

Local Government Employee-Management Relations Board

Nevada Revised Statutes (NRS) 288.080 through 288.130:

Board members (NRS 288.080): The Local Government Employee-Management Relations Board, Department of Business and Industry, consists of three members appointed by the Governor for four-year terms, provided that:

- The members must broadly represent the public;
- The members must not be closely allied with any employee organization or local government employer; and
- Not more than two members may be from the same political party.

Operations of the Board (NRS 288.090):

- The members shall annually elect a Chair and Vice Chair; and
- Within the limits of funds available, the Board may appoint a Commissioner, a Secretary, and other clerical personnel as necessary.

Duties and responsibilities of the Board:

- The Board shall charge and collect a fee from each local government employer, pursuant to statute, provided that the money received from the collection of fees may be used only to carry out the duties of the Board (NRS 288.105);
- The Board may make rules governing proceedings, procedures for fact-finding, recognition of employee organizations, and determination of bargaining units (NRS 288. 110);
- The Board may hear and determine any complaint arising out of Chapter 288 (“Relations Between Governments and Public Employees”) of NRS by any local government employer, local government employee, or employee organization;
- The Board may issue subpoenas (NRS 288.120); and
- Every hearing and determination of an appeal or complaint by the Board is a contested case subject to the provisions of law that govern administrative decision and judicial review (NRS 288.130).

EXHIBIT J - SUNSET

Document consists of 121 pages.

Due to size limitations, pages 1-20 provided.

A copy of the complete document is available through the
Research Library (775/684-6827 or e-mail library@lcb.state.nv.us)

Meeting Date: 03-15-16

Background:

Legislation: Senate Bill 87 (Chapter 650, *Statutes of Nevada 1969*), sponsored by Senator Carl F. Dodge, established the Board as part of a larger measure to establish a process for collective bargaining between public employees and public management. The sponsor stated before a joint meeting of the Senate Committee on Federal, State, and Local Governments and the Assembly Committee on Government Affairs that the purpose of the board was to act as a board of review or appeal.

Legislative history: A legislative history of S.B. 87 has been compiled and is available here: <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1969/SB087,1969.pdf>.

Members: The members are listed on the review form and the Board's website.

Reports to the Legislature: No reports to the Legislature are required pursuant to NRS 288.

Records:

- Research Library holdings:
 - Complete Index of Employment-Management Relations Board Decisions (1995)
- State Library holdings:
 - Index of Decisions and Orders (various years)
 - General Rules (1974)
 - Proposed Amendments to the General Rules of the Local Government Employee-Management Relations Board (1975)
 - General Rules (1978)
- State Archives holdings:
 - Chapter 6 filings: contracts, agreements with counties, school districts, cities, special districts—teachers, fire fighters, nurses, police, public employees, employee associations (various years)
 - Binding fact-finding (various years)
 - General correspondence (various years)

- Chapter 6 reports (various years)
- Case files (various, 1974 through 2013)
- Board meetings (1994-2007)

Contact: Bruce K. Snyder, Commissioner

Website: <http://emrb.nv.gov/>

W161261

NRS 288.080 Creation; number, qualifications, terms of office and appointment of members.

1. The Local Government Employee-Management Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom may be members of the same political party. The term of office of each member is 4 years.

2. The Governor shall appoint the members of the Board.

(Added to NRS by 1969, 1380; A 1975, 919; 1977, 1183; 1981, 64; 1989, 1671)

NRS CROSS REFERENCES.

Additional qualifications of members, vacancies, NRS 232A.020

ATTORNEY GENERAL'S OPINIONS.

Members of the local government employee-management board prohibited from contracting with the state. Members of the local government employee-management relations board appointed by the governor pursuant to NRS 288.080 are nonlegislative state officers subject to the prohibitions of NRS 281.221 against contracting or being interested as principals in any contract with the state or any of its agencies. AGO 218 (9-20-1977)

NRS 288.090 Officers and employees; quorum.

1. The members of the Board shall annually elect one of their number as Chair and one as Vice Chair. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations and any other available money:

(a) Appoint a Commissioner and a Secretary, who are in the unclassified service of the State; and

(b) Employ such additional clerical personnel as may be necessary, who are in the classified service of the State.

(Added to NRS by 1969, 1380; A 1979, 285; 2009, 2451)

NRS 288.100 Salary and expenses of members.

