



ASSOCIATION  
*of* LABOR RELATIONS  
AGENCIES

# ALRA Advisor



March 2024

# IN THIS ISSUE

## ALRA NEWS

FROM THE PRESIDENT .....3

2023 CONFERENCE RECAP.....4

2023 CONFERENCE—ATTENDEE PERSPECTIVE..5

EDUCATION GRANTS ..... 6

## ALRA MEMBER UPDATES

CANADA.....9

- Canada Industrial Relations Board.....9

UNITED STATES ..... 12

- Maryland Public Employee Relations Board .....12
- New Mexico Public Employee Labor Relations Board .....13
- Washington State Public Employment Relations Commission.....15



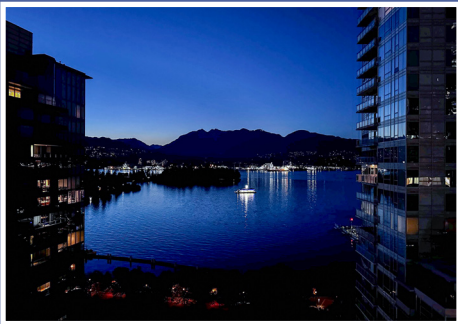
The ALRA Advisor is published biannually. On occasion, special issues are produced on an ad hoc basis.

**Deadlines**  
Deadlines for submissions are communicated to member agencies via email.

**Articles and Photos**  
All articles are subject to editing for length and clarity. Images should be high resolution.

Submit all material to  
  
Travis Kearns  
[travis.kearns@ontario.ca](mailto:travis.kearns@ontario.ca)

Special thanks to  
  
Travis Kearns  
Ontario Labour Relations Board  
  
Vanessa Smith  
Executive Assistant,  
Washington State Public  
Employment Relations  
Commission



On the Cover: View of Vancouver Harbour from the Pinnacle Hotel Harbourfront / Photo Credit: Mike Sellars

# FROM THE PRESIDENT

I hope that this edition of the ALRA Advisor finds things well with you and your agencies. I want to start by expressing my sincere thanks to my predecessor Mike Sellars and all the members of the ALRA Executive Boards from 2020 to 2023. The Vancouver ALRA conference was a long time in the planning and well worth the wait. I would also like Trevor Craig, Canada Industrial Relations Board; Lindsay Foley, Canada Industrial Relations Board; Jennifer Glougie, BC Labour Relations Board & Employment Standards Tribunal; and all those who worked on the Arrangements Committee and made the 2023 conference a success. ALRA conferences provide an invaluable opportunity for member agencies to connect and learn from each other. While the 2021 and 2022 virtual conferences were fantastic, it was wonderful to be able to once again reconnect in person with our ALRA colleagues.



Eileen  
Hennessey

By the time you read this, planning is well underway for the 2024 ALRA conference, which will be held at the [Hollywood Casino Hotel at Greektown](#) in Detroit, Michigan. The dates of the conference are July 27–30, 2024. A block of rooms has been reserved for \$180 USD/night for ALRA conference delegates. The Arrangements, Program, and Professional Development Committees are hard at work identifying themes and speakers for the conference agenda. We will be posting updates on the 2024 conference and links to registration on the ALRA website later this spring.

A reminder that there are conference travel grants available for employees of member agencies and organizations to travel to Detroit. For further details, please contact Natalie Zawadoswky, Vice President of Professional Development and Executive Board Member, at [natalie.zawadoswsky@tribunal.gc.ca](mailto:natalie.zawadoswsky@tribunal.gc.ca).

On behalf of the entire ALRA Executive Board, I want thank each of you and your agency's continued support of ALRA. We hope to see all of you in Motor City in July 2024.

