



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New England Police Benevolent Association, Inc. Local 50
Petitioner
and
State of New Hampshire, Department of Safety, DMV
Respondent
Case No: P-0787
Decision No. 2006-128
New England Police Benevolent Association, Inc. Local 55
Petitioner
and
State of New Hampshire, Department of Safety, DMV
Respondent
Case No: P-0788

ORDER ON MOTION TO CONTINUE PRE-HEARING CONFERENCE

BACKGROUND:

The New England Police Benevolent Association, Inc. ("NEPBA") filed two certification petitions on July 31, 2006. Case No. P-0787 seeks to certify a unit composed of 63 patrol officers and 3 corporals (the "Patrol Officers' Unit"). Case No. P-0788 seeks to certify a unit composed of 9 Sergeants, 3 Lieutenants, 1 Captain, and 1 Executive Major (the "Supervisors' Unit"). Both certification petitions identify the State of New Hampshire, Department of Safety, DMV as the Public Employer. Virginia Beecher signed the certification of the Public Employer's agreement with the composition of the unit on behalf of the State of New Hampshire, Department of Safety, DMV on both petitions. Based upon the two certification petitions, on August 4, 2006 the PELRB issued a notice scheduling a pre-election conference for August 9, 2006.

On August 8, 2006 the State Employees' Association, SEIU Local 1984, AFL-CIO, CLC (the "SEA"), filed exceptions to the two certification petitions. Among other things, SEA contends that the employees involved in the two petitions are currently covered by existing SEA certifications, that NEPBA cannot serve as the exclusive representative for both units, that the proposed Supervisors' Unit contains non-supervisory employees, that no agreement has been reached for unit composition if the Department of Safety, Division of Motor Vehicles is not the employer of record for the involved employees, and that the SEA has information that Ms. Beecher in fact did not reach agreement with the bargaining unit in question.

On August 9, 2006 the SEA filed a Supplemental Objection and Exceptions. In this filing, among other things, the SEA challenges the PELRB's authority to conduct an election or pre-election conference in regard to the two petitions pursuant to the provisions of RSA 273-A:10. The SEA also claims that the petitions fail to recognize that the involved employees are part of an existing unit

represented by the SEA. The SEA asks the PELRB to investigate the petitions and hold hearings. The SEA also claims the petitions fail to identify the exclusive representative presently representing the bargaining unit contrary to applicable rules, the SEA has not been treated as a party to the two cases and has not received proper notice, the petitions are misleading as to whether the employer has agreed to the proposed unit and proposed exclusive representative, and the employer in this case is the Governor. Finally, the SEA claims the PELRB is acting with unusual and undue speed. The SEA seeks a dismissal of the petitions or a hearing prior to the conduct of any election or pre-election conference.

On August 9, 2006 the PELRB cancelled the pre-election conference and issued a notice scheduling a pre-hearing conference for August 24, 2006 and a hearing for September 14, 2006.

On August 18, 2006 NEPBA filed motions to amend the petition in both cases. NEPBA seeks, among other things, to amend each original petition by adding a petition to modify pursuant to PUB 302.05. NEPBA proposes to modify the existing bargaining unit described in PELRB decision 2002-058 by creating two new bargaining units, one consisting of the positions in the proposed Patrol Officers' Unit and the other consisting of the positions in the proposed Supervisory Officers' Unit.

On August 22, 2006 the SEA filed a motion to continue the pre-hearing conference because the SEA's objection to NEPBA's motion to amend is not due until September 1, 2006 pursuant to the standard time period stated in the PELRB's Notice of Filing issued in response to NEPBA's Motion to Amend.

DECISION:

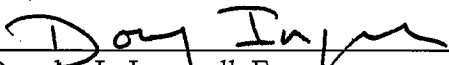
Pursuant to the provisions of RSA 273-A:1 et. seq. and the rules of the PELRB, petitions for modification and certification by employee organizations other than the incumbent exclusive representative can only be filed in limited time periods and any elections that might be held as a consequence of such filings can only be conducted in limited time periods. See RSA 273-A:11, I(b), PUB 301.01, 302.05. Based upon a February 14, 2007 budget submission date, the period during which petitions can be filed pursuant to PUB 301.01 or 302.05 is from approximately July 19, 2006 to approximately September 17, 2006. The time period for elections is from approximately August 17, 2006 to approximately October 17, 2006. In addition to addressing time sensitive certification and modification petitions the PELRB also has to address and schedule other cases filed during the time period preceding and including the time when certification and modification petitions are being filed. These include unfair labor practice complaints filed pursuant to RSA 273-A:6, which are also time sensitive as the PELRB is required to hold hearings within 45 days on such complaints pursuant to RSA 273-A:6, II.

It is apparent from these time frames that the PELRB is expected and required to schedule and address matters that come before it in a prompt manner in order for necessary activity to be completed with the specified time periods. A failure to do so could result in several years or more of delay before an employee organization like NEPBA could pursue similar filings as have been made to date in these cases. The existing pre-hearing and hearing schedule is consistent with the time sensitive nature of certification and modification petitions that may be filed by a non-incumbent employee organization and the schedule should allow for any necessary elections to occur prior to the 120 day deadline imposed by RSA 273-A:11, I(b)(on or about October 17, 2006).

SEA's motion to continue does not set forth reasons which require any change to the established dates. The pleadings in these cases to date are fairly limited and concise, including

NEPBA's Motion to Amend and the Proposed Amendment. It is anticipated that all counsel will be able to participate in the pre-hearing conference based upon their review of the pleadings filed in these cases to date as well as their general knowledge and understanding of the situation and circumstances of these cases. The motion to continue is denied.

So Ordered.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Date Issued: August 23, 2006

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