

September 17, 2026

VIA HAND DELIVERY and E- MAIL

Government Employee-Management Relations Board
Attn: Marisu Romualdez Abellar, Commissioner
3300 W. Sahara Avenue, Suite 490
Las Vegas, Nevada 89102
mabellar@emrb.nv.gov

Re: Proposed Amendments to NAC Chapter 288
LCB File No. R135-26

Dear Chair and Members of the Board:

I. INTRODUCTION

Snell & Wilmer L.L.P. submits this letter on behalf of our client, the Las Vegas Metropolitan Police Department (“LVMPD”), in response to the Notice of Intent to Act Upon a Regulation, LCB File No. R135-26, regarding proposed amendments to Chapter 288 of the Nevada Administrative Code. LVMPD respectfully requests that the Government Employee-Management Relations Board (the “Board”) consider the concerns set forth below before acting on the proposed amendments.

LVMPD is a local government employer subject to NRS Chapter 288 and regularly appears before the Board. LVMPD acknowledges the Board’s rulemaking authority under NRS 288.110 and understands that this rulemaking was prompted in part by Executive Order 2023-008. LVMPD appreciates the Board’s commitment to public engagement in this process.

This letter addresses two provisions of the proposed amendments to NAC 288.340: proposed subsection 4 (abstention) and proposed subsection 3 (oral dissent). LVMPD does not object to the remaining proposed amendments.

Primary Concern: Proposed subsection 4 of NAC 288.340 would permit a Board or panel member to abstain from voting, subject to NRS 241.0355 and NRS 281A.420, without requiring an explanation unless otherwise required by law. This provision raises questions regarding potential deadlocks and its interaction with applicable statutory requirements.

Secondary Concern: Proposed subsection 3 of NAC 288.340 would permit oral dissents in split decisions. LVMPD encourages the Board to require written dissents or, at minimum, to transcribe and append oral dissents to the panel’s written decision.

These concerns are shared across the labor-management bar. LVMPD understands that a respected union-side practitioner has identified similar concerns regarding proposed subsection 4, which supports addressing this provision from a good-government perspective.

II. PRIMARY CONCERN—PROPOSED SUBSECTION 4 OF NAC 288.340 (ABSTENTION PROVISION)

Proposed subsection 4 of NAC 288.340 would provide that “[a]ny member of the Board or panel, as applicable, may abstain from voting, subject to NRS 241.0355 and NRS 281A.420,” without requiring an explanation “unless otherwise required by NRS 281A.420 or other applicable law.” This language extends the proposed abstention right to both panel hearings and full Board votes. While LVMPD’s concerns are most acute in the panel context, where a single abstention has an outsized impact, the same statutory questions apply to full Board votes.

A. The Proposed Abstention Provision Appears to Create a Risk of Panel Deadlock

The Board adjudicates contested matters through panels. The proposed abstention provision would permit a Board member assigned to a panel who has participated in an evidentiary hearing to abstain from voting at the time of decision. This raises a concern that, in the case of a panel of three members, for example, if one member abstains and the remaining two disagree on the merits, the result would be a deadlock with no clear path to resolution. The concern applies with particular force to smaller panels, where a single abstention has an outsized impact on the vote.

LVMPD recognizes that conflicts may emerge during testimony that were not foreseeable at the time of panel assignment. However, the proposed mechanism (silent abstention at the vote) operates at the back end of the adjudicatory process. A Board member could participate fully in the hearing before declining to cast a vote, leaving the parties without resolution after investing substantial time and resources. The Board may wish to consider whether a front-end approach, such as strengthening conflict-screening practices at the panel-assignment stage, could address emergent conflicts without the deadlock risk.

The proposed rule does not include a mechanism for resolving a resulting deadlock. LVMPD suggests that the provision address how a matter would proceed if the panel does not reach a decision.

B. The Proposed Provision Raises Questions Under Nevada’s Statutory Framework Governing Abstention

The proposed provision states that a Board member may abstain “subject to the provisions of NRS 241.0355 and 281A.420” without requiring an explanation “unless otherwise required by NRS 281A.420 or other applicable law.”

