

FILED

AUG 20 2015

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MASON VALLEY FIREFIGHTERS
ASSOCIATION, IAFF, LOCAL 4642,

Complainant,

vs.

MASON VALLEY FIRE PROTECTION
DISTRICT,

Respondent.

CASE NO. 2015-015

ORDER ON PETITION FOR
DECLARATORY ORDER OF NRS
288.180(1) APPLICABILITY TO A NEWLY
RECOGNIZED EXCLUSIVE BARGAINING
AGENT

ITEM NO. 806

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board") on August 18, 2015, for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act"); NAC Chapter 288 and NRS chapter 233B. This order is issued pursuant to NAC 288.410 and NRS 233B.120.

Petitioner Mason Valley Firefighters Association, IAFF Local 4642 ("the Association") is the bargaining agent for Firefighter/EMT's employed by Respondent Mason Valley Fire Protection District ("the District"). The Association is newly-recognized, having been initially recognized by the District as the bargaining agent on May 21, 2015. Prior to this recognition, the firefighter employees of the District were not represented by an employee organization.

Upon recognition, the Association sought to negotiate an initial collective bargaining agreement with the District. The District agreed to negotiate, but stated that negotiations for the upcoming fiscal year 2016¹ must be limited to matters that do not require the budgeting of money. The District pointed to the deadline contained in NRS 288.180(1) in support of its

¹ The fiscal year is typically denoted by the year in which it ends. The 2016 fiscal year runs from July 1, 2015-June 30, 2016.

1 position. Under the District's position, the Association would not be able to negotiate on matters
2 that require the budgeting of money to be effective prior to fiscal year 2017. The Association
3 then petitioned this Board for a declaratory order on the issue of whether NRS 288.180(1)
4 precludes the Association from negotiating matters concerning the budgeting of money for fiscal
5 year 2016. No request for a hearing was filed in this matter. NAC 288.400(2). The Board finds
6 that granting declaratory relief is appropriate in this case. NAC 288.410(2)(c).

7 NRS 288.180(1) states: "whenever an employee organization desires to negotiate
8 concerning any matter which is subject to negotiation pursuant to this chapter, it shall give
9 written notice of that desire to the local government employer. If the subject of negotiation
10 requires the budgeting of money by the local government employer, the employee organization
11 shall give notice on or before February 1."

12 The Association contends that the February 1 deadline to request negotiations does not
13 apply in this case because the Association is a newly-recognized bargaining agent and that
14 recognition was not granted by the District until May 21, 2015, well after February 1. Hence, as
15 of February 1, the Association had not been recognized and thus there was no basis to request
16 negotiations.

17 The Association is correct that recognition as the exclusive bargaining agent is antecedent
18 to the bargaining obligations specified in the Act. NRS 288.150(1). The Board has previously
19 had opportunity to address this precise question in Clark County Public Employees Association
20 v. Housing Authority of the City of Las Vegas, Item No. 270, EMRB Case No. A1-045478 (July
21 25, 1991). We adopt that decision as precedent in this case. NRS 288.110(5)(a).

22 In Clark County Public Employees Association, this Board considered the application of
23 NRS 288.180(1) to an organization's request to bargain. The organization was initially
24 recognized on May 16, 1990, and requested to bargain on May 22, 1990. This Board held that
25 NRS 288.180(1) operated to bar organizations with existing agreements from negotiating
26 subjects that concern the budgeting of money if a timely request is not made. However this
27 Board then stated that:

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1 To interpret this requirement as precluding an employee
2 organization, newly certified and/or recognized subsequent to
3 February 1, from requesting negotiations concerning matters
4 requiring the budgeting of money, would render said certification
5 and/or recognition essentially meaningless until the fiscal year
6 which follows said certification and/or recognition. Such
7 interpretation would be unreasonable and contrary to the purpose
8 of NRS 288.180(1). This statutory bar clearly was not intended to
apply to terms and conditions of employment, which are not
covered or addressed in an existing labor agreement. It follows,
therefore, that it does not operate to prevent a newly certified
and/or recognized employee organization subsequent to February 1
from negotiating an initial labor agreement.

