

Governor Joe Lombardo
Chairman

Tiffany Greenameyer
Clerk of the Board



Attorney General Aaron D. Ford
Member

Secretary of State Francisco V. Aguilar
Member

STATE OF NEVADA BOARD OF EXAMINERS

209 East Musser Street, Room 200 / Carson City, Nevada 89701-4298
Phone: (775) 684-0222 / Fax: (775) 684-0260
<http://budget.nv.gov/Meetings>

MEETING MINUTES

Date and Time: May 29, 2025, 1:00 PM

Location: Nevada Capitol Building
101 North Carson Street, Old Assembly Chambers
Carson City, Nevada 89701

Video Conference Location: The McCarran Center, Nevada Building
1 State of Nevada Way, Governor's Conference
Room
Las Vegas, Nevada 89119

MEMBERS PRESENT:

Governor Joe Lombardo
Secretary of State Francisco V. Aguilar
Attorney General Aaron Ford

STAFF PRESENT:

Tiffany Greenameyer, Clerk of the Board
Rosalie Bordelove, Board Counsel

OTHERS PRESENT:

Josh Reid, Special Counsel, Attorney General's Office

1. Call to Order / Roll Call

Governor: We will get started the special State of Nevada Board of Examiners (BOE) meeting scheduled for today May 29, 2025 at 1:00 p.m. We will start with the roll call. Ms. Greenameyer.

Clerk of the Board: Governor Lombardo.

Governor: Here.

Clerk of the Board: Attorney General Ford.

Attorney General: Here.

Clerk of the Board: Secretary Aguilar.

Secretary of State: Here.

Clerk of the Board: Let the record reflect we have a quorum.

2. Public Comment

The first public comment period is limited to comments on items on the agenda. No action may be taken upon a matter raised under this public comment period unless the matter itself has been specifically included on the agenda as an action item. The Chair of the Board has imposed a time limit of three minutes. Public comment may be provided in person or via telephone. To provide public comment on an item on the agenda via telephone, dial 775-321-6111 or 702-329-3435. When prompted to provide the meeting ID, please enter 557 435 475#. When the Chair opens the public comment period, dial *5 to request to be unmuted. To resolve any issues related to dialing in to provide public comment for this meeting, please call (775) 684-0222.

Governor: Agenda item number two. This is the first opportunity for public comment. The public comment period is limited to comments on items on the agenda. No action may be taken upon a matter raised under this public comment period unless the matter itself has been specifically included on the agenda as an action item. Comments will be limited to three minutes. If you wish to call in to participate in public comment, that number is 775-321-6111 and enter the ID number 557 435 475#. Do we have any public comment there in Las Vegas?

Rosalie Bordelove: No sir.

Governor: Do we have any public comment here in Carson City? None. Is anybody on the phone? Hearing none. We will close public comment.

3. Approval of New, Extended, or Modified Collective Bargaining Agreement (For possible action)

- A. Pursuant to NRS 288.555, subsection 1, the Department of Administration, Division of Human Resource Management acting on behalf of the Executive Department of the State of Nevada, requests approval of the new Collective Bargaining Agreement (CBA) with the Nevada Peace Officer Association for the 2025-2027 biennium for Bargaining Unit M, comprised of Supervisory Category II

Peace Officers. The estimated fiscal impact of the CBA for the biennium is \$122,083.

- B. Pursuant to NRS 288.555, subsection 1, the Department of Administration, Division of Human Resource Management acting on behalf of the Executive Department of the State of Nevada, requests approval of the new Collective Bargaining Agreement (CBA) with the Fraternal Order of Police, Nevada CO, Lodge 21 for the 2025-2027 biennium for Bargaining Unit N, comprised of Category III peace officer supervisors. The estimated fiscal impact of the CBA for the biennium is \$21,155,823.

Governor: Agenda item number three, *Approval of New, Extended, or Modified Collective Bargaining Agreement for Possible Action*. Ms. Greenameyer, we will take these separately.

