

STATE OF NEW MEXICO  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY  
And MUNICIPAL EMPLOYEES (AFSCME), COUNCIL  
18, AFL-CIO,

**03-PELRB-2010**

Petitioner,

vs.

PELRB CASE NO. 144-09

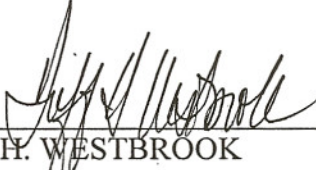
STATE OF NEW MEXICO,

Respondent.

ORDER DENYING RESPONDENT'S MOTION TO DISQUALIFY

Respondent State of New Mexico moves to disqualify hearing officer Director Juan Montoya from hearing Petitioner's prohibited practices complaint (PPC) upon the grounds that Mr. Montoya assertedly has a financial interest in the matter involved in this dispute, namely, the ramifications and effect of Petitioner's collective bargaining agreement upon the employee furloughs that have been ordered by the executive branch of the State of New Mexico. Respondent State of New Mexico's motion is not well-taken for these reasons: (1) Director Montoya has no financial interest in the matter in dispute. Any remedy Petitioner AFSCME could seek, if successful in its complaint, would affect only members of AFSCME Council 18's bargaining unit for state employees. Director Montoya is not a member of that bargaining unit and, accordingly, has no financial interest in the matter in dispute. (2) Director Montoya has conducted no investigation into this matter and has not contacted any of the parties with respect to this matter. Accordingly, no disqualification on grounds of bias has been shown.

IT IS THEREFORE ORDERED that Respondent State's motion to disqualify be and hereby is denied.

  
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DUFF H. WESTBROOK  
Vice-chairman  
Public Employee Labor Relations Board

Date: 3-2-10

RECUSED: MARTÍN V. DOMINGUEZ

CONCURRENCE: Board member Boyd concurs in the Board's Order herein with the further observation that should Director Montoya feel conflicted, in recognition of the Governor's authority in the matter concerning state employee furloughs, or for any other reason, Director Montoya remains free to communicate his feelings in this regard to the Board for such action as the Board may be able to take with respect to the matter.