

**PROPOSED REGULATION OF THE NEVADA LOCAL GOVERNMENT
EMPLOYEE-MANAGEMENT RELATIONS BOARD**

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: NRS 288.110

Section 1. Chapter 288 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. “Good faith doubt” defined.

In the context of a petition filed pursuant to NAC 288.146, the Board may interpret “good faith doubt,” as that term is used in subsection 4 of NRS 288.160, as including:

- 1. A rival organization has filed a timely petition pursuant to NAC 288.146 and has fully complied with the requirements of that section and sections 2 to 11, inclusive, of this regulation; and*
- 2. The review conducted pursuant to section 10 of this regulation shows that the number of employees properly included on the membership list or the number of valid interest cards submitted by the rival organization is more than 50 percent of the number of employees in the bargaining unit.*

Sec. 3. “Incumbent” and “incumbent organization” defined.

“Incumbent” or “incumbent organization” means an employee organization who is recognized as the bargaining agent for that specific employee unit.

Sec. 4. “Interest card” defined.

Except as otherwise provided in this section, “interest card” means any document tendered by a rival organization as evidence of support in connection with a petition filed pursuant to NAC 288.146. The term does not include a verified membership list.

Sec. 5. “Rival” and “rival organization” defined.

“Rival” or “rival organization” means an employee organization that files a petition pursuant to NAC 288.146.

Sec. 6. Requirements for interest cards.

- 1. Any interest card tendered by a rival organization on behalf of a local government employee in connection with a petition filed pursuant to NAC 288.146:*
 - (a) Must expressly request that an election be conducted pursuant to subsection 4 of NRS 288.160;*
 - (b) Must include the printed name of the employee and his job title or position; and*
 - (c) Must be signed and dated in ink by the employee, with the date of his signature.*
- 2. An interest card is not valid or effective unless the employee signing it is an*

- employee of the bargaining unit on the date the card is signed and as of the date of the list of employees filed by the local government employer pursuant to section 8 of this regulation.*
3. *An interest card ceases to be valid or effective for any purpose 1 year after the date on which it is signed, or sooner if it is revoked by the employee in a written instrument signed and dated by the employee.*

Sec. 7. Local government employer to provide list of employees in bargaining unit.

1. *Within 10 days after service of a timely petition filed pursuant to NAC 288.146, the local government employer shall file with the Board an excelsior list of all the local government employees in the bargaining unit, as of the end of the most recent payroll period. To facilitate the process of review set forth in section 10 of this regulation, the list must be arranged so that the surname of each employee is set forth in alphabetical order.*
2. *The list must be accompanied by the affidavit of the custodian of records of the employer, stating the total number of employees identified on the list and attesting that to the best of his information and belief the list is accurate and complete.*
3. *The employer shall serve copies of the list and affidavit upon the rival and incumbent organizations.*

Sec. 8. Review of evidence of majority support; report on results of review.

1. *The Commissioner shall promptly review the evidence of majority support submitted by the rival organization, and compare the evidence to the list of employees filed by the local government employer.*
2. *The process of review must ensure:*
 - (a) *That any duplicate name or interest card is not counted more than once;*
 - (b) *That each person whose name appears on the membership list or as the signer of an interest card is a member of the bargaining unit, as reflected by the list of employees filed by the employer; and*
 - (c) *That each interest card, if cards are submitted, is not invalid on any ground including those specified in section 6 of this regulation.*
3. *Upon the completion of his review, the Commissioner shall prepare a written report of the results of the review, file the report with the Board, and serve copies on the incumbent and rival organizations. If the Commissioner determines that an interest card submitted on behalf of any person is invalid, or that any person identified on the membership list cannot properly be counted as a member consistently with the provisions of this section, the report must identify the name of each such person and set forth the specific basis for the exclusion of his card or name, as appropriate.*
4. *Upon the completion of his review, the Commissioner shall return all documents to the respective parties.*

Sec. 9. Action of Board based upon results of review.

1. *Except as otherwise provided in subsection 2, if the review conducted pursuant to section 8 of this regulation shows that the number of employees properly included on the membership list or the number of valid interest cards submitted by the rival organization:*
 - (a) *Is less than or equal to 50 percent of the number of employees in the bargaining unit, as reflected in the list of employees and affidavit prepared pursuant to section 6 of this regulation, the Board will dismiss the petition of the rival organization unless a timely request for an evidentiary hearing is filed as provided in subsections 2 and 3 of this section.*
 - (b) *Is more than 50 percent of the number of employees in the bargaining unit, the Board will order that an election be conducted pursuant to subsection 4 of NRS 288.160.*
2. *A rival organization may avoid or delay the dismissal of its petition pursuant to subsection 1 if the rival timely requests an evidentiary hearing and, at the hearing, establishes to the satisfaction of the Board:*
 - (a) *That any interest card or name offered as evidence of majority support has been improperly excluded in the process of review provided by section 9 of this regulation; and*
 - (b) *That, but for the exclusion, the number of employees properly included on the membership list or the number of valid interest cards is more than 50 percent of the number of employees in the bargaining unit.*
If such a showing is made, the Board will order that an election be conducted pursuant to subsection 4 of NRS 288.160. If such a showing is not made, the Board will dismiss the petition.
3. *Any request for a hearing made pursuant to this section:*
 - (a) *Must be filed with the Board and served upon the incumbent organization within 10 days after service of the report required by section 8 of this regulation; and*
 - (b) *Must be supported by affidavit and accompanied by a copy of any document the rival organization intends to introduce at the hearing.*
4. *In any evidentiary hearing held pursuant to this section, the Board will not consider any interest card or other evidence of majority support that has not previously been filed pursuant to NAC 288.146 and section 6 of this regulation.*

