

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL :
EMPLOYEES, COUNCIL 81; LABORERS INTERNATIONAL :
UNION OF NORTH AMERICA, LOCAL 1029; AND UNITED : **REP. PET. 07-12-608**
FOOD AND COMMERCIAL WORKERS, LOCAL 27, :
AND : STATE MERIT EMPLOYEES
STATE OF DELAWARE. : UNIT 1
:
:

19 Del.C. §1311A Unit 1 Scope of Unit Definition Determination

1. The State of Delaware is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (“PERA”), 19 Del.C. Chapter 13 (1994).

2. The American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”), Council 81, is an employee organization within the meaning of 19 Del.C. §1302(i). AFSCME, through its affiliated Locals 516, 640, 837, 879, 936, 1036, 1385, 1443, 1525, 2004, 2035, and 2362, is the exclusive bargaining representative of numerous State Merit employees in the Departments of Finance (“DOF”), Health and Social Services (“DHSS”), Labor (“DOL”), Natural Resources and Environmental Control (“DNREC”), Services for Children, Youth and Families (“DSCYF”), and Transportation (“DOT”).

3. Laborers International Union of North America (“LIUNA”) is an employee organization within the meaning of 19 Del.C. §1302(i) and, through its

affiliated Local 1029, is the exclusive bargaining representative of certain State Merit employees employed by the Department of Health and Social Services.

4. The United Food and Commercial Workers (“UFCW”) is an employee organization within the meaning of 19 Del.C. §1302(i) and, through its affiliated Local 1029, is the exclusive bargaining representative of certain State Merit employees employed by the Family Court of the State of Delaware

5. On August 2, 2007, the Governor signed SB 36 which modified the Public Employment Relations Act, 19 Del.C. Chapter 13 (“PERA”), to (along with other changes) include a new section 1311A, Collective Bargaining in the state service. This section identified twelve statewide bargaining units and stated:

The Board shall determine the proper assignment of job classifications to bargaining units and the bargaining unit status of individual employees and shall provide for certified bargaining representatives to combine bargaining units or portions of bargaining units of employees they represent within the bargaining units defined in this section based upon the job classifications of the employees represented.

5. On or about December 6, 2007 AFSCME filed a representation petition which raised the issue of the composition of the bargaining unit defined by 19 Del.C. §1311A(b)(1). That unit (“Unit 1”) is statutorily defined to include, “**Labor, maintenance, trade and service workers** which is composed of generally recognized blue collar and service classes including mechanics, highway, building and natural resource maintenance, skilled craft, equipment operators, toll collectors, food service, custodial, laundry, laborers, security officers and similar classes”

6. At PERB’s request, on or about January 8, 2008, the State provided a list of all State merit classifications which it believed fell within the statutory Unit 1 definition. The list also indicated whether the listed classifications were currently represented for purposes of collective bargaining, and if so, identified the certified exclusive bargaining representative.

7. The State’s list includes classifications with positions in the Departments of Agriculture (“DOA”), Correction (“DOC”), Finance (“DOF”), Health and Social Services (“DHSS”), Labor (“DOL”), Natural Resources and Environmental Control (“DNREC”), Safety and Homeland Security (“DSHS”), State (“DOS”), Transportation (“DOT”), the Office of Management and Budget (“OMB”), the Fire Prevention Commission, the administrative offices of the Court of Common Pleas (“CCP”) and Justice of the Peace Court (“JP Ct.”), and in Legislative Council.

