

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

PERSHING COUNTY LAW
ENFORCEMENT ASSOCIATION &
OPERATING ENGINEERS LOCAL UNION,
NO. 3,

Complainant,

vs.

PERSHING COUNTY,

Respondent.

ITEM NO. 725

CASE NO. A1-045974

ORDER

For Complainant: Michael E. Langton, Esq.
Pershing County Law Enforcement Association & Operating
Engineers Local No. 3.

For Respondents: Jim C. Shirley, Esq.
Pershing County

On the 27th day of May, 2010, this matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), for consideration and decision pursuant to the provisions of NRS and NAC chapters 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's open meeting laws.

This matter came before the Board on a Motion to Dismiss filed by Respondent Pershing County ("County"). The County asserts that the claims made by the Association are untimely under the six-month limitation period set forth in NRS 288.110(4).

As a preliminary matter, the County has moved for permission to file an exhibit that exceeds 30 pages in length, and no opposition to that motion was received. Therefore the Board grants the County's Motion to Allow More than 30 Page Exhibit. The parties also submitted a Stipulation for Enlargement of Time, which would extend the deadline for the parties to submit prehearing statements until 20 days after the Board decides on the County's motion to dismiss.

The Stipulation is also granted.

1 On the motion to dismiss, the County bears the burden of demonstrating that the
2 Complaint was untimely. See A&L Underground and Plumbers Local # 8, 302 N.L.R.B. 467,
3 469 (1991). The Board has reviewed the parties' respective pleadings as well as the evidence
4 submitted with the motion and believes that there are unresolved questions of material fact
5 concerning the actual occurrence at issue in this case and the accrual of cause of action.
6 Therefore, the Board is not inclined to grant the motion to dismiss on the issue of timeliness at
7 this stage of the proceedings.

8 Additionally, the Board believes that it would be beneficial for the parties to separately
9 address the Association's claim that the County unilaterally changed a term or condition of
10 employment. Specifically, the Board requests that the parties submit a separate brief which
11 states the parties' position on whether or not the vehicle policies referenced in the Complaint are
12 a mandatory subject of bargaining under NRS 288.150, or are significantly related to a
13 mandatory subject of bargaining. The Board requests that this brief not be combined with the
14 parties' prehearing statements.

15 **ORDER**

16 Based upon the foregoing, and cause appearing therefore, it is hereby ordered as follows:

- 17 1. That the County's Motion to Allow More than 30 Page Exhibit is Granted;
- 18 2. That the parties' Stipulation for Enlargement of Time is Granted and that
19 prehearing statements shall be due **within 20 days** of the date of this order;
- 20 3. That the County's Motion to Dismiss is Denied without prejudice;
- 21 4. That the parties submit, at the same time in which the pre-hearing statements are
22 submitted, a separate brief that sets forth the parties' position on whether or not the vehicle
23 policies are a mandatory subject of bargaining, or are significantly related to a mandatory subject
24 of bargaining.

25 DATED this 1st day of June, 2010.

26 LOCAL GOVERNMENT EMPLOYEE-
27 MANAGEMENT RELATIONS BOARD

28 BY: 
SEATON J. CURRAN, ESQ., Chairman

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

PERSHING COUNTY LAW
ENFORCEMENT ASSOCIATION &
OPERATING ENGINEERS LOCAL UNION,
NO. 3,

CASE NO. A1-045974

Complainant,

NOTICE OF ENTRY OF ORDER

vs.

PERSHING COUNTY,

Respondent.

To: Michael E. Langton, Esq.
Pershing County Law Enforcement Association & Operating Engineers Local No.
3

To: Jim C. Shirley, Esq.
Pershing County

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
June 1, 2010.

A copy of said order is attached hereto.

DATED this 1st day of June, 2010.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY 
ANDY ANDERSON, Commissioner