LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066
LCB FILE R039-23

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 288.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed amendments are due to the issuance of Executive Order 2023-003 and Executive Order 2023-008. Executive Order 2023-003, Section 1 requires Executive Branch agencies to review their regulations to determine which regulations could be streamlined, clarified, reduced or otherwise improved. Sections 1, 3, 4 and 5 of the proposed regulation are a result of this review.

Executive Order 2023-003, Section 2 requires Executive Branch agencies to review their regulations to determine which regulations could be removed. Section 6 of the proposed regulation lists four regulations which are recommended for removal as a result of this review.

Executive Order 2023-008, Section 2 authorizes Executive Branch agencies to amend their regulations due to recently passed legislation (i.e., legislation passed in 2023). Section 2 of the proposed regulation proposes an amendment due to the passage of Senate Bill 166, which established four new supervisory bargaining units at the State level.

In more detail, Section 1 eliminates the requirement for an attorney or law firm to register its email addresses with the EMRB before electronically filing any documents with the EMRB. In 2015, when electronic filing was first allowed, this was thought to be necessary as a safeguard against someone impersonating another when filing a document. However, this has never occurred and thus the agency has determined this to be an unnecessary and burdensome step that can be eliminated.

Senate Bill 166 established four new supervisory bargaining units at the State level, increasing the total number of bargaining units from 11 to 15. This proposed change adds descriptions for the four new supervisory bargaining units.

A party filing a new complaint or petition must serve the opposing parties via certified mail. Section 3 would require a party filing a new complaint or petition to forward to the EMRB within one day the USPS tracking number for the certified mail, thus allowing the EMRB to easily track when the answer or response will be due and to advise all the parties of the same. This would eliminate follow-up with the parties and confusion as to when the answer or response is due.

Back in 2019 the EMRB revamped its due dates for various documents to have due dates in multiples of seven days, which was akin to what was done with the Nevada Rules of Civil Procedure. In doing so, the deadline for an answer was inadvertently not changed. Section 4 corrects this oversight by changing the due date from 20 days to 21 days. This will help attorneys as that deadline will be the same as they routinely encounter in court.

A change to the EMRB's statute in 2017 increased the size of the Board from three to five members and allows certain types of cases to be heard by a panel of three Board members, thus increasing the capacity of the Board to hear cases and thereby reduce the time in which to hear a given case. Section 5 would smooth the workload of the Board members when a new member is appointed to

the Board by allowing the current randomly assigned panel member (sitting as a substitute on a panel due to a vacancy) and the new member assigned to that panel to agree to let the new member take over serving on the panel for that case, provided that the hearing on the case had not yet occurred.

Section 6 proposes to eliminate four current sections of NAC 288 as follows:

- NAC 288.025 is the definition of "Commissioner." This is redundant to that found in NRS Chapter 288.

- NAC 288.050, last amended in 1973, has never been used.

- NAC 288.060 authorizes mailing lists. Through the filing of the annual reports required by NRS Chapter 288, the agency has a robust set of mailing lists for each government, labor organization and employee organization. The agency also has a directory of all the attorneys who have practiced before it as well as others who have asked to be included on a mailing list for the monthly e-newsletter and for other purposes. All these individuals (numbering more than 700) automatically receive the monthly e-newsletter plus copies of all changes in NRS Chapter 288, NAC 288 and proposed regulation changes.

- NAC 288.320, added in 1971, has to the best of our knowledge never been invoked.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of this summary.

Copies of the proposed regulation, notice of workshop and notices of intent to act upon the regulations were sent by U.S. mail and/or email to the state and local governments, as well as labor organizations and employee organizations who filed an annual report with the agency, to the agency's list of attorneys who have appeared before the Board, to persons who were known to have an interest in the subject of the Government Employee-Management Relations Board (EMRB) as well as to any persons who had specifically requested such notice. These documents were also made available at the website of the EMRB, www.emrb.nv.gov, mailed to all county libraries in Nevada and posted at the following locations:

Government Employee-Management Relations Board
3300 W. Sahara Ave., Suite 490
Las Vegas, NV 89102

Department of Business & Industry
3300 W. Sahara Ave., First Floor
Las Vegas, NV 89102

Department of Business & Industry
1830 College Parkway, Suite 100
Carson City, NV 89706

Nevada State Library & Archives
100 North Stewart Street
Carson City, NV 89701

Department of Administration
Public Meeting Notice Web Site:
http://notice.nv.gov

Employee-Management Relations Board Web Site:
http://emrb.state.nv.us

Two workshops were held. The first workshop was held on August 10, 2023 and the minutes of that meeting, attached hereto as Exhibit A, contain a summary of the discussion held regarding the proposed regulation. No written responses were received subsequent to the workshop.

