

STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

---

IN THE MATTER OF:

CITY OF CORALVILLE,  
Public Employer,

and

AFSCME LOCAL #183 (Transit),  
Certified Employee Organization.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

CASE NO. BU-0174

---

**RULING AND ORDER**

On August 27, 2019, pursuant to PERB subrule 621–15.5(3)(a), the Certified Employee Organization, AFSCME Local #183 (Transit), 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 AFSCME Local #183 as the exclusive representative of a bargaining unit of the City of Coralville employees referenced as “BU-0174.”

AFSCME 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 the City of Coralville. AFSCME 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>

---

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

Subsequent to the filing of AFSCME's objection, the City of Coralville inadvertently submitted a list of eligible bargaining unit voters to PERB. The parties agree that AFSCME should not be subject to a retention and recertification election. AFSCME and the City filed a stipulation of facts on September 16, 2019, and have requested the Board to sustain AFSCME's pending objection based on the stipulation. We approved the parties' request to forego an evidentiary hearing as a result. Danny Homan represents AFSCME LOCAL #183 (Transit) and Brett Nitzschke represents the City of Coralville.

Based upon the entirety of the record in this case, 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 AFSCME is SUSTAINED.

***Stipulated Facts.***

The parties filed the following stipulation of facts:

1. On August 26, 2019, PERB filed a Notice of Intent to Conduct a Retention and Recertification Election of AFSCME Local #183 in the above-captioned matter.
2. On August 27, 2019, AFSCME Local #183 filed an objection to PERB's notice pursuant to PERB subrule 621—15.5(3)(a) asserting the bargaining unit is comprised of transit workers and, as its representative, AFSCME Local #183 should not be subject to the election.
3. The City of Coralville inadvertently submitted a list of bargaining unit employees for this election.
4. The AFSCME-represented bargaining unit, referred to as "BU-0174," is comprised of one-hundred percent transit workers.
5. The City of Coralville receives federal funding subject to the requirements of the Federal Transit Act (FTA).

6. As a precondition for the release of these funds, the City of Coralville must have protective arrangements that comply with 49 U.S.C. § 5333(b) for this bargaining unit of transit workers.

7. The application of Iowa Code section 20.15(2) retention and recertification election requirements to this bargaining unit and its representative would jeopardize federal funding that the City of Coralville receives.

8. Consistent with *Amalgamated Transit Union Local 312, 441, 779 and 1192 and State of Iowa and Des Moines Area Reg'l Transit Authority*, 2018 PERB 102202, the Board should deem Iowa Code section 20.15(2) provisions inoperative to this unit pursuant to Iowa Code section 20.27 and sustain AFSCME's objection.

9. AFSCME Local #183 should not be subject to an Iowa Code section 20.15(2) retention and recertification election unless or until the facts as stipulated change.

### ***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 in that case. ATU's petition had 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?

The facts demonstrated that the five petitioning ATU locals represent bargaining units comprised of one-hundred percent transit workers employed by public employers that receive federal transit funds. The receipt of federal transit funds by the five public employers 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 Federal Transit Act (FTA) now codified as 49 U.S.C. § 5333(b).<sup>2</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 U.S. Department of Labor (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 the ATU locals named in the proceeding. In our declaratory order, 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

---

<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).

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 one-hundred percent transit employees. *Id.* at 13.

We reach the same conclusions in our ruling on this objection 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 AFSCME Local #183 are inoperative unless or until the facts as stipulated by the parties change.

Accordingly, we enter the following:

#### **RULING**

AFSCME Local #183's objection is SUSTAINED.

#### **ORDER**

PERB will cease its conduct of a retention and recertification election for AFSCME Local #183 with respect to the bargaining unit BU-0174. 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 AFSCME for this election.

The provisions of Iowa Code section 20.15(2) requiring a retention and recertification election of AFSCME Local #183 are inoperative unless or until the facts as stipulated by the parties change. Should the facts as stipulated change

in a manner that should subject AFSCME Local #183 to a future retention and recertification election, the public employer or certified employee organization shall notify PERB by filing a notice as provided in PERB subrule 621—15.5(3)(b).

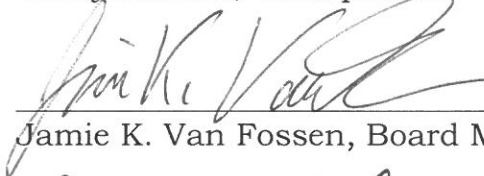
The Public Employer shall remove all prior postings related to the election and in their place post this Ruling and Order for a period of not less than ten days.

DATED at Des Moines, Iowa this 16th day of September, 2019.

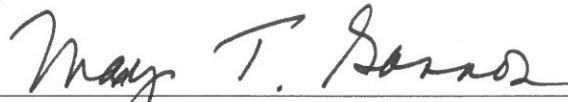
PUBLIC EMPLOYMENT RELATIONS BOARD



Cheryl Arnold, Chairperson



Jamie K. Van Fossen, Board Member



Mary T. Gannon, Board Member

Original filed EDMS.