8 The State’s information was provided to AFSCME, LIUNA and the UFCW for review and response. Following a number of meetings and discussions, the State, AFSCME, LIUNA and UFCW stipulated Unit 1 includes the following State Merit classifications:

Adaptive Equipment Technician I	Intelligent Transportation System Technician I, II, III, IV
Animal Keeper	Intelligent Transportation System Technician Supervisor
Assistant Area Supervisor	Laboratory Aide
Assistant Rangemaster	Laborer
Autobody Mechanic Supervisor	Laundry Worker
Automotive Body Mechanic I, II	Maintenance Area Supervisor I
Carpenter	Master Electrician
Communication Systems Specialist	Master Mechanic
Communications System Technician	Photo Reproduction Technician
Conservation Technician I, II, III	Physical Plant Maintenance Trades Helper
Cook	Physical Plant Maintenance Trades Mechanic I, II, III
Court Security Officer I (including former “Bailiff” & “Judicial Asst. I” positions)	Seamstress
Court Security Officer II (formerly “Senior Bailiff” & “Judicial Asst. II” positions)	Security Officer
Custodial Worker	Senior Communication Systems Specialist
Engineering/Planning/Surveying Technician I, II, III	Senior Cook
Environmental Control Technician I, II, III	Senior Custodial Worker
Environmental Control Boat Captain	Senior Food Service Worker
Equipment Mechanic I, II, III, IV	Senior Traffic Sign Installer
Equipment Operator I, II, III, IV	Supply, Storage and Distribution Clerk I, II, III

Fleet Services Technician	Supply, Storage and Distribution Technician I, II
Food Service Worker	Surplus Property Specialist
Food Services (Sighted)	Surplus Property Technician
Graphics & Printing Foreman	Toll Collector
Graphics & Printing Technician I, II, III, IV	Toll Corporal
Groundskeeper I, II	Traffic Sign Installation Supervisor
Housekeeper	Traffic Sign Installer
HVAC/Refrigeration Technician	Traffic Signal Supervisor
Instrument Technician I, II	Welder

9. The State, AFSCME, LIUNA and the UFCW stipulated the following classifications are supervisory and therefore ineligible for representation; however, to the extent that certain positions within these classifications are currently represented within existing certified bargaining units, they are grandfathered by operation of 19 Del.C. §1302(o) and §1310(d), and are appropriate for inclusion in Unit 1:

Automotive Supervisor I, II	Graphics & Printing Supervisor
Cook Supervisor	Highway Equipment Superintendent
Conservation Technician IV	Maintenance Area Supervisor II
Custodial Supervisor I, II	Physical Plant Maintenance Trades Foreman

10. By decision dated April 29, 2010, Superior Court determined the stipulation was binding on the PERB and that no further objections received from unrepresented employees should be considered. Judge Scott’s decision determined Communication Systems Specialists, Communication Systems Technicians, and Senior Communication Systems Specialists are in Unit 1 as a result of the October, 2008 Stipulation.

11. AFSCME’s petition seeks to represent the unrepresented employees in Unit 1. The statute provides at §1311A(e) that “an employee organization may file a petition with the Board accompanied by the un-coerced signatures of at least 30% of the combined total of unrepresented state employees and state employees currently represented by the petitioning organization in a unit described in §1311A(b).”

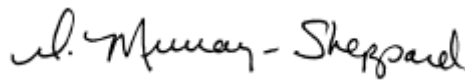
12. On or about May 12, 2009, PERB requested the State provide a list of merit employees (employed statewide) in Unit 1 positions that were either unrepresented or currently represented by an AFSCME affiliate. The State provided the requested list on June 1, 2009.

13. AFSCME's petition has been verified as being properly filed and adequately supported by at least 30% of the combined total of unrepresented state employees and state employees currently represented by AFSCME in Unit 1.

WHEREFORE, having determined the composition of the bargaining unit defined by 19 Del.C. §1311A(b)(1), that Unit 1 includes both represented and unrepresented employees, and that a proper petition is currently pending before PERB to represent the unrepresented employees, an election will be scheduled forthwith to determine whether the unrepresented employees desire to be represented for purposes of collective bargaining pursuant to 19 Del.C. §1311A.

IT IS SO ORDERED.

DATE: July 26, 2010



DEBORAH L. MURRAY-SHEPPARD
Executive Director
Del. Public Employment Relations Bd.