



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
December 17, 2015

Held at the Blasdel Building, 209 E. Musser St., Room 105, Carson City, Nevada; the Nevada Department of Transportation, 1401 E. Aultman St., Conference Room, Ely, Nevada; and the Grant Sawyer Building, 555 E. Washington Ave., Room 1100, Las Vegas, Nevada, via videoconference.

Committee Members:

Management Representatives	Present
Ms. Mandy Payette–Chair	X
Mr. Guy Puglisi	X
Ms. Claudia Stieber	
Ms. Allison Wall–Co-Vice-Chair	
Ms. Michelle Weyland	X
Ms. Pauline Beigel	
Employee Representatives	
Ms. Stephanie Canter–Co-Vice-Chair	
Ms. Donya Deleon	
Mr. Tracy DuPree	X
Mr. David Flickinger	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Carrie Lee, EMC Coordinator
Ms. Kara Morris, Hearing Clerk

- 1. Chair Mandy Payette:** Called the meeting to order at approximately 9:00 a.m.

2. Public Comment

There were no comments from the audience or from the Committee Members.

3. Adoption of the Agenda – Action Item

Chair Payette requested a motion to adopt the agenda.

MOTION: Moved to approve the adoption of the agenda.
BY: Committee Member Tracy DuPree
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.

4. Approval of Minutes for October 22, 2015 – Action Item

Chair Payette requested a motion to adopt the minutes.

MOTION: Moved to approve the minutes.
BY: Committee Member Michelle Weyland
SECOND: Committee Member Tracy DuPree
VOTE: The vote was unanimous in favor of the motion.

5. Approval of Minutes for October 27, 2015 – Action Item

Chair Payette requested a motion to adopt the minutes.

MOTION: Moved to approve the minutes.
BY: Committee Member Tracy DuPree
SECOND: Committee Member Sherri Thompson
VOTE: The vote was unanimous in favor of the motion.

6. Discussion and possible action related to Motion to Dismiss of Grievance #3853 of Richard Adams, submitted by the Department of Corrections, supporting documentation, and related oral argument, if any – Action Item

A Motion to Dismiss was submitted to the Employee-Management Committee (“Committee”) by the agency employer Department of Corrections (“NDOC”) which was represented by Deputy Director of Support Services Scott Sisco. Grievant Richard Adams (“Mr. Adams”) was not present at the hearing.

NDOC argued in its motion that the Committee did not have jurisdiction to consider the matters which Mr. Adams had raised in his grievance. NDOC further argued in substance that Mr. Adams was grieving the fact that the recent legislative process did not provide for an automatic pay progression to the pay step NDOC employees would have been at had it not been for the pay freeze instituted by the Legislature. NDOC noted that although NAC 284.194 stated that an employee whose last rating of performance was standard or better and who had not attained the top step of his or her grade must receive a merit step pay increase on his or her progression date until the employee reached the top step of his or her grade, in 2009 the Legislature passed Senate Bill 421, which

stopped merit pay increases which State employees would otherwise have been entitled to until 2011.

NDOC also stated that in 2011 the Legislature passed Assembly Bill (“AB”) 560, which stated that a State employee was not entitled to any merit pay increases which the employee would have otherwise been entitled to during the period in question, and that AB 560 was effective until June 30, 2013. NDOC added that the Legislature passed AB 511 in 2013, and it stated that no merit pay increases which a State employee would have otherwise been entitled pursuant to NRS and NAC Chapter 284 would be granted during Fiscal Year 2013-2014. Additionally, NDOC pointed out that AB 511, in Section 14, also said that, with respect to merit pay increases granted on or after July 1, 2014, a State employee was not entitled to any increases he or she would have otherwise been granted during that time period.

Thus, NDOC argued, there were laws that were passed three times, in 2009, 2011 and 2013, that specifically took away the right an employee had to merit pay increases he or she had prior to attaining the top step of his or her pay grade. Furthermore, NDOC argued in substance that with each passing of the law it was stated that an employee was not entitled to any merit pay increases that the employee would have otherwise been granted in that time period.

NDOC also stated in substance that it was not arguing that all State employees, Mr. Adams included, are not undeserving of receiving pay step increases, or that the three laws passed between 2009 and 2013 did not create an imbalance in pay, but that what the hearing came down to was whether the Committee could do anything about the issues cited in Mr. Adams’ grievance. NDOC argued that the Committee could not address the matter because its decision could not supersede State law, that it had no jurisdiction to fix the problems raised in Mr. Adams’ grievance, and that only the Governor within a legislative session and the Legislature itself could fix the problems set forth in Mr. Adams’ grievance.

The Committee, after having read and considered all of the documents filed in this matter and having heard oral arguments, deliberated on the issues presented. Committee Member Tracy DuPree noted that State employees deserved raises, but that there was nothing the Committee could do about it because the Legislature had acted three different times to say that State employees cannot now come back and say they want more money. Committee Member Michelle Weyland voiced the opinion that the Committee could not force an agency to grant accelerated pay increases or individual merit pay increases. Committee Member Turessa Russell stated that the Committee did not have jurisdiction over the issues Mr. Adams raised in his grievance.