A second workshop was held on May 8, 2024 and the minutes of that meeting, attached hereto as Exhibit B, contain a summary of the discussion held regarding the proposed regulation.

On May 29, 2024, the Commissioner issued the Notice of Intent to Act Upon a Regulation.

A public hearing was then held on July 10, 2024, and the minutes of that public hearing, attached hereto as Exhibit C, contain a summary of the discussion held regarding the proposed regulation.

A copy of the summary of the public response to the proposed regulation may be obtained from the Government Employee-Management Relations Board, 3300 W. Sahara Avenue, Suite 260, Las Vegas, Nevada 89102 or via email to emrb@business.nv.gov.

3. The number of persons who:

(a) Attended each hearing:

August 10, 2023 Workshop #1: 0 in Las Vegas and 8 via WebEx (not including EMRB Board members and staff)

May 8, 2024 Workshop #2: 0 in Las Vegas and 6 via WebEx (not including EMRB Board members and staff)

July 10, 2024 Public Hearing: 0 in Las Vegas and 1 via WebEx (not including EMRB Board members and staff)

(b) Testified at each hearing (not including EMRB Board members and staff):

August 10, 2023 Workshop #1: 1
May 8, 2024 Workshop #2: 0
July 10, 2024 Public Hearing: 0

(c) Submitted to the agency written comments: None.

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

Please see Exhibit D, attached.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public, namely via mailings to the state and local governments, along with labor organizations and employee organizations who have filed an annual report with the agency. Comments were also solicited from attorneys who practice before the agency plus from others who were known to have an interest in the subject of the Government Employee-Management Relations Board as well as to any persons who had specifically requested such notice. Comments were received at the workshops. The minutes of both workshops and the public hearing, as well as the small business impact statement and the summary may be obtained as instructed in the response to question #2.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The agency did change the regulation based upon comments received. The purpose of the first workshop was to solicit ideas from the user community. At that time there was intentionally no draft yet prepared of the proposed regulation. The agency used the ideas generated at this first workshop to draft the language. The purpose of the second workshop was to hear from the user community as to what they believe needed to be changed with respect to the draft regulation as prepared by the Legislative Counsel Bureau (LCB). No comments were made on this draft at the second workshop. The LCB draft was then posted in accordance with law and presented to the Board at the public hearing, which elicited no further comments from the public or user community. Please see the minutes of the public hearing (Exhibit C attached hereto) for further comments.

7. The established economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

The agency has concluded that the proposed regulations will neither impose a direct and significant economic burden upon small businesses nor directly restrict the formation, operation or expansion of small businesses. On the contrary, the proposed regulations have several features that may minimize the impact of the law firms that represent clients who appear before the agency.

The agency has concluded that the proposed regulations will neither impose a direct and significant economic burden upon small businesses nor directly restrict the formation, operation or expansion of small businesses. On the contrary, the proposed regulations have several features that may minimize the impact of the law firms that represent clients who appear before the agency.

As to particular sections of the proposed regulation, Section 1 eliminates the requirement for an attorney or law firm to register its email addresses with the EMRB before electronically filing any documents with the EMRB. In 2015, when electronic filing was first allowed, this was thought to be necessary as a safeguard against someone impersonating another when filing a document. However, this has never occurred and thus the agency has determined this to be an unnecessary and burdensome step that can be eliminated.

Senate Bill 166 established four new supervisory bargaining units at the State level, increasing the total number of bargaining units from 11 to 15. This proposed change adds descriptions for the four new supervisory bargaining units.

A party filing a new complaint or petition must serve the opposing parties via certified mail. Section 3 would require a party filing a new complaint or petition to forward to the EMRB within one day the USPS tracking number for the certified mail, thus allowing the EMRB to easily track when the answer or response will be due and to advise all the parties of the same. This would eliminate follow-up with the parties and confusion as to when the answer or response is due.

