

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF :

STATE OF RHODE ISLAND, :
DEPARTMENT OF ENVIRONMENTAL :
MANAGEMENT :

-AND- :

LOCAL 400, IFPTE :

CASE NO: EE-3704
UNIT CLARIFICATION:
Federal Aide Program
Coordinator (DEM)

DECISION AND ORDER OF DISMISSAL

TRAVEL OF CASE

The above-entitled matter came on to be heard before the Rhode Island State Labor Relations Board (hereinafter "Board") on a Petition for Unit Clarification and/or Accretion/Exclusion (hereinafter "Petition") filed by Local 400, IFPTE (hereinafter "Union") on September 6, 2016, wherein the Petitioner sought to accrete the position of Federal Aide Program Coordinator (DEM) to an existing bargaining unit.

The Board's Agent conducted an informal hearing on the Petition on October 5, 2016, which was attended by representatives from both parties. The State of Rhode Island, Department of Environmental Management (hereinafter "Employer") objected to the inclusion of this position in the bargaining unit on the grounds that this position was supervisory and/or managerial and therefore, ineligible for collective bargaining. Subsequent to the informal hearing, the Board's Agent conducted an investigation, which culminated in a nine (9) page written Investigative Report dated January 11, 2017. The Union and the Employer each filed a Response to the Investigative Report. On February 23, 2017, the Board met to review the Investigative Report, the Union's Response to the Investigative Report, and the Employer's Response to the Investigative Report. The Board determined that it would not issue a preliminary determination on the Petition, and that the matter would proceed to formal hearing for further testimony. A formal evidentiary hearing was held on June 27, 2017. Representatives from the Employer and Union participated in the formal hearing and were provided a full and fair opportunity to examine and cross-examine witnesses and to submit documentary evidence in support of their respective positions. Upon conclusion of the hearing, the parties submitted briefs and the Board, at its August 22, 2017 meeting, considered the matter.

DISCUSSION

At its meeting on August 22, 2017, Board Member, Marcia Reback, made a motion, seconded by Member Aronda Kirby, to accrete the petitioned for position into the bargaining unit. Members Lanni, Duhamel, and Reback voted in favor of the Motion. Members Cardona, Kirby, and Chiavarini voted against the Motion. Since the Motion failed to gain a majority support, the Motion was deadlocked at 3-3.¹ Therefore, the Board has no other choice but to dismiss the Petition.

FINDINGS OF FACT

- 1) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.

- 2) The Union is a labor organization, which exists and is constituted for the purpose, in whole or in part, of collective bargaining, and of dealing with Employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection, and as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.

- 3) On September 6, 2016, the Union filed a petition seeking to accrete the position of Federal Aide Program Coordinator (DEM) into the bargaining unit represented by Local 400, IFPTE.

- 4) The Board's Investigative Agent conducted both an informal hearing and an investigation and issued a written report to the parties and the Board.

- 5) A formal hearing was conducted by the Board.

- 6) The Board was deadlocked when voting on the substantive merits of the Petition and the Board has no statutory mechanism for breaking a deadlocked vote.

CONCLUSIONS OF LAW

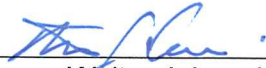
- 1) The Board has no alternative but to dismiss the within Petition on the basis that it has no mechanism to break a deadlocked vote.

ORDER

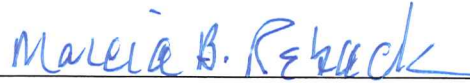
- 1) The Petition is hereby dismissed.

¹ Whereas deadlocked votes are rare, the Board has no statutory mechanism for breaking tie votes. (See Case No. EE-3723, in the matter of RI State Labor Relations Board and State of RI-Higher Education Assistance Authority (Decision and Order of Dismissal dated December 21, 2012).

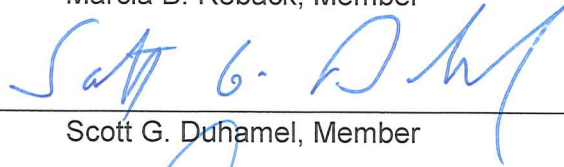
RHODE ISLAND STATE LABOR RELATIONS BOARD



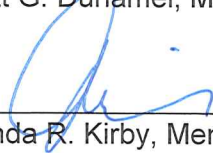
Walter J. Lanni, Chairman



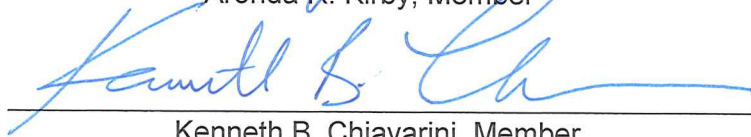
Marcia B. Reback, Member



Scott G. Duhamel, Member



Aronda R. Kirby, Member



Kenneth B. Chiavarini, Member

Board Member, Alberto Aponte Cardona, was not present to sign as written.

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: October 6, 2017

By: 
Robyn H. Golden, Administrator

EE-3704

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BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

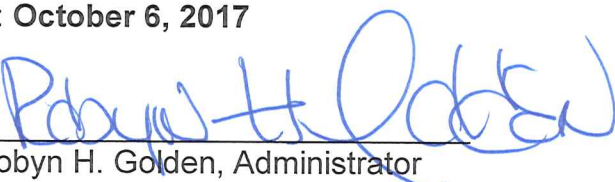
IN THE MATTER OF	:
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STATE OF RHODE ISLAND -	:
DEPARTMENT OF	:
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ENVIRONMENTAL MANAGEMENT	:
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-AND-	: CASE NO: EE-3704
	:
LOCAL 400, IFPTE	:

**NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12**

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. EE-3704 dated October 6, 2017 may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **October 6, 2017**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: **October 6, 2017**

By: 
Robyn H. Golden, Administrator