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of Iowa Code section 20.27, which deems any provision of chapter 20 inoperative if the provision jeopardizes federal funding.<sup>1</sup>

Subsequent to the filing of ATU Local 1192's objection, the election did not proceed forward due to the absence of a voter eligibility list. Accordingly, on September 12, 2018, PERB filed an "Order of Recertification" of ATU Local 1192. However, ATU Local 1192's objection is still pending and the local asserts that, despite its recertification, it should not have been subject to the retention and recertification election process.

Based upon the entirety of the record in this case, including the record 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 ATU Local 1192 is SUSTAINED.

### ***Background Facts and Proceedings.***

In its objection and pursuant to PERB subrule 621—5.1(2)(b), ATU Local 1192 also requested an extension of time in which to pay its election fee. In our order filed September 7, we concluded ATU Local 1192's request was supported by good cause. We granted the extension "until a date certain determined by further order of the Board."

On July 3, 2018, before filing its objection in this case, ATU Local 1192 filed with PERB a petition seeking a declaratory order on whether it was exempted from a retention and recertification election. ATU Local 1192 filed the

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<sup>1</sup> All references are to Iowa Code (Supp. 2017).

petition along with four other ATU locals (collectively referred to as ATU).<sup>2</sup> On September 21, 2018, we issued our declaratory order 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. In our declaratory order, we deemed provisions of section 20.15(2) retention and recertification requirements inoperative to the five locals.

By this time, PERB had already issued an “Order of Recertification” of ATU Local 1192 because a voter list had not been submitted. However, we agree with ATU Local 1192’s assertion that its certification should continue as if it had not been subject to a retention and recertification election and our Order of Recertification rescinded.

The relevant facts are those set forth in the declaratory order in PERB Case No. 102202 and reflected in the below discussion.

### ***Discussion.***

Due to our reliance on *Amalgamated Transit Union, Locals 312, 441, 638, 779 and 1192*, 2018 PERB 102202, we briefly summarize the basis of our declaratory order. ATU’s petition for a declaratory order requested PERB’s declaratory order on the question,

Does Iowa Code § 20.27 (“Conflict with federal aid”) require an exemption from the retention and recertification elections mandated under Iowa Code § 20.15(2), for unions with collective bargaining relationships with employers that receive federal funds which are subject to Section 13(c) of the Federal Transit Act?

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<sup>2</sup> The four ATU locals and respective public employers of public employee transit workers were ATU Local 312 and the City of Davenport; ATU Local 441 and the Des Moines Area Regional Transit Authority; ATU Local 638 and the City of Cedar Rapids; and ATU Local 779 and the Sioux City Transit System.

The facts demonstrated that the five petitioning ATU locals represent bargaining units comprised of 100 percent transit workers employed by public employers that receive federal transit funds. The receipt of FTA funds by the five public employers, including the Metro Transit System of Black Hawk County, is subject to the U.S. Secretary of Labor's certification before funds are released. The Secretary must certify that each public employer has protective arrangements, made on behalf of transit employees, that comply with federally mandated protections set forth in section 13(c) of the FTA now codified as 49 U.S.C. § 5333(b).<sup>3</sup> These protective arrangements are referred to as "Section 13(c) agreements."

After Iowa Code chapter 20 was amended by 2017 Iowa Acts, House File 291, ATU International objected to the DOL that the amended statute conflicted with 49 U.S.C. § 5333(b) requirements if applied to ATU locals and their represented bargaining units. In response, the DOL determined provisions of amended chapter 20, including the Iowa Code section 20.15(2) retention and recertification elections, conflicted with federally mandated requirements under 49 U.S.C. § 5333(b). The DOL concluded that this conflict jeopardized the public employer's ability to receive federal transit funds.

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<sup>3</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).

ATU filed its petition for a declaratory order from PERB in anticipation of retention and recertification elections required of ATU locals this fall. In our declaratory order issued September 21, 2018, we determined the facts warranted the application of section 20.27, which provides,

**20.27 Conflict with federal aid.**

If any provision of this chapter jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-in-aid funds or other federal allotment of money, the provisions of this chapter shall, insofar as the fund is jeopardized, be deemed to be inoperative.

Iowa Code § 20.27; *Amalgamated Transit Union, Locals 312, 441, 638, 779 and 1192*, 2018 PERB 102202 at 12. Therefore, we deemed the retention and recertification requirements of section 20.15(2) provisions inoperative to the five ATU locals that represent 100 percent transit employees. *Id.* at 13.

We reach the same conclusions as we did in our declaratory order. Because the receipt of federal funds is jeopardized, the provisions of Iowa Code section 20.15(2) requiring a retention and recertification election of ATU Local 1192 are inoperative.

Accordingly, we enter the following:

**RULING**

ATU Local 1192's objection is SUSTAINED.

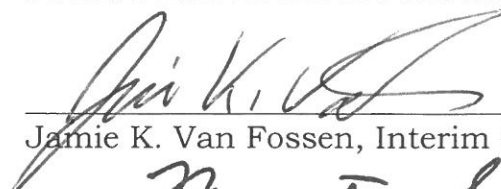
**ORDER**

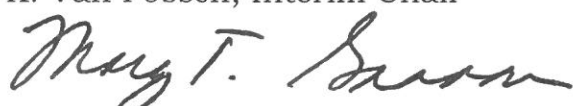
PERB's "Order of Recertification" is rescinded and no election fee is due from ATU Local 1192.

The Public Employer 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.

DATED at Des Moines, Iowa this 18th day of October, 2018.

PUBLIC EMPLOYMENT RELATIONS BOARD

  
\_\_\_\_\_  
Jamie K. Van Fossen, Interim Chair

  
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Mary T. Gannon, Board Member

Original filed EDMS.