1. Each member of the Board is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day in which the member is engaged in the business of the Board.

2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

(Added to NRS by 1969, 1381; A 1977, 1365; 1981, 1979; 1985, 392; 1989, 1710)

NRS 288.105 Fees assessed against local government employers.

1. On or before July 1 of each year, the Board shall charge and collect a fee from each local government employer in an amount that is equal to not more than \$10 for each local government employee of the local government employer who was employed by the local government employer during the first pay period of the immediately preceding fiscal year.

2. A local government employer shall pay the fee assessed pursuant to subsection 1 on or before July 31 of each year. A local government employer shall not assess the fee against its local government employees.

3. If a local government employer fails to pay the fee assessed pursuant to subsection 1 on or before July 31 of that year, the Board shall impose a civil penalty of not more than \$10 for each local government employee employed by the local government employer for whom the fee was not paid.

4. A local government employer may not receive a reduction in the amount of the fee assessed pursuant to subsection 1 or a refund of that amount if a local government employee is not employed for a full calendar year. The fee must be assessed whether or not the local government employee is a member of an employee organization.

5. Any money received from the fees collected pursuant to subsection 1 must be accounted for separately and may be used only to carry out the duties of the Board.

6. To carry out the provisions of this section, the Board may verify the identity and number of local government

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employees employed by any local government employer by any reasonable means.
(Added to NRS by 2009, 2450)

NRS 288.110 Rules governing various proceedings and procedures; hearing and order; injunction; time for filing complaint or appeal; costs.

1. The Board may make rules governing:

- (a) Proceedings before it;
- (b) Procedures for fact-finding;
- (c) The recognition of employee organizations; and
- (d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. The Board shall conduct a hearing within 180 days after it decides to hear a complaint. The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which the party has been deprived by that action. The Board shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

- (a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or
- (b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

(Added to NRS by 1969, 1381; A 1975, 919; 1977, 1366; 1987, 1435; 1989, 1671; 2013, 44)

ADMINISTRATIVE REGULATIONS.

Relations with employees, NAC ch. 288

NEVADA CASES.

Government employer required to negotiate certain items relating to wages, hours and working conditions even though the items also related to management. The determination of a local government employee-management relations board that a government employer was required under NRS 288.150 to negotiate certain items found to relate significantly to wages, hours and working conditions even though the items also related to management prerogatives set forth in the statute was upheld on appeal because, under NRS 288.110, the board was given power to hear and determine any complaint arising out of the interpretation of the statute and the board's standard and findings thereon were reasonable. *Clark County School Dist. v. Local Gov't Employee-Management Relations Bd.*, 90 Nev. 442, 530 P.2d 114 (1974), cited, *Local Gov't Employee-Management Relations Bd. v. General Sales Drivers, Delivery Drivers & Helpers, Teamsters Local Union No. 14*, 98 Nev. 94, at 97, 641 P.2d 478 (1982), *City of Reno v. Reno Police Protective Ass'n*, 98 Nev. 472, at 474, 653 P.2d 156 (1982), *Truckee Meadows Fire Protection Dist. v. International Ass'n of Fire Fighters*, 109 Nev. 367, at 371, 849 P.2d 343 (1993)

A claim filed within 6 months after enactment of a union policy is not barred by the statute of limitations. In an action by nonunion employees challenging a union policy that required nonunion employees to pay the union a service fee for individual grievance representation, the supreme court held that the employees' claim was not barred by the 6-month statute of limitations set forth in NRS 288.110, even though the provision of the collective bargaining agreement authorizing the union to enact the policy had been in effect for 6 years, because the claim was filed within 6 months after the actual enactment of the policy by the union. *Cone v. Nevada Serv. Employees Union/SEIU Local 1107*, 116 Nev. 473, 998 P.2d 1178 (2000)

Use of "may" in connection with local government employee-management relations board; complainant required to exhaust administrative remedies. Pursuant to NRS 288.110, the local government employee-management relations board "may hear and determine" certain complaints and pursuant to NRS 288.280, a controversy concerning prohibited practices "may be submitted to the board." The use of "may" in these contexts describes the discretionary authority vested in the board to hear complaints, and does not grant discretion to a claimant on whether or not to file a complaint before the board in the first instance. Thus, once the provisions of NRS ch. 288 apply to a complaint, the remedies provided by the chapter and before the board must be exhausted before the district court has subject matter jurisdiction (see also NRS 288.130).