Chair Payette requested a motion.

MOTION: Moved to grant the Motion to Dismiss pursuant to NAC 284.695(1).

BY: Committee Member Tracy DuPree

SECOND: Committee Member Michelle Weyland

VOTE: The vote was unanimous in favor of the motion.

7. Discussion and possible action related to Motions to Dismiss of Grievances #3908 of Christopher Bennett, and #3856 of Adam Zehr, submitted by the Department of Public Safety, supporting documentation, and related oral argument, if any – Action Item

Motions to Dismiss were submitted to the Committee by the agency employer Department of Public Safety (“DPS”) which was represented by Chief Deputy Attorney General Jennifer Hostetler. Richard McCann (“Mr. McCann”), Executive Director of the Nevada Association of Public Safety Officers, represented Christopher Bennett (“Grievant” or “Mr. Bennett”) and Anthony Zehr (“Grievant” or “Mr. Zehr”).

DPS argued in its motions that the Committee did not have jurisdiction to consider matters raised by Mr. Bennett and Mr. Zehr and that the Committee did not have the authority to grant the relief requested by Mr. Bennett and Mr. Zehr.

DPS argued in substance that the Grievants were requesting that they be given the same amount of step increases which Nevada Department of Transportation employees with equivalent training, experience and time on the job received after legislative changes made in 2013 allowed for such step increases. DPS further stated in substance that the Nevada Legislature suspended all merit step increases in pay for all State employees in 2009, and merit step pay increases remained suspended until 2014.

DPS also argued in substance that when the merit pay increase suspension was lifted in 2014 the Nevada Legislature did not give DPS or any other State agency the authority to grant retroactive pay increases from the time the suspension was lifted. Additionally, DPS added that the language in the bill lifting the merit pay increase suspension indicated that an employee was not entitled to merit pay increases for the period of time that the suspension was in effect.

DPS also addressed NAC 284.204, which gives the discretionary authority to the Department of Administration, Division of Human Resource Management (“DHRM”) to approve adjusting steps. DPS stated in substance that Mr. Bennett and Mr. Zehr suggested that DPS should have made a request to DHRM in order to eliminate certain pay disparities, and added that NAC 284.204 did not allow for an adjustment of steps to correct a pay disparity between two State agencies.

DPS noted in substance that pay disparity among the divisions of DPS seemed to be a concern in Mr. Bennett’s and Mr. Zehr’s grievances, specifically within the Nevada Highway Patrol. DPS added that it appreciated the financial sacrifice its employees were making, and that it had looked into whether it could offer an adjustment in pay. However, DPS stated in substance that unfortunately granting its employees a salary adjustment would be unfeasible given its budget and financial constraints, noting that NAC 284.204 required that a request for adjustment of steps be accompanied by a certification from DPS that the adjustment was feasible based upon its fiscal effects, which DPS was unable to do, given DPS’ financial situation.

Mr. McCann argued in substance that there was not much he could argue in opposition to the law as it existed. However, Mr. McCann asked the Committee to consider as part of its duties under NRS 284.073, offering the recommendation to the Governor and DHRM that a compensation study be completed, and that the Committee provide a letter to the Governor recommending that he provide a directive to the Legislature to increase the pay of State employees to achieve parity and retention of personnel. Mr. McCann added in substance that the Committee had the responsibility to make a recommendation that challenged DPS and other State agencies to budget to increase wages and benefits in order to promote recruitment and retention of personnel. Mr. McCann also noted that the Committee could dismiss the grievances before it, but that it could do so with a mandate through its recommendation that there be a dialogue at the next Legislative session about pay disparity.

The Committee, after having read and considered all of the documents filed in this matter and having heard oral arguments, deliberated on the issues presented. Chair Mandy Payette noted that the Committee could forward the recommendations Mr. McCann made to the Governor, but that they were sure that the Governor was aware of the situation, and that in the past the Committee's role had been to bring forward matters of which the Governor was unaware. Committee Member Sherri Thompson noted in substance that although she understood that the Governor was aware of the situation, the Committee was receiving more and more grievances such as the ones before it. Committee Member Tracy DuPree commented in substance that State employees needed to contact their Legislator and that a statement from the Committee about pay issues would not be as effective as a one-on-one communication from a State employee with their Legislator.

Chair Payette requested a motion.

MOTION: Moved to grant the Motion to Dismiss based on limitations imposed by NAC 284.695(1).
BY: Committee Member Tracy DuPree
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.

8. Public Comment

There were no comments from the audience or Committee Members.

9. Adjournment

Chair Payette requested a motion to adjourn.

MOTION: Moved to adjourn.
BY: Committee Member Tracy DuPree
SECOND: Committee Member Michelle Weyland
VOTE: The vote was unanimous in favor of the motion.