



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

Legislative Update

The 2021 session of the State Legislature has now been meeting for almost a month. This session continues to be a quiet one for the EMRB. Only one bill affecting collective bargaining has been introduced to-date:

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%. The bill has been assigned to the Senate Committee on Government Affairs, which has yet to schedule a hearing.

There are also two bill draft requests which have been submitted but have yet to be introduced as a bill. Because the BDR's have yet to be introduced, the exact contents of each are currently unknown.

BDR 84 Requested by Senator Kieckhefer
BDR 803 Requested by Assemblyman Matthews

Additionally, the agency has been advised that a hearing on its budget will not be necessary and that the budget will go straight to the closing process sometime in May.

Website Updates

We want to thank all the governments, employee organizations and labor organizations for completing their annual reports, along with submitting any new collective bargaining agreements (CBA's). Now that everyone has submitted their information, we want to take this opportunity to mention that all the collective bargaining agreements have been digitized and uploaded to our website. We know that many governments and unions are currently negotiating either first-time or successor agreements and you may find the information on the website helpful in finding other agreements addressing a subject that may concern your negotiations.

In addition to the new CBA's, we have also updated our spreadsheets, which lists key data for all the governments, employee organizations and labor organizations. These spreadsheets may be found by following a link under the Directories tab on the home page.

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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 841-A; Case 2019-002; Water Employees Association of Nevada v. Las Vegas Valley Water District. The Respondent filed a motion seeking the Panel to defer to the decision of the arbitrator in a related action. Under the limited deferral doctrine, the Board will defer to a decision of an arbitrator if all five conditions to do so are met. Here, the Panel found that several of the five conditions had not been met due in part to the arbitrator's decision being limited, having based the decision in part on *res judicata* grounds. Additionally, the arbitrator did not discuss the discrimination claims on hiring practices. Additionally, the Panel provisionally granted the motion for a more definite statement and denied Complainant's motion to dismiss the counterclaim as there were factual disputes and credibility determinations warranting a hearing.

Item 841-B; Case 2019-002; Water Employees Association of Nevada v. Las Vegas Valley Water District. The Respondent filed a petition for reconsideration or rehearing based on the decision in order 841-A. A panel of the Board denied the petition as a petition for rehearing may only be granted after a final decision of the Board and the Board had yet to render a final decision in the case. The panel also denied the petition for reconsideration as that may only be made if a panel had a split decision, which did not occur. However, the panel did grant a hearing in the case, which would be set by the Commissioner once Complainant had filed a second amended complaint pursuant to order 841-A.

On the Horizon

The Board is scheduled to meet on March 4, 2021 via WebEx. At that time, the Board will deliberate on several issues. Panel D will deliberate on a motion to defer in Case 2020-021, Robert Ortiz v. SEIU, Local 1107. The full Board will also deliberate on a motion to dismiss in Case 2020-030, AFSCME, Local 4041 v. State of Nevada, Nevada System of Higher Education et al.

The Board is also scheduled to rule on two petitions for declaratory order. The first is in Case 2020-029, In re: Battle Born Firefighters Association, which seeks to expand a state bargaining unit to include job classifications currently assigned to other unrepresented bargaining units. The second petition for declaratory order is in Case 2020-032, In re: Petition of IAFF, Local 2251, involving Carson City, which seeks to add the EMS Manager to the supervisory bargaining unit.

The Board is also scheduled to meet on March 16-18, 2021 via WebEx. At that time, Panel E will conduct a hearing in Case 2020-025, Nye County Law Enforcement Association v. Nye County. In this case the employee organization alleges the employer committed several prohibited practices by sending investigation notices to NCLEA members identifying NCLEA Board members as the accusers, retaliating against Board members, spying on NCLEA correspondence, and assisting in the formation of a competing bargaining unit. The employer denies all allegations.

In other business, Panel E will deliberate on a hearing previously held 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. 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 full Board will also deliberate on a motion to defer in case 2020-019, Susan Finucan v. City of Las Vegas, as well as six pending motions in Case 2020-031, Henderson Police Supervisors Association v. City of Henderson et al. Finally, the Board will also determine whether to grant a hearing in two separate cases.

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 into April 2021. There are no cases waiting in the queue for a hearing date. Please note the number of upcoming Board meetings that do not have any hearing scheduled at this time.

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

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

April 13-15, 2021, via WebEx (Panel A)

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

April 27-29, 2021, via WebEx (Panel B)

No case yet set for hearing for this meeting.

May 25-27, 2021, via WebEx (Panel C)

No case yet set for hearing for this meeting.

June 8-10, 2021, via WebEx (Panel A)

No case yet set for hearing for this meeting.

June 22-24, 2021, via WebEx (Panel B)

No case yet set for hearing for this meeting.

Update on Caseload and Scheduling of Hearings

The agency currently has 24 open cases, eight of which have been stayed pending resolution of an underlying grievance (in six cases) or resolution of a court case (in 2 cases). This is the lowest number of pending cases the agency has had at any given point in time in years. Moreover, the list above shows that the agency has cases pending for two upcoming Board meetings with no cases currently waiting "in the wings" waiting for a hearing date to be set. This contrasts sharply with the situation back in 2013, when the average wait time to hold a hearing was 14 months from the time the prehearing statements had been submitted for a given case.

This reduction in both the caseload and the waiting time for a hearing to be held is primarily due to the increase in the size of the Board from three to five members and which also allowed for the Board to conduct hearings in panels of three members, all of which was a result of legislation passed in 2017 and implemented in 2018. This has enabled the Board to increase the number of meetings per year from 12 to about 20, while not increasing the workload of any given Board member.

On top of the above good news, we happily note that no new cases have yet been filed during calendar year 2021. This compares to 35 cases filed in 2020, or about three per month, which is typical for a year.

"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.