

FILED
September 20, 2023
State of Nevada
E.M.R.B.
8:30 a.m.

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3 **STATE OF NEVADA**
4 **GOVERNMENT EMPLOYEE-MANAGEMENT**
5 **RELATIONS BOARD**
6

7 IN RE:

Case No. 2023-025

8 PETITION TO BE DESIGNATED AS THE
9 EXCLUSIVE REPRESENTATIVE OF A
10 BARGAINING UNIT PURSUANT TO
11 SENATE BILL 166 OF THE 82ND SESSION OF
12 THE NEVADA LEGISLATURE

NOTICE OF ENTRY OF ORDER

ITEM NO. 888

13 TO: Mande Bowsmith, Administrator for the Division of Human Resource Management; and

14 TO: Adam Levine, Esq. of the Law Office of Daniel Marks.

15 PLEASE TAKE NOTICE that the **ORDER REGARDING THE DESIGNATION OF**
16 **AN EXCLUSIVE REPRESENTATIVE FOR BARGAINING UNIT N** was entered in the
17 above-entitled matter on September 20, 2023.
18

19 A copy of said order is attached hereto.

20 DATED this 20th day of September 2023.

21 GOVERNMENT EMPLOYEE-
22 MANAGEMENT RELATIONS BOARD

23 BY Isabel Franco
24 ISABEL FRANCO
25 Administrative Assistant II
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1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Government Employee-Management
3 Relations Board, and that on the 20th day of September 2023, I served a copy of the foregoing
4 **NOTICE OF ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Mandee Bowsmith
6 Administrator
7 Division of Human Resource Management
8 Blasdel Building
9 209 East Musser Street, Suite 101
10 Carson City, Nevada 89701-4204

11 Adam Levine, Esq.
12 Law Office of Daniel Marks
13 610 S. Ninth Street
14 Las Vegas, NV 89101

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16 ISABEL FRANCO
17 Administrative Assistant II
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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

IN RE:

PETITION TO BE DESIGNATED AS THE
EXCLUSIVE REPRESENTATIVE OF A
BARGAINING UNIT PURSUANT TO
SENATE BILL 166 OF THE 82ND SESSION OF
THE NEVADA LEGISLATURE

Case No. 2023-025

**ORDER REGARDING THE
DESIGNATION OF AN EXCLUSIVE
REPRESENTATIVE FOR
BARGAINING UNIT N**

ITEM NO. 888

On September 20, 2023, this matter came before the State of Nevada, Government Employee-Management Relations Board (“Board”) for consideration and decision pursuant to the provisions of the Government Employee-Management Relations Act (the “Act”); NAC Chapter 288; and NRS Chapter 233B.

At issue was a petition filed on August 23, 2023 by the Fraternal Order of Police Nevada C.O. Lodge 21 (“FOP”), seeking to be designated as the exclusive representative for Bargaining Unit N, which consists of Category III Peace Officer Supervisors. On September 7, 2023, staff issued its audit report on the petition and its supporting information. This audit report was presented to the Board at its September 20, 2023 meeting. The State of Nevada (“State”) provided no response to the petition.¹

¹ At the Board meeting of December 17, 2019, Peter Long, Interim Director of the Department of Administration, remarked that the State would not be responding to any of the petitions for recognition as it was the State’s position that it is solely the purview of the Board to make such decisions. Nothing to the contrary has been stated by the State since then.

1 **Standard for Designation of an Exclusive Representative**

2 NRS 288.520 provides a means for the Board to designate a labor organization as the
3 exclusive representative of a bargaining unit without an election. NRS 288.520 reads:

4 If no labor organization is designated as the exclusive representative of a
5 bargaining unit and a labor organization files with the Board a list of its
6 membership or other evidence showing that the labor organization has been
7 authorized to serve as a representative by more than 50 percent of the employees
8 within the bargaining unit, the Board shall designate the labor organization as the
9 exclusive representative of the bargaining unit without ordering an election.

10 Thus, the issue at hand is whether the petition and supporting information show that FOP
11 has been authorized to serve as a representative by more than 50 percent of the employees within
12 Bargaining Unit N. Based upon the wording of NRS 288.520, the burden of proof is on the
13 petitioner. To determine whether this burden has been met requires a two-step process. The first
14 step is to determine the size of the bargaining unit. The second step is then to determine the
15 percentage of support for the petitioner.

16 **Step 1: Determination of the Size of the Bargaining Unit**

17 As detailed in the audit report, staff obtained from the State a spreadsheet of all classified
18 employees who were employed by the State as of July 31, 2023.² Based on the report, the
19 bargaining unit had a total of 153 employees as detailed in Table 1.

20 **Table 1: Number of Employees in Unit N By Job Title**

Title Code	Job Title	Count
13.310	Correctional Lieutenant	53
13.311	Correctional Sergeant	83
13.321	Forensic Specialist 4	17
	Total	153

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24 **Step 2: Determination of the Percentage of Support for the Petitioner**

25 As detailed in the audit report, staff was able to determine that the petitioner has evidence
26 of support of 86 employees, equaling 56.2%, which is detailed below:

27 _____

28 ² The date of reports from the State will not always match the date petitions are received by the EMRB as such reports from the State are produced at the end of each calendar month. The EMRB attempts to use the reports that best match the date of the petition.

1 1. There were 33 instances in which FOP listed an employee as a member on its list and the
2 employee was also listed on the Unit N Roster – and who is shown as holding a job title within
3 the bargaining unit. Credit should be given for these 33 persons.

4 2. There were 53 instances in which FOP listed an employee on its list as having signed an
5 authorization card and for which it also produced a copy of the authorization card with a signature
6 and a date that was within one year of the filing of the petition for recognition – and who is
7 shown as holding a job title within the bargaining unit. Credit should be given for these 53
8 persons.

9 3. There were 2 instances in which FOP listed an employee on its List as having signed an
10 authorization card and for which it also produced a copy of the authorization card with a
11 signature. However, these cards did not have a date next to the signature. Credit should not be
12 given for these 2 persons.

13 4. There was 1 instance in which FOP listed an employee on its List as having signed an
14 authorization card, but no such authorization card was produced. Credit should not be given for
15 this person.

16 **Summary**

17 As detailed in Step 1 above, there are 153 employees in the bargaining unit. Thus, to
18 meet the requirement of NRS 288.520 there must be evidence supporting the petition of at least
19 77 employees, which is 50% plus one.

20 As further detailed in Step 2 above, there are 86 bargaining unit employees who either are
21 a member of FOP or who have signed an authorization card, all of whom have been verified
22 through the staff audit process. This would place the percentage at 56.2% (86/153).

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DESIGNATION ORDER

Based on the foregoing,

IT IS HEREBY ORDERED that the Board designates FOP as the exclusive representative of Bargaining Unit N in that the petitioner has met its burden of proof to show it has been authorized to serve as a representative by more than 50 percent of the employees within Bargaining Unit N.

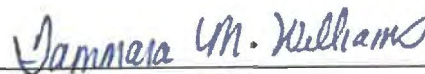
DATED this 20th day of September 2023.

GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By: 
BRENT ECKERSLEY, ESQ., Chair

By: 
SANDRA MASTERS, Vice-Chair

By: 
MICHAEL J. SMITH, Board Member

By: 
TAMMARA M. WILLIAMS, Board
Member

By: 
MICHAEL A. URBAN, Board Member