

STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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IN THE MATTER OF:	)	
	)	
DES MOINES REGIONAL TRANSIT AUTHORITY,	)	
Public Employer,	)	
	)	
and	)	CASE NO. 102365
	)	
CHAUFFEURS, TEAMSTERS AND HELPER,	)	
LOCAL UNION NO 238,	)	
Certified Employee Organization.	)	
	)	

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**RULING AND ORDER**

On September 3, 2019, pursuant to PERB subrule 621–15.5(3)(a), the certified employee organization, Chauffeurs, Teamsters and Helper, Local Union No 238 (Teamsters), timely filed an objection to the Public Employment Relations Board’s (PERB or Board) Notice of Intent to Conduct an Election. Pursuant to Iowa Code section 20.15(2) and PERB subrule 621–15.5(2)(a), PERB filed the notice for the retention and recertification election of the Teamsters as the exclusive representative of a bargaining unit of the Des Moines Regional Transit Authority (DART) employees referenced as “BU-0863.”

The Teamsters objects to the election alleging the unit consists of one hundred percent transit workers and, according to the Department of Labor (DOL), a retention and recertification election would jeopardize the receipt of Federal Transit Authority (FTA) funds by DART. The Teamsters asserts that it is effectively exempt from the election by virtue of Iowa Code section 20.27, which deems any provision of chapter 20 inoperative if the provision jeopardizes federal

funding.<sup>1</sup> Along with its objection, the Teamsters filed a copy of the relevant FTA grant application and a copy of the DOL's certification of the grant based on protective arrangements in compliance with 49 U.S.C. § 5333(b).

By Notice of Hearing, we scheduled the evidentiary hearing for October 2, 2019. On October 1, 2019, DART filed a "Non-Resistance to Union's Objection to Election." In its notice of no resistance, DART raised two questions for the Board's determination. Although we view such questions as matters more appropriately addressed in a petition for a declaratory order, we continued the hearing to obtain additional information on the parties' positions. Subsequently, we were notified that the parties wish to forego an evidentiary hearing and DART's non-resistance is not contingent upon the questions it raised.

We approve the parties' request to forego an evidentiary hearing and oral arguments as a result. Jill M. Hartley represents the Teamsters and Matt Brick represents DART.

Based upon the objection and the absence of resistance and, our decision in *Amalgamated Transit Union, Locals 312, 441, 638, 779 and 1192 and State of Iowa and Des Moines Area Regional Transit Authority*, 2018 PERB 102202, the objection of the Teamsters is SUSTAINED.

In *Amalgamated Transit Union*, the evidence demonstrated that a public employer's receipt of federal transit funds is subject to the U.S. Secretary of Labor's certification that the public employer has protective arrangements for its

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<sup>1</sup> All references are to Iowa Code (2019).

transit workers that comply with federally mandated protections set forth in section 13(c) of the Federal Transit Act (FTA) now codified as 49 U.S.C. § 5333(b).<sup>2</sup> *Id.* at 13. Provisions of Iowa Code section 20.15(2) conflict with federally mandated requirements under 49 U.S.C. § 5333(b) and jeopardize a public employer's ability to receive federal transit funds. As a result, we concluded the facts warranted the application of section 20.27 to deem the section 20.15(2) provisions inoperative. *Id.* We reach the same conclusions in our ruling on this objection as we did in our declaratory order. Accordingly, we enter the following:

**RULING**

The Teamsters' objection is SUSTAINED.

**ORDER**

PERB will cease conducting a retention and recertification election of the Teamsters with respect to the bargaining unit BU-0863. The parties are relieved from any associated election obligations including the payment of an election fee or any further submission of a list of eligible bargaining unit voters. PERB will reimburse any election fee that has been paid by the Teamsters for this election.

DART shall remove all prior postings related to the election and in their place post this Ruling and Order for a period of not less than ten days.

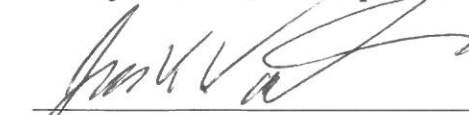
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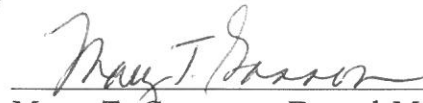
<sup>2</sup> Among other requirements, the protective arrangements must include provisions necessary for "the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise." 49 U.S.C. § 5333(b)(2)(A). Another mandated requirement is the "continuation of collective bargaining rights." 49 U.S.C § 5333(b)(2)(B).

DATED at Des Moines, Iowa this 8th day of October, 2019.

PUBLIC EMPLOYMENT RELATIONS BOARD

  
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Cheryl Arnold, Chairperson

  
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Jamie K. Van Fossen, Board Member

  
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Mary T. Gannon, Board Member

Original filed EDMS.