

TCR062410-01 of 04 amended Section 12(e) of 32 M.P.T.L., the Mashantucket Pequot Labor Relations Law. All amendments are shown in red text.

TITLE 32 MASHANTUCKET PEQUOT LABOR RELATIONS LAW

32 M.P.T.L. ch. 1 §12

§ 12. Elections; Labor Organization Designation as Exclusive Representative; Appropriateness of Bargaining Unit; Representational Rights

a. Petition for Election. A labor organization may file a petition with the MERO Director stating that thirty (30) percent or more of the Tribal Employees in an appropriate bargaining unit, provided for under this Law, desire to be exclusively represented for the purposes of collective bargaining within the unit by the petitioning organization and request the designation of said organization as their exclusive representative. A petition filed hereunder must contain either the signatures of thirty (30) percent of the Tribal Employees in the bargaining unit proposed, or be accompanied by the submission of authorization cards from at least thirty (30) percent of the Tribal Employees in the bargaining unit. The petition must also describe the bargaining unit including a designation of each job category or position which the labor organization states should be included in the bargaining unit.

b. Receipt of Petition for Election. Upon receipt of such a petition the MERO Director shall, unless a party requests a MERO Board as defined in Section 7(a) of this Law, refer the petition to the Tribal Court. The Tribal Court shall appoint an impartial special master with substantial experience in labor relations and labor law to act on the petition. If either party requests a MERO Board, one shall be formed pursuant to the procedures set forth in Section 7(a) of this law. The costs of the MERO Board and any fees associated with the proceedings shall be shared equally by the parties. The special master or the MERO Board shall review the petition, verify the labor organization's showing of interest, certify that it is in compliance with this Law, review and decide any issues or objections raised concerning the petition or the appropriateness of the bargaining unit, and conduct a secret ballot election as provided herein.

c. Hearings. The special master or the MERO Board shall have authority to convene a hearing for the purpose of addressing any and all issues relating to the petition. At the hearing, the parties shall have the opportunity to present evidence on any and all issues relating to the petition. The parties shall have the right to submit briefs to the special master or the MERO Board. The parties may appeal any determinations of the special master or the MERO Board to the Tribal Court and its decision shall be final as to such issues. The Tribal Court shall adopt the decision of the MERO Board or the special master, unless the Tribal Court determines, under a clear and convincing evidence standard of review that the decision of the special master or the MERO Board, as the case may be, resulted from fraud or bias or is in direct conflict with Tribal law. The decision of the Tribal Court, whether based on the adoption of a special master's decision or the decision of a MERO Board, shall be final and there shall be no appeal to the Mashantucket Pequot Court of Appeals.

d. Secret Ballot Election. When all issues, if any, relating to the petition have been resolved, the special master or the MERO Board shall conduct a secret ballot election if it determines that a valid petition has been filed. The ballot for the special election shall contain the name of any

labor organization submitting a petition in compliance with subsection (a) of this section, and contain clear language providing the Tribal Employees with a choice to either select the labor organization that filed the petition as the exclusive representative for the Tribal Employees within the bargaining unit or to choose not to be represented by any labor organization.

e. Election Result and Appeal. If a majority (fifty percent plus one) of **votes cast are** in favor of certification of a labor organization, the special master or MERO Board shall certify the labor organization as the exclusive bargaining representative for the appropriate bargaining unit. If a labor organization does not receive a majority vote for certification, then the labor organization shall not be certified as the exclusive representative of the bargaining unit. If either the Tribal Employer or the labor organization has a good faith reason to believe that the election was not conducted in a fair and impartial manner or that fraud or prohibited practices affected the outcome of the election, the Tribal Employer or labor organization may file such objections with the special master or the MERO Board within ten (10) days after the election. The special master or the MERO Board shall conduct such investigation as it deems appropriate to resolve such objections. Whether to hold an evidentiary hearing on such objections shall be within the discretion of the special master or the MERO Board. Any determination of the special master or MERO Board on such objections to the election may be appealed to the Tribal Court and its decision shall be final on such issues. The Tribal Court shall adopt the decision of the MERO Board or the special master, unless the Tribal Court determines, under a clear and convincing evidence standard of review, that the decision of the special master or the MERO Board, as the case may be, resulted from fraud or bias or is in direct conflict with Tribal law. The decision of the Tribal Court, whether based on the adoption of a special master's decision or the decision of a MERO Board, shall be final and there shall be no appeal to the Mashantucket Pequot Court of Appeals.

f. Time Limitation. No election shall be directed or held in any bargaining unit within which an election has been conducted in the twelve (12)-month period immediately preceding the proposed representation election.

g. Determination of Appropriateness of Bargaining Unit. In determining the appropriateness of a bargaining unit, the special master or MERO Board shall take into consideration but shall not be limited to considering the following factors:

1. That an appropriate bargaining unit is based on occupational groups or groups of employees who share clear and identifiable communities of interest in employment terms and conditions and related personnel matters;
2. The effects of over-fragmentation;
3. Principles of efficient administration of the Tribal government;
and
4. Any history of collective bargaining for Tribal employees.

h. Guards or Other Security Personnel. A labor organization shall not be certified as the representative of employees in a bargaining unit of guards or other security personnel if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards or other security personnel.

i. Deauthorization. Upon the filing with the MERO Director, by thirty (30) per centum or more of the employees in a bargaining unit covered by a collective bargaining agreement containing a union security clause, of a petition alleging they desire that the authorization to enter such an agreement be rescinded, the MERO shall, unless a party requests a MERO Board as defined in Section 7(a) of this Law, refer the petition to the Tribal Court. The Tribal Court shall appoint an impartial special master with substantial experience in labor relations and labor law to act on the petition. If either party requests a MERO Board, one shall be formed pursuant to the procedures set forth in Section 7(a) of this law. The costs of the MERO Board and any fees associated with the proceedings shall be shared equally by the parties. The special master or the MERO Board shall hold a secret ballot election of the employees in such unit and certify the results thereof to the affected labor organization and Tribal Employer. If a majority of the employees in the bargaining unit vote to rescind such authorization, then the provision for a union security clause shall be null and void and of no further force or effect. If the secret ballot election does not result in a majority of employees voting to rescind, then the provision in the collective bargaining agreement shall remain in full force and effect.

Historical and Statutory Notes

Derivation. Effective August 16, 2007 - EXTCR081607-01 enacted the Mashantucket Pequot Labor Law.

Amendments. Effective October 28, 2008 - EXTCR102808-01 of 02 - amends EXTCR081607-01. Effective July 23, 2009, TCR072309-04 of 09, approved various technical amendments throughout.

Effective June 24, 2010, TCR062410-01 of 04 amended Section 12(e) of the Mashantucket Pequot Labor Relations Law by deleting "the Tribal Employees in the proposed bargaining unit vote" and replacing it with "votes cast are".