—Eileen Hennessey

## PRESIDENT

Eileen Hennessey,  
National Mediation Board

## PRESIDENT-ELECT

Sylvie Guilbert, Canada  
Industrial Relations Board

## IMMEDIATE PAST PRESIDENT

Mike Sellars, Washington  
State Public Employment  
Relations Commission

## VICE PRESIDENT: ADMINISTRATION

Travis Kearns, Ontario  
Labour Relations Board

## VICE PRESIDENT: FINANCE

John Wirenius, New York  
State Public Employment  
Relations Board

## VICE PRESIDENT: PROFESSIONAL DEVELOPMENT

Natalie Zawadoswky,  
Canada Industrial Relations  
Board

## BOARD MEMBERS

Jennifer Glougie,  
British Columbia Labour  
Relations Board

Kathy Peters, Federal  
Mediation and Conciliation  
Service – Canada

Sidney McBride,  
Michigan Employment  
Relations Commission

Adam Rhynard,  
Oregon Employment  
Relations Board

Alexandra Connor,  
Nova Scotia Conciliation  
and Mediation Services

Todd Doncavage,  
Minnesota Bureau of  
Mediation Services



## 2023 CONFERENCE RECAP

*By Mike Sellars*

The 2023 ALRA conference, held in Vancouver, BC at the Pinnacle Hotel Harbourfront—which offered views of Vancouver Harbour, as shown in the cover photo—was special for many reasons. Foremost, it was the first in-person ALRA conference since 2019's conference in Cincinnati. All the attendees spoke about the value of being back in person, where the information sharing is more organic and effective than in a remote setting.

The theme of the conference was "Labour Transformation in the New Era of Work." Here are just some of the highlights:

### Saturday

The always-popular ALRAcademy took place on Saturday. The academy gives attendees a baseline of the different labor relations schemes in Canada and the United States but also demonstrates the commonality in the work performed by the member agencies. The opening reception on Saturday evening was a great way to begin the in-person event.

### Sunday

Sunday morning featured panel sessions that looked at the "new era of work" from two angles. The first session, with panelists from member agencies, examined developments and trends in the workplace and at the bargaining table. The second session discussed the expansion and successful use of e-tools in various areas administered by member agencies, including hearings, elections, mediations, and union activity. At lunch, Joey Hartman, the chair of the BC Labour Heritage Centre, spoke to attendees about British Columbia's rich labour history. The afternoon featured the traditional roundtable sessions. These facilitated sessions allow delegates to exchange views and practical advice on important matters and issues confronting practice areas within the member agencies.

### Monday

The Monday of the conference always features Advocates Day, where advocates join the delegates for the day's sessions.

The day began with a panel comprised of Jim Stanford, Director of the Centre for Future Work; Derrick Hynes, President of the Canadian organization Federally Regulated Employers – Transportation and Communications (FETCO); and Sussanne Skidmore, President of the British Columbia Federation of Labour. This panel examined the economic new reality and what is important to parties at the bargaining table. The second session of the morning featured National Labor Relations Board General Counsel Jennifer Abruzzo, Canadian Labour Congress President Bea Bruske, and Canadian management-side lawyer Richard Charney. The session discussed the shifts and developments in organizing.

At lunch, Tom Roper—a 2022 winner of the Bora Laskin award for outstanding contributions to Canadian labour law—spoke to the attendees.



*Above:* Jim Stanford;  
*Left:* Susan Panepento, Bea Bruske, Jennifer Abruzzo, and Richard Charney;  
*Below:* Tom Roper

The first two afternoon sessions concentrated on the transportation industry. National Mediation Board Chair Deirdre Hamilton discussed post-pandemic dispute resolution in that industry and focused on the 2022 rail contract dispute in the United States. After that, a panel featuring Leslie Dias, the former director of Unifor; Brent Leonard, Vice President of the International Association of Sheet Metal, Air, Rail and Transportation Workers; Mike Abbott, Vice President of Labour Relations at Air Canada; and Maqui Parkerson, Vice President of Labour Relations at Union Pacific examined post-pandemic issues in the transportation industry.

The last session of the day examined diversity, equity, and inclusion at the bargaining table and in the workplace, particularly the entertainment industry. The session featured British Columbia Labour Relations Board Chair Jennifer Glougie and Elevate Inclusion Strategies CEO Natasha Tony. Finally, the day ended with a reception for attendees.

## Tuesday

Tuesday is a return to delegates-only sessions. The morning featured two sessions each for adjudicators and mediators. For the adjudicators, the sessions examined how to optimally conduct virtual or hybrid hearings and tips for writing clear and concise decisions. For the mediators, the sessions examined (1) conducting presentations, training, and mediation sessions in a virtual or hybrid format and (2) the expansion of mediation techniques and forms.

The afternoon session featured the return of The Basics of Ethics where, using case scenarios, participants engaged in discussions regarding questions of public perception, potential biases, and ethical considerations for mediators and adjudicators. The conference wrapped up with the annual general membership meeting and a banquet.

