

1/11/85



N.H. Supreme Court declined appeal of this decision on May 22, 1985, Supreme Court Case No. 85-136.

State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SEABROOK EMPLOYEES ASSOCIATION

Petitioner

and

TOWN OF SEABROOK

Respondent

CASE NO. M-0575

DECISION NO. 85-02

APPEARANCES

Representing the Petitioner, Seabrook Employees Association

Cora Stockbridge, Secretary to Police Chief

Representing Town of Seabrook

Gary W. Holmes, Esq., Counsel

Also in Attendance

- James C. Falconer
- Earlene U. Locke
- Roy F. Crossland, Chief of Police
- Eric N. Small, Administrative Assistant
- Frederick B. Felch
- Walter Randall

BACKGROUND

Certain employees of the Town of Seabrook, not now represented by any collective bargaining unit, petitioned Public Employee Labor Relations Board on October 17, 1984, for the creation of an unaffiliated unit of "all town employees except those covered in the Seabrook Police Association and the Seabrook Permanent Firefighters Union, Local 2847. The proposed unit would include various appointed officers of the town, such as Recreation Director, and a wide variety of secretarial and clerk positions as well as certain employees of the Highway Department, Water Department and the police dispatchers.

The Town of Seabrook objected to inclusion of several of the positions on the ground they were "appointed" by the chief executive or legislative body of the public employer and thus excepted from the definition of "public employee" under the Act (RSA 273-A:1, IX (b)).

The Town also objected that some of the positions were actually "supervisory" in nature and should not be in the same unit with those who were being supervised and to a few positions on the ground that they were "confidential". The Town suggested the creation of two units: one to include Water Department clerk, Assistant Appraiser's clerk, Recreation Department clerk and all police dispatchers; the other unit to include custodians, Highway Department laborers and Water Department laborers.

A hearing on the petition was held at the Public Employee Labor Relations Board office in Concord, New Hampshire on January 3, 1985, with all parties represented.

FINDINGS OF FACT AND RULINGS OF LAW

After hearing testimony, argument and studying the exhibits, the Public Employee Labor Relations Board finds the following:

- (1) those persons "appointed" to positions of Recreation Director, Civil Defense Director, etc. of the Town are not exempted from the definition of public employee under the act by the regular nature of their employment by the Town, the Administrative Assistant is excluded under this provision;
- (2) the Administrative Assistant's clerk (secretary) would be included in confidential matters dealing with negotiations with any unit created and as such must be excluded from any unit under RSA 273-A:1, IX (e);
- (3) several of the positions petitioned for are in fact supervisory and managerial personnel and as such could not be in the same unit with those over whom supervision is exercised (RSA 273-A:8, II).

DECISION AND ORDER

The Public Employee Labor Relations Board orders the creation of two units, for the purposes of seeing if the employees wish to be so represented; i.e., Unit A consisting of non-supervisory employees and Unit B consisting of supervisory employees of the Town as follows:

UNIT A: Employees of Town of Seabrook (Non-supervisory):


- Selectman's clerk
- Secretary to Police Chief
- Highway department employees (Laborers, custodial equipment operators, etc.)
- Water department employees (Laborers, custodial equipment operators, etc.)
- Custodial staff
- Assistant Appraiser's clerk
- Police dispatchers

UNIT B: Supervisory Employees of the Town of Seabrook:

- Recreation Director
- Assistant Recreation Director
- Building Inspector

UNIT B
(continued)

Civil Defense Director
Deputy Town Clerk
Health Officer
Mosquito Control Officer
Police lieutenants
Welfare Officer
Water department superintendent/foreman



ROBERT E. CRAIG, Chairman

Signed this 11th day of January, 1985.

By unanimous vote. Chairman Robert E. Craig presiding. Members Seymour Osman and Russell Hilliard present and voting. Also present, Evelyn C. LeBrun, Executive Director.