Rosequist v. International Ass'n of Firefighters Local 1908, 118 Nev. 444, 49 P.3d 651 (2002), modified, City of Henderson v. Kilgore, 122 Nev. 331, at 336, 131 P.3d 11 (2006), Allstate Ins. Co. v. Thorpe, 123 Nev. 565, at 571, 170 P.3d 989 (2007)

The Local Government Employee-Management Relations Board does not have the power to issue preliminary injunctions. While a public employee's complaint was pending before the Local Government Employee-Management Relations Board and before any evidentiary hearing, the Board granted the employee's motion for a preliminary injunction and ordered his reinstatement with pay. After the district court upheld the injunction, the Nevada Supreme Court reversed. The plain language of NRS 288.110, and of NRS ch. 288 in general, does not give the Board the power to issue preliminary injunctions. Nor is such a power implied, because it is not essential to carry out the Board's express statutory duties to investigate and determine the merits of a complaint. *City of Henderson v. Kilgore*, 122 Nev. 331, 131 P.3d 11 (2006)

NRS 288.120 Subpoenas; powers of district court.

1. For the purpose of hearing and deciding appeals or complaints, the Board may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board in the hearing named in the subpoena, or has refused to answer questions propounded to the witness in the course of such hearing,

↪ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Board.

4. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why the witness has not attended or testified or produced the books or papers before the Board. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board, the court shall thereupon enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

(Added to NRS by 1969, 1381)

ADMINISTRATIVE REGULATIONS.

Subpoenas, NAC 288.279

NRS 288.130 Hearings and determinations are contested cases; judicial review. Every hearing and determination of an appeal or complaint by the Board is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.

(Added to NRS by 1969, 1382; A 1977, 64)

NEVADA CASES.

Use of "may" in connection with local government employee-management relations board; complainant required to exhaust administrative remedies. Pursuant to NRS 288.110, the local government employee-management relations board "may hear and determine" certain complaints and pursuant to NRS 288.280, a controversy concerning prohibited practices "may be submitted to the board." The use of "may" in these contexts describes the discretionary authority vested in the board to hear complaints, and does not grant discretion to a claimant on whether or not to file a complaint before the board in the first instance. Thus, once the provisions of NRS ch. 288 apply to a complaint, the remedies provided by the chapter and before the board must be exhausted before the district court has subject matter jurisdiction (see also NRS 288.130).

Rosequist v. International Ass'n of Firefighters Local 1908, 118 Nev. 444, 49 P.3d 651 (2002), modified, City of Henderson v. Kilgore, 122 Nev. 331, at 336, 131 P.3d 11 (2006), Allstate Ins. Co. v. Thorpe, 123 Nev. 565, at 571, 170 P.3d 989 (2007)

CHAPTER.....

AN ACT relating to collective bargaining; authorizing, under certain circumstances, a local government employer to provide paid leave to an employee for time spent in providing services to an employee organization; reducing the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; providing that a collective bargaining agreement between a local government employer and a recognized employee organization expires for certain purposes at the end of the term stated in the agreement; excluding certain school administrators from membership in a bargaining unit for the purposes of collective bargaining; revising various provisions relating to negotiations between a school district and an employee organization representing teachers or educational support personnel; providing that certain principals are employed at will; requiring certain postprobationary school administrators to apply for reappointment to their administrative positions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to collective bargaining. **Section 1** of this bill authorizes, under certain circumstances, a local government employer to provide leave to an employee for time spent by the employee in performing duties or providing services for an employee organization. **Section 1.2** of this bill makes a conforming change.

Existing law requires the Local Government Employee-Management Relations Board to conduct a hearing within 180 days after deciding to hear a complaint arising out of the interpretation of, or performance under, the provisions of law relating to collective bargaining. (NRS 288.110) **Section 1.1** of this bill reduces that time to not later than 45 days if a complaint alleges that a local government employer or an employee organization has refused to bargain collectively in good faith unless the parties agree to waive the requirement.

Section 1.3 of this bill is directed to "evergreen" language in a collective bargaining agreement, pursuant to which the agreement remains in effect beyond the end of its stated term until a successor agreement becomes effective. Notwithstanding any such provision, **section 1.3** provides that upon the end of the term stated in a collective bargaining agreement, and until a successor agreement becomes effective, a local government employer shall not, with limited exceptions, increase any compensation or monetary benefits paid to or on behalf of employees in the affected bargaining unit.

