

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE R034-16**

**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 regulation does four things. First, the regulation authorizes the electronic service of certain documents while allowing a person to request to opt out of electronic service. Secondly, the regulation adopts the time computation rules of the Nevada Rules of Civil Procedure for the computation of any period prescribed by chapter 288 of NAC or an order of the Local Government Employee-Management Relations Board. Thirdly, the regulation prohibits a person from attaching any document to certain documents filed with the Board. Finally, the regulation removes the requirement that the addresses of the complainant and respondent be included in a complaint filed with the Board.

**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 all local governments and employee organizations who filed an annual report with the agency, to persons who were known to have an interest in the subject of the Local Government Employee-Management Relations Board as well as to any persons who had specifically requested such notice. These documents were also made available at the website of the Employee-Management Relations Board (EMRB), [www.emrb.nv.gov](http://www.emrb.nv.gov), mailed to all county libraries in Nevada and posted at the following locations:

State of Nevada Local Government  
Employee-Management Relations Board  
2501 E. Sahara Ave., Ste. 203  
Las Vegas, NV 89104

Attorney General's Office  
Grant Sawyer Building  
555 E. Washington Blvd.  
Las Vegas, NV 89101

Supreme Court Library  
201 S. Carson Street #100  
Carson City, NV 89701

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

State of Nevada Bradley Building  
2501 E. Sahara Ave., Main Lobby  
Las Vegas, NV 89104

Clark County Personnel  
500 S. Grand Central Parkway  
Las Vegas, NV 89101

State of Nevada  
Department of Business & Industry  
1830 College Parkway, Ste. 100  
Carson City, NV 89706

State of Nevada  
Department of Business & Industry  
555 E. Washington Blvd.  
Las Vegas, NV 89101

A workshop was held on May 17, 2016, 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. On May 11, 2016, the Commissioner issued a Notice of Intent to Act Upon a Regulation.

A public hearing was then held on June 15, 2016, and the minutes of that public hearing, attached hereto as Exhibit B, contain a summary of the discussion held regarding the proposed regulations.

A copy of the summary of the public response to the proposed regulation may be obtained from the Local Government Employee-Management Relations Board, 2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104 or via email to [emrb@business.nv.gov](mailto:emrb@business.nv.gov).

**3. The number of persons who:**

**(a) Attended each hearing:**

May 17, 2016, Workshop: 1 in Las Vegas and 2 in Carson City via teleconference (not including EMRB Board members and staff)

June 15, 2016, Public Hearing: 0 in Las Vegas (not including EMRB Board members and staff)

**(b) Testified at each hearing:**

May 17, 2016 Workshop: 1

June 15, 2015 Public Hearing: 0

**(c) Submitted to the agency written comments:** 1 each at the workshop and the public hearing.

**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, is attached as Exhibit C.**

**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 all local governments and employee

organizations who have filed an annual report with the agency plus to others who were known to have an interest in the subject of the Local Government Employee-Management Relations Board as well as to any persons who had specifically requested such notice. Comments were received at the workshop plus a written comment was also received prior to the public hearing. The minutes of both the workshop 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 received two written comments, one each at the workshop and the public hearing, requesting a modification to the proposed amendment prohibiting the attaching of documents to complaints, answers and pre-hearing statements. The Board deliberated on the matter but decided to adopt the regulation without change. The Board believed it was an issue of fairness as attaching exhibits to those documents does not give opposing parties the opportunity to object to their inclusion, as they would have that right either at a hearing or on a motion to dismiss. The problem is further compounded because the staff forwards those documents to the Board in preparation for the Board's hearing on the matter, and if such documents include exhibits then the Board sees those exhibits when the exhibits might otherwise properly not belong in the record, or when, at a hearing, they may have been excluded and not allowed into evidence. Furthermore, nothing prohibits the introduction of such exhibits at the appropriate time. Finally, the Board noted that it does not decide cases alone on just a complaint, answer and/or prehearing statement and thus no party would be prejudiced by the adoption of this rule.

Please see the minutes of the public hearing (Exhibit B 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 proposed amendments will improve interaction with the agency. Regulatory changes effective in early 2015 allowed for the electronic filing of documents with the agency. Sections 1 and 2 would allow parties to electronically serve those same documents on other parties to a case, thus eliminating the need to either mail those documents or else personally serve other parties with those documents, thus saving both time and expense. There is a provision in Section 1 that would allow a person to opt out of being served by electronic service. This request came from the user community at the agency's annual open forum in January 2016.

Documents subsequent to the filing of a complaint have deadlines for when they must be filed. Section 3 of the regulation simplifies the computation of these deadlines by adopting the Nevada Rules of Civil Procedure 6(a) and 6(e). These

rules are well understood by attorneys who practice in the state courts. Adopting the same rules will improve consistency and ease understanding of those who practice before the agency. This request came from the user community at the agency's annual open forum in January 2016.

Sections 4, 5, 6 and 7 prohibit a person from attaching any document, including an exhibit, respectively, complaints, answers, prehearing statements and petitions. All filings with the agency become part of the administrative record for a given case. This has been a means whereby a person attempts to get a document into the administrative record without an opposing party having an opportunity to object to the document. Documents may still become part of the administrative record either by the filing of a motion or other document related thereto or at a hearing. Both of these instances allow an opposing party to object to a given document and thus makes for a better record of the case. There is a beneficial effect in that less paperwork will be filed with the agency, absent a full hearing occurring later in the case.

Section 4 also removes the requirement that the addresses of the complainant and respondent be included in a complaint. This request came from the user community at the agency's annual open forum in January 2016, at which time a concern was expressed that including the addresses in the complaint is a security concern, especially for public safety employees. Moreover, the agency already has addresses on file for all local governments and employee organizations, as well as for the attorneys who practice before the agency. Thus the regulation would slightly simplify the drafting of a complaint

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 in that any cases filed have the potential of being handled more efficiently through such means as the electronic service of pleadings.

**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 government 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.

**SEE COPY FILED WITH STATE LIBRARY AND ARCHIVES FOR ATTACHMENTS.**