

## **2008 SYNOPSIS**

### **Certain Classified Employees of the Public Utilities Commission v. SEA of NH, Inc., Local 1984, SEIU PELRB Case No. S-0419-1**

An election by secret written ballot was conducted by the PELRB to determine whether the union would be decertified as the exclusive representative of a bargaining unit comprised of certain state employees. At this election, the union challenged the eligibility of one employee to vote. Following a tally of all votes, it was determined that the challenged ballot could determine the outcome of the election. The ballot tally was suspended by the representative of the PELRB. The sole issue before the PELRB was whether the employee was to be excluded from having his vote cast because he was a confidential employee.

The PELRB found that the union's evidence was insufficient to establish a necessary link the confidential relationship must bear upon labor relations. After weighing the evidence that the employee's position was based upon his knowledge and experience in energy and electrical markets and that he was not involved in the development of labor or personnel policy against the union's evidence, including the job description and three resumes reviewed by the employee, the PELRB found that the employee did not hold a position that implied a confidential relationship to the employer. The PELRB held that the employee was eligible to cast a vote in the decertification election and have it added to the tally. The PELRB ordered its representative to resume the tally, to unseal the employee's ballot before the parties, and to complete the final tally.

*Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.*