

JUL 01 2016

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

POLICE OFFICERS ASSOCIATION OF
THE CLARK COUNTY SCHOOL
DISTRICT,

Complainant,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO. 2015-031

ORDER**ITEM NO. 816**

The Police Officers Association of the Clark County School District (POA), Complainant, filed a Complaint with the Local Government Employee-Management Relations Board alleging the Clark County School District (CCSD) engaged in prohibited labor practices by making a unilateral change when CCSD suspended all advancement, salary or benefit increases for POA members.

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board (the "Board") for decision on June 16, 2016, pursuant to the provisions of the Local Government Employee-Management Relations Act (the "Act"); NAC chapter 288 and NRS chapter 233B. Thereafter, this matter came on before the Board for further deliberations on June 29, 2016, pursuant to the provisions of the Act; NAC chapter 288 and NRS chapter 233B. The Board held an evidentiary hearing on the matter on March 3, 2016. The parties and the public were duly noticed of the hearing. The parties, represented by counsel, attended the hearing and presented testimony, evidence and argument.

Based upon the testimony, evidence and argument presented by the parties, and for the reasons outlined below, the Board finds the Complaint is not well taken and finds in favor of CCSD.

1 **SUMMARY OF THE CASE**

2 The parties agreed to the underlying facts of this matter allowing the Board to focus on
3 the key issue, namely:

4 Whether the Clark County School District's failure to give step increases after the
5 expiration of the collective bargaining agreement is a violation of NRS 288.270(1)(a) and (e).

6 The parties entered into the Negotiated Agreement between the Clark County School
7 District and the Police Officers Association of the Clark County School District on November
8 14, 2013 (the "Agreement"). The Agreement provided its term was from July 1, 2013, to June
9 30, 2014, but a clause written into the Agreement renewed it on July 1 of every year until a new
10 agreement was entered into. Pursuant to this "evergreen clause" the Agreement renewed for one
11 (1) year from July 1, 2014, through June 30, 2015.

12 As of June 30, 2015, the parties had yet to enter into a new Agreement. Pursuant to the
13 evergreen clause, the Agreement may have renewed for another one (1) year from July 1, 2015,
14 through June 30, 2016, but the Governor signed legislation, designated as SB 241, effective June
15 1, 2015, and which prohibited the renewal of any contracts by way of evergreen clauses. SB 241
16 Sec. 5 provided, in part:

17
18 Insofar as they conflict with the provisions of such an agreement,
19 the amendatory provisions of this act . . . do apply to any extension
20 or renewal of such an agreement and to any collective bargaining
agreement entered into on or after the effective date of this act.

21 SB 241, Sec. 1.3 also provided, in part:

22 upon the expiration of a collective bargaining agreement, if no
23 successor agreement is effective and until a successor agreement
24 becomes effective, a local government employer shall not pay to or
25 on behalf of any employee in the affected bargaining unit any
26 compensation or monetary benefits in any amount greater than the
amount in effect as of the expiration of the collective bargaining
agreement.

27 ///

1 Accordingly, on July 1, 2015, CCSD suspended the awarding of step increases to POA
2 employees. The POA thereupon filed the instant Complaint, alleging that the suspension of the
3 step increases was a unilateral change of the Agreement.

4 To resolve the dispute, pursuant to NRS 288.110 the Board held an evidentiary hearing
5 on the matter on March 3, 2016. Based upon the pleadings, testimony, evidence, argument and
6 briefing submitted by the parties, the Board makes the following Findings of Fact and
7 Conclusions of Law:

8 **FINDINGS OF FACT**

- 9 1. The parties entered into the Negotiated Agreement between the Clark County School
10 District and the Police Officers Association of the Clark County School District on
11 November 14, 2013 (the "Agreement"). CCSD Exhibit 3.¹
- 12 2. The Agreement included Article 21, Clark County School District Police Officer Pay
13 Ranges, which established a system of pay with standardize step increases which were
14 identified on page 28 of the Agreement. CCSD Exhibit 3.
- 15 3. The Agreement contained an evergreen clause which renewed the Agreement for one (1)
16 year from July 1, 2014, to June 30, 2015. CCSD Exhibit 3.
- 17 4. The extension of the Agreement expired on June 30, 2015 when no successor agreement
18 was in place.
- 19 5. Effective July 1, 2015, CCSD suspended all step increases until a new agreement with
20 POA went into effect.
- 21 6. If any of the foregoing findings is more appropriately construed as a conclusion of law, it
22 may be so corrected.