Existing law generally requires a local government employer to engage in collective bargaining with the recognized employee organization, if any, for each bargaining unit among its employees. (NRS 288.150) Existing law also requires employees in certain supervisory and administrative positions, including certain school administrators, to be members of a different bargaining unit from the



employees they supervise and entirely excludes certain other employees from membership in a bargaining unit. (NRS 288.140, 288.170) **Section 1.4** of this bill excludes school administrators whose annual salary, adjusted for inflation, is greater than \$120,000 from membership in a bargaining unit, with the result that such administrators may not engage in collective bargaining with their employer. **Sections 2, 3 and 4** of this bill make conforming changes.

Existing law requires an employee organization that desires to negotiate to give written notice of that desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the notice must be given by the employee organization on or before February 1. (NRS 288.180) **Section 1.5** of this bill provides that if an employee organization represents teachers or educational support personnel and desires to negotiate, it must give written notice on or before January 1.

If, after four sessions of negotiation between a school district and an employee organization representing teachers and educational support personnel, the parties fail to reach an agreement, existing law provides that either party may submit the issues to an arbitrator. (NRS 288.217) **Section 1.6** of this bill requires that the parties have eight sessions of negotiation before the issues are submitted to an arbitrator. **Section 1.6** also requires the parties to: (1) select an arbitrator not later than 330 days before the end of the term stated in the existing collective bargaining agreement; and (2) schedule a hearing of not less than 3 consecutive business days.

Existing law authorizes any controversy concerning a prohibited practice relating to collective bargaining to be submitted to the Local Government Employee-Management Relations Board. (NRS 288.110, 288.280) **Section 1.7** of this bill requires the Board to conduct a hearing not later than 45 days after the Board decides to hear the complaint unless the parties agree to waive the requirement.

Section 1.9 of this bill provides that during the first 3 years of employment by a school district, a principal is employed at-will. **Section 1.9** also provides that if a principal completes the 3-year probationary period, the principal again becomes an at-will employee if, in 2 consecutive school years: (1) the rating of the school to which the principal is assigned pursuant to the statewide system of accountability for public schools is reduced by one or more levels; and (2) fifty percent or more of the teachers assigned to the school request a transfer to another school. **Section 1.9** further provides that such a principal is subject to immediate dismissal by the board of trustees of the school district on recommendation of the superintendent of the school district.

Section 1.95 of this bill provides that a postprobationary administrator, other than an administrator who is excluded from a bargaining unit or a principal, must apply to the superintendent of the school district for reappointment to his or her administrative position every 5 years.

Sections 3.5-4.8 of this bill make changes to conform with **sections 1.9 and 1.95**.



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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

A local government employer may agree to provide leave to any of its employees for time spent by the employee in performing duties or providing services for an employee organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer pursuant to this chapter.

Sec. 1.1. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

- (a) Proceedings before it;
- (b) Procedures for fact-finding;
- (c) The recognition of employee organizations; and
- (d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. ~~The~~ *Except as otherwise provided in this subsection and NRS 288.280, the Board shall conduct a hearing within 180 days after it decides to hear a complaint. If a complaint alleges a violation of paragraph (e) of subsection 1 of NRS 288.270 or paragraph (b) of subsection 2 of that section, the Board shall conduct a hearing not later than 45 days after it decides to hear the complaint, unless the parties agree to waive this requirement.* The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which the party has been deprived by that action. The Board shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.



4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 1.2. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence ~~+~~ *consistent with the provisions of this chapter.*

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.





Information Concerning Board or Commission Subject to Review by the Sunset Subcommittee of the Legislative Commission



as required by Nevada Revised Statutes 232B.230

Board or commission name:

Local Government Employee-Management Relations Board

Members' names with expiration date of term, and indicate the number of vacancies:

Philip E. Larson, Chair	June 30, 2018
Brent C. Eckersley, Esq., Vice Chair	June 30, 2017
Sandra Masters, Board Member	June 30, 2017
There are no vacancies.	

Physical address:

2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104

Mailing address:

2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104

Web site address (if any):

www.emrb.nv.gov

Web site developer (if not EITS, please indicate if EITS approved the web site):

Web site was developed by EITS. Its content is updated by the agency itself.