Thanks to everyone on the conference committee for all their work in organizing and pulling off this successful conference. A special thanks to our local Vancouver committee members Jennifer Glougie from the British Columbia Labour Relations Board and Lindsay Foley from the Canada Industrial Relations Board.

As the two local committee members, they were often left with the “on-the-ground” tasks. ■



**Left:** Deirdre Hamilton; **Below:** Michael Kelliher, Mike Abbott, Leslie Dias, Brent Leonard, and Maqui Parkerson



Jennifer Glougie



## 2023 CONFERENCE—ATTENDEE PERSPECTIVE

*By Elizabeth Cameron, Board Member, Canada Industrial Relations Board*

Earlier this year, I had the pleasure of participating as a first-time delegate to the 71st Annual ALRA Conference. The theme of the conference, Labour Transformation in the New Era of Work, lay the foundation for a captivating group of speakers, covering topics that were completely relevant to my role as a member of the Canada Industrial Relations Board.

Every workshop offered by conference organizers provided an opportunity for me to deepen and elevate my skills as a neutral. For example, I picked up invaluable tips for making my decision writing clearer and more effective. I was able to implement the strategies immediately on my return to Ottawa.

I was also fortunate to be invited to co-facilitate a round-table discussion during the conference that included a diverse group of neutrals from Canada and many US states. We shared ideas on overcoming obstacles that arise from our unique organizational structures, for dealing with pandemic-related caseload backlogs, and for new board member orientation programs to improve the experience for new hires. The free-flowing discussion and candid contributions by seasoned participants truly enriched the outcome of this session.

It must be said that having the ALRA conference in person, rather than virtually as it had been for the three previous years, allowed participants to truly benefit from the collaboration that goes along with meeting and learning from like-minded professionals. As a participant, I was able to tap into the experiences of long-serving board members from other jurisdictions who have dealt with the new challenges presented by ChatGPT and the old challenges presented by repeat complainants. Getting to the heart of these difficult core issues is a valuable way to learn from others and build strong foundations within our respective boards, without reinventing the wheel.

As a newcomer to ALRA, it didn't take me long to see the benefits of this valuable organization. I now can tap into a new network of professionals who are experts in their field and who are more than willing to act as resources as needed. I look forward to hearing about the exciting offerings to come. ■

**"The ALRA 2023 conference checked all the boxes for me, with excellent speakers, a network of seasoned professionals to brainstorm with, and robust papers and presentations to take home. Thank you to the organizers for a successful conference!"**

—Elizabeth Cameron, Board Member, Canada Industrial Relations Board

## EDUCATION GRANTS

As in years past, ALRA offered education grants of up to \$1,000 to help first-time or returning attendees from member agencies to attend the conference. In 2023, eight education grants were approved. Several of the grant recipients described their experience and the benefits of the ALRA conference:

**"The conference was a great opportunity to share some of the blessings and curses that commonly arise for practitioners. We picked up practical and imaginative tools that have been making life easier and more efficient. It was fantastic to get to learn with everyone present and broaden awareness of not just the field [but] of the people who make the miracles happen. Great thanks to everyone who organized and participated!"**

—Jodie Hoffart, Industrial Relations Officer, Canada Industrial Relations Board



“I am so grateful that that four of the Industrial Relations Officers (IROs) of the Canada Industrial Relations Board in Vancouver were selected for an educational grant at this year's ALRA conference. The ALRA conference provided a great opportunity for skill development and exposure to ADR in Labour Relations. The IROs benefited from this conference by gaining knowledge and sharing experiences with other practitioners from Canada and the United States of America. The topics were on point and the speakers/facilitators were enthusiastic, knowledgeable, and incredibly skilled in their presentations.”

—Lindsay Foley, Regional Director, Canada Industrial Relations Board

“The ALRA conference provided us, as neutral parties, with a valuable occasion to engage in discussions about various approaches used by different entities in facilitating access to justice for complainants. The topics and presentations served as an excellent platform to enhance our skills, validate our methods, and exchange solutions. I had the privilege to connect with numerous professionals, gaining insights into the diverse cases they handled, the situations and challenges they encountered, and the pivotal role of collaboration with decision-makers, mediators, and LR professionals in effective case settlement.”

—Fisnik Kumnova, Industrial Relations Officer, Canada Industrial Relations Board

“As a new labour relations mediator, I was beyond grateful for the opportunity to attend my very first ALRA. I learned so much from every session and every conversation—even the coffee breaks brought new knowledge and ideas!