This language may create tension with NRS 281A.420, one of the statutes the proposed provision cross-references. That subsection addresses abstention in four specific circumstances: where a public officer has accepted a gift or loan, has a significant pecuniary interest, has a commitment in a private capacity to the interests of another person, or has provided prior representation or counseling. In each case, the statute requires the officer to disclose information “sufficient to inform the public of the potential effect of the action or abstention” and to do so “at the time the matter is considered.” When the officer is a member of a decision-making body, the disclosure is made “in public to the chair and other members of the body.” As drafted, the proposed provision appears to permit abstention for reasons beyond these four categories without requiring disclosure.

LVMPD recognizes that the Board may intend the reference to NRS 281A.420 to preserve those statutory obligations. However, the current language could signal that unexplained abstention is the default. The Board may wish to clarify the relationship between the proposed provision and NRS 281A.420.

NRS 281A.420 also reflects the broader policy underlying these requirements. Subsection (4)(b) states:

Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

The Nevada Attorney General's Open Meeting Law Manual likewise states that "[t]he Legislature encourages appointed or elected members of public bodies to vote—not abstain," reflecting a policy applicable to both appointed and elected members. *See Nev. Att'y Gen., Open Meeting Law Manual* § 7.08 (12th ed. Jan. 2016, updated Mar. 26, 2019), <https://ag.nv.gov>. The very statute the proposed regulation invokes *thus* reflects the Legislature's view that abstention disrupts representative government and should be limited to clear cases involving a material conflict.

LVMPD respectfully suggests that the Board consider whether a regulation creating a broad right to abstain without explanation is consistent with NRS 281A.420(4)(b). LVMPD urges the Board to limit abstention to the four categories enumerated in NRS 281A.420, which provide a well-defined framework for when abstention is appropriate. Alternatively, if the Board determines that a broader provision is warranted, LVMPD suggests requiring a brief statement of the basis for any abstention so that the parties and the record reflect why a vote was not cast.

Separately, the proposed provision references NRS 241.0355, which governs voting requirements applicable to public bodies composed of *elected* officials, not *appointed* Board members. The cross-reference may therefore not be applicable and may warrant review.

III. SECONDARY CONCERN—PROPOSED SUBSECTION 3 OF NAC 288.340 (ORAL DISSENT PROVISION)

Proposed subsection 3 would authorize oral dissents in split decisions, with written inclusion only if the dissenting member submits a written dissent. If this means a dissent would not be included in the Board's written decision, LVMPD suggests the Board consider whether the provision should preserve dissents in the formal record. Written dissents aid the parties' understanding of split decisions and may be significant on appeal or in future proceedings; oral-only dissents are more difficult to cite and analyze.

LVMPD urges the Board to require written dissents or, alternatively, to transcribe and append oral dissents to the written decision.

IV. REQUEST FOR STATEMENT OF REASONS UNDER NRS 233B.064(2)

Pursuant to NRS 233B.064(2), LVMPD requests that the Board issue a concise statement of the principal reasons for and against the adoption of the proposed amendments to NAC Chapter 288 and incorporate its reasons for overruling the considerations urged against adoption.

NRS 233B.064(2) provides:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

LVMPD is an interested person within the meaning of NRS 233B.064(2). LVMPD requests that the Board's statement of reasons address the concerns raised in this letter.

V. CONCLUSION

LVMPD respectfully requests that the Board give further consideration to proposed subsection 4 of NAC 288.340. LVMPD urges the Board to limit abstention to the four categories enumerated in NRS 281A.420 or, alternatively, to require a statement of the basis for any abstention. LVMPD also requests that the Board amend proposed subsection 3 to preserve dissents in the written decision or through an appended transcript. Finally, LVMPD requests the concise statement of reasons under NRS 233B.064(2).

LVMPD reserves the right to present additional testimony and argument at the public hearing on September 22, 2026. LVMPD thanks the Board for the opportunity to submit these comments.

Kindest regards,

Snell & Wilmer



Swen Prior

On behalf of the Las Vegas Metropolitan
Police Department

SP:dgs

cc: Jamie Frost, Labor Relations Counsel
Las Vegas Metropolitan Police Department

