

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

FERGUSON LIBRARY

and

LOCAL 1303-317, COUNCIL 4,
AFSCME, AFL-CIO

Case Nos. E-17,894 & U-18,090

MARCH 24, 1998

A P P E A R A N C E S

Attorney J. William Gagne, Jr.
For the Union

Attorney George N. Nichols
for the Employer

PROCEDURAL ORDER

On February 1, 1996, Local 1303-317, Council 4, AFSCME, AFL-CIO (the Union) filed a petition (Case No. E-17,894) with the Connecticut State Board of Labor Relations (the Labor Board) pursuant to §31-106 of the State Labor Relations Act (SLRA or the Act) seeking to modify an existing bargaining unit of employees of the Ferguson Library (the Employer or Library) to include all non-supervisory, hourly employees who work twenty (20) hours or more per week.

On April 1, 1996 the Union filed a charge with the Labor Board (Case No. U-18,090), amended on May 24, 1996, alleging that the Library had engaged in an unfair labor practice in violation of §31-105 of the Act. Specifically, the Union alleged that the Employer had reduced the hours of certain employees in retaliation for the exercise of the rights guaranteed to employees in the Act.

On April 4, 1996 the Agent of the Labor Board ordered an election in Case No. E-18,894 among all non-supervisory hourly employees of the Library who work twenty or more hours per week. On April 19, 1996 the Library filed objections to the order of election and a supporting brief

with the Labor Board. The election was conducted by mail ballot from May 7, 1996 to May 20, 1996. On May 28, 1996, the Library filed an objection to the conduct of the election.

The matters were consolidated by notice dated June 13, 1997 and brought before the Labor Board for a formal hearing on November 4, 1997. Due to a scheduling problem, it was determined by the Board that it would proceed with Case No. E-17,894 at the hearing on November 4, 1996 and hold Case No. U-18,090 for hearing at a later date. Both parties appeared on November 4, 1996, were represented by counsel and allowed to present evidence and make argument concerning Case No. E-17,894.

At the hearing, the Labor Board raised the issue of whether it has jurisdiction over the Ferguson Library pursuant to Conn. Gen. Stat. §31-101 *et seq.* The parties agreed to submit briefs addressing the issue of jurisdiction as well as the other objections to the election raised by the Library. The parties submitted exhibits for the Board's consideration and were allowed to make argument. Following the hearing, the parties submitted an agreed upon exhibit comprising an independent auditors' report of the Ferguson Library for the years ended June 30, 1996 and June 30, 1997. (Ex. 7).

We have considered the evidence and the briefs of the parties as well as the relevant law concerning jurisdiction of this Board over entities such as the Ferguson Library. Conn. Gen. Stat. §31-101(7) provides in relevant part: " 'Employer' means any person acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include...any person subject to the provisions of the National Labor Relations Act, unless the National Labor Relations Board has declined to assert jurisdiction over such person,...or the state or any political or civil subdivision thereof...". Based on the wording of the statute, there are two initial jurisdictional questions that must be answered before we may proceed with the processing of this petition.

First, we must determine that Ferguson Library is not a political subdivision of the State. If it is, we would have jurisdiction over this employer pursuant to the Municipal Employee Relations Act, Conn. Gen. Stat. §7-467 *et seq.* (MERA), not the SLRA. If we determine that the Library is not a political subdivision of the State, we still must be satisfied that the National Labor Relations Board does not have jurisdiction over this entity before we may proceed.

In this matter, the parties have made representations to the Board which cause us to believe there exist substantial questions concerning the jurisdiction of this employer. The independent auditors' report submitted by the parties after the hearing shows that the gross annual revenues of the Library exceed \$6 million. Almost all of the revenue is derived from the City of Stamford. Based on the above, we believe there are significant questions concerning whether the Library constitutes a political subdivision of the State and, if not, whether the NLRB has jurisdiction due to the Library's engagement in interstate commerce. See: The New Britain Institute, 298 NLRB No. 128 (1990); Rutland Free Library, 299 NLRB No. 90 (1990).

In order to make an informed decision regarding jurisdiction, we believe more information is needed. As such we are remanding this case to the Acting Agent of the Board with instructions to conduct further investigation into the jurisdictional questions discussed above. If the parties are unable to agree on the relevant information to be considered by the Board in this determination, the Acting Agent is instructed to set this matter down for further formal hearings before the Board. Once the information is presented to the Board, we will proceed by first making a determination as to whether the Library constitutes a political subdivision of the State. If we determine that it does, we will proceed accordingly pursuant to our statutory authority. If we determine that it does not, we will forward this matter to the National Labor Relations Board for an advisory opinion regarding the jurisdiction of that Board.

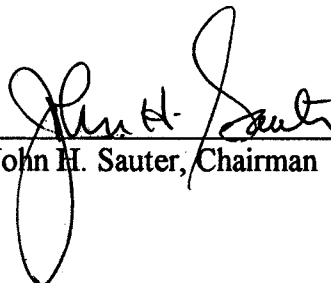
In accordance with the above, we will hold Case No. U-18,090 in abeyance pending full resolution of the jurisdictional questions.

By virtue of the power vested in the Connecticut State Board of Labor Relations by the State Labor Relations Act, it is hereby ORDERED that:

I. Case No. E-17,894 be remanded to the Acting Agent of the Labor Board for further investigation and scheduling in accordance with the discussion herein;

II. Case No. U-18,090 be held in abeyance until such time as the jurisdictional questions regarding Ferguson Library are fully resolved.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

By: 
John H. Sauter, Chairman

CERTIFICATION

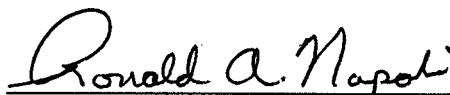
I hereby certify that the foregoing was mailed postage prepaid on this 24th day of March, 1998 to the following:

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Ronald A. Napoli, Acting Agent
Connecticut State Board of Labor Relations