



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**New England Police Benevolent Association**

**and**

**Town of North Hampton**

**and**

**Teamsters Local 633 of New Hampshire**

**Case No. G-0003-5**

**Decision No. 2011-007**

**ORDER**

On December 6, 2010 the New England Police Benevolent Association (NEPBA) filed a challenge petition requesting an election to determine an exclusive representative of the existing bargaining unit currently represented by the Teamsters Local 633 of New Hampshire. The subject bargaining unit contains following positions: Police Officers, Drivers and Laborers in the Highway Department. See PELRB Decision No. 2009-145. The petition is supported by the requisite number of authorization cards. See PELRB Report re Confidential Inspection of Authorization Cards (December 17, 2010).

Pursuant to the Notice of Filing, issued on December 6, 2010 and duly posted by the employer, exceptions, objections, and/or petitions to intervene were due no later than December 21, 2010. The incumbent exclusive representative, the Teamsters Local 633, has not filed any objections or exceptions to the petition.

The Town objects to the petition claiming that the petition is barred because the time period to conduct an election set forth in RSA 273 A:11, I (b) has passed. In its objection, the

Town states that the CBA between the Town and the Teamsters has expired on June 30, 2010 and that the parties are “currently operating under the Status Quo Doctrine.” The PELRB has previously held that an incumbent representative is protected from challenge only “during the term of the collective bargaining agreement.” See RSA 273 A:11, I (b). See also *Hudson Police Employee Association and Town of Hudson and AFSCME Council 93*, PELRB Decision No. 2010-219.

Under RSA 273-A:11 (b) and Pub 301.01, an incumbent representative is not entitled to any protection from challenges like the current election petition after the expiration of the term of the collective bargaining agreement even though the incumbent representative retains its status as exclusive representative and may be in the process of negotiating a successor contract.

*Id.* See also *NEPBA, Inc., Local 270 et al and State of New Hampshire, Department of Corrections and State Employees Association of NH, Inc., SEIU Local 1984*, PELRB Decision No. 2009-216, now on appeal, Supreme Court Case No. 2010-0103; *Maintenance and Custodial Employees of Concord School District v. American Federation of State, County and Municipal Employees, Local 1580*, PELRB Decision No. 84-82. Accordingly, the Town’s objection based on RSA 273-A:11, I (b) does not apply and is overruled.

The Town also objects to the composition of the proposed bargaining unit claiming that the unit members lack a community of interest. This objection might be relevant if this were a petition proposing to certify a new bargaining unit or a petition to modify an existing bargaining unit. This petition is neither. Instead, it is a challenge petition in which the NEPBA seeks a secret ballot election to resolve a question of representation of the existing bargaining unit. Accordingly, the Town’s objection based on bargaining unit composition is not relevant and is overruled. See *National Correctional Employees Union and County of Merrimack and State Employees Association of New Hampshire, Inc., SEIU Local 1984*, PELRB Decision No. 2010-208.

Based on the foregoing, there are no issues of material and relevant fact in dispute which would require a hearing. See Pub 201.06 (a). Accordingly, the NEPBA's request for a secret ballot election to resolve the question of representation is granted. An Order for Election shall issue and a pre-election conference shall be scheduled forthwith.

So ordered.

January 4, 2011

  
Karina A. Mozgovaya, Esq.  
Staff Counsel/Hearing Officer

Distribution:

J. Joseph McKittrick, Esq.

Thomas Noonan, Business Agent

Kevin E. Buck, Esq.

Stephen Fournier, Town Administrator