Back in 2019 the EMRB revamped its due dates for various documents to have due dates in multiples of seven days, which was akin to what was done with the Nevada Rules of Civil Procedure. In doing so, the deadline for an answer was inadvertently not changed. Section 4 corrects this oversight by changing the due date from 20 days to 21 days. This will help attorneys as that deadline will be the same as they routinely encounter in court.

A change to the EMRB's statute in 2017 increased the size of the Board from three to five members and allows certain types of cases to be heard by a panel of three Board members, thus increasing the capacity of the Board to hear cases and thereby reduce the time in which to hear a given case. Section 5 would smooth the workload of the Board members when a new member is appointed to the Board by allowing the current randomly assigned panel member (sitting as a substitute on a panel due to a vacancy) and the new member assigned to that panel to agree to let the new member take over serving on the panel for that case, provided that the hearing on the case had not yet occurred.

Section 6 proposes to eliminate four current sections of NAC 288 as previously detailed above.

Neither will there be any adverse effects on the public. This is for the same reasons as stated above.

(b) Both immediate and long-term effects.

There will be no immediate or long-term adverse effects on the businesses that the EMRB regulates. For the reasons stated in #7a above, the proposed regulations will have both immediate and long-term beneficial effects on those businesses.

There will be no immediate or long-term adverse effects on the public. For the reasons stated in #7a above, the proposed regulations will have both immediate and long-term beneficial effects on the public.

8. The estimated cost to the agency for enforcement of the adopted regulations.

There is no additional cost to the agency for enforcement of this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or

overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or local governmental agency regulations that the proposed regulation duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that apply.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide a new fee or increase an existing fee.

EXHIBIT A

DEPARTMENT OF BUSINESS AND INDUSTRY
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD
3300 W. Sahara Avenue, Suite 490, Las Vegas, Nevada 89102
(702) 486-4504 • Fax (702) 486-4355
www.emrb.state.nv.us

August 11, 2023

MINUTES OF THE WORKSHOP TO SOLICIT COMMENTS FOR NEW EGULATIONS OR CHANGES TO EXISTING REGULATIONS OF THE EMRB

A workshop of the Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Thursday, August 10, 2023, at the hour of 2:00 p.m. in the Carl Dodge Conference Room which is located in Suite 490 of the Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102. The workshop was also held virtually using a remote technology system called WebEx.

The workshop was conducted by EMRB Commissioner Bruce K. Snyder. Also present representing the EMRB were Sandra Masters, Board Member; Marisu Romualdez Abellar, Executive Assistant and Board Secretary; and Samuel Taylor, Esq., Deputy Attorney General.

Present in Las Vegas from the public were:

Name	Representing
None	

Present attending via WebEx from the public were:

Name	Representing
Rosalind Bob	Director of Human Resources, UMCSN
Jon Carpineta	College of Southern Nevada
Justin Crane, Esq.	Myers Law Group
Betty Foley, Esq.	Clark County School District
Frank Flaherty, Esq.	Dyer Lawrence Law Firm
Jessica Guerra, Esq.	Stranch Law for AFSCME, Local 4041
Ashley Kennedy	Director of Government Affairs, Clark County
Elizabeth McDonald Barela	Director of Human Resources, Lander County

The meeting was called to order at 2:05 p.m. by Commissioner Snyder.

1. Public Comment.
No public comment was offered.

1. Solicitation of Comments on Regulations to be Removed Pursuant to Executive Order 2023-003.

Commissioner Snyder stated that Executive Order 2023-003 required each agency to list at least ten regulations for possible removal and to rank them in descending order. He further explained that the ten recommendations were included in a handout distributed to the attendees beforehand, with each regulation recommended for removal having a rationale for its inclusion on the list. He then described each of the ten recommendations.

He then asked if there were any comments on the recommendations. Frank Flaherty asked how often preliminary investigations (#3 on the list) are done given that the regulation appears to have some “meat” and substance worth keeping. Commissioner Snyder stated that the EMRB has never done a preliminary investigation and that this was a voluntary provision placed into law when SB 135 became law in 2019. He further stated that the EMRB has always been neutral since its inception in 1969 with respect to cases filed with the agency. This was followed by an explanation as to the background of the regulation.

