



Government Employee-Management Relations Board

Nevada Department of Business and Industry

3300 W. Sahara Avenue Suite 260 • Las Vegas • NV • 89102
emrb.nv.gov • emrb@business.nv.gov • (702) 486-4505

September 2022

Members of the Board

- Brent C. Eckersley, Esq., Chair
- Sandra Masters, Vice-Chair
- Michael J. Smith, Board Member
- Vacancy, Board Member
- Vacancy, Board Member

Staff

- Bruce K. Snyder, Commissioner
- Marisu Romualdez Abellar,
Board Secretary
- Isabel Franco, Administrative Assistant II

Board Authorizes Election

On October 4, 2022, the Fraternal Order of Police Nevada C.O. Lodge 21 ("FOP") filed a Request for Election pursuant to NRS 288.525(2)(a)(1). The purpose of the Request for Election was to seek to be recognized as the exclusive representative of State bargaining unit I. The employees in this bargaining unit are category III peace officers under NRS Chapter 289 who work in a State correctional institution. Unit I is currently represented by the American Federation of State, County and Municipal Employees, Local 4041 ("AFSCME"), which was recognized by the Board, without an election, as the exclusive representative of Unit I on January 22, 2020, after determining it had authorization from 52.8% of the employees in the bargaining unit.

NRS 288.525(2) lists three requirements for the Board to call for an election when there is a labor organization already designated as an exclusive representative for a bargaining unit. First, a labor organization must file with the Board a request for an election and demonstrate through evidence that it is authorized to serve as a representative by at least 50 percent of the employees in the bargaining unit. Upon receipt of the request, staff conducted an audit of the membership list and the authorization cards and list. Comparing those records to information from the State of Nevada, staff determined that the 227 names on the membership list were valid. Additionally, staff determined that 445 of the 484 names on the authorization card list were valid, discounting 39 for a sundry of reasons. Staff determined that 672 of the persons on both lists should be counted as valid. It was also determined that the bargaining unit had 1270 employees as of the payroll period immediately ending before receipt of the request, thus giving showing that FOP had support from 52.9% of the bargaining unit.

Secondly, the request must be filed within a so-called "window period" which extends from 225 to 270 days before the expiration of the current collective bargaining agreement in effect for that bargaining unit. Per state law, all collective bargaining agreements involving a state bargaining unit expire on June 30th of each odd-numbered year. This would make the window period open on October 3rd of this year. As previously mentioned, FOP filed its request on October 4th.

Thirdly, no other such election must have occurred within the preceding 12 months for the bargaining unit in question, which is true in this case.

Accordingly, on October 13th the Board ordered that an election be held and directed the Commissioner to draft the election plan for potential approval by the Board on November 3rd. If approved, the election would take place over November and December.

Inside This Issue

- 1 **Board Authorizes Election**
- 2 **Recent Decisions**
- 2 **Annual Reports Due November 30th**
- 2 **We're Moving!!**
- 3 **In the Queue**
- 3 **On the Horizon**
- 3 **Two Board Positions Remain Vacant**

The office will be closed on October 28th for Nevada Day and on November 11th for Veterans Day

List of Panels

- Panel A Eckersley, Masters, Vacant
- Panel B Masters, Smith, Vacant
- Panel C Smith, Vacant, Vacant
- Panel D Eckersley, Smith, Vacant
- Panel E Eckersley, Masters, Vacant

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 #881; Case 2019-019; Service Employees International Union, Local 1107 v. Clark County. SEIU filed a complaint alleging that Clark County failed to bargain in good faith when the County unilaterally decided to prepare and draft a revised Merit Personnel System and five directives. The Board found that the County did not commit a violation.

To prevail on a unilateral change claim, a complainant must establish that: (1) the employer breached or altered the CBA or established past practice; (2) the employer's action was taken without bargaining with the exclusive representative over the change; (3) the change is not merely an isolated breach of contract, but amounts to a change in policy, i.e., the change has a generalized effect or continuing impact on the bargaining unit members' terms and conditions of employment; and (4) the change in policy concerns a matter within the scope of representation. Here, the Board found that there was not a change in policy and that the subjects of the Ordinance and Directives were not subjects of mandatory bargaining but instead were within the realm of the County's management rights.

Annual Reports Due November 30th

Every local government and employee organization, as well as the State and each labor organization, must annually file a report with the EMRB each November. The forms will be mailed to the official contact person at each local government and employee organization on October 21st. If you are the official contact person, please complete the form and associated documents, if any, and return them to us by the November 30th deadline. If you are no longer the official contact person, please forward the form to the person who should now be the official contact person.

As always, each labor organization and employee organization will need to file with the EMRB a copy of any new or updated collective bargaining agreement. Also, the EMRB has required the sending of any updates to any constitution or by-laws for such entities. This year we are sending special notices to 26 employee organizations who have not submitted their constitution or by-laws. More details are included in the cover letters going out on October 21st.

We're Mooving!!



Last month we reported we would be moving sometime after Thanksgiving from the second floor of the Nevada State Business Center to the fourth floor of the same building, which would allow the Nevada Division of Insurance to expand its office by taking over our current area. It now looks like the move will occur in late December.

Our new office complex will have a large open area, two offices and a conference room. The conference room will be larger than our current one and will allow the Board to conduct meetings and hold some smaller hearings in that room. The large open area will provide a reception area staffed by our Administrative Assistant as well as the ability to better centralize all our records.

In addition, our office will be closer to the three centralized meeting rooms which are also on the fourth floor: Nevada Room, Tahoe Room, and Red Rock Room. Having the EMRB's office near the meeting rooms will allow the EMRB to better provide support services during Board meetings held in those rooms.

We look forward to the move and will provide a further update in next month's e-newsletter.

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 following cases are scheduled for a hearing:

November 1-3, 2022, In-Person in Reno and on WebEx

2022-002, Association of Professional-Technical Administrators v. Washoe County School District

December 12 & 15, 2022, In-Person in Las Vegas and on WebEx

2022-009, Nye County v. Nye County Association of Sheriff's Supervisors

There are no other cases waiting in the queue for a hearing date.

On the Horizon

The next Board meeting will be November 1-3, 2022, in Reno and also via WebEx. At that time the Board will conduct a hearing in Case 2022-002, Association of Professional-Technical Administrators v. Washoe County School District. The employee organization alleges bad faith bargaining, which is denied by the school district.

Also on the agenda will be approval of the election plan for the election to be held in Case 2022-014; In re: Request for Election for Unit I-Category III Peace Officers. The Board will further consider a motion to lift the stay filed by LVMPD in Case 2022-011, Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department as well as deliberate on a petition for declaratory order in Case 2022-013, Las Vegas Peace Officers Association v. City of Las Vegas.

Two Board Positions Remain Vacant

As reported previously, the Governor's Office has been notified of two resignations from the Board and is currently seeking qualified candidates to fill the vacancies. The office knows of at least three individuals who have applied for the vacant positions and there may be more in the pipeline that we do not know about.

The Board currently meets once a month for up to three days at a time, depending on whether one or more hearings are scheduled for that month. In addition, Board members are required to review beforehand all the materials for a meeting.

If you know of someone (or yourself) who would like to serve on the Board please contact our office and we will give you instructions on how to apply. Based on current Board membership the candidate may be from any political party but must reside in Southern Nevada, as the Board already has the maximum of two members from Northern Nevada. The candidate must also not be closely aligned with any entity subject to the jurisdiction of the Board.

"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.