this inquiry are NRS 287.010 through 287.040.
11 Thereafter, the statutes relate only to state employees.
12 (Even though irrelevant to the inquiry, NRS 287.044 in any
13 event does not necessarily support District's contention. We
14 hold that analysis, however, for a more appropriate case.)

15 Lastly, the District relies upon its own Policy No. 424
16 (adopted 1979) which states, in part:

17 ... no school district funds may be expended or
18 used toward the payment of premiums for an
employee's dependents.

19 We note that despite this 15 year "policy", the District was
20 subsidizing dependent health coverage until recently when
21 premium rates increased 48% to 64%. It then invoked the
22 policy. Nonetheless, the law is well established that state
23 law will always take precedence over local government policies
24 or rules. See Nevada Constitution, Article 4; Section 1; and
25 ILC Data Device Corp. vs. County of Suffolk, 588 NYS.2d 845,
26 849 (1992). We have already determined that (1) dependent
27 health benefits are a subject of mandatory bargaining under
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1 NRS 288.150, and (2) the District is statutorily authorized
2 under NRS 287.010 to make insurance available to employee
3 dependents. The District's Policy must be void to the extent
4 it interferes with the mandatory bargaining requirements of
5 NRS 288.150.

6 CONCLUSION

7 For all of the above reasons, the Board finds that the
8 District is not prohibited from expending District funds to
9 pay for or subsidize health insurance premiums for employee
10 dependents. Furthermore, the issue is within the scope of
11 mandatory bargaining and must be negotiated between the
12 parties.

13 FINDINGS OF FACT

14 1. The Complainant, Ormsby County Education
15 Association, is an employee organization as defined in NRS
16 288.040, and is the recognized bargaining representative for
17 the licensed non-administrative employees of the Carson City
18 School District.

19 2. The Respondents, Carson City School District and the
20 Carson City Board of School Trustees, is a local government
21 employer as defined by NRS 288.060.

22 3. By the terms of the collective bargaining agreement
23 in effect between the District and the Association, the
24 District has paid (and continues to pay) the insurance
25 premiums for all full-time employees represented by the
26 Association.

27 4. In the spring of 1993, United of Omaha notified
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1 District of an increase in group health insurance premiums of
2 13.1%, for employees and dependents alike, to be effective
3 July 1, 1993.

4 5. On or about May 25, 1993, without negotiating with
5 Association, the Carson City Board of School Trustees
6 unilaterally approved increases in dependent coverage by
7 approximately 64% for a spouse, 48% for a child, and 58% for a
8 spouse and children, all of which increases are to be paid by
9 employees.

10 6. By adopting the above increases on dependents, the
11 District reduced its own contractual obligation to pay 100% of
12 employee premiums to an effective increase of approximately
13 1.18%.

14 CONCLUSIONS OF LAW

15 1. The Local Government Employee-Management Relations
16 Board has jurisdiction over the parties and the subject matter
17 of this Complaint, pursuant to the provisions of NRS Chapter
18 288.

19 2. Health insurance premiums for employee dependents is
20 a subject of mandatory bargaining, pursuant to NRS
21 288.150(2)(a) and (f), by virtue of being significantly
22 related to the subjects designated therein.

23 3. The District is not statutorily prohibited by NRS
24 387.205 or any other statute from expending school district
25 funds to pay or subsidize health insurance premiums for
26 employee dependents.

27 4. The District's policy against paying dependent
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premiums is invalid since it contradicts the mandatory bargaining requirements of NRS 288.150.

DECISION AND ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that health insurance premiums for employee dependents is a subject of mandatory bargaining, and that collective bargaining with respect thereto is not prohibited by the provisions of any other statute.

IT IS FURTHER ORDERED that each party bear its own costs and fees in the Board's adjudication of this matter.

DATED this 27th day of June, 1994.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By Tamara E. Barengo
TAMARA BARENGO, Chairman

By Susan L. Johnson
SUSAN L. JOHNSON, Vice Chairman

By Salvatore C. Gucino
SALVATORE C. GUCINO, Member