

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

| | |
|---------------------------------|---|
| In the Matter of |) |
| |) |
| Local 1193, American Federation |) |
| of State, County and |) |
| Municipal Employees, |) |
| AFL-CIO |) |
| |) |
| Petitioner, |) |
| |) |
| and |) |
| |) |
| Taos County |) |
| |) |
| Public Employer. |) |
| |) |

Case No. CP 15-94(C)

DECISION AND ORDER

Pursuant to the authority of the Public Employee Labor Relations Board (PELRB or Board) under the Public Employee Bargaining Act of 1992 (PEBA or Act), NMSA 1978, §§10-7D-1 to 10-7D-26, (Repl. Pamp. 1992), and in accordance with PELRB rules and regulations, 4 N.M.Reg.No. 6, 475 (Mar. 31, 1993), the petition for certification as incumbent labor organization in Case No. CP 15-94(C) was investigated pursuant to PELRB Rule 2.

The Director's decision to certify Local 1193, American Federation of State, County and Municipal Employees, AFL-CIO (petitioner or AFSCME) as the incumbent labor organization was not appealed by either party to the proceeding.

Rule 2.15(c) requires the Board to review the Director's decision even where a party to the proceeding does not file a request for review. At the July 6, 1994, PELRB meeting the Director noted to the Board his determination in this matter under "Report of the Director" and there was comment on the case.

This DECISION AND ORDER, however, reflects the Board's formal review of the Director's determination which we adopt incorporate and attach hereto. We also render the following findings of fact.

The petitioner, an affiliate of Council 18, AFSCME, is a "labor organization" as that term is defined under the Act's §4.J. and Taos County is a "public employer" as defined under the Act at §4.Q.

In October 1982 a representation election was conducted for all eligible employees of Taos County. As a result of the election, the petitioner was recognized by the County Commissioners in Taos County Resolution B-6, 1982/83 (November 16, 1982), as "the sole and exclusive collective bargaining representative for all qualified Taos County employees."

In May 1985 the governing body adopted a collective bargaining ordinance, Taos County Ordinance No. 1985-1, providing a system of procedures for collective bargaining and establishment of a labor board.

The Ordinance §2.A. defined an "appropriate bargaining unit" as "a singular or one group of employees designated by the Board to be appropriate for the purpose of collective bargaining."

The Ordinance §2.L. defined an "exclusive representative" as "the labor organization which, as a result of certification by the Board or recognition by the Taos County Commissioners, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit." Petitioner was recognized by the Taos County Commissioners in October 1982 based on the results of the certification election.

Petitioner and Taos County agreed upon a collective bargaining contract covering the period of 1988-'89. Article 2 in that agreement stated that the "County recognizes the union as the exclusive bargaining agent for all permanent, non-probationary fulltime and part-time [classified] employees." It also set forth those positions not covered by the agreement. Thereafter, and continuing up to time that the Director issued his decision, there have been no successor contracts to replace the expired agreement.

On February 26, 1993, the County Commissioners rescinded the collective bargaining ordinance and elected to be under the jurisdiction of the Act. The County, by letter dated May 26, 1994, stated that it agreed with the factual allegations set forth in the petition and, on June 7, 1994, stated that "it knows of no issue [question of representation] regarding representation in the bargaining unit."

The Act §24 states that a bargaining unit "established prior to January 1, 1992 shall continue to be recognized as appropriate for the purposes of the [Act]." We find that the petitioned-for unit was established prior to January 1, 1992, by certification election and subsequent recognition of the unit and petitioner from the appropriate governing body.

Furthermore, we find that there is no question of representation which precludes the certification of the labor organization as incumbent.

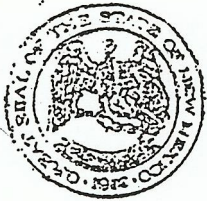
The Board reviewed the Director's determination during open session at its January 11, 1995, meeting in Santa Fe, New Mexico, following notice and publication of the meeting pursuant to the Open Meetings Act.

By direction of the Board.

Patrick J. Halter

Patrick J. Halter
Director, PELRB

January 12, 1995
Albuquerque, New Mexico



State of New Mexico
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

8100 Mountain Road NE
Suite 116
Albuquerque, NM 87110-7800
(505) 262-9552

BRUCE KING
GOVERNOR

PATRICK J. HALTER
DIRECTOR

BOARD MEMBERS
BILL GIRON
CHAIRMAN

JAMES ELLIS
JAMES KEATON

June 16, 1994

Morton S. Simon
Simon & Oppenheimer
P.O. Box 9612
Santa Fe, NM 87504-9612

Bruce A. Kelly
Deputy District Attorney
Taos County
P.O. Box 1914
Taos, NM 87571

RE: Case No. CP 15-94(C)
AFSCME and Taos County

Gentlemen:

This constitutes the Director's Report in the above-referenced proceeding. The investigation shows there is no question concerning representation and other regulatory and statutory requirements for certification as incumbent are satisfied. The Director's Report is subject to Board review pursuant to PELRB Rule 2.15.

Enclosed for your records is a copy of the "Certification of Exclusive Representative" in Case No. CP 15-94(C). The original certification with agency seal will be retained in the PELRB's office.

Sincerely,

Patrick J. Halter
Patrick J. Halter
Director, PELRB



State of New Mexico
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

8100 Mountain Road NE
Suite 116
Albuquerque, NM 87110-7800
(505) 262-9552

BRUCE KING
GOVERNOR

PATRICK J. HALTER
DIRECTOR

BOARD MEMBERS
BILL GIRON
CHAIRMAN

JAMES ELLIS
JAMES KEATON

CERTIFICATION OF EXCLUSIVE REPRESENTATIVE

A petition for certification of incumbent labor organization having been filed pursuant to PELRB Rule 2.29 and the investigation of the petition concludes there is no question concerning representation, the PELRB Director in Taos County, Case No. CP 15-94(C) certifies

Local 1193, American Federation of State,
County and Municipal Employees, AFL-CIO

that it is the exclusive collective-bargaining representative of the employees in the appropriate bargaining unit described below.

UNIT: All job classifications for white collar, blue collar, emergency services, detention, and sheriff positions.

Positions excluded are confidential, managerial, and supervisory as defined in the Act, and all others.

A handwritten signature in cursive script that reads "Patrick J. Halter".

Patrick J. Halter
Director, PELRB

Signed at Albuquerque,
New Mexico on the 14th
day of June, 1994.