Sandra Masters asked the Commissioner which would he most recommend deleting. The Commissioner responded #1, #2, #5, #6, and #10. He also stated he was somewhat ambivalent on #3 for the reasons previously stated. Ms. Masters then stated if a regulation is never used then why should it remain.

Mr. Flaherty stated that if the agency would not be required to remove all ten on the list he would then ask that #4, #7, #8 and #9 be kept. He also stated with respect to #3, preliminary investigations, that this follows the NLRB model, which the EMRB does not use, and that the EMRB does not have the staff for this.

2. Solicitation of Comments and Suggestions on Rules to Amend to Ensure They Are Streamlined, Clarified, Reduced or Otherwise Improved Pursuant to Executive Order 2023-003.
Commissioner Snyder explained the four regulations proposed to be improved and the rationale for each one, noting that the proposed changes and rationales were listed in a handout distributed to the attendees beforehand.

He then asked if there were any comments on any of the four proposed changes. Ms. Masters stated that the agency should not use the selection of cards to randomly choose panels but should rotate the panels when assigning hearings. The Commissioner stated that when the panels were first implemented in 2017 that was discussed but it was concluded that this could lead to Complainants timing the filing of their complaints to shop for a panel they would believe would be more supportive and thus it was concluded

that the selection would need to be random. No further comments were offered by those in attendance.

3. Solicitation of Comments and Suggestions on Rules Relating to the Adoption of SB 166.

Commissioner Snyder stated that six bills from this year's legislative session affecting public sector collective bargaining were signed into law but a review of those six bills showed the need to only change one regulation, NAC 288.108, which lists the State bargaining units. Senate Bill 166 added four new supervisory bargaining units and the change to this regulation reflects the addition of the four new supervisory bargaining units. He further noted that Executive Order 2023-008 authorizes agencies to make changes to regulations due to changes in laws passed by the legislature this past session.

He then asked if there were any comments on the proposed change to NAC 288.108. Ms. Masters inquired as to whether there were any cases filed affecting the four new bargaining units. The Commissioner responded in the negative but then explained that one of the duties of the Board is to assign job classifications to the various State bargaining units and that he would be proposing to the Board this coming week the process to be used to assign job classifications to each of the four new bargaining units. No comments were offered by those in attendance.

4. Proposed Additions or Revisions for Other Than the Above Reasons.

Commissioner Snyder asked if anyone had any ideas for additions or changes to the agency's regulations for other than the three reasons stated above. No other comments were offered by those in attendance.

5. Additional Period of Public Comment.

Commissioner Snyder then explained the process going forward, which would consist of reviewing this meeting with the Board, getting input from the Governor's Office, then having the LCB draft the formal language. Afterwards a second workshop would be held, followed by a public hearing and approval, with or without changes, by the Board. Finally, the package would then be submitted to the Legislative Commission for their review and potential final adoption. The timeline is to have this completed by the end of the year.

No other public comment was offered. The workshop thus adjourned at 2:38 p.m.

Respectfully submitted,

Bruce K. Snyder,
Commissioner
Government Employee-Management Relations Board

EXHIBIT B

June 3, 2024

MINUTES OF THE WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION R039-23

A workshop of the Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Wednesday, May 8, 2024, at the hour of 2:00 p.m. in the Carl Dodge Conference Room which is located in Suite 490 of the Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102. The workshop was also held virtually using a remote technology system called WebEx.

The workshop was conducted by Deputy Attorney General Samuel Taylor, Esq., who substituted for EMRB Commissioner Bruce K. Snyder, who was absent due to a death in the family. Also present representing the EMRB was Marisu Romualdez Abellar, Executive Assistant.

Present in Las Vegas from the public were:

Name	Representing
None	

Present attending via WebEx from the public were:

Name	Representing
Amy Gale	City of Mesquite
Gina Menendez	City of Mesquite
Derek Keller	City of Sparks
Julian Mouton, Esq.	Parker Nelson & Associates
Judy Sanderlin	Fisher Phillips
Patricia Torres	City of City North Las Vegas

(cont'd on next page)

The meeting was called to order at 2:00 p.m. by Deputy Attorney General Taylor.

1. Public Comment.
No public comment was offered.

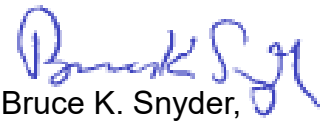
2. Solicitation of Comments on Proposed Regulation R039-23.

