

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

**Minutes of the State Panel Meeting
Held on November 15, 2012**

I. OPENING OF MEETING 11:00 P.M.—160 North LaSalle Street, S-400, Chicago, Illinois

II. PRESENT

John Hartnett, Chairman of the Board; Paul Besson, Member of the Board; James Brennwald, Member of the Board; Michael Coli, Member of Board; Albert Washington, Member of the Board; Melissa Mlynski, Executive Director; Jerald S. Post, General Counsel; and staff members.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD October 9, 2012

Chairman Hartnett called for approval of the minutes of the October 9, 2012 meeting. Member Washington moved to approve the minutes. Member Besson seconded. The Board passed the motion unanimously, by a voice vote.

IV. ADMINISTRATIVE MATTERS

Chairman Hartnett asked Executive Director Mlynski to present the State Panel administrative actions report for the period of time from October 1 through October 31, 2012. She presented the report and summarized its highlights. The Board examined the report and discussed it.

V. BOARD ACTIONS

1. Case No. S-RC-09-202

**American Federation of State, County and Municipal Employees, Council 31/State of Illinois,
Department of Central Management Services**

Chairman Hartnett called the case, noting that this case was held over from the October meeting for further consideration by the board and directed General Counsel Post to present briefly. General Counsel Post stated that on July 2, 2012, Administrative Law Judge (ALJ) Anna Hamburg-Gal issued a Recommended Decision and Order (RDO) in the above-referenced case. General Counsel Post then briefly discussed the Employer's exceptions and recommended that the Board uphold the ALJ's recommended decision and order. After discussion, Member Coli moved to reject General Counsel Post's recommendation and to instead uphold the ALJ's RDO only with respect to the inclusion in the unit of the position held by John Feeley, but to exclude as managerial employees the remaining three employees in dispute. Member Besson seconded the motion. The motion passed with three ayes and two nays; Member Brennwald and Member Washington dissented and would have accepted the ALJ's RDO in its entirety.

2. Case No. S-RC-10-220

**American Federation of State, County and Municipal Employees, Council 31/State of Illinois,
Department of Central Management Services**

Chairman Hartnett asked General Counsel Post to call and present the case. General Counsel Post stated that on November 16, 2011 ALJ Bell issued a RDO in the above-referenced case determining that a number of employees with the title SPSA Option 3 should be added to the RC-63 bargaining unit represented by Petitioner. The parties had agreed that 57 of the petitioned-for employees were "public employees" within the meaning of Section 3(n) of the Illinois Public Labor Relations Act, and should be included in the unit and that 32 of the petitioned-for employees were not public employees and should be excluded from the unit. The ALJ determined that all but two of the remaining 17 petitioned-for employees should be included in the unit. General Counsel Post then discussed the Employer's exceptions and the Petitioner's cross-exceptions and the responses. After lengthy detailed discussion, the board made the following motions:

1. Member Besson moved to accept General Counsel Post's recommendation that the Board not address the inclusion of the 57 people the parties agreed to include in the unit or the exclusion of the 32 they agreed to exclude, findings for which exceptions had not been filed, but to allow the ALJ's RDO to stand as a non-precedential decision on these points, binding only on the parties and that certification of those included follow issuance of the Board's written decision. Member Coli seconded the motion, and the Board passed it unanimously, by a voice vote.
2. Member Brennwald moved to accept General Counsel Post's recommendation that the Board not address the ALJ's recommendation that Dennis Kirk Mulvaney was excluded from the unit as a managerial employee, a finding for which exceptions had not been filed, but to allow the ALJ's RDO to stand as a non-precedential decision on that point, binding only on the parties. Member Coli seconded the motion, and the Board passed it unanimously, by a voice vote.
3. Member Besson moved to exclude Gary Cochran (State Police) and Lambert Fleck (State Police) from the unit as confidential employees. Member Washington seconded the motion, and the Board passed it unanimously, by a voice vote.
4. Member Brennwald moved to find the following were excluded from the unit as managerial employees: Jeremy Margaron (DHS), Stephen DePooter (DVA), Joe Woodward (OSFM), Susie Saputo (DHS), and Hal Waggoner (IEPA). Member Coli seconded the motion, and the Board passed it unanimously, by a voice vote.
5. Member Besson moved to find that Melissa Kahle (CMS) was excluded from the unit as a supervisor. Member Washington seconded the motion, and the Board passed it unanimously, by a voice vote.
6. Member Coli moved to remand for further factual development with respect to: Matthew Penning (DHS), Steve Washburn (DHS), Dave Palmatier (DHS), Julie Hagele (DHS), John Minnick (DHS), John Riggs (DHS), Charles Cicora (IDES), and William Schneider (IDES). Member Washington seconded the motion, and the Board passed it unanimously, by a voice vote.

**3. Case No. S-RC-09-111
Illinois Fraternal Order of Police, Labor Council/Village of Beloit**

Chairman Hartnett called the case, noting that ALJ Bell issued a RDO on July 27, 2012. General Counsel Post asked Counsel Kazanjian to present the case. Counsel Kazanjian stated that Petitioner filed a representation/certification seeking an election to represent full-time peace officers in the rank of sergeant employed by the Employer. Counsel Kazanjian then reviewed the issues presented in the Petitioner's exceptions, the Employer's cross-exceptions and responses. After discussion, Member Besson moved to accept the RDO with modifications. Member Washington seconded the motion, and the Board passed it unanimously, by a voice vote.

**4. Case No. S-RC-11-128
International Union of Operating Engineers, Local 649/Village of Germantown Hills**

Chairman Hartnett asked Counsel Post to call and present the case. Counsel Post noted that ALJ Owen issued a RDO on September 6, 2012. Counsel Post then presented the issues raised by the Employer's exceptions and the Petitioner's responses. Counsel Post recommended that the board reverse the ALJ's RDO and dismiss the petition after determining the Employer did not employ 5 public employees as required in Section 20(b), and find that the part-time maintenance worker was a "short-term" employee, not a public employee, and find the Treasurer was a confidential employee, not a public employee, leaving Employer with only three public employees. After discussion, Member Brennwald moved to accept General Counsel Post's recommendation to reverse the ALJ's RDO. Member Besson seconded the motion, and the Board passed it unanimously, by a voice vote.

**5. Case No. S-CA-09-245
Policemen's Benevolent and Protective Association/County of Kane and Kane County Sheriffs**

Chairman Hartnett called the case, noting that no party filed exceptions to ALJ Tarver's RDO, and asked whether the Board wished to review the decision on its own motion. The Board declined to do so.

**6. Case No. S-CA-11-059
Michael Montemayor/Village of Barrington Hills (Police Department)**

Chairman Hartnett called the case, noting that no party filed exceptions to ALJ Kehoe's RDO, and asked whether the Board wished to review the decision on its own motion. The Board declined to do so.

VI. OTHER BOARD MATTERS

After a short discussion regarding whether there was a need for executive session, the Board concluded that it was unnecessary at this time.

VII. ADJOURNMENT

Chairman Hartnett called for a motion to adjourn. Member Washington made a motion to adjourn the meeting, and the Board passed it unanimously, by a voice vote.

Adopted and approved by the Chairman and Members of the State Panel of the Illinois Labor Relations Board, in Chicago, Illinois, this 11th day of December, 2012.