

NEW YORK STATE  
PUBLIC EMPLOYMENT  
RELATIONS BOARD



*News*

*Introducing...*

With this issue, the Public Employment Relations Board is initiating a monthly Newsletter which is designed as a communications link between the Board and public employers, employees, employee organizations and the public generally.

It is our intention through the Newsletter to make summaries of decisions of the Board available and to provide information on activities in such matters as representation, mediation and fact-finding. As one of its many functions, the Board is charged with responsibility for study and research and from time to time we will report on findings in this area.

The Newsletter will be distributed to individuals and organizations concerned with employee-employer relations in the public sector in New York State. Anyone interested in receiving a copy should contact the Board's Office of Public Information and Education in Albany.

Robert D. Helsby, *Chairman*  
George H. Fowler  
Joseph R. Crowley

## PERB Restrains Exclusive Negotiations with CSEA

An interim decision was rendered by PERB on November 30 ordering the State Negotiating Committee to refrain from negotiating with the Civil Service Employees' Association on "an exclusive basis pending resolution by the Board of the representation status dispute."

Six employee organizations challenged Governor Rockefeller's initial determination regarding the negotiating units and bargaining agent for State employees. Under the Taylor Law the Public Employment Relations Board is required to resolve such representation disputes.

The Board said that the Taylor Law, unlike other labor relations laws, permits the public employer — in this case, the Governor — to make an initial determination as to negotiating units, and on the basis of appropriate evidence, to recognize employee organizations as negotiating agents. The six employee organizations — acting under provisions of the Taylor Law — challenged the State Government's determinations in an action before the State Board, and requested that a stay order be issued halting negotiations between the State Government and the Civil Service Employees' Association.

In its decision, the Board said:

"Although we conclude that some provisional remedy is necessary in order to protect the right of public employees to be represented by the employee organization of their choice, the remedies that are usually afforded under other labor relations statutes are not necessarily appropriate. The Public Employees' Fair Employment Act is different from the other labor relations statutes in many ways. The most relevant of these is the fact that the Public Employees' Fair Employment Act does not mandate exclusivity of representation status. A public employer would appear to have the option of recognizing minority employee organizations and to negotiate with them for members only. It would, therefore, be improper for this Board to order the cessation of all negotiations. Furthermore, an order prohibiting negotiations until the resolution of the dispute concerning unit determination and certification would deprive the State's employees of the benefits of negotiations concerning the terms and conditions of their employment for the coming year. The budget submission date for the coming year is January 15, 1968. The date is already less than sixty days off and the Act contemplates the possibility that impasse procedures may have to be invoked as much as sixty days before a budget submission date. The contrary argument that the government could still grant whatever benefits it intends to grant employees under preexisting procedures is not entirely convincing in the light of the statutory predilection for negotiated agreements."

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# Uft Loses Check-Off For 12 Months

The New York State Public Employment Relations Board has taken its first enforcement action under the newly enacted Taylor Law.

The Board in a decision rendered on December 2 suspended for a 12-month period the dues check-off privileges of Local 2, United Federation of Teachers, New York City.

The Board concluded that the union caused a strike of public employees last September and ordered the dues check-off forfeiture. The check-off privilege may not be restored thereafter until the union has submitted a "no-strike" pledge.

In making its decision, the Board said that:

"The respondent (United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO) must be charged with full responsibility for the strike. By vote of its membership it adopted the "no contract, no work" policy which occasioned the strike;

it solicited persons to walk the picket lines; it instituted a telephone recording system whereby a tape-recorded message was played for the information of over 100,000 callers urging them to withhold their services; it announced the inevitability of a work stoppage of sufficient magnitude to prevent schools from reopening on September 11, 1967 even before that date; finally, speaking through its president, it stated that it was engaged in an act of civil disobedience, that is, it admitted that it was in violation of the law albeit for reasons that it deemed to be justifiable."

The State Board conducted public hearings on charges filed by the New York City Board of Education on October 18 and 19. The Board intervened and was a party to the proceedings over the objection of the original parties.

The decision of the Board was unanimous.

Copies of the decision are available at the Board's office in Albany.

## TAYLOR LAW PROVIDES FOUR OPTIONS IN NYC TRANSIT NEGOTIATIONS

The Transit Authority and the Transport Workers Union in New York City have agreed on impasse procedures to be followed in the present contract dispute. This is one of four options available to them to resolve impasses under the Taylor Law.

The State PERB worked closely with the Authority, the Union and the City to help them arrive at agreement on procedures and designated John Hans, PERB's Director of Conciliation, to serve as liaison with the parties during negotiations.