Sec. 10. Run-Off Elections

1. *A run-off election may be held:*
 - (a) *upon a showing that a run-off election is likely to resolve the inconclusiveness of the election conducted pursuant to NAC 288.110;*
 - (b) *upon written consent of all parties; or*
 - (c) *at the direction of the Board.*
2. *Any party requesting a run-off election must file a request to hold a run-off election with the Board. Any request to hold a run-off election must be filed within 10 days of the latter of:*
 - (a) *The Board's certification of the results of the prior election; or*
 - (b) *Notice of the Board's resolution of an objection if an objection has been filed pursuant to subsection 9 of NAC 288.110.*

3. *Run-off elections shall adhere to the same format as the prior election unless an alternative method is agreed upon by all parties.*

Sec. 11. NAC 288.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 288.020, 288.025 and 288.030 *and sections 2 to 10, inclusive, of this regulation*, have the meanings ascribed to them in those sections.

Sec. 12. NAC 288.146 is hereby amended to read as follows:

288.146 Withdrawal of recognition of organization upon petition by another employee organization. (NRS 288.110)

1. During the term of an existing labor agreement which covers a period of not more than 3 years and during negotiations for a successor agreement through fact-finding or binding arbitration, or both, ~~recognition of an employee organization may be withdrawn at the request of another employee organization if the Board has determined, pursuant to a hearing requested during a period specified in subsection 2, that the recognized employee organization has ceased to be supported by a majority of the local government employees in the bargaining unit for which it is recognized.]~~ *a rival organization may challenge recognition of an incumbent organization by filing with the Board a petition for a hearing to determine whether the incumbent organization has ceased to be supported by a majority of the local government employees in a bargaining unit*

~~[2.—An employee organization may challenge recognition of another employee organization by filing with the Board a petition for a hearing to determine whether a recognized employee organization has ceased to be supported by a majority of the local government employees in a bargaining unit. The petition must]~~

2. *A petition filed pursuant to this section:*

(a) Must be filed in the form of a pleading [and may] ;

(b) Must be served on the affected local government employer and on the incumbent bargaining agent; and

(c) May only be filed during the period:

~~[(a)]~~ *(1) Beginning upon the filing of notice by the recognized employee organization pursuant to NRS 288.180 of its desire to negotiate a successor agreement and ending upon the commencement of negotiations for such an agreement; or*

~~[(b)]~~ *(2) Beginning 242 days before the expiration date of the existing labor agreement and ending 212 days before the expiration of the labor agreement.*

3. A petition filed pursuant to this section that is not filed during one of the periods specified in subsection 2 is untimely for the purposes of this section and sections 2 to 11, inclusive, of this regulation, and will be dismissed by the Board.

Sec. 13. NAC 288.030 is hereby amended to read as follows:

NAC 288.030 *“Complainant,” “Petitioner,” and “Respondent”* defined. (NRS 288.110)

“Complainant” or “petitioner” *or “respondent”* means:

1. A local government employer as defined in NRS 288.060;

2. An employee organization as defined in NRS 288.040; or
3. A local government employee as defined in NRS 288.050.

Sec. 14. NAC 288.110 is hereby amended to read as follows:

NAC 288.110 Elections. (NRS 288.110)

1. All elections conducted in accordance with subsection 4 of NRS 288.160 will be conducted under the supervision of the Board or its agent.
2. Any party may be represented at the election by observers selected in accordance with such limitations as the Board may prescribe.
3. Any observer or the Board's agent conducting the election may challenge for good cause the eligibility of any person to vote in the election. The ballots of challenged persons will be impounded.
4. Upon the conclusion of the election, the ballots will be counted in the presence of the parties or their observers and the Board's agent conducting the election. The agent will furnish parties with a tally of the ballots.
5. Except as otherwise provided in this subsection, the ballots must be kept for at least 6 months after an election, after which period the ballots may be destroyed. If a timely objection to the election is filed with the Board or a petition for judicial review concerning the election is filed in district court, the ballots must be kept until after the conclusion of any Board or court proceeding concerning the election.
6. Provisions may be made for a nonunion vote and for linguistic assistance.
7. If the results are inconclusive, the Board ~~will~~ *may* conduct a runoff election *pursuant to section 9 of this regulation.*
8. Within 5 days after the election, any party may file with the Board objections to the conduct of the election or conduct affecting the results of the election. The objections must be in writing and contain a brief statement of facts upon which the objections are based. A sworn original and four copies of the objections must be signed and filed with the Board. The party filing the objections shall serve a copy upon each of the other parties.
9. If challenges which affect the results of the election or objections raise a substantial question which cannot be resolved without a hearing, the Board may issue and serve notice of a hearing on these issues.
10. An employee organization will be considered the exclusive bargaining agent for employees within a bargaining unit, pursuant to an election, if:
 - (a) Challenged ballots are insufficient in number to affect the results;
 - (b) No runoff election is to be held;
 - (c) No timely objections are filed; and
 - (d) The election demonstrates that the employee organization is supported by a majority of the employees within the particular bargaining unit.
- 11. The party requesting the recognition election shall be responsible for all costs incurred by the Board and associated with conducting the election, exclusive of any attorneys' fees incurred by a party.***

12. *Should the recognition election demonstrate that no ballot option obtained the support of the majority of the employees in the bargaining unit, the incumbent employee organization will remain the bargaining unit's representative.*