23 **CONCLUSIONS OF LAW**

- 24 1. SB 241 became effective on June 1, 2015, which prevented the Agreement from being
25 renewed by the evergreen clause on July 1, 2015.
- 26 2. SB 241 Sec. 5 provides, in part:

27
28 ⁱ There was a problem with ratification of the Agreement, but the parties agreed that the relevant
articles were agreed to.

1 Insofar as they conflict with the provisions of such an agreement,
2 the amendatory provisions of this act . . . do apply to any extension
3 or renewal of such an agreement and to any collective bargaining
 agreement entered into on or after the effective date of this act.

4 3. Because the Agreement expired on June 30, 2015, SB 241's provisions apply to relations
5 between the parties after this date.

6 4. SB 241, sec. 1.3 provides:

7 upon the expiration of a collective bargaining agreement, if no
8 successor agreement is effective and until a successor agreement
9 becomes effective, a local government employer shall not pay to or
10 on behalf of any employee in the affected bargaining unit any
11 compensation or monetary benefits in any amount greater than the
 amount in effect as of the expiration of the collective bargaining
 agreement.

12 5. Under the plain meaning of SB 241, CCSD could not increase employee wages after the
13 expiration of the Agreement under the system of pay that was in effect prior the
14 expiration of the Agreement.

15 6. CCSD was not required to maintain the system of pay that was in effect prior to the
16 expiration of the Agreement.

17 7. That the POA's Complaint is not well-taken.

18 8. That an award of costs or fees pursuant to NRS 288.110(6) is not warranted in this case.

19 9. If any of the foregoing conclusions is more appropriately construed as a finding of fact, it
20 may be so corrected.

21 DISCUSSION

22 The Board notes that it relies, in part, on the June 22, 2016 Eighth Judicial District Court
23 Decision and Order in the case of *Clark County v. Nevada Local Government Employee-*
24 *Management Relations Board and Service Employees International Union, Local 17*, case
25 number A-15-728412-J in making its ruling in this case.

26 ///

27 ///

28 ///

1 **A. Senate Bill 241 Eliminated Evergreen Provisions**

2 The original version of NRS 288.155 read: "Agreements entered into between local
3 government employers and employee organizations pursuant to this chapter may extend beyond
4 the term of office of any member or officer of the local government employer." The amended
5 version of NRS 288.155 provides:

- 6 1. A collective bargaining agreement:
- 7 (a) May extend beyond the term of office of any member or officer
 of the local government employer.
- 8 (b) Expires for the purposes of this section at the end of the term
9 state in the agreement, notwithstanding any provision in the
10 agreement that it remain in effect, in whole or part, after the
11 end of that term until a successor agreement becomes effective.
- 12 2. Except as otherwise provided in subsection 3 and notwithstanding
13 any provision of the collective bargaining agreement to the
14 contrary, upon the expiration of a collective bargaining
15 agreement, if no successor agreement is effective and until a
 successor agreement becomes effective, a local government
 employer shall not pay to or on behalf of any employees in the
 affected bargaining unit any compensation or monetary
 benefits in any amount greater than the amount in effect as of
 the expiration of the collective bargaining agreement.

16 With regard to existing contracts, SB 241 provides that:

17 Insofar as they conflict with the provisions of such an agreement,
18 amendatory provision of this act do not apply during the current
19 term of any contract of employment or collective bargaining
20 agreement entered into before the effective date of this act, but do
21 apply to any extension or renewal of such an agreement entered
22 into on or after the effective date of this act and to any agreement
23 entered into on or after the effective date of this act. For the
24 purposes of this section, the term of any agreement ends on the
 date provided in the agreement, notwithstanding any provision of
 the agreement that it remains in effect, in whole or in part, after
 that date until a successor agreement is reached.