Executive director's name and contact information:

Bruce K. Snyder, Commissioner
 2501 E. Sahara Avenue, Las Vegas, Nevada 89104
 bsnyder@business.nv.gov (702) 486-4504

Staff members' names including titles and status as full-time or part-time (attach additional pages as necessary):

Bruce K. Snyder, Commissioner	full-time	began 11-04-13
Marisu Romualdez Abellar, Board Secretary	full-time	began 12-01-14

Days and hours of operation:

Monday through Friday, 8:00 a.m. to 5:00 p.m.

Created by what authority:

NRS 288 - Local Government Employee-Management Relations Act

Authority to adopt regulations (NRS) and citation to regulations (NAC), if applicable:

The authority to adopt regulations is in NRS 288.110.
The regulations may be found in NAC 288.010 to NAC 288.430 inclusive.

**Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission**

List by LCB File No. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

R062-08. Submitted by the Board, and then placed on hold.
<http://www.leg.state.nv.us/register/2008Register/R062-08I.pdf>

T001-12. Adopted by the Board and filed with the SOS, effective March 13, 2013.
<http://www.leg.state.nv.us/register/2012TempRegister/T001-12A.pdf>

List any required regulations that have not been adopted, with any applicable deadline for the adoption of any such regulation. Please identify each such regulation by LCB File No., if available, or by reference to the provision of NRS or Statutes of Nevada requiring adoption of the regulation:

None.

Governing structure of the board or commission pursuant to statute:

NRS 288.080 creates the Board, which consists of three members appointed by the Governor for a term of four years. Not more than two of the members may be from the same political party. NRS 288.090 states that the Board selects its own Chair and Vice Chair. NRS 288.090 also states that the Board appoints the Commissioner and Board

Duties of the board or commission:

The duties of the board include:

1. Resolving prohibited (i.e., unfair labor practice) disputes.
2. Resolving scope of bargaining unit disputes.
3. Resolving disputes over whether a bargaining unit is to be recognized.
4. Resolving disputes over whether recognition of a bargaining unit can be withdrawn.
4. Resolving disputes over which employee organization is to represent a bargaining unit.
5. Issuing guidance to parties when a Petition for Declaratory Order is filed.

Statement of the objectives and programs of the board or commission:

The mission statement of the EMRB is as follows:

"The Employee-Management Relations Board fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise."

As such, the primary objective of the EMRB is to promote harmony between management and labor at the local government level. To this end the EMRB provides dispute resolution

**Information Concerning Board or Commission
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Sunset Subcommittee of the Legislative Commission**

Itemized list of services offered by the board or commission:

The Board provides hearings for and decides several types of cases. The most predominant type of case alleges one or more prohibited (i.e., unfair labor) practices. Other types of cases determine the scope of a bargaining unit (i.e., which positions are in/out of a given bargaining unit); determine whether a given bargaining unit is to be represented by an employee organization; and determine which of two or more competing employee organizations is to represent a bargaining unit. Sometimes the agency conducts representation elections to further assist it in determining whether a bargaining unit is to be represented by an employee organization, and if so, which employee organization.

Dates of the immediately preceding six meetings:

September 14-17, 2015
September 16, 2015
October 12-14, 2015

Statutory tax exemptions, abatements, or money set aside for the board or commission:

None.

Description of the manner in which the board or commission is funded, including all funding sources:

The Board is 100% self-funded and receives no monies from the general fund. Almost all of its funding comes from an annual fee assessed against each local government. NRS 288.105 allows the Board to assess a fee up to \$10.00 per local government employee. The current rate set by the Board is \$6.75 per local government employee. This rate has not changed for several years. The agency receives information as to the number of employees employed by each local government from an independent source, the Public Employees Retirement System. Payment is due July 31st of each year.

Please identify any forms required by the board or commission to be used by members of the public which are not available for downloading from the web site of the board or commission:

The agency only has two forms. Neither is used by members of the public. The first is the annual reporting form completed by each local government. The second is the annual reporting form completed by each employee organization (i.e., union). Each local government and employee organization is required to complete the annual reporting form in November. These forms are electronically sent to each entity and most of them electronically send back the completed form along with any attachments.

**Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission**

Does the board or commission have any recommendations for consolidation with another board or commission? If so, which one(s) could be revised to include the charge to the board or commission that is the subject of this review?

The EMRB has no recommendations for consolidation with another board or commission. We specifically note that this is the sole board for resolution of disputes between local governments and the employee organizations that represent their employees. Other employment boards are either specific to state government or are general in nature, serving primarily private sector employees.

Does the board or commission believe that its objectives and programs have been effective in accomplishing the purposes for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:

Yes. The original purpose of the EMRB when it was created in the late 1960's was to create peace between local governments and their employees. It forbade strikes in return for an agreed-upon method of resolving disputes. This primary objective has been accomplished as strikes by local government employees are non-existent. Allegations of unfair labor practices are resolved peaceably through the presentation of cases before the EMRB. Other disputes over the scope of bargaining units and who is to represent employees are also peaceably resolved. Any party aggrieved by the Board's decision can have its case

Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

The EMRB recommends one statutory change which is necessary for it to carry out its objectives and programs. The major issue facing the agency is getting enough time for parties to appear to present their cases to the Board. Currently the goal is for the Board to meet 12 times per year for three days each. Each meeting consists of 1-2 hearings, as most hearings take 1-3 days. It is recommended that the EMRB adopt the model used by the National Labor Relations Board (NLRB), which is to have five Board members, but to hear cases in panels of three Board members. This would allow the agency to hold 20 3-day

If additional space is necessary, please attach additional pages and refer to the attachments on the form.

Please include with this form:

1. The operating budget of the board or commission.
2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.
3. The most recent legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.
4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. Please indicate if any reports were filed late or have not been filed.
5. Copies of the minutes of the immediately preceding six meetings of the board or commission.
6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.
7. A copy of the most recent strategic plan of the board or commission.

Please submit this form electronically to: cstonefield@lcb.state.nv.us. Submit additional documents electronically in a .pdf format.

If the file is too large for emailing, please submit hard copies to:

Carol Stonefield
Research Division
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Local Government Employee-Management Relations Board (attachment to the Review Form)

Page 2, List by LCB File No. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

R062-08. Submitted by the Board, and then placed on hold.
<http://www.leg.state.nv.us/register/2008Register/R062-08I.pdf>

T001-12. Adopted by the Board and filed with the SOS, effective March 13, 2013. <http://www.leg.state.nv.us/register/2012TempRegister/T001-12A.pdf>

R043-13. Adopted by the Board and approved by the Legislative Commission, effective October 24, 2014.
<http://www.leg.state.nv.us/register/2013Register/R043-13RA.pdf>

T009-14. Adopted by the Board and filed with the SOS, effective February 17, 2015. <http://www.leg.state.nv.us/register/2014TempRegister/T009-14A.pdf>

R010-15. Adopted by the Board and approved by the Legislative Commission, effective October 27, 2015.
<http://www.leg.state.nv.us/register/2015Register/R010-15A.pdf>

R025-15. Submitted by the Board, and then withdrawn August 21, 2015.
<http://www.leg.state.nv.us/register/2015Register/R025-15I.pdf>

There were no applicable deadlines for any of the above regulations. Please note that the above information was supplied by Debra Corp of the LCB and that she stated that is all the information she could find.

Page 2, Governing structure of the board or commission pursuant to statute:

NRS 288.080 creates the Board, which consists of three members appointed by the Governor for a term of four years. Not more than two of the members may be from the same political party. NRS 288.090 states that the Board selects its own Chair and Vice Chair. NRS 288.090 also states that the Board appoints the Commissioner and Board Secretary, as well as any other clerical personnel, of which there are currently none.

Page 2, Duties of the board or commission:

The duties of the board include:

1. Resolving prohibited (i.e., unfair labor practice) disputes.
2. Resolving scope of bargaining unit disputes.
3. Resolving disputes over whether a bargaining unit is to be recognized.
4. Resolving disputes over whether recognition of a bargaining unit can be withdrawn.
4. Resolving disputes over which employee organization is to represent a bargaining unit.
5. Issuing guidance to parties when a Petition for Declaratory Order is filed.
6. Informally settling disputes through the use of settlement conferences and mediations.
7. Establishing fact finding panels to determine whether an interest arbitration is to be binding or non-binding.
8. Making available copies of collective bargaining agreements for use by the public, interest groups and those involved in collective bargaining.
9. Providing directories of the various local governments and employee organizations, including contact information.
10. Issuing an annual letter to school districts, notifying them of the new dollar threshold that would prohibit a school administrator from being part of a bargaining unit.

