

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
 )  
WASHOUGAL POLICE OFFICERS ) CASE 19263-E-05-3035  
ASSOCIATION )  
 ) DECISION 8932 - PECB  
Involving certain employees of: )  
 ) ORDER AMENDING  
CITY OF WASHOUGAL ) CERTIFICATION  
 )  
\_\_\_\_\_ )

*Jaime B. Goldberg*, Attorney at Law, for the Washougal Police Officers Association.

No appearance was made on behalf of the employer.

The Washougal Police Officers Association (WPOA) filed a petition with the Public Employment Relations Commission on March 10, 2005, seeking amendment of a certification issued by the Commission for a bargaining unit of non-supervisory law enforcement officers employed by the City of Washougal. In a letter issued on April 11, 2005, the Commission's Representation Coordinator invited the employer to respond to the request made by the WPOA. To date, there has been no response from the employer.

The Executive Director has considered the matter, and concludes that the request of the WPOA should be granted.

ISSUE

Can Bargaining Rights Be Transferred by an Internal Union Affairs Transaction During the Certification Bar Year?

APPLICABLE LEGAL PRINCIPLES

The parties to this case are covered by the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. The resolution of questions concerning representation under that statute is a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.56.050 provides:

In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative *the Commission shall be invited to intervene* as is provided in RCW 41.56.060 through 41.56.090.

(emphasis added). RCW 41.56.070 imposes a "certification bar" year during which the existence of a bargaining relationship cannot be challenged by employees (seeking decertification) or by another union (seeking to replace the union certified as exclusive bargaining representative of the bargaining unit).

In the context of voluntary recognition being available under Chapter 41.56 RCW (by reverse implication from RCW 41.56.050, permitting the parties to deal with matters themselves if there is no dispute), *Skagit Valley Hospital*, Decision 2509-A (PECB, 1986), aff'd *Skagit Valley Hospital v. PERC*, 55 Wn. App. 348 (1989), stands for the proposition that bargaining rights may be transferred by means of internal union affairs transactions in which "due process" and "continuity" concerns are satisfied.

ANALYSIS

In an order issued by the Commission on December 14, 2004, as *City of Washougal*, Decision 8810 (PECB, 2004), an organization then calling itself the "Washougal Police Officers Guild" (WPOG) was

certified as exclusive bargaining representative of a bargaining unit described as:

All full-time and regular part-time uniformed [law enforcement] officers of the City of Washougal Police Department, excluding [the] chief of police, confidential employees, and all other employees.

The WPOG thereby replaced another union as the exclusive bargaining representative of that bargaining unit.<sup>1</sup> Under RCW 41.56.070 (and the implementing rule, WAC 391-25-030(2)), the issuance of that certification marked the beginning of a "certification bar" year which would normally prevent the filing of any petition for that unit until December 15, 2005.

In a letter filed with the Commission on April 7, 2005, the WPOA supplied documentation showing that it is the successor to the WPOG, rather than a competing union. In particular, the WPOA showed that fourteen of the fifteen WPOG members voted in favor of a name change for their organization. The name by which a labor organization will be known is a matter of internal union affairs that is not generally regulated by state law.<sup>2</sup>

It would undoubtedly have been better for all concerned if the employees who formed the WPOG had solidified the name of their

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<sup>1</sup> The WPOG filed the petition in that case in October 2004, seeking to replace Office and Professional Employees Local 11 as exclusive bargaining representative of the employees involved.

<sup>2</sup> Although not applicable in this case, the Executive Director reserves the authority to reject names or acronyms that are likely to confuse employees voting in a representation election, or are likely to provide basis for claims that one organization has usurped the identity of another.

(impliedly new) organization before they filed their representation petition with the Commission, and before they verified the use of the "Washougal Police Officers Guild" name during the investigation conference held in that proceeding.<sup>3</sup> It certainly would have been better for them to re-name their organization before the Commission issued a formal order in that case. Such "shoulda - coulda" is not fatal to the current request, however. The change of the name of the one and only organization involved from "WPOG" to "WPOA" does not invoke the policy considerations on which the "certification bar" is founded, and is even less likely to raise doubts than the transfer of exclusive bargaining representative status by the merger of two unions that was approved in the *Skagit Valley Hospital* cases.

#### CONCLUSIONS

Chapter 391-25 WAC regulates the processing of representation cases by the Commission staff. While that chapter does not contain any provision expressly authorizing the "amendment of certification" requested by the WPOA in this case, RCW 41.56.050 through .090 inherently give the Commission authority to police its certifications. In the absence of any objection from the employer, and furthering the Commission's responsibility for maintaining accurate records, the Executive Director concludes that the requested amendment of the previously-issued certification should be granted.

NOW, THEREFORE, it is

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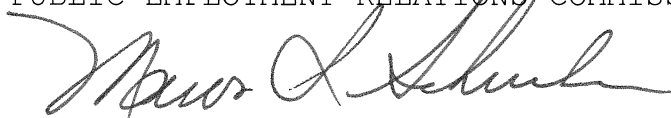
<sup>3</sup> Prior to conducting an Investigation Conference under WAC 391-25-220, the Commission staff sends all parties a list of issues that will be covered. Among those is verification that the agency has the correct names of all parties to the proceeding.

ORDERED

1. Washougal Police Officers Association, is substituted for the "Washougal Police Officers Guild" as exclusive bargaining representative of the bargaining unit certified in *City of Washougal*, Decision 8810 (PECB, 2004).
2. The amendment of certification issued in this proceeding does not give rise to a new "certification bar" year under RCW 41.56.070 or WAC 391-25-030(2).

Issued at Olympia, Washington, on this 2nd day of June, 2005.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission under WAC 391-25-660.