STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Peoria School District, #150	)	
	)	
Employer	)	
	)	
and	)	Case No. S-RC-11-118
	)	
Policeman's Benevolent Labor Committee,	)	
	)	
Petitioner	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On March 3, 2011, Policeman's Benevolent Labor Committee (Petitioner or Union) filed a majority interest petition with the Illinois Labor Relations Board, State Panel (Board), pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board (ILRB), 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). The petition seeks to represent full-time and part-time guards, agents, security and police officer employed by Peoria School District #150 (Employer) previously certified by the Illinois Educational Labor Relations Board (IELRB) in Case No. 96-RC-0017-S.

Pursuant to the amendment of Public Act 96-1257, effective July 23, 2010, a "public employer" was redefined and it removed a school district that employed "peace officers" in its own police department, already in existence, from the scope of the Illinois Educational Labor Relations Act (IELRA) and placed it under the provisions of the Illinois Public Labor Relations Act (IPLRA).

I. BACKGROUND

On March 15, 2011, the Employer filed a complaint in the Circuit Court of Sangamon County against the Union, the IELRB and the ILRB seeking a declaratory judgment that Public

Act 96-1257 constituted special legislation in violation of the Illinois Constitution and declaration that the IELRA and not the IPLRA governed labor disputes between the Employer and the Union. The Employer also argued that it does not employ "peace officers" as defined by the IPLRA. Subsequently, the Board held this matter in abeyance until the courts decided the jurisdictional and constitutional issues.

On April 22, 2011, the Union filed a Motion to Strike/Amend Pleadings, arguing, in pertinent part, that the Employer intentionally misnamed the union[1] to claim the officers at issue were not really police or peace officers even though the documents presented indicate the following: the officers are supervised by the Chief of Police; assigned to the Campus police department; are required to appear in court on school-related cases as police offices; wear uniforms and patches that identify themselves as campus police; wear badges describing themselves as "Officer District 150 Police"; are issued a Peoria Public Schools Campus Police Operations Manual; may carry and display a loaded weapon while on the premises of Peoria Public School District 150; and make arrests and document those arrests with police reports submitted to the Peoria County State's Attorney for criminal prosecution.

On April 29, 2011, the IELRB and ILRB filed a joint motion to dismiss in this matter. The Boards argued that: (1) the challenged statutory provision does not classify school districts with their own police departments differently from school districts which do not have their own police department; rather, it classifies all peace officers employed by educational institutions as public employees and is, therefore, not special litigation; (2) even if the statute applies to school districts which employ peace officers in their own police departments on the effective date of the amendment, applying it to plaintiff does not constitute improper special legislation; and (3)

[11] The Employer named the defendant union, "Peoria Federation of Support Staff, Security/ Policeman's Benevolent and Protective Association Union NO. 114."

contrary to what the complaint alleges, this group of employees is not excluded from the jurisdiction of either **the IELRB or the ILRB.**

On May 9, 2011, the Boards filed a supplemental memorandum challenging the circuit court's jurisdiction over the matter contending that the IPLRA and IELRA "give exclusive jurisdiction over deciding that group of employees belongs to what type of bargaining unit to the Labor Boards" and under both acts, those decisions are "reviewable directly by the Appellate Court."

On July 20, 2011, the Employer filed a response to the Board's motion to dismiss. The Employer argued that the amendment created an arbitrary split in the Board's jurisdiction over peace officers employed by educational employers. The Employer offered that the ILRB "will now have jurisdiction over peace officers employed by a school district's own police departments as well as peace officers employed by a state university" while the IELRA "retains jurisdiction over peace officers employed by a school district which does not have a police department and peace officers employed by any other educational employer."

On September 7, 2011, the circuit court issued an order granting the Board's motion. Regarding Count I, the court found the peace officers to be public employees under the IPLRA, and that the amendment "is not unconstitutional as special legislation." The court dismissed Count II finding it "clear that the IELRB and ILRB have jurisdiction over collective bargaining unit determinations.

The Employer appealed the district court's decision. The issues before the Appellate Court of Illinois were, (1) whether the Peoria School District had the right to bring a declaratory judgment action in the circuit court challenging the jurisdiction of the ILRB over a dispute involving the district and its security officers; and (2) whether Public Act 96-1257 is special

legislation that violates article IV, section 13, of the Illinois Constitution of 1970 (Ill. Const. 1970, art IV § 13). The Appellate Court of Illinois held that a party need not exhaust administrative remedies when that party challenges the constitutionality of a statute on its face, or contests the authority or jurisdiction of the administrative agency. Kane County, 116 Ill. 2d. 186, 199 (Ill. 1987). Therefore, the issue was properly before the courts. The Court also found that the amended IPLRA provision violates the Illinois constitution because a general law could have been made applicable here. It also found no rational justification for the amendment's limited application as a result of the date restriction. The Appellate Court of Illinois reversed and remanded the case to the circuit court for further proceedings. Bd. of Educ. of Peoria SD 150 v. Peoria Federation of Support Staff, Security/Policeman's Benevolent & Protective Assn Unit No. 114, 2012 IL. App.(4th) 110875, *aff'd as modified* Bd. of Educ. of Peoria SD 150 v. Peoria Federation of Support Staff, Security/Policeman's Benevolent & Protective Assn. Unit No. 114, 2013 IL114853.

The Supreme Court of Illinois affirmed, as modified, the appellate court's decision. As to the question of jurisdiction, the Supreme Court of Illinois found that, here, the constitutional challenge to the statute that could divest the IELRB of jurisdiction, with specified dispute resolution procedures, and confer it upon the ILRB, with different procedures, was a challenge properly for the courts.

As to constitutionality, the Supreme Court considered the Employer's argument that the amended IPLRA provision constituted special legislation that violated the state constitution. Ultimately, the Supreme Court reasoned that a general law could have been made applicable in this case and there is no rational justification for the amendment's limited application via effective-date restriction. As such, the Supreme Court found that Public Act 96-1257 violates

the Illinois Constitution and unlike the Appellate Court, did not remand for further proceedings. The Supreme Court held that the parties appear to have brought every applicable argument and consideration to bear in this appeal. Therefore, the Supreme Court of Illinois entered a declaratory judgment for the Employer on the question of the statute's constitutionality and the IERLB maintains jurisdiction over the police or peace officers employed by the Peoria School District. Bd. of Educ. of Peoria SD 150 v. Peoria Federation of Support Staff, Security/Policeman's Benevolent & Protective Assn. Unit No. 114, 2013 IL114853.

II. CONCLUSIONS OF LAW

The ILRB does not have authority over the majority interest petition filed with the Board on March 3, 2011. Therefore, the petition in this matter is dismissed.

III. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of this Recommended Decision and Order. Parties may file responses to exceptions, and briefs in support of the responses, no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross-responses must be filed with the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing

the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 13th day of January, 2014

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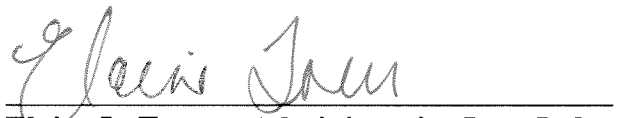

Elaine L. Tarver, Administrative Law Judge