STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

COUNTY OF SOLANO,

          Employer,

    and

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 1021,

          Exclusive Representative.

Case No. SF-IM-191-M

Request for Stay

PERB Order No. Ad-455-M

October 25, 2017

Appearances: Azniv Darbinian, Assistant County Counsel, for County of Solano; Weinberg, Roger & Rosenfeld by Kerianne R. Steele, Attorney, for Service Employees International Union Local 1021.

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

      BANKS, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Service Employees International Union Local 1021 (Local 1021) from an administrative determination in which PERB's Office of the General Counsel denied Local 1021's request for factfinding under section 3505.4 of the Meyers-Milias-Brown Act (MMBA) and PERB Regulation 32802.[1] The factfinding request, which the Office of the General Counsel rejected as untimely, stems from a dispute between Local 1021's and the County of Solano (County) over the latter's proposal to create an additional work unit comprised of Employee Benefit Specialists within the Employment and Eligibility Division of the County's Health and Social Services Department.

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     [1] The MMBA is codified at Government Code section 3500 et seq. PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

Concurrent with its appeal, Local 1021 has requested that the Board itself order a stay of activity to prevent the County from implementing its proposal to establish the new work unit, pending resolution of Local 1021's appeal. According to Local 1021's appeal and request for stay, the County's local rules provide that, upon reaching a bargaining impasse and holding a public hearing regarding impasse, the County may only implement its last, best and final offer if the employee organization has waived participation in mediation and/or factfinding. Local 1021 contends that, contrary to the Office of the General Counsel's administrative determination, it timely submitted its request for factfinding to PERB in accordance with the County's local rules, and has therefore not waived participation in factfinding.

As explained below, we deny Local 1021's request for stay.

DISCUSSION

PERB Regulations provide that an appeal from an administrative decision will not automatically prevent the Board from proceeding in a case. (PERB Reg. 32370.) Parties seeking a stay of any activity may file a request for a stay with the administrative appeal which shall include all pertinent facts and justification for the request. (*Ibid*.) Except as otherwise provided by our Regulations, the Board may order a stay of activity when the ruling or order that is the subject of appeal would be rendered unnecessary or moot, should the Board reverse it. (*City of Carson* (2003) PERB Order No. Ad-323-M, p. 3.)

Here, because the administrative determination denied Local 1021's request for factfinding, there is no Board action or order that would be rendered unnecessary if we were to reverse the administrative determination. The purpose of the requested stay is to prevent the County from implementing a proposal to establish an additional work unit, allegedly in violation of the County's local rules. Whereas a stay of activity is directed at a ruling or order by PERB or

one of its agents, the remedy for a party seeking to prevent a public agency from acting

unlawfully is an unfair practice charge and a request for injunctive relief under PERB

Regulation 32450. (*City of Salinas* (2017) PERB Order No. Ad-454-M.) Because Local 1021's

request is beyond the scope of a Board-ordered stay of activity, we deny its request for a stay of

activity and address the merits of its appeal in a separate Board decision to follow.

<div align="center">ORDER</div>

Service Employees International Union Local 1021's request for a stay of activity in Case

No. SF-IM-191-M is hereby DENIED.

Chair Gregersen and Member Winslow joined in this Decision.