

IN THE MATTER OF:)
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)
IOWA NORTHLAND REGIONAL TRANSIT,)
Public Employer,)
)
and) BU-0635
)
)
AMALGAMATED TRANSIT UNION,)
LOCAL 1192,)
Certified Employee Organization.)
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apply to its situation and why ATU Local 1192 should not undergo a retention and recertification election.

ATU Local 1192 objects to the election alleging the unit consists of 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 Iowa Northland Regional Transit (INRCOG). ATU Local 1192 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.

INRCOG does not resist ATU Local 1192's objection. Thus, we did not proceed with oral argument and reach our ruling based on the objection of record, our ruling in 2018 PERB 102246, and our declaratory order in 2018 PERB 102202.

Based upon the entirety of the record in this case, including the record in *In the Matter of Amalgamated Transit Union, Local 1192*, 2018 PERB 102246; *In the Matter of 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 the Matter of Des Moines Area Regional Transit Authority and Amalgamated Transit Union, Division 441*, 2018 PERB BU-0281; *In the Matter of Sioux City Transit System and Amalgamated Transit Union, Division 779*, 2018 PERB BU-0549; and *In the Matter of City of Cedar Rapids and Amalgamated Transit Union, Local 638*, 2018 PERB BU-0886, the objection of ATU Local 1192 is SUSTAINED.

Relevant Facts and Proceedings.

The relevant facts and proceedings are those set forth in our recent ruling in 2018 PERB 102246 regarding ATU Local 1192's request for a waiver and as set forth in our declaratory order, 2018 PERB 102202, and reflected in the below discussion.

Discussion.

Due to our reliance on *In the Matter of Amalgamated Transit Union, Locals 312, 441, 638, 779 and 1192 and State of Iowa and Des Moines Area Regional Transit Authority*, 2018 PERB 102202, we briefly summarize our declaratory order.

On July 3, 2018, five ATU locals (Collectively referred to as ATU) filed with PERB a petition seeking a declaratory order on whether they were exempt from retention and recertification elections.¹ 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 § 20.25(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?

¹ The five 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; ATU Local 779 and the Sioux City Transit System; and ATU Local 1192 and the Metropolitan Transit Authority of Black Hawk County.

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 Sioux City Transit System, 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).² 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.

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

² 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).

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.

In the Matter of 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.

ATU Local 1192 argues the pivotal facts of our declaratory order are present in its situation as well. On October 3, 2018, ATU Local 1192 filed its petition for a waiver of PERB subrule 621—5.6(3) in order to file an objection to the election and present evidence in support of its position. We granted the local's petition for a waiver on October 9, 2018, in 2018 PERB 102246. We agree with ATU Local 1192 that similar relevant facts are present that may be summarized as follows:

ATU Local 1192 is an employee organization certified by PERB as the exclusive bargaining representative for a bargaining unit of public employee transit workers employed by INRCOG. ATU Local 1192 was originally certified on July 19, 1990, in PERB Case No. 4191. The bargaining unit is comprised of 100 percent transit workers.

On behalf of the unit, ATU Local 1192 and INRCOG are parties to a collective bargaining agreement (CBA), which agreement is due to expire June 30, 2019. The impending expiration of the CBA triggered ATU Local 1192's requirement to undergo a retention and recertification election.

The public employer, INRCOG, receives federal funds and is subject to the same 49 U.S.C. § 5333(b) requirements as the ATU locals in *In the Matter of Amalgamated Transit Union Locals 312, 441, 638, 779, and 1192 [Metropolitan Transit Authority of Black Hawk Cnty.]*, 2018 PERB 102202. As a condition of its receipt of federal transit funds, INRCOG agrees to comply with the terms and conditions of a Section 13(c) Arrangement, referred to as the Special Warranty Arrangement, applicable to "non-unionized" public transit recipients. The Special Warranty Arrangement is a Section 13(c) Arrangement certified by the U.S. Department of Labor, Office of Labor Management Standards (OLMS) as satisfying the transit employee protection requirements required by 49 U.S.C. § 5333(b).

As a "non-urbanized" recipient, INRCOG receives its federal funds from the Iowa Department of Transportation (IDOT). Federal transit funds are first awarded to the IDOT, the grantee, which must secure INRCOG's agreement to comply with the terms of the Special Warranty Arrangement as a condition for INRCOG's receipt of the federal transit funds through the IDOT. INRCOG and IDOT executed the "Transit Joint Participation Agreement to Implement a Federal Transit Administration (FTA) Non-Urbanized Formula Program (Flex fund Projects)." The Joint Participation Agreement references INRCOG's

agreement to all terms and conditions established by the Federal DOT, including the Special Warranty Arrangement.

The Special Warranty Arrangement requires in part that INRCOG preserve the rights, privileges, and benefits under existing collective bargaining agreements, as well as the obligation to continue collective bargaining rights. Should a retention and recertification election of ATU Local 1192 occur, neither INRCOG, as a recipient, nor the IDOT, as a guarantor, would be able to comply with the collective bargaining obligations of the Special Warranty Arrangement.

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 Directing Retention and Recertification Election" is rescinded.

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 11th day of October, 2018.

PUBLIC EMPLOYMENT RELATIONS BOARD



Jamie K. Van Fossen, Interim Chair



Mary T. Gannon, Board Member

Original filed EDMS.