

State - Health, Decision 8448 (PSRA, 2004)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
WASHINGTON FEDERATION OF STATE)
EMPLOYEES) CASE 18199-E-04-2927
)
Involving certain employees of:) DECISION 8448 - PSRA
)
WASHINGTON STATE - HEALTH) ORDER MERGING
) BARGAINING UNIT
)
_____)

Gladys Burbank, Director of Activities, for the union.

Robert Detamore, Labor Relations Manager, for the employer.

On January 22, 2004, the Washington Federation of State Employees (union) filed a petition with the Public Employment Relations Commission under WAC 391-25-420(2)(a), seeking merger of two bargaining units of employees of the Washington State Department of Health (employer). An investigation conference was conducted on February 9, 2004, by Hearing Officer Starr H. Knutson.

The Executive Director accepts the stipulations and information presented by the parties during the investigation conference and, acting under WAC 391-25-426, merges the historical bargaining units into one bargaining unit.

BACKGROUND

The employer is a state agency which functions to protect and improve the health of the residents of Washington State. The union

already represents some employees of this employer. This cases involves two separate bargaining units represented by the union:

- A bargaining unit of non-supervisory employees that was created in 2003,¹ and
- A separate unit limited to non-supervisory employees at the Center for Health Statistics.²

The Personnel System Reform Act of 2002 (PSRA) was passed by the Legislature and signed into law in 2002, with various effective dates. A new collective bargaining system for state civil service employees is codified in Chapter 41.80 RCW, of which one section that took effect on June 13, 2002, is pertinent here:

RCW 41.80.070 BARGAINING UNITS - CERTIFICATION.

(1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit, *unless the unit does not meet all the requirements of (a) . . . of this subsection.* The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modification of existing units, the commission shall consider: the duties, skills and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and *the avoidance of excessive fragmentation.*

. . . .
(3) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the *units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate.* If consolidation is appropriate, the commission

¹ State - Health, Decision 7980 (PSRA, 2003).

² State - Health, Decision 8427 (PSRA, 2004).

shall certify the employee organization as the exclusive bargaining representative of the new unit.

(emphasis added). The Commission thus adopted a rule to implement that statute as follows:

WAC 391-25-426 SPECIAL PROVISION--STATE CIVIL SERVICE EMPLOYEES. An employee organization that represents two or more bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420(2)(a). If the merged unit is found to be appropriate under WAC 391-25-420(2)(c)(i) and (ii), the employee organization shall be certified as exclusive bargaining representative without need for unit determination elections.

The special rule eliminates the need for unit determination elections to validate a merger of separately-organized units.³

ANALYSIS

Applicable Legal Standards

The determination and modification of appropriate bargaining units of state civil service employees is now a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.06.340; 41.80.070. The "fragmentation" and "merger" components

³ WAC 391-25-420 allows mergers of bargaining units where the proposed merged unit is an appropriate unit under the applicable statute. The conclusion about the propriety of the merged unit can be based on evidence produced at a hearing under WAC 391-25-420(2)(c)(i), or can be based on the parties' stipulation to a unit that is appropriate on its face under WAC 391-25-420(2)(c)(ii). The general rule then requires ratification by employees in unit determination elections in WAC 391-25-420(2)(d), which are omitted from WAC 391-25-426.

of RCW 41.80.070 can be presumed to reflect legislative concern about the existence of more than 180 separate bargaining units among state civil service employees when the PSRA was enacted.

By the stipulations now before the Executive Director, the parties seek to have two bargaining units of non-supervisory employees merged under WAC 391-25-426. The parties have submitted information and stipulations which satisfy the requirements of WAC 391-25-420(2)(c)(ii), and nothing has come to the attention of the Commission staff or Executive Director that contradicts the propriety of the action requested by the parties. In this case, the merger of two bargaining units addresses the "fragmentation" component of the statutory unit determination criteria and implements the statutory endorsement of merging historical bargaining units.

FINDINGS OF FACT

1. The Washington State Department of Health is a general government agency of the state of Washington within the meaning of RCW 41.80.005(1).
2. The Washington Federation of State Employees, an employee organization within the meaning of RCW 41.80.005(7), is the exclusive bargaining representative of two separate bargaining units of non-supervisory employees of the Department of Health.
3. The parties have stipulated that the non-supervisory employees in the employer's "agency-wide non-supervisory" unit and the "Center for Health Statistics non-supervisory" unit have similar duties, skills and working conditions, and share a community of interest.

4. No other facts have been discovered or brought to the attention of the Executive Director which call into question the propriety of the proposed merger described in these findings of fact.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and WAC 391-25-426.
2. The merger of the bargaining units described in paragraph 3 of the foregoing findings of fact will result in an appropriate unit for the purposes of collective bargaining under RCW 41.80.070, implementing the fragmentation and merger components of that section.

ORDER

The bargaining units of non-supervisory employees already represented by the union shall be merged into one bargaining unit described as follows:

All non-supervisory civil service employees of the Washington State Department of Health, excluding confidential employees, internal auditors, supervisors, Washington Management Service employees (on and after July 1, 2004), and employees in other bargaining units.

ISSUED at Olympia, Washington, on this 25th day of February, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency on the issue addressed unless a notice of appeal is filed with the Commission under WAC 391-35-210.