

FILED  
June 4, 2024  
State of Nevada  
E.M.R.B.

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

In RE:

APPLICATION FOR DESIGNATION AS THE  
EXCLUSIVE REPRESENTATIVE OF A  
BARGAINING UNIT PURSUANT TO NRS  
288.520 AND PURSUANT TO SENATE BILL  
166 (2023).

Case No. 2024-011

**NOTICE OF ENTRY OF ORDER**

**ITEM NO. 898**

TO: Petitioner Nevada Police Union Supervisors and its representative, Alex Velto, Esq. and Paul Cotsonis, Esq., Reese Ring Velto, PLLC;

TO: State of Nevada, Department of Human Resource Management and its representatives, Bachera Washington, Administrator and Matthew Lee, Supervisory Personnel Analyst.

PLEASE TAKE NOTICE that the **ORDER REGARDING THE APPLICATION FOR DESIGNATION OF NEVADA POLICE UNION SUPERVISORS AS EXCLUSIVE REPRESENTATIVE OF BARGAINING UNIT** was entered in the above-entitled matter on June 4, 2024.

A copy of said order is attached hereto.

DATED this 4th day of June 2024.

GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

BY



MARISU ROMUALDEZ ABELLAR  
Executive Assistant

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Government Employee-Management Relations  
3 Board, and that on the 4th day of June 2024, I served a copy of the foregoing **NOTICE OF ENTRY**  
4 **OF ORDER** by mailing a copy thereof, postage prepaid to:

5 Alex Velto, Esq.  
6 Paul Cotsonis, Esq.  
7 Reese Ring Velto, PLLC  
8 200 S. Virginia St., Suite 655  
9 Reno, NV 89501

10 Nevada Association of Public Safety Officers  
11 Andrew Regenbaum, J.D.  
12 145 Panama Street  
13 Henderson, NV 89015

14 Bachera Washington  
15 Administrator DHRM  
16 State of Nevada  
17 7251 Amigo Street, Suite 120  
18 Las Vegas, NV 89119

19 Matthew Lee, DHRM  
20 State of Nevada  
21 100 North Stewart St., Suite 200  
22 Carson City, NV 89701

23 GOVERNMENT EMPLOYEE-MANAGEMENT  
24 RELATIONS BOARD

25 BY   
26 \_\_\_\_\_  
27 MARISU ROMUALDEZ ABELLAR  
28 Executive Assistant

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

In RE:

APPLICATION FOR DESIGNATION AS THE  
EXCLUSIVE REPRESENTATIVE OF A  
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Case No. 2024-011

**ORDER REGARDING THE  
APPLICATION FOR DESIGNATION OF  
NEVADA POLICE UNION  
SUPERVISORS AS EXCLUSIVE  
REPRESENTATIVE OF BARGAINING  
UNIT**

**ITEM NO. 898**

On May 21, 2024, 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 March 25, 2024, by the Nevada Police Union (“NPU”), seeking to be designated as the exclusive representative under NRS 288.520 for Bargaining Unit L, Category I Law Enforcement Supervisors that was created via SB166 on July 1, 2023. Also at issue was the Supplemental Petition filed on April 25, 2024, by the Nevada Peace Officer Association (“NPOA”) seeking to have the Board conduct an election under NRS 288.525 for Bargaining Unit L.<sup>1</sup>

Board staff prepared an Audit Report for both petitions and the Board considered both Audit Reports at the May 21, 2024, EMRB meeting. The Petition from NPU contained the following:

1. A list of employees in Unit L who are members (“Membership List”);
2. A list of employees who signed authorization cards but who are not yet members (“Card

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<sup>1</sup> The Board realized it could not consider the Petition of NPU and NPOA in a vacuum, even though there are two separate petitions and case numbers assigned and both parties argued both cases together. See NPOA’s Petition in EMRB Case No. 2024-012. In addition, the original NPOA Petition was filed March 27, 2024.

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List”)

- 3. Copies of the authorization cards for the employees on the Card List;
- 4. A declaration by Daniel Gordon verifying the backup information submitted; and
- 5. A copy of a blank authorization card, which was included at the end of the Audit Report.

