



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HILLSBOROUGH COUNTY COMMISSIONERS and	:	
HILLSBOROUGH COUNTY SHERIFF	:	
	:	
Petitioner	:	CASE NO. A-0428:23
	:	
and	:	
	:	DECISION NO. 89-07
	:	
AMERICAN FEDERATION OF STATE, COUNTY	:	
AND MUNICIPAL EMPLOYEES, COUNCIL 93,	:	
LOCAL 2715	:	
	:	
Respondent	:	

APPEARANCES

Representing Hillsborough County:

David Horan, Esq., Counsel
Richard W. Roulx, Business Manager

Representing AFSCME, Council 93, Local 2715:

Vincent Weners, Esq., Counsel
James C. Anderson, Field Representative
James Gray, Local 2715

BACKGROUND

Hillsborough County Commissioners (County) in May, 1988 petitioned PELRB (Board) to modify the December 7, 1976 certified bargaining unit and sever the unit into two separate and independent units comprised of (1) the employees of the Sheriff's Department and (2) the employees of the Department of Corrections.

Hearings in this matter was held in the Board's office in Concord on January 19, 1989.

Counsel for the County summarized the history of the unit recognized under the grandfathering provisions of RSA 273-A some 12 years ago and included the employees of the Sheriff's Department, House of Corrections and County Jail. Counsel stated that changes in RSA 619:7, Custodian (Common Jails and Prisoners therein) removed legal authority from the Sheriff's Department and gave that authority to the County Commissioners and their superintendent. He added that hours and conditions of employment differ between the two groups of employees.

Counsel and Business Manager Roulx testified that negotiations, because of the division of control of county employees between the Sheriff and Commissioners are no longer consistent under the currently consolidated bargaining unit, the community of interest is divided, the work schedules are different and the authority over the employees is separate.

Witness Roulx testified that the community of interest was definitely, a problem and that control had been delineated by certain statutes, which in his opinion now justified the division into two units.

Counsel for Local 2715, AFSCME argued that the unit in question was certified prior to the enactment of 273-A and grandfathered by this Board, that Local 2715 has been in existence for a substantial period of time and has negotiated without problems, incidents or cause for modification. Further that modification of a unit should be negotiated first between the parties rather than through a direct appeal to the Board.

AFSCME Staff Representative Anderson testified that the need for two bargaining units was non-existent and that at the request of the parties, two separate contracts have been negotiated since 1985, within the existing bargaining unit; one for the Sheriff's Department employees and one for the Correctional Department employees with no apparent employee dissatisfaction with the existing arrangement. The two contracts referenced above were introduced in evidence. Testimony both in direct and cross-examination of the witnesses indicated the two separate contracts under one bargaining unit worked well. Further the same salary scheduled and fringe benefits applies to all employees of Hillsborough County although work schedules may differ because of differing duties.

Testimony indicated that members of the parties to the separate contracts either sat on or were offered opportunities to sit on the Local's negotiating teams and that an arbitrator had previously ruled that Sheriff's Department employees as well as Commissioners' employees have access to the grievance procedure.

FINDINGS OF FACT

1. Amendments to RSA 619:7, adding Paragraph III, "the superintendent of the Hillsborough County House of Correction shall have custody of the jail in Manchester, and of the prisoners therein," became effective in 1979.
2. Separate contracts for Department of Corrections and Sheriff's Department have been negotiated since 1985.
3. Such petition shall be dismissed if according to Pub 302.05 (a), (2) which states:

"the petition attempts to modify the composition of a bargaining unit negotiated by the parties and the circumstances alleged to have changed, actually changed prior to negotiations on the collective bargaining agreement presently in force."

DECISION AND ORDER

The Board hereby DISMISSES the modification petition as untimely filed.

Signed this 23rd day of February, 1989.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Richard E. Molan, Esq., present and voting. Also present, Executive Director, Evelyn C. LeBrun.