9 This Board then required that the ensuing agreement to be treated "as if the negotiations
10 occurred pursuant to a notice filed on or before February 1 of the following fiscal year." In
11 response to the petition in this case, the District points to the Board's use of the phrase
12 "following fiscal year" in the preceding sentence and asks the Board to adopt Clark County
13 Public Employees Association as precedent but to read that decision in such a way as treating the
14 phrase "the following fiscal year" as applied in this case to mean fiscal year 2017. Clark County
15 Public Employees Association in no way leads to such a result.

16 As stated above, the bargaining agent in Clark County Public Employees Association was
17 newly-recognized in May of 1990. The specific outcome that this Board ordered in that case was
18 that "the Authority then became obligated to bargain collectively with the Association
19 concerning non-monetary subjects for the year 1990, and concerning subjects requiring the
20 budgeting of money for the fiscal 1991 year", i.e. the fiscal year that ran from July 1, 1990 to
21 June 30, 1991.

22 Our prior decision in Clark County Public Employees Association leaves no room to
23 doubt that in this case the District was obligated to negotiate with the Association over subjects
24 requiring the budgeting of money for fiscal year 2016. The Board notes that subsequent to our
25 decision in Clark County Public Employees Association, the operative language in NRS
26 288.180(1) has not been amended or changed by the legislature.


27 In order to alleviate any lingering questions, we clarify that our reference to a "following
28 fiscal year" in Clark County Public Employees Association refers to the fiscal year that follows

1 the fiscal year in which the recognition occurs. Thus when an employer initially recognizes a
2 bargaining agent in May of 2015, that recognition occurs within fiscal year 2015 (July 1, 2014-
3 June 30, 2015). Accordingly, the following fiscal year would be fiscal year 2016 (July 1, 2015-
4 June 30, 2016). In that case, the newly-recognized bargaining agent may negotiate an initial
5 contract for matters that involve the budgeting of money effective for fiscal year 2016. If
6 however, an initial recognition were to occur today in August of 2015, that recognition would
7 occur within fiscal year 2016. In that case the following fiscal year would be fiscal year 2017
8 (July 1, 2016-June 30, 2017) and the newly recognized bargaining agent could negotiate matters
9 that require the budgeting of money to be effective with fiscal year 2017. As we stated in Clark
10 County Public Employees Association , matters that do not require the budgeting of money may
11 be negotiated to take effect in the same fiscal year in which the initial recognition occurs.

12 As this matter involves an initial recognition of a bargaining agent whose recognition
13 occurred subsequent to February 1 (on May 21, 2015) and does not involve any existing
14 agreement, we follow Clark County Public Employees Association and hold that NRS
15 288.180(1) does not permit the District to refuse negotiations on subjects that require budgeting
16 of money for fiscal year 2016.

17 DATED this 20th day of August, 2015.

18
19 LOCAL GOVERNMENT EMPLOYEE-
20 MANAGEMENT RELATIONS BOARD

21 BY: 

22 PHILIP E. LARSON, Chairman

23 BY: 
24 BRENT ECKERSLEY, ESQ., Vice-Chairman

25 BY: 
26 SANDRA MASTERS, Board Member
27
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STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
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MASON VALLEY FIREFIGHTERS
ASSOCIATION, IAFF, LOCAL 4642,

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MASON VALLEY FIRE PROTECTION
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CASE NO. 2015-015

NOTICE OF ENTRY OF ORDER

To: Mason Valley Firefighters Association, IAFF, Local 4642;

To: Mason Valley Fire Protection District through their attorneys Charles Cockerill, Esq. and
Allison MacKenzie, Ltd.

PLEASE TAKE NOTICE that the **ORDER ON PETITION FOR DECLARATORY
ORDER OF NRS 288.180(1) APPLICABILITY TO A NEWLY RECOGNIZED
EXCLUSIVE BARGAINING AGENT** was entered in the above-entitled matter on August 20,
2015.

A copy of said order is attached hereto.

DATED this 21st day of August 2015.


LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY


MARISU ROMUALDEZ ABELLAR
Executive Assistant

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**Mason Valley Firefighters Association
Local 4642
c/o Anthony Cabral
1251 Monarch Lane
Gardnerville, NV 89460**


MARISU ROMUALDEZ ABELLAR
Executive Assistant