



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
Teamsters Local Union 633
and
State of New Hampshire,
Department of Corrections
and
NEPBA Local 250, State of NH,
Corrections Officer, IUPA, AFL-CIO

Case No. G-0109-7
Decision No. 2012-189

Order

On July 17, 2012, Teamsters Local Union 633 filed a challenge election petition for certification with confidential petition cards signed by certain employees of the State Department of Corrections requesting a secret ballot election to resolve a question of representation of an existing bargaining unit currently represented by the NEPBA Local 250, State of NH, Corrections Officer, IUPA, AFL-CIO. See PELRB Certification of Representative and Order to Negotiate, Case No. G-0109-1, Decision No. 2010-005 (January 5, 2010). The petition is supported by the requisite number of confidential petition authorization cards as required by RSA 273-A:10, I (a); A:10, II; and Pub 301.01 (f), (h), (i), and (k). See PELRB Report re Confidential Inspection of Authorization Cards (July 23, 2012).

Objections, exceptions, and petitions to intervene were due August 2, 2012, but none have been filed.

As required under RSA 273-A:16, I a copy of the State's collective bargaining agreement (CBA) with this unit is on file with the PELRB, and in Article 21.1 it provides that it "shall

remain in full force and effect through June 30, 2013 or until such time as a new Agreement is executed.” The State’s budget submission date is February 15.

The PELRB’s authority to conduct elections involving a challenge to an incumbent exclusive representative is set forth in RSA 273-A:10, VI (c), Pub 301.01 and 301.03. The timeliness of the challenge petition for representation election is determined under the standards set forth in RSA 273-A:11 (b) and Pub 301.01 (a). RSA 273 A:11 (b) provides that an incumbent exclusive representative is entitled to:

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

Further, Pub 301.01 (a) provides in relevant part:

A petition for certification as the exclusive representative of a bargaining unit for which a collective bargaining agreement constituting a bar to election under RSA 273-A:11, I (b) presently exists shall be filed no more than 240 days and no less than 180 days prior to the budget submission date of the affected public employer in the year that agreement expires, *notwithstanding any provisions in the agreement for extension or renewal.*

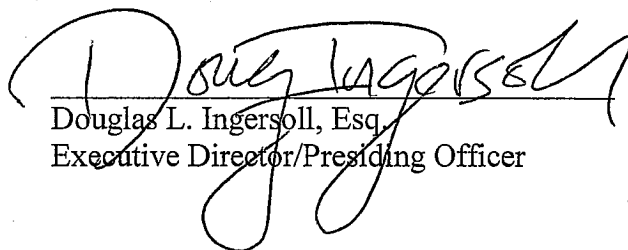
(Emphasis added).

Based upon the CBA’s stated expiration date of June 30, 2013 and the State’s 2013 budget submission date of February 15, the petition is timely as it was submitted during the requisite filing period under Pub 301.01 (a). Additionally, at this juncture there is sufficient time to conduct the election during the period provided in RSA 273 A:11 (b)(180 to 120 days prior to February 15, 2013). For a more detailed discussion of the filing and election period in challenge petitions proceedings *see* PELRB Decision No. 2009-216 (October 8, 2009), *NEPBA Inc. Local 270 et al and State of New Hampshire, Department of Corrections et al*, PELRB Case No. G-0106-1 to 0110-1.

There are no issues of material and relevant fact in dispute which would require a hearing. See Pub 201.06 (a). The filings and the applicable law require the PELRB to proceed with the conduct of a secret ballot election to resolve a question of representation of the existing bargaining unit. Accordingly, an Order for Election shall issue forthwith and a pre-election conference shall be scheduled in accordance with Pub 303.02.

So ordered.

August 6, 2012



Douglas L. Ingersoll, Esq.
Executive Director/Presiding Officer

Distribution: Jeffrey Padellaro, Business Agent
Commissioner William Wrenn
Stephen J. Arnold, Sr.