

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE R043-13**

**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 regulations.**

The regulations establish a settlement conference program which hopefully will resolve some cases without the need for a formal hearing. It also makes minor changes to the procedure in prohibited practice and declaratory order cases, and helps conform the regulations pertaining to petition for rehearing with the requirement for judicial review.

**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 regulations, notices 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.state.nv.us](http://www.emrb.state.nv.us), 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 January 22, 2014, and the minutes of that meeting, attached hereto as Exhibit A, contain a summary of the discussion held regarding the proposed regulations. Two written responses were also received. Thereafter, on or about January 29, 2014, the Commissioner issued a Notice of Intent to Act Upon a Regulation.

A public hearing was then held on March 11, 2014, and the minutes of that public hearing, attached hereto as Exhibit B, contain a summary of the discussion held regarding the proposed regulations.

On June 23, 2014 the Legislative Commission objected a section of the proposed regulations pertaining to runoff elections and requested that the proposed change not be made. Thereupon the Board held another public hearing on July 10, 2014. No comments were made at the public hearing. The Board then readopted the regulations, making the change to exclude from the proposed regulations any provision concerning runoff elections, as requested by the Legislative Commission. The minutes of the July 10, 2014 meeting are attached hereto as Exhibit D.

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:**

January 22, 2014 Workshop: 7 in Las Vegas and 4 in Carson City via teleconference (not including EMRB Board members and staff)

March 11, 2014 Public Hearing: 3 in Las Vegas (not including EMRB Board members and staff)

July 10, 2014 Public Hearing: 0

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

January 22, 2014 Workshop: 2

March 11, 2014 Public Hearing: 2

July 10, 2014: 0

**(c) Submitted to the agency written comments: 2**

**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 both the workshop and the public hearing plus written comments were also received. The minutes of both the workshop and the public hearing, 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 only comments at the public hearing concerned a change in the regulations for runoff elections, making runoff elections discretionary instead of mandatory (i.e., changing “will” to “may”). The discussion revolved around the possible need for standards when the Board might exercise its discretion. After discussion the Board considered this to be a different topic which could be addressed in a possible future round of rulemaking. However, at the June 23, 2014 Legislative Commission meeting the Legislative Commission objected to the proposed runoff election change to the regulations. As described above, the Board reconsidered its prior action on July 10, 2014 and after a public hearing on that date, agreed to the Legislative Commission’s request not to change the runoff election provision and thus removed that proposed change.

**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**

There will be no adverse effects on the businesses that the EMRB regulates. 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.

Section 1 provides for settlement conferences. To the extent that a case may settle prior to the hearing, a law firm may save a significant number of hours in the representation of its client. Moreover, the regulation provides that the EMRB may not require additional statements or briefs for the settlement conference. Neither may the EMRB create any guidelines that would impose an undue expense.

Sections 3 and 4 do away with the requirement that a complaint be verified or that an answer be sworn. This would save the expense of a law firm having to identify

the appropriate person to sign the pleading and then having the lawyer meet and explain the requirement to that person.

Finally, Section 6 of the proposed regulation requires parties to exchange exhibits at least five days prior to a pre-hearing conference. This feature may reduce the printing costs of preparing exhibits in that duplicative exhibits may be converted into joint exhibits.

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 settlement conferences and other features as described above.

**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.

# EXHIBIT A

DEPARTMENT OF BUSINESS AND INDUSTRY  
**LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**  
2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104  
(702) 486-4504 Fax (702) 486-4355  
www.emrb.state.nv.us

January 29, 2014

**MINUTES OF THE WORKSHOP TO SOLICIT COMMENTS FOR NEW  
REGULATION, OR CHANGES TO EXISTING REGULATION**

A workshop of the Local Government Employee-Management Relations, properly noticed and posted, pursuant to the Nevada Open Meeting Law, was held on **Wednesday, January 22, 2014**, at the hour of 1:30 p.m. at the **Grant Sawyer State Building, Room #4412, 555 E. Washington Ave., Las Vegas, Nevada**. The meeting was videoconferenced to the **Legislative Building, Room #2134, 401 S. Carson Street, Carson City, Nevada**.

The meeting was conducted by EMRB Commissioner Bruce K. Snyder.

