



Government Employee-Management Relations Board

Nevada Department of Business and Industry

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EMRB PROVISIONAL GUIDANCE

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Members of the Board

- Brent C. Eckersley, Esq., Chair
- Sandra Masters, Vice-Chair
- Gary Cottino, Board Member
- Brett K. Harris, Esq., Board Member
- Michael J. Smith, Board Member

Staff

- Bruce K. Snyder, Commissioner
- Marisu Romualdez Abellar,
Board Secretary

State Legislature Set to Convene

The 2021 session of the State Legislature is set to convene on Monday, February 1st and run through Monday, May 31st, for a total of 120 days. So far 885 bill draft requests (i.e., requests that the Legislative Counsel Bureau draft a bill) have been submitted. This is down about 100 requests from the last regular session held in 2019.

The 2019 session was a busy one for the EMRB. Altogether there were 11 bills introduced that would have affected the EMRB or NRS Chapter 288, which contains the EMRB's enabling legislation. Four of these were signed into law, the most notable of which made significant additions to NRS Chapter 288, and which authorized collective bargaining for many State Executive Branch employees.

So far, 2021 has the marks of being a quieter session for the EMRB. But one never knows. To-date only two bill draft requests affecting collective bargaining have been submitted, one of which has already been drafted into bill form.

Senate Bill 13; Requested by the City of Las Vegas

This bill would revise provisions governing collective bargaining by local government employers, seeking to raise the percentage of ending fund balance not subject to collective bargaining from 16.67% to 25%. Last session a bill was signed into law reducing the percentage from 25% to 16.67%.

Bill Draft Request 84; Requested by Senator Kieckhefer

This BDR would revise provisions relating to collective bargaining. The exact content of the request is currently unknown as the BDR has yet to be drafted into bill form.

In addition to bills affecting collective bargaining, the agency's budget will also be up for approval during the session. The proposed budget is flat from the prior biennium. It keeps staffing levels at three employees, one of which is currently vacant. More importantly for the governments we serve, the agency's revenues assume that the rates in effect in 2020 will continue through 2023. These rates are \$3.00 per employee at the local government level, which will slowly draw down the agency's local government reserve, and \$6.00 per employee at the State level, which only has a minimal reserve since it is relatively new. Note: Pursuant to statute, the Board has the authority of setting the actual rates each year.

As in past sessions, we will continue to keep you informed through the monthly e-newsletters and special e-mails through the end of the legislative session. The EMRB is neutral with respect to all bills affecting the agency.

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List of Panels

- Panel A Eckersley, Masters, Harris
- Panel B Masters, Harris, Smith
- Panel C Cottino, Harris, Smith
- Panel D Eckersley, Cottino, Smith
- Panel E Eckersley, Masters, Cottino

Note: The first person listed for each panel is the Presiding Officer.

Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item 853-A; Case 2018-026; Jason Woodard v. Sparks Police Protective Association, Woodard filed a complaint against his employee organization for an alleged violation of the duty of fair representation (DFR), which requires "that when the union represents or negotiates on behalf of a union member, it must conduct itself in a manner that is not 'arbitrary, discriminatory, or in bad faith.'"

His employee organization originally denied him assistance for his arbitration related to his grieving his demotion. Using outside counsel Woodard prevailed in his arbitration and a subsequent motion to vacate filed by his employer. Subsequently, the employee organization funded the arbitration of a person whom complainant was similarly situated. He thus approached the union President about being reimbursed for his expenses, given that he had prevailed. At that time, the union President told him that the time to file an appeal had passed. The Board found that the request was inadvertently summarily denied based on time expiring under the original DFR claim and that no consideration was given on his new request after he had prevailed as mentioned above. Thus, the Board held that the SPPA had committed a prohibited practice.

As to the issue of a remedy, the Board ordered to restore the complainant to the position he would have been in absent the violation, which was being deprived the benefit of having his reimbursement request considered by the SPPA in a manner that was not in violation of the duty of fair representation.

On the Horizon

The Board is scheduled to meet on January 26-28, 2021 via WebEx. At that time Panel E will conduct a hearing in Case 2020-002, AFSCME, Local 4041 v. State of Nevada et al. AFSCME alleges that the High Desert State Prison changed the number of work hours per day for Corrections Officers without bargaining and that doing so interfered with the labor organization.

The Board will also hold a show cause hearing in Case 2020-012, Operating Engineers Local #3 v. Incline Village General Improvement District, to help decide whether a stay should be lifted in the case. Panel D will also deliberate on a hearing previously held in Case 2020-001, AFSCME, Local 4041 v. State of Nevada et al., in which it is alleged that the Department of Health and Human Services changed the lunch period from unpaid to paid for certain employees at the Desert Regional Center, and that it did so without bargaining and that doing so interfered with the labor organization. The entire Board will also rule on a motion to dismiss in Case 2020-020, AFSCME, Local 4041 & Shari Kassebaum v. State of Nevada et al.

The next Board meeting will be held February 16-18, 2021 via WebEx. At that time, two hearings will be held. Panel C will hold a hearing for Case 2020-017, Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department. The second hearing, to be held by Panel D, will be for Case 2020-021, Robert Ortiz v. SEIU, Local 1107.

Office Closure

The office will be closed on February 15th for Presidents' Day. Even though our office will be closed you may still electronically file documents, which will be date-stamped as of the date received.

In the Queue...

Once initial pleadings, including prehearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has scheduled cases through March 2021. There are no cases waiting in the queue for a hearing date.

January 26-28, 2021, via WebEx (Panel E)

2020-002, AFSCME, Local 4041 v. State of Nevada et al.

February 16-17, 2021, via WebEx (Panel C)

2020-017, Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department

February 17-18, 2021, via WebEx (Panel D)

2020-021, Robert Ortiz v. SEIU, Local 1107

March 2-4, 2021, via WebEx (Panel A)

2020-022, International Union of Operating Engineers, Local 501 v. Esmeralda County

March 16-18, 2021, via WebEx (Panel E)

2020-025, Nye County Law Enforcement Association v. Nye County

April 13-15, via WebEx

No case yet set for hearing for this meeting.

April 27-29, 2021, via WebEx

No case yet set for hearing for this meeting.

Annual Report Forms Past Due

If you are one of the local governments or employee organizations listed below, which have yet to file your annual report, and which was due November 30th, please either file your annual report form or else call our office as soon as possible. We want to thank the more than 340 entities who already filed!

Local Governments

City of Caliente
Nevada Preparatory Academy

Employee Organizations

Clark County Deputy Sheriff's Association
Clark County Park Police Association
Humboldt County Law Enforcement Association
Mesquite Police Officers Association
Mineral County Deputy Sheriff's Association
NCSEAPWA, #6181, Lander County Class. Sch. Empl. Ass'n
Storey County Sheriff's Office Employees Association
Winnemucca City Employees Association

"About the EMRB"

The Government Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between governments and their labor and employee organizations (i.e., unions), provides support in the process, and resolves disputes between governments, labor and employee organizations, and individual employees as they arise.