



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SEABROOK EMPLOYEES ASSOCIATION	:	
	:	
Petitioner	:	Case No. M-0592
	:	
and	:	Decision No. 88-28
	:	
TOWN OF SEABROOK	:	
	:	
Respondent	:	

Representing Seabrook Employees Association:

Warner B. Knowles, Wastewater Superintendent
Ward Freeman, Field Representative for State Employees' Assoc.

Representing Town of Seabrook:

Gary W. Holmes, Esq., Counsel
Clyde Brown, Chairman of the Board of Selectmen

BACKGROUND

Pursuant to the revocation of the Seabrook Employees Association, Unit B, certification, the Seabrook Supervisory Employees Association (Association) filed a new petition for an election to determine if the supervisory employees, as previously certified, wish to be represented by the Association for the purpose of collective negotiations and the settlement of grievances in accordance with RSA 273-A:10.

Counsel for the Town of Seabrook (Town) filed exceptions to the inclusion of the following positions: (1) Recreation Director on the basis of supervisory authority over the Assistant Director who is also proposed as part of the unit, the position is appointed by the Recreation Commission and as such acts in a confidential capacity with the Commission; (2) Mosquito Control Director as a seasonal and part-time position who lacks the required community of interest with the other positions proposed; and, (3) Health Officer as a person recommended by the Selectmen with informal appointment by the State Division of Public Health.

A unit determination hearing was held in the Board's office in Concord on February 23, 1988 with all parties present.

FINDINGS OF FACT

After considering all written and oral testimony and evidence presented at hearing, the Board finds as follows:

1. RSA 273-A:8 provides for the creation of bargaining units consisting of supervisory positions.

2. Attempts were made by the parties to reach an agreement on the proposed unit prior to filing of the petition as required by PELRB Rules and Regulations Pub. 301.01.
3. The Board certified the same unit on February 26, 1985.
4. The duties, responsibilities and circumstances prevailing at the time of the original certification have not changed.
5. The original certification was vacated in accordance with the N.H. Supreme Court case, Appeal of Manchester Board of School Committee, Decision No. 86-053 129 NH 151, 523 A.2d 114, March 6, 1987.
6. On April 5, 1985 the Town appealed to N.H. Supreme Court, Case No. 85-136 and the Court denied the appeal of May 22, 1985 and denied Petitioner's motion for reconsideration on June 19, 1985.
7. The unit as originally certified is a proper unit under 273-A:8,1 and PELRB Rules Pub. 302.02.

TOWN'S REQUESTS FOR FINDINGS

- #1 Granted
- #2 Granted in part. Denied in part. Selectmen have final appointing authority of the Commission hirings.
- #3 thru 12 Granted.
- #13 Denied. Although the majority of the duties of the Mosquito Control Director are essentially seasonal, testimony evidenced that he is paid on a yearly basis, receives fringe benefits such as life, medical and unemployment insurance coverage, is a member of the retirement system; and during the off-season is charged with equipment maintenance, writing the budget during the budget cycle, writing job descriptions, getting them in the newspaper to recruit his staff for the spring, summer and fall seasons.
- #14 Granted.
- #15 No evidence presented to evidence that the position is shared between towns, or paid by other towns for shared services.
- #16 Denied.
- #17 Granted.
- #18 Granted in part. Selectmen hire and stamp of approval made by Division of Public Health. Prior testimony was that the selectmen's choice has always been approved by the Division.
- #19 Granted.
- #20 Denied.
- #21-22-23 Granted.
- #24 Granted in part. The confidential relationship not dealing with labor relations.

#25-26 Denied.

ASSOCIATION'S REQUESTS FOR FINDINGS

#1 thru 7 Granted.

DECISION AND ORDER

The petition for certification of a supervisory unit for the Town of Seabrook is hereby granted without amendment.

Election to be held as expeditiously as possible.


EDWARD J. HASELTINE
Chairman

Signed this 5th day of April, 1988.

By unanimous vote. Chairman Edward J. Haseltine and Members James Anderson and Richard W. Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.



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FINDINGS OF FACT

After considering all written and oral testimony and evidence presented at hearing, the Board finds as follows:

1. RSA 273-A:8 provides for the creation of bargaining units consisting of supervisory positions.

2. Attempts were made by the parties to reach an agreement on the proposed unit prior to filing of the petition as required by PELRB Rules and Regulations Pub. 301.01.
3. The Board certified the same unit on February 25, 1985.
4. The duties, responsibilities and circumstances prevailing at the time of the original certification have not changed.
5. The original certification was vacated in accordance with the N.H. Supreme Court case, Appeal of Manchester Board of School Committee, Decision No. 86-053 129 NH 151, 523 A.2d 114, March 6, 1987.
6. On April 5, 1985 the Town appealed to N.H. Supreme Court, Case No. 85-136 and the Court denied the appeal of May 22, 1985 and denied Petitioner's motion for reconsideration on June 19, 1985.
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DECISION AND ORDER

The petition for certification of a supervisory unit for the Town of Seabrook is hereby granted without amendment.

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EDWARD J. HASELTINE
Chairman

Signed this 19th day of April, 19 88.

By unanimous vote. Chairman Edward J. Haseltine and Members James Anderson and Richard W. Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.