

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: :  
: Case No. PF-R-01-189-W  
: :  
ALLEGHENY COUNTY :

**FINAL ORDER**

On January 29, 2002, the Allegheny County Deputy Sheriffs' Association (Association) filed timely exceptions to a letter issued by the Secretary of the Pennsylvania Labor Relations Board (Board) declining to direct a hearing on a petition for representation filed by the Association seeking to represent a bargaining unit of deputy sheriffs of Allegheny County (Employer) as police under Act 111 of 1968.<sup>1</sup> The Association subsequently filed a timely brief in support of its exceptions and a request for oral argument.<sup>2</sup>

The Board Secretary concluded that the Association failed to accompany the petition with the required thirty percent showing of interest, and therefore, declined to direct a hearing on the petition. The Board's Rules and Regulations define "showing of interest" as follows:

A designated percentage of public employes in an allegedly appropriate bargaining unit, or a bargaining unit determined to be appropriate, who are members of an employe organization, who have designated it as their exclusive bargaining representative, or who have signed a petition requesting an election for certification or decertification of public employe representatives. The designations shall consist of written authorization cards or petitions, signed by employes and dated, authorizing an employe organization to represent the employes for the purpose of collective bargaining or requesting an election for certification or decertification of public employe representatives, current dues records or other evidence approved by the Board.

34 Pa. Code § 95.1. In its exceptions, the Association contends that it is not requesting an election, but only the amendment of its current certification to reflect the fact that the deputy sheriffs are "police" within the meaning of Act 111 and that the Association represents them. The Association also contends that the requirement to include the showing of interest with the petition is inconsistent with Section 95.14 of the Board's Rules and Regulations, which provides for proof of the showing of interest to be submitted to the hearing examiner, if requested. The Association finally contends that the requirement of a showing of interest is inconsistent with a previous case (Case No. PF-R-81-68-W) in which the Association unsuccessfully argued that the deputy sheriffs in Allegheny County were police under Act 111.

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<sup>1</sup> The Association currently represents the deputy sheriffs under the Public Employe Relations Act (PERA) pursuant to a Nisi Order of Certification issued on April 3, 1975 at Case nos. PERA-R-3560-W and PERA-R-4401-W.

<sup>2</sup> The request for oral argument is denied because this case raises no novel issue of law or fact.

The Board has recently addressed and rejected the Association's argument that an employe organization may create a bargaining obligation on the employer under Act 111 by filing a petition with the Board to amend an existing certification under PERA. In Commonwealth of Pennsylvania (Office of Attorney General), 33 PPER ¶ 33026 (Final Order, 2001), the Board rejected a request by the employe organization to merely amend its certification where the employe organization was attempting to secure bargaining rights under Act 111. In that case, the Board stated that the proper procedure to secure Act 111 bargaining rights was "by filing an appropriate representation petition under Act 111." 33 PPER at 57. So to here, in order to gain bargaining rights under Act 111, the Association must file a representation petition under Act 111.

The Association's contention that the dismissal of its petition is inconsistent with a prior attempt by the Association to represent the deputy sheriffs under Act 111 is similarly without merit. A review of the previous case filed by the Association reveals that the Association did in fact file a petition for representation under Act 111 along with the required thirty percent showing of interest.

Finally, it is firmly established that the required showing of interest must be filed concurrently with the petition for representation. In Bucks County, 17 PPER ¶ 17081 (Order Directing Remand To Secretary For Further Proceedings, 1986), the Board reaffirmed its determination that showings of interest must be submitted at the time of the filing of a petition for representation, and that after-submitted evidence of the showing of interest will not be accepted. In that case, the Board explained its position as follows:

Due largely to abuse of the Board's practice [of accepting showings of interest after the filing of a petition], it has since amended its practice to require petitions to be accompanied by the requisite showing of interest at the time of filing. Since it had been and remains the Board's longstanding practice to disallow attacks on the showing of interest, the allowance of submission of a showing of interest sometimes weeks after the filing of a petition created unwarranted friction over the showing of interest issue in the processing of representation petitions. To relieve this friction the Board required on the petition itself that the showing of interest be submitted at the time of filing the petition and thereby avoiding any question that union organizational efforts in securing the showing of interest continued after the petition was filed.

17 PPER at 212 (emphasis in the original). See also, Somerset Borough, 13 PPER ¶ 13309 (Nisi Order of Dismissal, 1979); Dauphin County Home, 11 PPER ¶ 11026 (Nisi Order of Dismissal, 1980). Accordingly, in order to raise the issue of whether or not the deputy sheriffs are police within the meaning of Act 111 and to gain the right to represent the deputy sheriffs for the purpose of collective bargaining under Act 111, the Association must file a petition for representation with the accompanying requisite showing of interest, which may consist of authorization cards, signature petitions or current dues records.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions filed by the Association and make the Secretary's letter declining to direct a hearing on the Petition final.

In view of the foregoing and in order to effectuate the policies of Act 111 of 1968 and the Pennsylvania Labor Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the above case number be and the same are hereby dismissed and the Secretary's letter declining to direct a hearing on the Petition be and the same is hereby made absolute and final.

SEALED, DATED and MAILED pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, John R. Markle Jr., Chairman, and L. Dennis Martire, Member, this fifteenth day of October, 2002. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.