Also present representing the EMRB were: Philip E. Larson, EMRB Chairman  
Scott Davis, Esq., Deputy Attorney General  
Yvonne V. Martinez, EMRB Board  
Secretary

Present from the public in Las Vegas were: Jen Sarafina, Kamer Zucker Abbott  
Barbara King, Clark County Human  
Resources  
Mark Olson, Las Vegas Convention &  
Visitors Authority  
Doug Spring, University Medical Center  
Yolanda Givens, Clark County  
Matthew Cecil, Fisher & Phillips  
Sara Chohagian, Snell & Wilmer

Present from the public in Carson City were: Chris Syverson, City of Sparks  
Steve Driscoll, City of Sparks  
Frank Flaherty, Dyer Lawrence  
Johan Childers, AFSCME Local 4041

The Agenda:

**Item 1** General Public Comment.  
*No public comment was offered.*

**Item 2** Review of Proposed Regulation to Establish an EMRB Settlement Conference Program.  
*Frank Flaherty inquired as to the rationale for excluding declaratory orders from the proposed settlement program. Commissioner Snyder asked the Deputy Attorney General to respond, who stated that declaratory orders by nature do not have a remedy and therefore there is little leverage for a settlement. He further stated that the proposed regulations do change the procedure for declaratory orders, which will be discussed later in the meeting. Commissioner Snyder stated that the purpose of a declaratory order is for the Board to interpret its statute. If the parties ended up drafting a settlement under the program then the process could result in the parties determining the meaning of the statute instead of the Board.*

*Flaherty then asked if the EMRB would be willing to voluntarily assist the parties in discussions on such matters. Commissioner Snyder responded by stating that it is always good for parties to talk and that he would be willing to assist in informal negotiations.*

**Item 3** Review of Proposed Changes to Requirements for Runoff Elections.  
*No questions or comments were offered by those in attendance.*

**Item 4** Review of Proposed Changes Relating to Board Procedure in Prohibited Labor Cases  
*Steve Driscoll asked about the paperwork submission requirements in sections 4, 5, 6, and 11 of the proposed regulations and whether they could be replaced with some form of electronic filing of documents. Commissioner Snyder responded that this is also a topic for the following open forum. However, since becoming the Commissioner he has learned that the agency scans all filings and thus only needs one copy in that scanned copies are circulated to those who need to see the document. Moreover, in reviewing the proposed regulations, Department of Business & Industry Director Bruce Breslow also commented that the agency should move in the direction of the electronic filing of documents and that as the Commissioner he concurs in this assessment. The only issue is how best to do so.*

*Frank Flaherty commented that there should be an option for parties to either electronically file documents or to file paper documents, as some individuals, including those representing themselves, may not have access to electronic devices. He also stated that the agency should only require one paper copy instead of the current five copies.*

- Item 5** Review of Proposed Changes Relating to Board Procedure in Declaratory Order Cases.  
*Commissioner Snyder asked Deputy Attorney General Davis to explain the revised procedure. There were no questions or comments by those in attendance.*
- Item 6** Review of Proposed Changes Relating to Board Procedure for Petitions for Rehearing.  
*Frank Flaherty inquired about section 18 of the proposed regulations, which would repeal NAC 288.366. In response, Commissioner Snyder asked Deputy Attorney General Davis to respond, who stated that under the Administrative Procedures Act NAC 288.366 was redundant and that the new procedure for rehearing was to provide for a Board decision on the motion for rehearing prior to the deadline to file for judicial review.*
- Item 7** Additional Period of General Public Comment.  
*Commissioner Snyder mentioned that he had received written comments from Tammara Williams of the Regional Transportation Commission of Southern Nevada. Commissioner Snyder asked if anyone would like the three-page letter read, and hearing no response, the Commissioner stated that the letter would be placed into the record. No other public comment was offered.*

Respectfully submitted,

                  /s/                    
Bruce K. Snyder  
EMRB Commissioner



# EXHIBIT B

DEPARTMENT OF BUSINESS AND INDUSTRY  
**LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**  
2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104  
(702) 486-4504 Fax (702) 486-4355  
www.emrb.state.nv.us

March 13, 2014

**MINUTES OF THE PUBLIC HEARING ON PROPOSED REGULATIONS OF THE  
LOCAL GOVERNMENT LOCAL GOVERNMENT  
EMPLOYEE-MANAGEMENT RELATIONS BOARD**

A public hearing of the Local Government Employee-Management Relations Board, properly noticed and posted, pursuant to the Nevada Open Meeting Law, was held on **Tuesday, March 11, 2014**, at the hour of 8:00 a.m. at the **Local Government Employee-Management Relations Board, 2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada.**

The following Board members were present: Philip E. Larson, Chairman  
Sandra Masters, Vice - Chairman  
Brent C. Eckersley, Esq., Board Member

Also present: Bruce K. Snyder, EMRB Commissioner  
Scott Davis, Esq., Deputy Attorney General  
Yvonne V. Martinez, EMRB Executive  
Assistant