In addition to the above duties, there are various administrative duties of the Board:

1. Setting the annual rate for the fee paid by local governments that funds the agency.
2. Appointment of all staff, including the Commissioner and Board Secretary.
3. Adoption of administrative rules, subject to approval by the Legislative Commission.

Page 2, Statement of the objectives and programs of the board or commission:

The mission statement of the EMRB is as follows:

"The Employee-Management Relations Board fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise."

As such, the primary objective of the EMRB is to promote harmony between management and labor at the local government level. To this end the EMRB

provides dispute resolution services (such as settlement conferences and fact finding panels) and decides cases which cannot be informally resolved. This latter item is the primary function of the EMRB and occupies much of the time of the Board members.

It should be noted that the law provides for the peaceful resolution of disputes in return for a prohibition on local government employees having the right to strike, thus also helping provide a continuity of services at the local government level.

Page 3, Itemized list of services offered by the board or commission:

The Board provides hearings for and decides several types of cases. The most predominant type of case alleges one or more prohibited (i.e., unfair labor) practices. Other types of cases determine the scope of a bargaining unit (i.e., which positions are in/out of a given bargaining unit); determine whether a given bargaining unit is to be represented by an employee organization; and determine which of two or more competing employee organizations is to represent a bargaining unit. Sometimes the agency conducts representation elections to further assist it in determining whether a bargaining unit is to be represented by an employee organization, and if so, which employee organization.

The agency also provides informal dispute resolution services, including settlement conferences, mediations and fact finding panels.

In addition to its dispute resolution processes, the agency also posts copies of more than 200 public sector collective bargaining agreements (CBA's) on its website, which can then be studied or used to find better language for use in other CBA's, hopefully to avoid future disputes.

Finally, the agency has a provision which allows employee organizations and local governments file a petition for declaratory order. This allows such entities to seek an opinion from the Board on a given matter, so that the entities can avoid committing a prohibited practice.

Page 3, Dates of the immediately preceding six meetings:

September 14-17, 2015
September 16, 2015
October 12-14, 2015
November 13, 2015
November 17, 2015
December 8-10, 2015

Page 4, Does the board or commission believe that its objectives and programs have been effective in accomplishing the purposes for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:

Yes. The original purpose of the EMRB when it was created in the late 1960's was to create peace between local governments and their employees. It forbade strikes in return for an agreed-upon method of resolving disputes. This primary objective has been accomplished as strikes by local government employees are non-existent. Allegations of unfair labor practices are resolved peaceably through the presentation of cases before the EMRB. Other disputes over the scope of bargaining units and who is to represent employees are also peaceably resolved. Any party aggrieved by the Board's decision can have its case reviewed by the courts. To this end it must be noted that in the last two calendar years the courts have affirmed the Board's decision on every petition for judicial review. Although the courts do give deference to the decisions of administrative agencies, this excellent record on review speaks to the quality of decisions rendered by the Board in the past two years.

Additionally, just over one year ago the Board implemented a settlement conference program with the hope that some of its cases could be amicably resolved through settlement talks overseen by the EMRB Commissioner in lieu of having to litigate a matter before the Board. So far about half of all cases going through this settlement conference process have indeed settled. Just as importantly, cases not settling often get streamlined by agreement of the parties, thus saving both Board resources as well as client resources.

Page 4, Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

The EMRB recommends one statutory change which is necessary for it to carry out its objectives and programs. The major issue facing the agency is getting enough time for parties to appear to present their cases to the Board. Currently the goal is for the Board to meet 12 times per year for three days each. Each meeting consists of 1-2 hearings, as most hearings take 1-3 days. It is

recommended that the EMRB adopt the model used by the National Labor Relations Board (NLRB), which is to have five Board members, but to hear cases in panels of three Board members. This would allow the agency to hold 20 3-day meetings per year or an increase of 67% in the amount of time per year for cases to be heard by the agency. This could be accomplished at a net cost of about \$10,000 per year, as each Board member currently makes about \$5,000 per year. This would drive down considerably the elapsed time in which to hear a case, would allow significantly more cases to be heard, and would do so at a negligible cost.