

**State of New Hampshire** 

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STATE EMPLOYEES' ASSOCIATION OF NEW HAMPSHIRE, SEIU LOCAL 1984	::
Complainant v.	:
STATE OF NEW HAMPSHIRE AND JUDD GREGG, GOVERNOR	:

CASE NO. S-0384:1 DECISION NO. 92-140

## APPEARANCES

Representing State Employees Association:

Christopher Henchey, Chief Negotiator

Representing State of New Hampshire and Judd Gregg, Governor:

Stephen Judge, Esq. Thomas Manning, Chief Negotiator

## BACKGROUND

On January 27, 1992, the State Employees' Association of New Hampshire, Inc., SEIU, Local 1984 (ASSOCIATION) filed unfair labor practice (ULP) charges against the State of New Hampshire and Governor Judd Gregg alleging violations of RSA 273-A:5 I (a), (e), (h) and (i) and requesting a Cease and Desist Order. The State filed its answer on February 11, 1992. A hearing in the requested Cease and Desist Order was held on February 13, 1992 with an order being issued on February 20, 1992 (Decision NO. 92-32). The State then moved to stay the cease and desist order on February 25, 1992. That motion and the case on the merits were heard on March 3, 1992. The Board issued a decision on March 12, 1992 (Decision No. 92-50) finding that an unfair labor practice [RSA 273-A:5 I (e)] had been committed, making its earlier cease and desist order permanent and denying both the respondent's Motion to Stay and Motion for Reconsideration. The State filed a Motion for Rehearing on April 1, 1992. Notwithstanding the Association's Objection to the Motion for Rehearing filed April 16, 1992, the Board granted rehearing on

April 27, 1992. (Decision No. 92-80). That rehearing before the PELRB occurred on July 21, 1992 and is the subject matter of this decision.

## FINDINGS OF FACT

- 1. The State Employees' Association of New Hampshire, Inc. is the duly certified bargaining agent of employees employed by the State of New Hampshire.
- 2. The State of New Hampshire is a public employer as defined by RSA 273-A:1 X and Judd Gregg, as Governor of the State of New Hampshire, is the Chief Executive Officer of the State who, in that capacity, is responsible for conducting labor relations on behalf of the State as a public employer.
- 3. From the date of the filing of the ULP on January 27, 1992 until and through the date of this hearing (July 21, 1992), the parties have been negotiating for a successor collective bargaining agreement (CBA), have been unsuccessful in reaching a settlement on a successor CBA, and have been operating under an extension of their earlier CBA (Article 21.1) since June 30, 1991, when it otherwise would have expired.
- 4. The acts complained of in the ULP filed on January 27, 1992 involved allegations that the Governor, contrary to his obligation to bargain in good faith under RSA 273-A:5 I (e) as perceived by the Association, attempted to deal directly with the legislature (not through the Association) to achieve through legislation certain modification in contract benefits which he was unable to obtain through the negotiations process.
- 5. The 1992 session of the legislature has since adjourned without passing H.B. 1456-FN or any other legislation which would have legislatively modified any terms and conditions of employment of state employees, i.e., any health care benefits provided to those employees under their earlier CBA and the extension thereof.

## DECISION AND ORDER

The Board's review of the facts in the case indicates that the conditions warranting both the temporary and permanent cease and desist orders of February 20, 1992 and March 12, 1992, respectively, no longer exist. The 1992 legislative session has

adjourned and there is no pending legislation designed or intended to change the level of benefits provided to employees under the CBA or an extension thereof. Under these circumstances we direct the following remedies:

- The previously issued temporary and permanent Cease and Desist Orders are VACATED.
- 2. The State's Motion to Dismiss is GRANTED.

So Ordered.

Signed this \_\_\_\_\_7TH day of August, 1992.

WARD Chairma

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Arthur Blanchette present and voting.