While the sessions were engaging, informative, and thought-provoking, the real gem was the people. Meeting colleagues from across the continent, comparing notes on mediation approaches and legislation, learning about their paths and careers—it really opened my eyes to the possibilities within the labour relations field. There is so much we can learn from each other, especially when we remember that there are a hundred different ways of approaching the same problem.”

—Diana Bartosh, Industrial Relations Officer, Canada Industrial Relations Board



“I attended my second ALRA conference this summer, this time in Vancouver. I first attended the conference in Boston in 2018. During my first visit to ALRA in 2018, I had only been in my position for a year. ALRA members made me feel welcome and I met several colleagues who I have remained in contact with.

When I left for Vancouver, I knew there were a few challenging cases before my agency, so I showed up with specific questions. During one of the sessions, panelists and attendees discussed representation elections. I learned that in Canada electronic ballot elections are common, and that some agencies in the USA also conduct electronic ballot elections. Specific vendors were named and I was able to ask questions about the vendors. I was able to speak extensively to colleagues about overcoming challenges that our agency faces regarding representation elections and agency processes, and I received feedback and suggestions. Most importantly, after I returned to Alaska, I spoke to colleagues at Washington PERC about conducting an electronic election using Intelivote. PERC staff provided our agency with information and support that helped us navigate a novel election process. Without the support of a sister agency I would not have had the confidence to forge ahead with the electronic ballot vote. The unit included about 450 voters, and a mail ballot election would have been a tremendous lift for our staff. We are so grateful to have electronic ballot voting as a tool in future representation elections. I look forward to learning more in Detroit! ”

—Nicole Thibodeau, Hearing Examiner/Administrator, Alaska Labor Relations Agency



*Join Us in Detroit!*

The 72nd Annual Conference of the Association of Labor Relations Agencies will be held in Detroit, Michigan, on July 27-30, 2024.

The Greektown Hollywood Hotel is in the heart of downtown, with beautiful skyline and river views.

A block of rooms is reserved for \$180 USD/night for ALRA conference delegates. Reserve your room today at <https://www.hollywoodgreektown.com/hotel>.



## CANADA



## CANADA INDUSTRIAL RELATIONS BOARD

**Important Canada Industrial Relations Board Decisions**

There are two Canada Industrial Relations Board (the Board) decisions that may be of interest to ALRA members. In the first decision, *LTS Solutions Ltd.*, 2023 CIRB 1075, the Board settled the terms of a first collective agreement for the first time in over 25 years. The second decision, *British Columbia Maritime Employers Association*, 2023 CIRB 1088, involved a determination by the Board of whether a strike was unlawful in a unique factual circumstance.

***LTS Solutions Ltd.*, 2023 CIRB 1075**

Section 80 of the Canada Labour Code (the Code) allows the Minister of Labour to direct the Board to inquire into a labour dispute where the parties are negotiating a first collective agreement. The Board can also settle the terms of the collective agreement.

In 2019, the International Brotherhood of Electrical Workers (the union) and LTS Solutions Ltd. (the employer) were negotiating a first collective agreement. At the union's request, the Minister of Labour referred the collective bargaining dispute to the Board. Following the referral, the Board decided in *LTS Solutions Ltd.*, 2022 CIRB 1047, that, due to the actions of the employer which were tantamount to a denial of the representation rights of the union and a refusal to recognize the union, it was appropriate for the Board to intervene and settle the terms of the first collective agreement. Since the parties had done some bargaining in 2021, the Board asked the parties to meet with a Board mediator to determine the issues that required resolution by the Board.

The issues that were returned to the Board included the duration of the collective agreement, union security, wage schedule,

health and welfare benefits, pension and retirement benefits, and a letter of understanding on exclusive union jurisdiction.

In order to assess and determine how to settle the remaining terms, the Board reviewed and analyzed the different approaches that arbitrators have used to settle the terms of a collective agreement. These include referring the dispute to a single arbitrator or a panel, a mediation-arbitration process, and final offer selection. The Board determined that the approach needed to be tailored to the nuances of the dispute on a case-by-case basis.

For this dispute, the Board chose final offer selection, on an issue-by-issue basis, as the appropriate approach to resolve the outstanding collective agreement issues. This is a form of interest arbitration where the parties make their last and best proposal on the matters at issue, and then the Board selects either the union's proposal or the employer's proposal without modification. The Board chose this method because the issues in dispute were narrow and clearly defined. It also felt that final offer selection, on an issue-by-issue basis, would encourage the parties to realistically evaluate their position and the position of the other party and put forward a realistic proposal.