Present from the public: Thomas J. Donaldson, Dyer Lawrence  
Scott Johnson, IAFF Local 1607  
Eric Myers, McCracken, Stemerman,  
Bowen & Holsberry

The Agenda:

- Item 1** The public hearing was called to order by Philip E. Larson, Chairman, on Tuesday, March 11, 2014.
- Item 2** General Public Comment.  
*No public comment was offered.*
- Item 3** Public hearing pursuant to NRS 233B.061(3) on proposed permanent regulations that pertain to Chapter 288 of the Nevada Administrative Code: Legislative Counsel Bureau Assigned Number R043-13.
- a. Oral public comment pertaining to Proposed Permanent Regulation R043-13.  
*Eric Myers stated he was here on behalf of Kristin Martin, who could not attend due to a scheduling conflict. He stated his comments were in*



# EXHIBIT C

# Exhibit C

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# EXHIBIT D

DEPARTMENT OF BUSINESS AND INDUSTRY  
**LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**  
2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104  
(702) 486-4504 Fax (702) 486-4355  
www.emrb.state.nv.us

July 11, 2014

**MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT  
EMPLOYEE-MANAGEMENT RELATIONS BOARD**

A telephonic board meeting of the Local Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on **Tuesday, July 10, 2014**, at the hour of 9:00 a.m. at the **Local Government Employee-Management Relations Board, 2501 East Sahara Avenue, Room 203, Las Vegas, NV 89104.**

The following Board members were present: Philip E. Larson, Chairman  
Sandra Masters, Vice - Chairman  
Brent C. Eckersley, Esq., Board Member

Also present: Bruce K. Snyder, EMRB Commissioner  
Yvonne Martinez, EMRB Board Secretary  
Scott Davis, Esq., Deputy Attorney General

The Agenda:

- Item 1** The Board meeting was called to order by Philip E. Larson, Chairman, on Thursday, July 10, 2014.
- Item 2** Public Comment.  
*No public comment was offered.*
- Item 3** Approval of the Minutes.  
*The Board approved the minutes as presented for the meeting held on June 10, 2014.*
- Item 4** Regulation R043-13.  
A. Public Hearing for LCB File No. R043-13.  
*No comments were received on the regulation or the proposed change thereto.*  
B. Discussion and Possible Adoption of LCB File No. R043-13.  
*Upon motion, the Board adopted LCB File No. R043-13 with the recommended change by the Legislative Commission that deleted Section 2 concerning runoff elections.*

**Item 5**

Deliberations/Discussions/Pronouncements of Orders.

A. Stipulations.

1. Consolidated Case No. A1-046067, International Association of Firefighters, Local 1607 v. City of North Las Vegas and Case No. A1-046069, North Las Vegas Police Officers Association v. City of North Las Vegas. ***Upon motion, the Board granted the Stipulation and Order to Dismiss, as presented, with each party responsible for its own attorney's fees and costs.***
2. Case No. A1-046099, July Wright v. Lyon County, Jeffery A. Page in his official capacity as Lyon County Manager and Robert Auer in his official capacity as Lyon County District Attorney. ***The Board tabled this item as the proposed stipulation was not received prior to the Board meeting.***
3. Case No. A1-046114, Tammy Bonner and Bachera Washington v. City Of North Las Vegas. ***Upon motion, the Board granted the Stipulation and Order to Stay Proceedings.***
4. Case No. A1-046119, Shannon D'Ambrosio v. Las Vegas Metropolitan Police Department and Case No. A1-046121, Shannon D'Ambrosio v. Las Vegas Metropolitan Police Department. ***Upon motion, the Board granted the Stipulation to Consolidate Cases.***

B. Motions and Other Pleadings.

1. Case No. A1-046119, Shannon D'Ambrosio v. Las Vegas Metropolitan Police Department. ***Since the stipulation in item number 5A4 above included a provision withdrawing the motion to dismiss that had been filed by the respondent, the Board took no action on this item.***

C. Cases in the Queue for Possible Future Hearing.

2. Case No. A1-046082, SEIU, Local 1107 v. University Medical Center. ***Commissioner Snyder stated that since the time that the agenda had been issued, the agency had received a Notice of Voluntary Dismissal filed by the Complainant, which will be placed on the August agenda for consideration by the Board. Therefore, the possible scheduling of this case for hearing was tabled by the Board.***

**Item 6**

Status of Cases by Commissioner.

- A. Consolidated Case No. A1-045847 - A1-045864, Deborah Boland, M.D., a Local Government Employee and member of the UMC Physicians' Bargaining Unit of Nevada Service Employees Union, SEIU Local 1107, AFL-CIO, CLC, et al. vs. Nevada Service Employees Union, SEIU Local



