

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

| | | |
|--|---|----------------------|
| Service Employees International Union, |) | |
| Local 73, |) | |
| |) | |
| Labor Organization |) | |
| |) | |
| and |) | Case No. S-DR-12-005 |
| |) | |
| County of McHenry and McHenry |) | |
| County Coroner, |) | |
| |) | |
| Employer |) | |

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On November 16, 2011, the Service Employees International Union, Local 73 (Labor Organization) unilaterally filed a Petition for Declaratory Ruling with the General Counsel of the Illinois Labor Relations Board pursuant to Section 1200.143 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code Parts 1200 through 1240 (Board Rules). The Labor Organization is requesting a determination as to whether a proposal that deputy coroners not be required to use their personal vehicles to perform bargaining unit work concerns a mandatory subject of bargaining within the meaning of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act). The County of McHenry and McHenry County Coroner (Employer) objects to the filing of the petition because unilateral filing is permitted under Section 1200.143(b)(1) only for units of protective service employees and, it argues, the unit of deputy coroners is not a unit of protective service employees.

The issue of whether the McHenry County deputy coroners are peace officers within the meaning of Section 3(k) of the Act is currently pending in Case No. S-CA-10-153; however,

resolution of that matter has been deferred pending interest arbitration in Case No. S-CA-11-017 which may resolve the underlying dispute between the parties.

In its memorandum in support of its Petition for Declaratory Ruling, the Labor Organization acknowledges there are two issues: First, whether deputy coroners are peace officers; and, if that is the case, second whether the proposal constitutes a mandatory subject of bargaining. It presents arguments on each issue, and for the first states “the law *and evidence* support the conclusion that the deputy coroners at issue constitute ‘peace officers’ under the Act” (emphasis added). For its part, the Employer merely notes on this point that the issue concerning peace officer status is pending in Case No. S-CA-10-153, and that it stands on its earlier position that the deputy coroners are not peace officers.

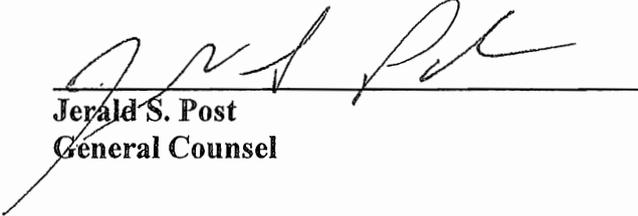
The Labor Organization has correctly indicated that before I can address whether the bargaining proposal at issue is a mandatory subject of bargaining, I must determine whether the petition at issue may be filed unilaterally; to do that I must determine whether the unit of deputy coroners is a protective service unit, i.e., whether the deputy coroners are peace officers; and to do that I must make a determination based on law and evidence. In short, my first step in this process is to resolve a factual issue. The declaratory ruling process was not designed for such a task. Section 1200.143(b)(2) of the Board Rules provides:

Declaratory rulings shall not be issued concerning factual issues that are in dispute. In the case of a unilateral petition for declaratory ruling in which the General Counsel has determined that material issues of fact are in dispute, the General Counsel may either dismiss the petition without prejudice to the requesting party’s right to file an unfair labor practice charge, or, where the General Counsel determines that a fact-finding of the disputed factual issues will facilitate a determination of the issues that are the subject of the petition, the issuance of the declaratory ruling may be deferred and the disputed issues of fact referred to the Interest Arbitration Panel for determination.

Because my ability to issue a declaratory ruling is foreclosed by this provision, I must dismiss the petition filed in this case without prejudice to the Labor Organization's right to file an unfair labor practice or to have any previously filed unfair labor practice charges resolved.

Issued in Chicago, Illinois, this 15th day of December, 2011.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD**



**Jerald S. Post
General Counsel**