In assessing and selecting offers on each of the issues, the Board decided to follow the principles set out in *Yarrow Lodge Ltd.*, BCLRB No. B444/93 (*Yarrow Lodge*). This case set out five factors that arbitrators should consider in determining the terms of a first collective agreement. Among other things, *Yarrow Lodge* refers to two framework principles, replication and fairness and reasonableness in the circumstances, as the basis for arriving at the terms of a first contract. In using these principles, the Board attempted to replicate the result that reasonable parties would

have reached had they been able to successfully bargain the remaining issues in this matter.

Ultimately, the Board selected each of the union's proposals except for the duration of the collective agreement. Section 80(4) of the Code provides for a mandatory two-year term when the Board determines the term of a collective agreement; accordingly, it ordered that the term of the collective agreement be for a period of two years.

### ***British Columbia Maritime Employers Association, 2023 CIRB 1088***

In the summer of 2023, there was labour unrest in the Port of Vancouver. The International Longshore and Warehouse Union-Canada (the ILWU or the union) went on strike on July 1, 2023. This strike impacted more than 115,300 supply chain jobs at Canada's busiest port. On July 11, 2023, in an effort to assist the parties, the Minister of Labour requested that a senior Federal Mediation and Conciliation Services mediator (the senior mediator) make recommendations on the terms of settlement of the dispute. These recommendations were provided to the parties on July 12, 2023. On July 13, 2023, the parties agreed to send the recommendations to their respective memberships for ratification. Picket lines came down and the British Columbia Maritime Employers Association (the BCMEA or the employer) started to ramp up operations. On July 18, 2023, the ILWU issued a news release announcing that its caucus committee had voted down the recommendations for settlement and that later that day it would resume picketing.

The BCMEA immediately brought an application for a declaration of unlawful strike. It asserted that after suspending the strike on July 13, 2023, following the agreement to recommend the senior mediator's proposal for ratification, the ILWU was obligated to serve a new 72-hour strike notice prior to resuming its strike activities on July 18, 2023.

The Board was asked to determine whether, after suspending the strike on July 13, 2023, the ILWU had to give another strike notice before resuming the strike on July 18, 2023.

The Board concluded that an unlawful strike had occurred since the ILWU had failed to give a 72-hour notice of strike as required by section 87.2(1) of the Code.

After examining the evidence and the relevant jurisprudence and analyzing the purposes of section 87.2(1) of the Code, the Board noted that in the agreement to recommend the senior mediator's proposal for ratification, the parties had agreed to suspend the strike but had not turned their minds to the consequences of non-ratification. Further, the Board also noted that following the agreement, the employer had resumed full operations and the union had remained silent in the face of statements by the Minister of Labour about the end of the strike.

Based on the evidence presented, the Board was satisfied that there was no ongoing strike activity between July 13 to 18, 2023, and that the strike had ceased. In this context, the Board found that the union was required to serve a new notice that a strike would occur. Requiring a new notice is meant to provide clarity and allow the employer to put appropriate measures in place for the orderly shutdown of operations. The Board stated that similarly, in the circumstances of this case—where strike activities had stopped, the employer had resumed full operations, and there was no agreement or clarity between the parties on the status of the strike—a new notice was required.

*An application for judicial review of this decision is pending in the Federal Court of Appeal (A-186-23).*

## **Legislative Updates**

### ***Bill C-58: An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012***

Bill C-58, *An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012* (the Act), was introduced in the House of Commons on November 9, 2023. The proposed amendments to Part I of the Code and the *Canada Industrial Relations Board Regulations, 2012*, primarily relate to the prohibition of replacement workers in federally regulated sectors during a strike or lockout. A

replacement worker is a person who does the work of a unionized worker who is on strike or locked out. Bill C-58 would make it an unfair labour practice to use replacement workers and adds a fine for employers that contravene these prohibitions. If the legislation passes, employers will be banned from using employees or managers hired after notice to bargain is given or contractors to do the work of striking or locked out employees. An exception applies in situations where there are threats to health and safety, destruction of the employer's property or serious environmental damage. If a union believes the employer is using replacement workers beyond these exceptions, their recourse is to file a complaint with the Board, who will then decide on the merits of the complaint.

