

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
WASHINGTON STATE COUNCIL OF	)	
COUNTY AND CITY EMPLOYEES	)	CASE 17095-E-03-2796
	)	
Involving certain employees of:	)	DECISION 7965 - PECB
	)	
CITY OF VANCOUVER	)	DIRECTION OF CROSS-CHECK
	)	
	)	

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*Bill Keenan*, Director of Organizing, for the union.

*Bullard Smith Jernstedt & Wilson* by *Barbara Bloom*,  
Attorney at Law, for the employer.

On January 9, 2003, the Washington State Council of County and City Employees, filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of certain employees of the City of Vancouver. An investigation conference was conducted by telephone conference call on January 7, 2003. The parties disagreed about the method to determine the question concerning representation. The union stated a preference for a cross-check, while the employer objected to the use of the cross-check procedure. The dispute concerning methodology was referred to the Executive Director.

RCW 41.56.060 sets forth the methods for determining questions concerning representation:

The Commission shall determine the bargaining representative by (1) examination of organiza-

tion membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

The Commission's rules limit the availability of the "cross-check" procedure, as follows:

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. (1) Where *only one organization is seeking certification* as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that the *organization has been authorized by in excess of seventy percent of the employees* to act as their representative for the purposes of collective bargaining, the executive director may issue a direction of cross-check.

(2) A direction of cross-check and other rulings in the proceedings up to the issuance of tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the cross-check. An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.

(emphasis added).

The general preference for elections occasionally expressed by employers is not sufficient to disregard the statute and rule.

Examination of the case file indicates that the union submitted a showing of interest in excess of 70% as required by WAC 391-25-391. The showing of interest is confidential under WAC 391-25-110, and cannot be the subject of a hearing. If employees desire to withdraw their authorization cards, the procedure for doing so is detailed in WAC 391-25-410(2).

NOW, THEREFORE, it is

ORDERED

1. A cross-check of records shall be made by the staff of the Public Employment Relations Commission in the appropriate bargaining unit described as:

ALL FULL-TIME AND REGULAR PART-TIME ASSISTANT CITY ATTORNEYS OF THE CITY OF VANCOUVER, EXCLUDING SUPERVISORS, CONFIDENTIAL EMPLOYEES, CITY ATTORNEY, CHIEF ASSISTANT CITY ATTORNEY, LAW OFFICE ADMINISTRATOR, EMPLOYMENT LAW ATTORNEYS, RISK MANAGER, LEAD SUPERVISING CRIMINAL ATTORNEY AND CLERICAL SUPPORT STAFF.

to determine whether a majority of the employees in that bargaining unit have authorized the Washington State Council of County and City Employees, to represent them for purposes of collective bargaining.

2. The employer shall immediately supply the Commission with copies of documents from its employment records which bear the signatures of the employees on the eligibility list stipulated by the parties.

Issued at Olympia, Washington, on the 22nd day of January, 2003.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.