

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

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In the Matter of: )	
) )	
American Federation of State, )	
County and Municipal Employees, )	
D.C. Council 20, Local 1200 )	
) )	
Petitioner, )	
) )	
and )	
) )	
District of Columbia )	
Office of the Controller, )	PERB Case No. 96-UC-01
Division of Financial Management )	Opinion No. 508
Agency. )	
) )	
) MOTION FOR RECONSIDERATION	
) )	
_____ )	

DECISION AND ORDER

On December 12, 1996, the Board issued a Decision and Order (Slip Opinion No. 503) in the above-captioned case holding that "pursuant to our authority under Subchapter XVIII, Labor-Management Relations of the Comprehensive Merit Personnel Act [CMPA], the Public Employee Relations Board maintains its jurisdiction over employees of the District of Columbia government, the agencies that employ them and the labor organizations that represent them with respect to labor-management relations under the CMPA, notwithstanding the authority and objectives of the Office of the Chief Financial Officer [OCFO] under the Financial Responsibility and Management Assistance Act [FRMAA] and the Omnibus Consolidated Rescissions and Appropriations Act [OCRAA] of 1996 and 1997." Slip Op. at 7. We concluded that although "the FRMAA and OCRAA provide certain additional express powers not possessed by the Mayor under the CMPA or other preexisting related law[,] ... nowhere under these Acts is the CFO relieved of ... the obligations the Mayor has with respect to collective bargaining" in its entirety. Slip Op. at 5.

On that basis, we denied the OCFO's Motion to Dismiss for Lack of Jurisdiction the Union's Petition for Unit Clarification. On December 27, 1996, the OCFO, in accordance with Board Rule 559.2, filed a Motion for Reconsideration of Opinion No. 503.<sup>1/</sup>

<sup>1/</sup> Movant made a request for oral argument on its Motion. Board Rule 520.13 and 556.5 provides for requests for oral  
(continued...)

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An Opposition to the Motion was filed by the Petitioner, the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 1200 (AFSCME). We have reviewed the grounds for reconsideration and, with the exception of the argument discussed below, we find nothing contained in the Motion that was not previously presented and considered in Opinion No. 503.

The OCFO argues that D.C. Code § 1-604.4, which authorizes the Mayor to issue rules and regulations implementing Subchapter XVIII of the CMPA concerning labor-management relations, "is a clear infringement upon the CFO's statutorily mandated independence in the area of personnel management." (Mot. at 5.) The labor-management relations program over which the PERB has authority to administer, is set forth under Subchapter XVIII. The OCFO asserts that Section 302(b) of the FRMAA "prohibits the Mayor from delegating any functions assigned to the CFO, including the CFO's license to institute such programs, systems personnel policies necessary to ensure budget, accounting and personnel control systems and structures . . . ." Id. We held in Opinion No. 503 that "the authority [the FRMAA] accorded the CFO is derived from the office of the Mayor with respect to the covered agencies." Slip Op. at 5. See also FRMAA, Sec. 302(a)(3). In this regard, there is no greater delegation of the CFO's authority in this area. The CFO merely assumed the authority accorded the Mayor by the challenged CMPA provision, i.e., D.C. Code § 1-604.4. The OCFO's argument ignores the basis of our holding, i.e., that the FRMAA and OCRAA did not totally preempt the collective bargaining obligations of the Mayor or accord the CFO with authority (with noted limited exceptions) that effectively repealed them. While, as OCFO asserts, "[f]ederal legislation, if enacted pursuant to Congress' lawful authority, can nullify conflicting state or local statutes", we did not find

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<sup>1</sup>(...continued)

argument as part of exceptions to the report and recommendation of a hearing examiner when "in the Board's view such argument would be helpful" or "appropriate". The procedural posture of the instant case is not the reconsideration of a hearing examiner's report and recommendation. A hearing examiner's report has not been reviewed by the Board. Here, the Movant requests reconsideration of a Board Decision and Order. The Movant was previously afforded a full opportunity to present its arguments directly to the Board prior to the issuance of the Decision it now appeals. In our view, oral argument would not provide any further assistance to the Board on this matter that could not be garnered from the voluminous pleadings filed in this matter. The request is therefore denied.

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that such a nullification was "demonstrated...to permit the CFO to achieve his objective under the legislation in question." Slip Op. at 5.

In view of the above, we find no basis for reversing or modifying, in whole or in part, our Decision in Opinion No. 503.

ORDER

**IT IS HEREBY ORDERED THAT:**

The Motion for Reconsideration of the Board's Decision and Order in Opinion 503 is denied.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**  
Washington, D.C.

March 13, 1997

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 96-UC-01 was sent via facsimile and/or mailed (U.S. Mail) to the following parties on the 13th day of March, 1997.

Mary Pivec, Esq.  
Proskauer, Rose, Goetz  
& Mendelsohn  
1233 20th Street, N.W.  
Suite 800  
Washington, D.C. 20036

FAX & U.S. MAIL

Wendy Kahn, Esq.  
Zwerdling, Paul, Leibig,  
Kahn, Thompson & Wolly  
1025 Connecticut Ave., N.W.  
Suite 712  
Washington, D.C. 20036

FAX & U.S. MAIL

Dean Aquí  
Deputy Director  
Office of Labor Relations  
& Collective Bargaining  
441 4th Street, N.W., Suite 200  
Washington, D.C. 20001

FAX & U.S. MAIL

Courtesy Copies:

Letitia Taylor  
Administrator  
AFSCME District Council 20  
815 15th Street, N.W.  
Suite 610  
Washington, D.C. 20005

U.S. MAIL

Karen Miller, Esq.  
Proskauer, Rose, Goetz  
& Mendelsohn  
1233 20th Street, N.W.  
Suite 800  
Washington, D.C. 20036

U.S. MAIL

Clara Webb  
AFSCME District Council 20  
815 15th Street, N.W.  
Suite 610  
Washington, D.C. 20005

U.S. MAIL

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Gregory Washington  
President  
AFSCME Local 1200  
222 Mass. Ave., N.W.  
Washington, D.C. 20001

U.S. MAIL

Anthony A. Williams  
Chief Financial Officer  
441 4th Street, N.W.  
Suite 1150  
Washington, D.C. 20001

U.S. MAIL

Max Brown, Esq.  
General Counsel  
Office of the Chief  
Financial Officer  
441 4th Street, N.W.  
Suite 1150  
Washington, D.C. 20001

U.S. MAIL

  
Namsoo M. Dunbar  
Deputy Executive Director