Currently, British Columbia and Quebec are the only two provinces that prohibit employers from using replacement workers during a strike or lockout.

Bill C-58 also proposes amendments to the maintenance of activities provisions in the Code to require that parties reach an agreement, early in the bargaining process, on the level of services that need to be maintained during a strike or lockout. Parties will have 15 days after notice to bargain is given to reach a maintenance of services agreement. If no agreement is reached, the Board will decide which activities need to be maintained. The proposed legislation gives the Board 90 days from the date that an application is filed, or the Minister refers the matter to the Board, to resolve the matter.

If these amendments are passed, the Bill currently envisages that they will come into force 18 months after the Act receives royal assent.

### **Bill C-13: An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act, and to make related amendments to other Acts**

On June 20, 2023, Bill C-13, *An Act to amend the Official Languages Act ("An Act for Substantive Equality of Canada's Official Languages")* received royal assent. The legislation is aimed at

protecting the French language across federally regulated private businesses operating in Quebec and in regions of Canada with a strong francophone presence.

Bill C-13 contained new legislation entitled the *Use of French in Federally Regulated Private Businesses Act* (the Act). The Act requires that

- consumers in Quebec or a region in Canada with a strong francophone presence should have the right to communicate in French with federally regulated private businesses; and
- employees of federally regulated private businesses who work in Quebec or in a region in Canada with a strong francophone presence should have the right to work in French.

It is the latter requirement that impacts the Board. Section 9 of the Act sets out the language of work rights of employees of federally regulated private businesses and includes the following:

- The right to work and be supervised in French.
- The right to receive communications and documentation in French.
- The right to use regularly and widely used work instruments and computer systems in French.

Employees who feel that their employers are not respecting their obligations under the Act may file a complaint with the Commissioner of Official Languages (the Commissioner). The Commissioner may, with the consent of the complainant and after giving notice, refer a complaint to the Board if the Commissioner is of the opinion that the Board will be better able to deal with the complaint, having regard to its nature or complexity or the seriousness of the alleged contravention.

The provisions of the new Act that apply to Quebec will come into force by decree, while those that apply to regions with a strong francophone presence will come into force two years later.



## Appointments and Reappointments to the Canada Industrial Relations Board

On November 24, 2023, Angela Talic of Coquitlam, British Columbia, was appointed to the Board for a three-year term as a full-time member representing employees. The effective date of appointment is January 3, 2024. Angela is an associate with the law office of Koskie Glavin Gordon in Vancouver and worked as a longshore worker in the Port of Vancouver for 25 years. Angela served as Vice President of the International Longshore and Warehouse Union Canada from 2012 to 2014.

Four current members of the Board have recently been reappointed: Richard Brabander and Elizabeth Cameron were reappointed as full-time members representing employers, Barbara Mittleman was reappointed as a part-time member representing employers, and Paul Moist was reappointed as a part-time member representing employees. All four members were reappointed for three-year terms. These members have extensive labour relations experience and have played a key role in adjudicating matters at the Board. They will continue to serve the best interests of Canadians. ■

# ALRA MEMBER UPDATES

## UNITED STATES



## MARYLAND PUBLIC EMPLOYEE RELATIONS BOARD

The State of Maryland does have a bit of an update for ALRA—we have a new agency! And, in July 2023, we went from three labor relations agencies to one.

The new agency, created by Maryland's Public Employee Relations Act of 2023, has a name familiar to many of you from other states: the Public Employee Relations Board, or PERB. Maryland's PERB replaces its previous three agencies: the State, Public School, and State Higher Education Labor Relations Boards. The PERB combines the jurisdictions of those prior boards, which as their names indicate means Maryland's PERB does not have jurisdiction over local government employees, other than those working for public schools.

The 2023 Maryland statute establishing the new PERB also gave it—unlike the previous statewide labor relations boards—the authority to order monetary remedies for loss of “pay” or “benefits” due to unfair labor practices. The new Maryland PERB can also, for the first time in the state, certify an employee organization to represent public employees without an election, based on proof of majority employee support in the relevant unit. Since July, the new PERB has already relied on that authority to certify representatives for full-time faculty at multiple community colleges.

The Maryland PERB retains the Executive Director employed for more than 20 years by the prior boards, Erica Lell Snipes, but the 2023 statute initiated the position of full-time PERB Chair and also empowered the PERB to retain

Deputy Directors to investigate each unfair labor practice charge and recommend whether the PERB should dismiss or further proceed on it.