The Petition from NPOA contained the following:

- 1. A list of employees in Unit L who signed authorization cards (the “List”);
- 2. Copies of the authorization cards for the employees on the List; and
- 3. A copy of a blank authorization card, which is included at the end of the Audit Report.

NPOA added three additional authorization cards in their Supplemental Petition on April 25, 2024,

**I. Audit Report Methodology.**

In addition to the information provided by the Petitioners set forth above, Board Staff (“Staff”) also obtained a master roster of all employees currently employed by the State (“State Master Roster”). The State Master Roster not only contained the names of employees but also contained, among other information, each employee’s job title and code. Staff extracted from the Master Roster all the employees who have a job title included for this bargaining unit,<sup>2</sup> thus creating a new spreadsheet entitled “State Unit L Roster.” In addition to the State Master Roster, the EMRB also received from Nevada System of Higher Education (“NHSE”) a list of employees (“NSHE Unit L Roster”) in the bargaining unit that had information similar to the State Unit L Roster. The number of employees for each specific job title for this bargaining unit are contained in Table 1. Staff determined there are a total of 185 employees in the bargaining unit.

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

Title Code	Job Title	Count
13.101	Agricultural Police Officer III	1
13.115	Staff Game Warden	3
13.121	Game Warden IV	4
13.135	Park Supervisor III (Commissioned)	4
13.136	Park Supervisor II (Commissioned)	8
13.137	Park Supervisor I (Commissioned)	4
13.204	DPS Lieutenant	45
13.205	DPS Sergeant	101

<sup>2</sup> The job titles in the bargaining unit include those ordered by the Board in Case 2023-022 to be moved from the managerial category to Unit L.

13.215	University Police Lieutenant	6 (NSHE)
13.221	University Police Sergeant	9 (NSHE)
Total		185

Staff then compared the List provided by both NPU and NPOA with the copies of the authorization cards submitted. Staff also compared the List to the State Unit L Roster and the NSHE Unit L Roster to ensure that the persons listed on the List were current employees of the State (or NSHE) assigned to a job classification within the bargaining unit. Staff also inspected the authorization cards to ensure the cards had a date within one year of submittal of the petition as well as a signature.<sup>3</sup> In the end Staff determined the following:

**Findings for NPU:**

Based on the Audit Report, the Board finds there were 113 verified bargaining unit employees which includes existing members and those who have signed authorization cards. This would place the NPU percentage at 61.1%. Even if the Board eliminated the duplicate employees between NPU and NPOA, the percentage still stood at 50.3%.

**Findings for NPOA:**

Staff indicated there were 58 verified bargaining unit employees. This would place the percentage of NPOA verified bargaining unit employees at 31.4% out of the 185 employees in the bargaining unit. If the Board eliminated the duplicates between NPU and NPOA, the percentage would drop to 20.5%.

**II. The Legal Standard.**

NPU’s Petition requested that the Board make an immediate designation of exclusive representation under NRS 288.520, which states:

If no labor organization is designated as the exclusive representative of a bargaining unit and a labor organization files with the Board a list of its membership or other evidence showing that the labor organization has been authorized to serve as a representative by more than 50 percent of the employees within the bargaining unit, the Board **shall** designate the labor organization as the exclusive representative of the bargaining unit

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<sup>3</sup> The Board has previously held in other cases that only authorization cards signed in the year prior to the submission of a petition should be considered. *See In Re: Petition to be Designated as the Exclusive Representative of a Bargaining Unit Pursuant to Senate Bill 135 of the 80<sup>th</sup> Session of the Nevada Legislature*, Case No. 2019-019, Item 858 (EMRB, Jan. 22, 2020).

1 without ordering an election.

2 (emphasis added). Conversely, NPOA's Petition was seeking to become the exclusive representative of  
3 Bargaining Unit L following an election as provided under NRS 288.525, which states in relevant part:

- 4 1. If no labor organization is designated as the exclusive representative of a bargaining  
5 unit, the Board **shall** order an election to be conducted within the bargaining unit if:  
6 (a) A labor organization files with the Board a written request for an election  
7 which includes a list of its membership or other evidence showing that it has  
8 been authorized to serve as a representative by at least 30 percent but not more  
9 than 50 percent of the employees within the bargaining unit; and ...

