

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

STATE OF CONNECTICUT, DEPARTMENT  
OF CORRECTION

-AND-

NATIONAL CORRECTIONAL EMPLOYEES  
UNION

-AND-

AFSCME, COUNCIL 4

Case No. SE-29,381

OCTOBER 25, 2011

STATE OF CONNECTICUT

-AND-

UNITED PUBLIC SERVICE EMPLOYEES UNION

-AND-

CSEA/SEIU LOCAL 2001

Case No. SE-29,394

STATE OF CONNECTICUT

-AND-

UNITED PUBLIC SERVICE EMPLOYEES UNION

-AND-

LOCAL 749, COUNCIL 4, AFSCME, AFL-CIO

Case No. SE-29,408

STATE OF CONNECTICUT, JUDICIAL BRANCH

-AND-

UNITED PUBLIC SERVICE EMPLOYEES UNION

-AND-

AFT/AFT-CT, AFL-CIO, PROFESSIONAL JUDICIAL EMPLOYEES

Case No. SE-29,409

STATE OF CONNECTICUT, JUDICIAL BRANCH

-AND-

UNITED PUBLIC SERVICE EMPLOYEES UNION

-AND-

IBPO, LOCAL 731, JUDICIAL MARSHALS

Case No. SE-29,410

STATE OF CONNECTICUT  
-AND-  
NATIONAL CORRECTIONAL EMPLOYEES UNION  
-AND-  
CSEA/SEIU, LOCAL 2001  
Case No. SE-29,411

STATE OF CONNECTICUT  
-AND-  
UNITED PUBLIC SERVICE EMPLOYEES UNION  
-AND-  
LOCAL 749, AFSCME, AFL-CIO  
Case No. SE-29,439

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## RULING ON MOTION TO INTERVENE

On various dates from August 15, 2011 to August 31, 2011 petitions were filed with the Connecticut State Board of Labor Relations (the Labor Board) alleging that questions or controversies concerning representation existed as to several bargaining units of employees of the State of Connecticut (the State). On September 27, 2011 the State Employee Bargaining Agent Coalition (SEBAC) filed a Motion To Intervene in these representation dispute cases. On October 3, 2011 the Labor Board directed the parties to give notice of their respective positions as to SEBAC's motion on or before October 11, 2011.

## DISCUSSION

SEBAC exists pursuant to General Statutes 5-278(f)<sup>1</sup> which mandates coalition bargaining as to retirement and health benefits for all organized State employees. SEBAC seeks full party status for itself as well as all SEBAC member unions not involved in these petitions. SEBAC alleges<sup>2</sup> that on July 22, 2011 it entered into a tentative<sup>3</sup> collective bargaining agreement entitled "Revised SEBAC 2011 Agreement" (the Agreement), Section IV ("Job Security") of which affords certain job security (e.g. no layoff) protections to those bargaining units "which agree . . . to contracts in accordance with the . . . provisions for wages . . . summarized in Attachment A." The final page of the Agreement is entitled "Attachment H" and states in relevant part:

Effective on and after July 1, 2011, the contract bar for purposes of any constituent union of SEBAC accepting a contract extension or renewal in accordance with Appendix A<sup>4</sup> of this agreement shall be computed solely from the expiration date of any such extension or renewal.

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<sup>1</sup> Section 5-278(f) provides, in relevant part:

. . . collective bargaining negotiations concerning changes to the state employees retirement system . . . and collective bargaining negotiations concerning health and welfare benefits . . . shall be conducted between the employer and a coalition committee which represents all state employees who are members of any designated employee organization. . . (3) The provision of subdivision (1) of this subsection shall not be construed to prevent the employer and representatives of employee organizations from dealing with any statewide issue using the procedure established in said subdivision.

<sup>2</sup> For purposes of this Motion we assume these allegations are true. See *Kerrigan v. Commissioner of Public Health*, 279 Conn. 447, 457 (2006).

<sup>3</sup> SEBAC contends this Agreement is now in effect by operation of law.

<sup>4</sup> This is a misnomer as there is no "Appendix A" attached to the Agreement. Presumably the reference is to the Attachment A wage schedule.

SEBAC alleges that each incumbent union<sup>5</sup> in the petition cases at issue accepted Attachment A of the Agreement thereby making Attachment H operative in these cases. SEBAC argues it has a direct interest in enforcing the Agreement in general and Attachment H in particular.

We agree that the incumbent unions, all of which are statutory members of the SEBAC coalition, have direct interests in asserting the application of Attachment H in these cases. Indeed the interests of the incumbents and the alleged interests of SEBAC are so closely aligned so as to appear identical, giving rise to a presumption of existing adequate representation. “[T]o overcome the presumption of adequate representation ‘the applicant for intervention must show adversity of interest, collusion, or nonfeasance on the part of the existing party . . .’” *Episcopal Church in the Diocese of Connecticut v. Gauss*, 302 Conn. 386, 400 (2011)(quoting *Edwards v. Houston* 78 F.3d 983, 1005 (5<sup>th</sup> Cir. 1996)). This SEBAC has not done.

We do, however, recognize the potential value of intervention by SEBAC in resolving the issue of the application of Attachment H which may be common to most if not all of these cases. We anticipate that the incumbents<sup>6</sup> will defer to SEBAC on presentation of their positions on this issue and that resolution of these cases may proceed more quickly as a result. Timely resolution of representation disputes is necessary if we are to meet the difficult goal of accommodating freedom of employee choice with minimal disruption to the necessary stability and continuity of bargaining relationships. *Town of Hamden*, Decision No. 4054 (2005); *Town of Wilton*, Decision No. 1263 (1974).

We conclude that limited intervention by SEBAC is called for in these circumstances. “[L]imited intervention is not intended to allow enjoyment of all the prerogatives of a party litigant.” *Rosado v. Bridgeport Roman Catholic Diocesan Corp.*, 60 Conn. App. 134, 152 (2000)(approved in *In re Shanaira C.* 297 Conn. 737 (2010)). While we note that we are unlikely to afford party status for the above-noted reasons to SEBAC member unions which are not involved in these petitions, the issue of such intervention is not presently<sup>7</sup> before us.

Having considered the Motion To Intervene we issue the following Order.

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<sup>5</sup>All the cases for which intervention is sought involve incumbent unions which actively oppose the petitions and seek to maintain their status as certified representatives for the bargaining units.

<sup>6</sup> All parties consent to SEBAC intervention excepting petitioner NCEU which seeks to limit SEBAC intervention to the issue of application of Attachment H.

<sup>7</sup> e.g. There is no petition for intervention before us other than SEBAC’s.

**ORDER**

SEBAC's Motion To Intervene is **GRANTED** subject to the following limitation: participation by SEBAC shall be limited to the sole issue of the application, if any, of Attachment H of the Revised SEBAC 2011 Agreement to the pending petitions.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

Patricia V. Low

Patricia V. Low

Chairman

Wendella Ault Battey

Wendella Ault Battey

Board Member

**CERTIFICATION**

I hereby certify that a copy of the foregoing was mailed postage prepaid this 25<sup>th</sup> day of October, 2011 to the following:

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