The PERB's initial Chair is Michael J. Hayes, longtime labor law professor at the University of Baltimore with stints also at the National Labor Relations Board and the U.S. Department of Labor. The first Members are (recommended by

public employers) Harriet Cooperman, former Chair of the Higher Education Board, and Richard Steyer, former Chair of the State Board, and (recommended by employee organizations) Judith Rivlin, former Member of the Public School Board, and labor educator Lynn Ohman. All were appointed by Maryland Governor Wes Moore. ■



## NEW MEXICO PUBLIC EMPLOYEE LABOR RELATIONS BOARD

### New Mexico Public Employee Labor Relations Board Anticipates A Vacancy In Its Executive Director Position



After serving 13 years as Executive Director of the New Mexico Public Employee Labor Relations Board (PELRB), making him the longest-serving director in the Board's history, Thomas J. Griego anticipates retiring at the end of September 2024. The Board is actively recruiting for his replacement. (View

the job posting at <https://www.pelrb.nm.gov/wp-content/uploads/2024/01/PELRB-Job-Posting-2024-01-30.pdf>)

The Board is an independent legislative agency created by New Mexico's Public Employee Bargaining Act (PEBA or the Act), (NMSA 1978 §§ 10-7E-1 through 10-7E-26, (2020)), which vests the PELRB with authority over all general collective bargaining matters among public employers, labor organizations, and individual public employees subject to the Act. The PELRB also has jurisdiction to ensure that ordinances, charters, or resolutions of any special districts or local governments establishing a local labor board comport with the PEBA.

The PEBA provides the following basic rights and responsibilities:

- Public employees may form, join, or assist a union for the purpose of collective bargaining through representatives of their choice or refrain from such activities without interference, restraint, or coercion. See §§ 10-7E-2 and 5 of the PEBA.
- Public employees have the right to engage in other concerted activities for mutual aid or benefit. This right shall not be construed as modifying the prohibition against public employee strikes. See § 10-7E-5(B).
- Whenever a petition is filed by a labor organization containing the signatures of at least 30 percent of the public employees in an appropriate bargaining unit, the Board or local board shall conduct a secret ballot election or a card check to determine whether and by which labor organization the public employees shall be represented. Within 10 days of accepting for filing such a petition, the Board or a local board shall require the public employer to provide the labor organization the names, job titles, work locations, home addresses, personal email addresses, and home or cellular telephone numbers of any public employee in the proposed bargaining unit. This information shall be kept confidential by the labor

organization and its employees or officers. See § 10-7E-14.

- Public employers and unions must negotiate in good faith over mandatory subjects of bargaining such as wages, hours, and all other terms and conditions of employment except for retirement programs provided pursuant to the Public Employees Retirement Act or the Educational Retirement Act and payroll deduction of membership dues if a party requests bargaining that subject. They must also bargain over the impact of professional and instructional decisions made by the employer, in the case of public schools and educational employees in state agencies. This duty to bargain in good faith is ongoing even after the parties have entered into a collective bargaining agreement and during its term, unless it can be demonstrated that the parties clearly and unmistakably waived the right to bargain regarding a particular subject. However, no party may be required to renegotiate the existing terms of collective bargaining agreements already in effect. See §§ 10-7E-17(A), (D), and (G).
- The PEBA imposes affirmative and reciprocal duties on exclusive representatives and public employers to “bargain in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties.” See § 17(A) (1). See also § 19(F) and § 20(C) prohibited the violation of that reciprocal duty by either party. A request by the exclusive representative to the State for the commencement of initial negotiations shall be filed in writing no later than June 1 of the year in which negotiations are to take place. Negotiations shall begin no later than July 1 of that year. In subsequent years, negotiations agreed to by the parties shall begin no later than August 1 following the submission of written notice to the State no later than July 1 of the year in which negotiations are to take place. See § 10-7E-18(A)(1).
- Effective July 1, 2020, no new local labor boards may be created as was previously permitted. However, local boards existing as of July 1, 2021, may continue operating after December 31, 2021, if they have submitted to the PELRB an affirmation that the public employer has elected to continue operating under the local board and each labor organization representing its employees has submitted written notice to the PELRB that it also elects to continue to operate under the local board. A local board that fails to timely submit the affirmation shall cease to exist. See § 10-7E-10. Thereafter, the required affirmation of this section shall be resubmitted to the Board by each local board between November 1 and December 31 of each odd-numbered year. This reporting period, being an odd-numbered year, will reflect any local boards that went out of existence for lack of the required affirmation. (A local board that fails to timely submit the affirmation by the December 31, 2023, deadline shall cease to exist as of January 1, 2024.)
- Beginning on July 1, 2020, if at any time thereafter a local board has a membership vacancy exceeding 60 days in length, the local board shall cease to exist. A local board may also cease to exist upon (1) a repeal of the local ordinance, resolution, or charter amendment authorizing continuation of the local board; or (2) a vote of a local board, the result of which vote is filed with the board. Once a local board ceases to exist for any reason, it may not be revived.
- A public employer must provide an exclusive representative with the names, job titles, work locations, home addresses, personal email addresses, and home or cellular telephone numbers of any public employee in a proposed bargaining unit under § 10-7E-15(F). See also, *American Federation of Teachers and International Association of Machinists and Aerospace Workers v. University of New Mexico Sandoval Regional Medical Center*, PELRB No. 112-22; 29-PELRB-2022 (11-28-22) and *SSEA, Local #3878 v. Socorro Consolidated School District*, 05-PELRB-2007 extending similar rights to organizing labor organizations prior to their recognition by the Board. ■