The options available were:

1. A public employer may enact a local law which provides a comprehensive labor relations program for its public employees. This option is available under Section 212 of the Taylor Law. It also provides for the establishment of a local PERB which acts in the place of the State Board. The State Board, however, must determine that the provisions of the local law are substantially equivalent to the terms of the Taylor Law.

2. In New York City some agencies have available to them an option to come under the Office of Collective Bargaining. Certain agencies, however, are not normally subject to OCB but may request the Mayor to have OCB provisions applicable to their employees; the Mayor is given the authority to grant these requests.

3. The State PERB may undertake to assist in the resolution of disputes if an agency chooses not to follow option one, above, or, in New York City, if

the agency is not subject to OCB procedures. Under Section 209 of the Law, the State Board, on its own motion or on request of a party to the dispute, must find that an impasse exists. The Board is then obligated: (1) to appoint one or more mediators, (2) if the impasse continues, to appoint a fact-finding panel which will make recommendations for the resolution of the dispute, and (3) to take whatever steps are appropriate to resolve the dispute including making recommendations to the chief executive officer of the government involved.

4. Finally, the Law allows the parties themselves to establish procedures to deal with impasses arising from collective negotiations.

Following the decision to establish their own procedures, the TA and TWU agreed to the appointment of a three-man panel by the Mayor. Members of the panel are Theodore W. Kheel, Joseph E. O'Grady and Vincent D. McDonnell.

The panel is empowered to schedule joint or separate conferences and will report, from time to time, on the status of negotiations. The parties, in turn, agreed to cooperate with the panel and each other in good faith and to supply evidence supporting their positions on major issues.

In the event of a breakdown of the procedures, or if agreement has not been reached by December 24, the State PERB will meet with the parties and with the panel to determine what further action will be taken.

## Negotiations with CSEA

(Continued from page 1)

The State PERB held hearings on November 20 on the request for a stay only. Subsequent hearings on the unit determinations and the recognition of CSEA began December 4 in Albany.

The six original petitioners were: Local 30-D, International Union of Operating Engineers; District Council 50, American Federation of State, County and Municipal Employees, AFL-CIO; Local 223, Building Service Employees' International Union, AFL-CIO; Local 456, International Brotherhood of Teamsters; Safety Officers' Benevolent Association, Inc.; and the New York State Nurses Association.

Thirty-three cases for certification or decertification are presently before the Board. Included are:

Petitioner	Alleged Unit	Petitioner	Alleged Unit
District Council 50, American Federation of State, County and Municipal Employees	All state employees	Local 30-D, International Union of Operating Engineers	Non-supervisory employees in power plants and related skills, Metropolitan New York area and downstate counties
"	Non-supervisory attendants Mental Hygiene	"	Non-supervisory employees in power plants and related skills, outside Metropolitan area
"	Non-supervisory correction officers	Building Service Employees' International Union, AFL-CIO	Industrial safety inspectors Department of Labor
"	All clerical employees Division of Employment	Local 223	All non-managerial employees, Syracuse State School
"	All professional employees Division of Employment	Local 200	Life guards and seasonal police — Long Island State Park Commission
"	All clerical employees Department of Labor	Local 381	All state employees
"	All professional employees Department of Labor	Local 381	All correction officers
"	Non-supervisory employees in counselor series — Education Department	Local 456, International Brotherhood of Teamsters	All correction officers
"	Employees — Grades 1 to 18 State Insurance Fund	New York State Correction Officers Association	All correction officers
"	Employees — Grades 19 to 24 State Insurance Fund	Safety Officers' Benevolent Association, Inc.	Uniform safety officers Mental Hygiene
"	Hearing reporters, calendar clerks below Grade 14 Workmen's Compensation Board	"	Uniform safety officers Education Department
"	All rehabilitation employees Workmen's Compensation Board	"	Uniform safety officers Correction Department
"	Investigators — Grades 12 to 20, Workmen's Compensation Board	"	Narcotics security assistants Capital buildings police
		Capital Buildings Police Benevolent Association	Park police
		Niagara Frontier Park Police Benevolent Association	Park police
		Palisades Interstate Park Police Benevolent Association	Long Island State Park police
		District 15, International Association of Machinists and Aerospace Workers, AFL-CIO	
		New York State Nurses Association	All registered nurses
		Association of NYS Civil Service Attorneys, Inc.	Attorneys in competitive class
		NY Chapter of American Physical Therapy Association, Inc.	All physical therapists
		NYS Council of Carpenters	All carpenters

### PERB Newsletter

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