

D.R. NO. 87-11

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

BERGEN COUNTY SUPERINTENDENT OF
ELECTIONS/COMMISSIONER OF REGISTRATION,

Public Employer,

-and-

LOCAL NO. 1, NEW JERSEY
EMPLOYEES LABOR UNION,

DOCKET NO. RO-87-37

Petitioner,

-and-

LOCAL 225, TRANSPORT WORKERS
UNION OF AMERICA, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a Petition for Certification which seeks to represent certain employees of the County Superintendent of Elections. Relying on earlier cases, the Director finds that these employees are State employees and the Petition was not timely filed in the appropriate "window" period for filing such petitions under N.J.A.C. 19:11-2.8(c)(1). Therefore, the current two-year agreement covering these employees operates as a bar to the filing of this Petition.

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Appearances:

For the Public Employer
E. Cary Edwards, Attorney General
(Melvin E. Mounts, Deputy Attorney General)

For the Petitioner
Hogan & Palace, Esqs.
(Michael J. Scully, of counsel)

For the Intervenor
Frank Caiazzo, President

DECISION

On September 23, 1986, Local No. 1, New Jersey Employees Local Union ("Local No. 1") filed a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission"). By its Petition, Local No. 1 seeks to represent all

full and part time employees employed by the Bergen County Superintendent of Elections/Commissioner of Registration ("Employer"). These employees are currently represented by Local 225, Transport Workers of Union America, AFL-CIO (TWU). The TWU has filed a request to intervene in this proceeding and objects to the petition for an election. There is a collective negotiations agreement covering the petitioned-for employees for the period January 1, 1984 through December 31, 1986. The employer alleges that this current agreement operates as a bar to the filing of the instant Petition.

We have conducted an administrative investigation in this matter to determine the positions of the parties and the facts. N.J.A.C. 19:11-2.2. Based upon the administrative investigation, the facts are as follows:

There is a collective negotiations agreement between the Superintendent of Elections/Commissioner of Registration and Local 225, TWU, which covers the period from January 1, 1984 through December 31, 1986. The employer asserts that this agreement is a bar to the filing of the Petition.

We have previously held that the Superintendent of Elections in each county is an officer of the State of New Jersey and that his or her employees are employees of the State. Mercer County Superintendent of Elections, D.R. No. 78-37, 4 NJPER 147 (¶ 4069 1978), request for review denied, P.E.R.C. No. 78-78, 4 NJPER 221 (¶ 4111 1978), affm'd App. Div. Dkt. No. A-4586-77 (2/28/80).

Further, in Mercer County Superintendent of Elections, D.R. No. 82-40, 8 NJPER 157 (¶ 13069 1982), which involved employees of a Superintendent of Elections, the then Director specifically noted that the appropriate time period for filing petitions for certification of public employee representative is controlled by N.J.A.C. 19:11-2.8(c)(1).

N.J.A.C. 19:11-2.8(c) provides, in relevent part, that:

During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a petition for certification of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

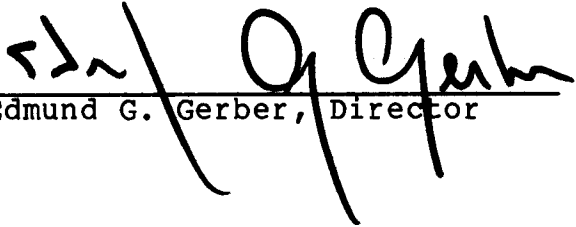
(1) In a case involving employees of the State of New Jersey, any agency thereof, or any State authority, commission or board, the petition is filed not less than 240 and not more than 270 days before the expiration or renewal date of such agreement;...

Accordingly, I find that the Petition is not timely filed under the Rules and Regulations of the Commission.

On November 14, 1986, we informed the parties that, it appeared that the Petition was untimely filed. We invited Local No. 1 to file a withdrawal request or a statement of its position

concerning the filing of this Petition. We have received no withdrawal request nor any further submissions from the parties. Therefore, I find that the Petition filed in this matter is untimely under the Commission Rules and I hereby dismiss the Petition.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: November 25, 1986
Trenton, New Jersey