25 SB 241, Sec. 5. The new law went into effect upon passage on June 1, 2015. Under SB 241, a
26 collective bargaining agreement expires "at the end of the term stated in the agreement,
27 notwithstanding any provisions of the agreement that it remain in effect, in whole or in part, after
28 the end of that term, until a successor agreement become effective." SB 241, Sec. 1.3(1)(b). The

1 new law also mandated that employers "shall not" provide interim pay increases after an
2 agreement expires until a new agreement becomes effective. SB 241, Sec. 1.3(2).

3 **B. The Agreement Expired on June 30, 2015**

4 The 2013-2014 Agreement between the parties renewed yearly on July 1 under an
5 evergreen provision unless the parties reached a new agreement. SB 241 came into effect during
6 the collective bargaining agreement's 2014-2015 extension or renewal under the evergreen
7 provision. SB 241 eliminated evergreen provisions. Under SB 241, a collective bargaining
8 agreement expires "at the end of the term stated in the agreement, notwithstanding any
9 provisions of the agreement that it remain in effect, in whole or in part, after the end of that term,
10 until a successor agreement become effective." SB 241, Sec. 1.3(1)(b). The July 1, 2014
11 extension of the agreement happened before SB 241 came into effect. SB 241 did not impact
12 this extension. SB 241 only impacted the agreement when a renewal or extension was scheduled
13 to take place after the law came into effect.

14 On June 30, 2015, the Agreement expired and it could not be renewed or extended owing
15 to SB 241. CCSD continued to allow step increases until the Agreement expired on June 30,
16 2015. On July 1, 2015, CCSD suspended all step-increases for employees of the bargaining unit.

17 **C. CCSD did not Commit a Unilateral Change when it Suspended Step Increases**

18 The Agreement established a system of pay with standardized step increases which were
19 identified on page 28 of the Agreement and provided for pay increases pursuant to a step system
20 of the sort depicted on page 28 of the Agreement. CCSD Exhibit 3; Hrg. Trans., p. 17. Because
21 the Agreement expired on June 30, 2015, SB 241's provisions apply to relations between the
22 parties after this date. SB 241, sec. 1.3 provides:

23 upon the expiration of a collective bargaining agreement, if no
24 successor agreement is effective and until a successor agreement
25 becomes effective, a local government employer shall not pay to or
26 on behalf of any employee in the affected bargaining unit any
27 compensation or monetary benefits in any amount greater than the
28 amount in effect as of the expiration of the collective bargaining
29 agreement.

///

1 Under the plain meaning of SB 241, CCSD could not increase employee wages. The
2 legislative intent of the statute was to prohibit pay raises for employees unless agreed in a
3 contract.

4 **ORDER**

5 Based on the foregoing, it is hereby ordered that the Board finds in favor of Respondent
6 Clark County School District as set forth above. Complainant Police Officers Association of the
7 Clark County School District shall take nothing by way of its Complaint.

8 DATED this 1st day of July, 2016.

9 LOCAL GOVERNMENT EMPLOYEE-
10 MANAGEMENT RELATIONS BOARD

11 BY: 
12 PHILIP E. LARSON, Chairman

13 BY: 
14 BRENT C. ECKERSLEY, Vice-Chairman

15 BY: 
16 SANDRA MASTERS, Board Member

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

POLICE OFFICERS ASSOCIATION OF
THE CLARK COUNTY SCHOOL
DISTRICT,

Complainant,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

CASE NO. 2015-031

NOTICE OF ENTRY OF ORDER

TO: POLICE OFFICERS ASSOCIATION OF THE CLARK COUNTY SCHOOL DISTRICT, and their attorney, Adam Levine, Esq. and the Law Offices of Daniel Marks;

TO: CLARK COUNTY SCHOOL DISTRICT, and their attorney Scott Greenberg, Esq. and the Office of the General Counsel of the Clark County School District.

PLEASE TAKE NOTICE that an **ORDER** was entered in the above-entitled matter on July 1, 2016.

A copy of said order is attached hereto.

DATED this 5th day of July, 2016.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY


MARISU ROMUALDEZ ABELLAR
Executive Assistant

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

Law Office of Daniel Marks
Daniel Marks, Esq.
Adam Levine, Esq.
610 South Ninth Street
Las Vegas, NV 89101


MARISU ROMUALDEZ ABELLAR
Executive Assistant