Clerk of the Board: Yes, sir.

These items were submitted by the Department of Administration, Division of Human Resource Management. Pursuant to NRS 288.555, subsection 1, the department, acting on behalf of the Executive Department of the State of Nevada, requests approval of the following new Collective Bargaining Agreements for the 2025-2027 biennium. The combined total estimated fiscal impact of the agreements on the agenda today, calculated by the Governor's Finance Office, for the biennium, is \$21,277,906. The two agreements before you today, combined with the eight agreements approved at the May 23, 2025 Board of Examiners meeting, has a total estimated fiscal impact of \$342,441,658.

Item 3.A is with the Nevada Peace Officer Association (NPOA) for Bargaining Unit M. The estimated fiscal impact of this agreement, if approved, is \$122,083. This agreement is presented to the Board on the understanding that it is effective without signature by the union, as it is a product of signed tentative agreements and binding arbitration. Are there any questions on this?

Attorney General: So, I'm a little concerned that this agreement has not been signed and I would like some articulation on the record from either counsel in my office or someone who can explain what the ramifications are of us approving an unsigned agreement. I understand what you've just said Madam Clerk, but could I get a little more legal analysis as to what the effect would be if we were to ratify an unsigned contract?

Josh Reid: Josh Reed, Special Counsel for Labor Relations. So, this union's counsel is in agreement with the state's position that this agreement, as are all the other agreements that were presented at the previous meeting, are a result of ten signed Tentative Agreements between the unions and the Executive Department and binding arbitration decisions.

It is common in that most unions don't require ratification after a binding arbitration decision. In discussions with counsel for NPOA, he agreed with me, in writing, that a signature from Unit M is not required for the CBA to be binding. I think the policy behind it, is most unions would agree with this position because they don't want the state to not execute an agreement where they won in binding impasse arbitration. So, I think most unions would agree with the

position that this is a binding agreement resulting from signed Tentative Agreements and the binding arbitrator decision.

Attorney General: Well, I appreciate that analysis. It obviously runs counter to what we learned in Contracts 101, which says, you can't enforce an unsigned contract against the person who did not sign it, but listening to you talk, you're indicating that if the shoe were on the other foot, and the state did not sign it, it would nonetheless be enforceable against us as well. Is that your analysis?

Josh Reid: The state is a different animal, and this is in the legislative history of when Senate Bill 135, when state collective bargaining came into effect in 2019, the state does require for a CBA to be effective, the approval of the Board of Examiners. For any fiscal provisions in the CBA, it does require appropriation by the Nevada Legislature through legislation. So, it is a little different. State bargaining is new and so that issue of if the BOE didn't approve a collective bargaining agreement that resulted from binding arbitration, the courts have not handled that issue as of yet but the arbitration decision is binding on the Executive Department. Meaning we can't go back and renegotiate. The arbitration decision is binding on the Executive Department pursuant to NRS 288. So, the Executive Department couldn't take a position different from what the arbitrator decided but that doesn't bind the Board of Examiners, and it does not bind the Nevada Legislature.

Attorney General: Yes, I see that makes a lot of sense. I understand the different entities involved in that issue so, explain to me this though, Josh – what happens if this does not pass today, if we vote against this, what's the effect?

Josh Reid: So, the proposed CBA doesn't become effective until July 1st of this year, and so, what makes today special, is that it's before the end of the Nevada Legislative session. The amount, the fiscal impact amount of \$122,083 for those provisions with fiscal impact to come into effect, the Nevada Legislature needs to appropriate the money for those provisions to become effective. The downside of not approving the agreement would be that the Nevada Legislature would not be able to appropriate the funds for this agreement because they don't consider the appropriation until after the approval of the Board of Examiners. So, it would be a detriment to the union to not have this approved because nothing guarantees an appropriation from the Nevada Legislature, but they wouldn't have the opportunity for that appropriation.

