



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New England Police Benevolent Association

and

Town of Newmarket

and

Teamsters Local 633 of New Hampshire, Newmarket Police Association

Case No. G-0173-2

Decision No. 2011-275

ORDER

On October 14, 2011 the New England Police Benevolent Association (NEPBA) filed a challenge petition requesting an election to resolve a question of representation of an existing bargaining unit currently represented by the Teamsters Local 633 of New Hampshire, Newmarket Police Association (Teamsters). See PELRB Decision No. 2005-020. The record reflects that the challenge petition was filed during the final year of the current collective bargaining agreement which expires on June 30, 2012. The Teamsters object to the challenge petition, claiming the election request is barred by the provisions of RSA 273-A:11, I (b),¹ which provides in relevant part:

Public employers shall extend the following rights to the exclusive representative of a bargaining unit certified under RSA 273-A:8: . . .

(b) The right to represent the bargaining unit exclusively and without challenge during the term of the collective bargaining agreement. Notwithstanding the foregoing, an election may be held not more than 180

¹ Objections to the petition were due no later than November 1, 2011. The Teamsters submitted its objection to the other parties on October 28, 2011 but did not file its objection with the PELRB until November 3, 2011. Given these circumstances and the explanation provided by the Teamsters for this sequence of events, the Teamsters' objection is accepted and taken into account in deciding whether election proceedings should continue in this case.

nor less than 120 days prior to the budget submission date in the year such collective bargaining agreement shall expire.

The NEPBA contends the Town's budget submission date is March 13 and the Teamsters claim it is February 1. Either way, the challenge petition was filed beyond the filing period specified by Pub 301.01 (a). This does not necessarily prevent the matter from proceeding to election, however, unless per Pub 301.01 (b) the "board cannot reasonably conduct the election called for in the petition within 120 days of the budget submission date." This is clearly true if the February 1 budget submission date is used as the deadline to complete the election imposed by RSA 273-A:11, I (b) and referenced in Pub 301.01 (b) has already passed. It is also true if March 13 is accepted as the Town's budget submission date because based on that date the election deadline is on or before November 13, 2011. The pre-election process, which includes a pre-election conference and thereafter preparation and posting of a notice of election and election material for seven days prior to the election itself, per Pub 303.04, cannot reasonably be accomplished within the limited time available in order to conduct the election by the November 13, 2011 deadline.²

In accordance with the foregoing, the orders in prior PELRB Decisions Nos. 2011-273 and 2011-274 are vacated, the NEPBA's request for a representation election is denied, and this case is dismissed.

So ordered.

November 3, 2011

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² The PELRB has no authority to allow an election in the circumstances of this case after the November 13, 2011 deadline per *Appeal of State Employees' Association of New Hampshire*, 156 N.H. 507, 511 (2007).