10 It is clear that under NRS 288.520 the Board is **required** to designate a labor organization as the  
11 exclusive representative for a bargaining unit without ordering an election if the labor organization has  
12 been authorized to serve as the representative of more than 50% of the members of the bargaining unit.  
13 Based upon the wording of NRS 288.520, the burden of proof is on the petitioner. *In Re: Petition to be*  
14 *Designated as the Exclusive Representative of a Bargaining Unit Pursuant to Senate Bill 135 of the 80<sup>th</sup>*  
15 *Session of the Nevada Legislature, Case No. 2019-019, Item 858 (EMRB, Jan. 22, 2020). To determine*  
16 *whether this burden has been met requires a two-step process. Id. The first step is to determine the size*  
17 *of the bargaining unit. Id. The second step is to then determine the percentage of support for the*  
18 *petitioner. Id. As noted above, the Board finds that NPU exceeds the 50% threshold set out in NRS*

19 288.520 even if the duplicates between NPU and NPOA are not counted.  
20 NPOA argued in this matter that the Board is **required** to hold an election if a labor  
21 organization presents the Board with a valid Petition that meets the requirements of NRS 288.525.  
22 However, the Board cannot possibly comply with the mandatory requirements of both NRS 288.520  
23 and NRS 288.520(1) if two conforming Petitions are being considered at the same time and one falls  
24 under NRS 288.520 and one falls under NRS 288.525 as was the case here.

25 Thus, the Board must be both logical and practical regarding any analysis as to which statute  
26 has primacy based upon the facts that exist in this case. In this instance, the Board determines that  
27 NRS 288.520 must have primacy since an election to determine which labor organization has more  
28 support is irrelevant if one labor organization has met the requirements to be named as the exclusive  
representative without holding an election. In addition, a 50% threshold is harder to achieve than a  
30% threshold, and as such NRS 288.520 is clearly a more stringent and specific requirement. This


1 finding is consistent with this Board’s prior decision in *IN RE: Petition for Designation as the*  
2 *Exclusive Representative of a Bargaining Unit Pursuant to Senate Bill 135 (2019)*, Consolidated Case  
3 No. 2019-023/024, Item No. 856 (EMRB, Jan. 27, 2020). In Case No. 2019-023/024, which had an  
4 almost identical fact pattern as present in this case, two labor organizations were seeking representation  
5 of the same bargaining unit at the same time and the board determined that NRS 288.520 must be used,  
6 even if the other labor organization met the requirements of NRS 288.525. *Id.* at 7.

7 Bottom line, there is no need to hold an election under NRS 288.525 if one labor organization  
8 has already met the more stringent and specific requirements of NRS 288.520 and both petitions are  
9 filed contemporaneously enough to be considered at the same time. If NPOA had been the only entity  
10 to file a Petition, then the Board would almost certainly have ordered an election to be held because  
11 NPOA had met the requirements of the 30% threshold – but that was not the case. Moreover, in  
12 balancing the requirements of the two provisions at issue, it is obvious to the Board that NRS 288.520  
13 must be given more weight given its more stringent and specific requirements. The Board therefore  
14 finds that NPU must be designated as the exclusive representative of Bargaining Unit L since it has met  
15 the requirements of NRS 288.520.

16 Based on the foregoing, it is hereby **ORDERED** that Respondent’s Petition for Exclusive  
17 Representation of Bargaining Unit L is hereby **GRANTED**.

18 Dated this 4th day of June, 2024.

19 GOVERNMENT EMPLOYEE-  
20 MANAGEMENT RELATIONS BOARD

21 By:   
22 BRENT ECKERSLEY, ESQ., Chair

23 By:   
24 MICHAEL J. SMITH, Vice-Chair

25 By:   
26 SANDRA MASTERS, Board Member

27 By:   
28 TAMMARA M. WILLIAMS, Board  
Member