## WASHINGTON STATE PUBLIC EMPLOYMENT RELATIONS COMMISSION

### Chairperson Marilyn Glenn Sayan Steps Down from Commission

The end of 2023 marked the end of an era for the Washington State Public Employment Relations Commission (PERC), as Marilyn Glenn Sayan stepped down from the Commission after 27 years as chair.

The three-member Commission, comprised of part-time appointees paid on a \$100 per diem basis, appoints the agency executive directors, decides appeals of agency decisions, and is the agency rule-making entity.

Marilyn was appointed to the Commission by Governor Gary Locke in 1996, following her retirement as a full-time state employee and as the director of the Washington State Department of Personnel in 1995. She was reappointed four more times by three subsequent governors—a feat unheard of in Washington State government. By all accounts, Marilyn is the longest-serving labor board chair in North America.

Marilyn began state service in 1960, earning her bachelor's degree in 1979 from The Evergreen State College and her law degree in 1983 from the University of Puget Sound School of Law. Marilyn moved from largely clerical roles to various management roles with the state's Higher Education Personnel Board. She then moved to the Department of Personnel, where she served as labor relations manager, deputy director, and then director. Combining her tenure as a state employee with her time as

Commission chair, Marilyn served the citizens of the state of Washington for over 61 years.

In her time with PERC, Marilyn was consistently supportive of and active in ALRA. Marilyn was on the ALRA executive board from 1990 until 2006 and served as ALRA President in 2006–2007. She has always spoken positively of ALRA and the long-standing relationships developed because of her participation.



Marilyn  
Glenn Sayan  
and Mike Sellars

Having known and worked with Marilyn in a variety of capacities since 1992, I can say that Marilyn's dedication to the fair and equitable treatment of employees and all people is the hallmark of her tenure in state service. Marilyn has been stalwart in her support of collective bargaining and giving employees a voice. She was always very grateful for and supportive of PERC staff. For many years, she and her husband Doug would host a barbecue for staff at their home on the Puget Sound, serving local salmon and oysters from their oyster bed.

Marilyn has also been very active in her community. She was a founding and longtime board member of Turning Pointe Survivor Advocacy Center, which provides support and services for victims of sexual and domestic violence.

True to form, Marilyn did not want any notoriety or fanfare to accompany her departure from the Commission. The governor will be making an appointment to fill the vacancy—but not Marilyn's shoes. ■

# Save the Date

July 27, 2024 - July 30, 2024

## 72nd ALRA International Conference and Annual Meeting

### Location

Greektown Hollywood Hotel  
Downtown Detroit Michigan  
\$180 USD/night

### Attendees

Labor Relations Agencies, Commissioners,  
Boards, ALJs, Agency Partners, Union &  
Management Representatives & Advocates



### Event Dates

Saturday, July 27, 2024 through  
Tuesday, July 30, 2024



### Topics

- Social Media and Bargaining
- Short & Plain Decisions
- Implementing Tech at Work
- Unique/Creative Legislation
- And much more...

More Information: [www.alra.org](http://www.alra.org)

ASSOCIATION OF LABOR RELATIONS AGENCIES