Attorney General: Further follow up, Governor. I want to be clear on something though that you just said about the legislature. I'm not quite sure I agree that the legislature could not nonetheless appropriate funds to accommodate the bargaining unit here and even fulfill the terms of this contract if we did not ratify it. It seems to me that the legislature could, in their pay bill, include salary adjustments in the budget for the Governor's consideration at the end of the day, that would accomplish the goals of this particular agreement without it having been presented to them from the Board of Examiners. So, maybe that's beyond your purview Josh, but if you have an opinion on that I'd like to hear it.

Josh Reid: I agree with what you're saying. What binds the legislature is that they have to do a balanced budget and it has to be proved through legislation and signed by the Governor.

I agree with you the legislature can do whatever it wants. The practicality of it, based on the legislative hearings on the bills that were passed last week, it appears that they may be waiting for the Board's approval. The CBAs, the fiscal impacts of the CBAs on the agenda today are not in the bill that are proposed to approve the fiscal impacts of the various CBAs and appeared, based on that committee hearing, they're waiting to hear from the BOE, but it is true, the legislature can do whatever they want. They can give every employee a golden pony, whether it's in the CBA or not.

Attorney General: Okay. Thank you, Josh. I find this to be a very precarious situation. Obviously, it's unique that we've never had to deal with an unsigned contract before, but with the fiscal impact being only \$122,083, and with the bargaining units counsel acknowledging that their signature isn't required to enforce it because they've been through binding arbitration, and based on our conversation that we've just had, I'm inclined to support this – which is different than when I walked in here, I wasn't going to support it, but I'm inclined to support the contract based on what you've just said, to allow the legislature to perhaps at a minimum, appropriate monies that are accounted for here in this particular binding agreement. So, thank you so much for those answers Josh. Thanks for the counsel.

Governor: I believe we have one more question.

Secretary of State: My question is, the negotiated dollar amount is agreed to, it's the terms of the contract that the other party has not agreed to sign, is that correct?

Josh Reid: Yes, and part of the reason why they haven't signed the agreement is their counsel has told them it's not required. They are not contesting the terms in the proposed contract. Any contract that is approved by the BOE, if it requires an appropriation or a legislative change by the legislature, those provisions don't become effective until that appropriation or legislative change is made.

Secretary of State: Okay, is that advice to the client that it is not necessary for them to sign, is it in writing, and do we have a copy of that guidance?

Josh Reid: We do have in writing from their attorney that he agrees that their signature is not required and the CBA becomes effective with or without their signature.

Secretary of State: So, does this set a precedent for future negotiation and contract agreements?

Josh Reid: Well again, I think it's a precedent that most of the unions would agree with. The unions don't want the state or the Executive Department to not submit CBAs for BOE approval because they disagree with an arbitrator's decision. The unions and the state, we both have the ability to challenge an arbitrator's decision in district court. Under the Uniform Arbitration Act, you have 90 days to do that. It's highly unlikely that would happen in this case but there can be litigation issues that come up after BOE approval. Our advice is, we don't want a precedent of holding up BOE approval because union members disagree with the binding arbitrator's decision. So, I think there is a precedent set but I think it's a positive precedent for the Executive Department.

Attorney General: Josh, I want to be clear, as the Attorney General for the for the state and the counsel for the Executive Department, I am not sitting at this dais now acquiescent to the notion that an unsigned arbitration agreement on behalf of the Executive Department can be enforced against the Executive Department. You might be right, but I don't want it to be construed as, the Attorney General sitting here as counselor of the Executive Department acknowledging and acquiescing to that particular fact. It would take some additional research and/or litigation to accomplish that.

Back to the original point, which is, their counsel has given you written confirmation that they believe that this can be enforced against them, even though it's not been signed. That, to me, is a distinction that makes a big difference.

I do think, however, there was some confusion relative to the Secretary's question to you. I don't think that the bargaining unit agrees to the number amount. They may agree with the terms but they don't agree with the number and that's the biggest problem right? They want this number to be a lot larger, relative to what they were bargaining for. Am I right about that?

