

IN THE SUPREME COURT OF THE STATE OF NEVADA

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 14, AN  
EMPLOYEE ORGANIZATION,  
Appellant,

vs.

EDUCATION SUPPORT EMPLOYEES  
ASSOCIATION, A NEVADA  
NONPROFIT CORPORATION; THE  
STATE OF NEVADA LOCAL  
GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD,  
AN AGENCY OF THE STATE OF  
NEVADA; AND CLARK COUNTY  
SCHOOL DISTRICT, A COUNTY  
SCHOOL DISTRICT,  
Respondents.

No. 51010

**FILED**

DEC 21 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from order granting in part and denying in part a petition for judicial review. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

This action arises out of an election to determine which employee organization would represent the employees of the Clark County School District. Because the primary election was inconclusive, the district court concluded that the Local Government Employee-Management Relations Board (EMRB) is required to conduct a runoff election in accordance with NAC 288.110. We agree.

When a competing employee organization seeks recognition, NRS 288.160(4) permits the EMRB to conduct an election to determine which "employee organization is supported by a majority of the local government employees in a particular bargaining unit." To win an

election and thus be considered the exclusive representative employee organization, the election must “demonstrate[] that the employee organization is supported by a majority of the employees within the particular bargaining unit.” NAC 288.110(10)(d). In a previous order resolving consolidated appeals involving these same parties, we determined that the language of NRS 288.160 and NAC 288.110 are plain and unambiguous and require an employee organization to obtain support from a majority of all of the members of the bargaining unit and not just a majority of those who vote. See Education Support v. Employee-Management Relations Board, Docket Nos. 42315/42338 (Order of Affirmance, December 21, 2005).

At issue in this appeal is whether a runoff election must be conducted when neither employee organization secured a majority vote from all of the members of the bargaining unit.<sup>1</sup> Since we have determined that an employee organization must obtain support from a majority of all of the members of the bargaining unit and not just a majority of those who vote, it was impossible for either Local 14, Education Support Employees Association (ESEA), or the “no union” option to obtain sufficient votes to win the election. Therefore, the election results are inconclusive. NAC 288.110(7) states that “[i]f the results are inconclusive, the Board will conduct a runoff election.” (Emphasis added.) We conclude that based on the plain and unambiguous language of NAC

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<sup>1</sup>At the time the election was held, there were 10,386 employees in the bargaining unit but only 4,797 ballots were cast. Of the ballots cast, 2,711 employees voted for Local 14, 1,932 employees voted for ESEA, and 93 employees voted for “no union.”

288.110(7), the EMRB must conduct a runoff election. We further conclude that NRS 288.160(4)'s and NAC 288.110(10)(d)'s majority-vote requirement is equally applicable to the runoff election.

Accordingly, we affirm that portion of the district court's order requiring the EMRB to conduct a runoff election in accordance with NAC 288.110. We recognize that a runoff election may produce similar inconclusive results; however, the parties can agree to an alternative method in which to conduct the runoff election.<sup>2</sup>

It is so ORDERED.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

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<sup>2</sup>NRS 288.160(5) provides in pertinent part that "[t]he parties may agree in writing, without appealing to the Board, to hold a representative election to determine whether an employee organization represents the majority of the local government employees in a bargaining unit."

cc: Hon. Kenneth C. Cory, District Judge  
Ara H. Shirinian, Settlement Judge  
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Eighth District Court Clerk