The proposed regulation would amend NAC 288.075, NAC 288.108, NAC 288.200, NAC 288.220 and NAC 288.271. It also would delete NAC 288.025, NAC 288.050, NAC 288.060 and NAC 288.320.

No public comment was offered on the proposed regulation.

3. Additional Period of Public Comment.
No public comment was offered. The workshop thus adjourned at 2:10.

Respectfully submitted,



Bruce K. Snyder,
Commissioner
Government Employee-Management Relations Board

EXHIBIT C

July 10, 2024

MINUTES OF THE MEETING OF THE GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD
(Meeting No. 24-09)

A public hearing and meeting of the Board sitting *en banc* of the Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Wednesday, July 10, 2024 at 8:30 a.m. The meeting was held in the Carl Dodge Conference Room, located in the EMRB Office located on the fourth floor of the Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, NV 89102. The meeting was also held virtually via WebEx.

The following Board members were present:	Brent C. Eckersley, Esq., Chair Michael J. Smith, Vice-Chair Sandra Masters, Board Member Tammara M. Williams, Board Member Michael A. Urban, Board Member
Also present:	Bruce K. Snyder, Commissioner Marisu Romualdez Abellar, Executive Assistant Samuel Taylor, Esq., Attorney General's Office
Members of the Public Present:	Thomas Donaldson, Esq., Dyer Lawrence LLP

The agenda:

1. Call to Order & Roll Call

The public hearing and meeting was called to order by Brent C. Eckersley, Esq., Chair, on Wednesday, July 10, 2024 at 8:30 a.m. On roll call all members were marked as present.

2. Public Comment

No public comment was offered.

3. Public Hearing on Proposed Regulation R039-23
There were no comments from the public on the proposed regulation.

4. Consideration of Comments on Proposed Regulation R039-23
The Board offered no discussion on the consideration of any comments on the proposed regulation.

5. Possible Final Adoption of Proposed Regulation R039-23
Upon motion, the Board unanimously adopted regulation R039-23, as presented.

6. Additional Period of Public Comment
No public comment was offered.

7. Adjournment
There being no further business, Chair Eckersley adjourned the meeting.

Respectfully submitted,

Bruce K. Snyder,
EMRB Commissioner

EXHIBIT D

Exhibit D – List of Attendees

(not including EMRB Board Members and Staff)

First Public Workshop Held August 10, 2023

Attended in Las Vegas

None.

Attended via WebEx

Rosalind Bob
Director of Human Resources
University Medical Center of Southern Nevada
1800 W. Charleston Blvd.
Las Vegas, NV 89102
702-207-8267
Rosaline.bob@umcsn.com

Justin Crane, Esq.
Myers Law Group
9327 Fairway View Place
Suite 100
Rancho Cucamonga, CA 91730
909-927-4665
jcrane@myerslawgroup.com

Betty Foley, Esq.
Clark County School District
Office of the General Counsel
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Las Vegas, NV 89146
702-799-5373
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Frank Flaherty, Esq.
Dyer Lawrence LLP
1817 North Stewart Street
Suite 35
Carson City, NV 89706
775-885-1896
fflaherty@dyerlawrence.com

Jessica Guerra, Esq.
Stranch Law for AFSCME, Local 4041
3100 W. Charleston Boulevard Ste. 208
Las Vegas, NV 89102
725-235-9750

Ashley Kennedy
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500 S. Grand Central Pkwy. 6th Floor
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Elizabeth Macdonald
Director of Human Resources
Lander County
50 State Route 305
Battle Mountain, NV 89820
775-635-1344
775-635-1108
emacdonald@landercountynv.org

Second Public Workshop Held May 8, 2024

Attended in Las Vegas
None.

Attended via WebEx

Amy Gale
City of Mesquite
10 E. Mesquite Blvd.
Mesquite, NV 89027
702-346-5295
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Gina Mendez
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Julian Mouton, Esq.
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2460 Professional Court Ste. 200
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Patricia Torres
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North Las Vegas, NV 89030
702 633-1000
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Public Hearing Held July 10, 2024

Attended in Las Vegas
None.

Attended via WebEx

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tdonaldson@dyerlawrence.com