Josh Reid: Yes, their proposal to the arbitrator would have been a much larger number.

Attorney General: So, aside from the number, the other terms, they probably are less concerned about. They are really at odds with the fact that they're only getting the \$122,083 collective bargaining agreement submitted to the legislature.

Josh Reid: Yes, it is \$122,083 but also, there is also a provision that if all state employees are provided additional compensation, that they also get the same additional compensation.

Attorney General: That makes a lot of sense. Okay, thanks so much. Thanks for indulging me, Governor.

Secretary of State: Now I have a question, a clarifying question. So, they're not signing the collective bargaining agreement because they do not agree to the amount, but we went to an arbitrator, the arbitrator ruled in the favor of the state with this number and they have failed to file an appeal on that arbitration, or is that not determined?

Josh Reid: They have 90 days from the date of the decision, which was about three weeks ago.

Secretary of State: Then, say if we approve this and it gets sent over to the legislature, the legislature may adopt this in its budgeting process, the arbitrator then rules in favor of the union, and there is a different district court judge – then does the legislature have to go back into special session to be able to appropriate that additional funding, or where do we end up?

Josh Reid: This has been litigated. There was litigation in 2021 and 2023 after collective bargaining by various unions and this issue has been litigated. It has happened where a union received a positive arbitrator's decision with an award for a Cost-of-Living Adjustment

pay increase but it was after legislative session had concluded. These appropriations have to be in a regular session and not special session and courts have upheld the notion that if the legislature doesn't appropriate it, they don't get it. So, depending on what the legislature does, there could be similar litigation again.

With respect to the amount, I have not heard or received any comments with respect to the proposed CBA that they haven't contested any of the specific terms of the proposed CBA. The articles that they submitted for arbitration, they wanted those to win in arbitration and so they have concerns about that but there have been no concerns about an incorrect fiscal impact. At least, no concerns given to me through their attorney or that any of the other terms and conditions are incorrect.

Governor: Alright, if there are no further questions, I'll entertain a motion for approval.

Secretary of State: Motion to approve.

Governor: We have a motion. All those in favor, signify by saying aye.

Secretary of State: Aye.

Attorney General: Aye.

Governor: Aye. The motion passes.

We will move on to agenda item 3.B. Ms. Greenameyer.

Clerk of the Board: Item 3.B is with the Fraternal Order of Police, Nevada CO, Lodge 21 for Bargaining Unit N. The estimated fiscal impact of this agreement, if approved, is \$21,155,823. Are there any questions on this item?

Governor: Do we have any questions? If there are no questions, I'll entertain a motion for approval.

Attorney General: Move approval.

Governor: All those in favor, signify by saying aye.

Secretary of State: Aye.

Attorney General: Aye.

Governor: All those against, signify by saying nay. Nay. The motion passes.

4. Public Comment

This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under this public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board has imposed a time limit of three minutes. Public comment may be provided in person or via telephone. To provide public comment on an item on the agenda via telephone, dial 775-321-6111 or 702-329-3435. When prompted to provide the meeting ID, please enter 557 435 475#. When the Chair opens the public comment period, dial *5 to request to be unmuted. To resolve any issues related to dialing in to provide public comment for this meeting, please call (775) 684-0222.

Governor: We will move on to agenda item number 4, the second opportunity for public comment. This public comment period is for any matter that is within the jurisdiction of the public body. Please limit your comments to three minutes.

Do we have anyone for public comment there in Las Vegas?

Rosalie Bordelove: No, sir.

Governor: Do we have anyone here in Carson City? Do we have anyone on the phone? Hearing none.

5. Adjournment (For possible action)

Governor: I will entertain a motion for adjournment.

Secretary of State: So moved.

Governor: We have a motion for adjournment. All those in favor, signify by saying aye.

Secretary of State: Aye.

Attorney General: Aye.

Governor: Aye. We are adjourned. Thank you.