

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
 )  
WASHINGTON FEDERATION OF )  
STATE EMPLOYEES ) CASE 20759-E-06-3200  
 )  
Involving certain employees of: ) DECISION 9641 - PSRA  
 )  
STATE - MILITARY ) DIRECTION OF ELECTION  
\_\_\_\_\_ )

Parr, Younglove, Lyman, Coker, by *Edward Younglove*, Attorney at Law, and *Gladys Burbank*, Director of PERC Operations, for the union.

*Diane Lutz*, Negotiator, State Labor Relations Office, and *Leeanna Strehlow*, Personnel Officer, Military Department, for the employer.

On November 15, 2006, the Washington Federation of State Employees (WFSE) filed a representation petition seeking certification as exclusive bargaining representative of certain unrepresented employees of the Washington State Military Department (employer). On February 21, 2007, the WFSE filed an amended petition.

On January 8, 2007, an investigation conference was held and an Investigation Statement was issued which framed the issue as whether the proposed WFSE unit could potentially overlap with an existing unit of trades employees represented by the Washington Public Employees Association (WPEA).<sup>1</sup> A consolidated hearing was

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<sup>1</sup> WPEA has a long-standing bargaining unit at the Military Department. It had filed a clarification petition on its unit, see Case 20262-C-06-1263. The WPEA and WFSE cases were consolidated for hearing. The WPEA unit was clarified in Decision 9640 (PSRA, 2007).

held before Hearing Officer Sally B. Carpenter on February 21, 2007.

### ISSUE

Is the petitioned-for bargaining unit appropriate?

Based on the evidence and the decision in the companion case, *State - Military*, Decision 9640 (PSRA, 2007), the Executive Director rules that the petitioned-for bargaining unit is an appropriate unit for the purposes of collective bargaining. A representation election is directed.

### ANALYSIS

RCW 41.80.070 provides the statutory framework for determination of appropriate bargaining units of state employees:

RCW 41.80.070 BARGAINING UNITS – CERTIFICATION. (1)  
. . . 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 modifications 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.

The Investigation Statement reports:

The following matters remain in dispute between the parties:

- a. Due to questions on the scope of the unit and the appearance of overlapping of units between cases

20759-E-06-3200 and 20262-C-06-1263, these cases are being consolidated for hearing.

- b. Due to the questions raised concerning the propriety of the unit, the parties did not make any stipulations on the eligibility list.

At the hearing, testimony indicated and the two unions stipulated that there is no overlapping of units: the WFSE unit is a professional, administrative, office and clerical unit.

The WFSE's amended petition seeks certification as the exclusive bargaining representative of a unit described as:

All professional, administrative, office and clerical employees covered by RCW 41.06 and RCW 41.80 in the Army Division of the Military Department excluding supervisors, confidential employees and Washington Management Service employees.

The parties identified 18 positions which fit within the petitioned-for WFSE unit at the time the petition was filed. Evidence indicates that the proposed unit would include 20 positions. Two more individuals in the same job classes were discovered when the employer provided a very detailed organization chart at the hearing.

During the investigation conference, the employer raised no objection to the unit configuration proposed by WFSE. At the hearing, the employer raised a concern regarding inclusion of the Information Technology specialist positions in the proposed WFSE bargaining unit. The evidence indicates there are at least two levels of IT competencies in the employer's organization, and the WFSE seeks only the lower of the two levels. The highest level of competency position is called IT System Applications. That position reports through a different chain of command than the IT

Specialists, who work in the same office with clerical employees and report through the clerical chain of command. The employer's concern does not appear to be an objection. The IT Specialist positions are properly included in the petitioned-for unit.

#### FINDINGS OF FACT

1. The Washington State Military Department (employer) 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 (WFSE) is an employee organization within the meaning of RCW 41.80.005(7).
3. On November 15, 2006, WFSE filed a petition for investigation of a question concerning representation of employees of the above-named employer. The petition was timely filed and was accompanied by a showing of interest which was administratively determined by the Commission to be sufficient.
4. WFSE filed an amended petition on February 21, 2007.
5. There is no overlapping of units between the proposed WFSE unit and the existing trades unit of the Washington Public Employees Association (WPEA) clarified in *State - Military*, Decision 9640.
6. At the time of the hearing, there were 20 individuals whose positions are included in the proposed bargaining unit.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and Chapter 391-25 WAC.

2. The bargaining unit proposed by WFSE in its amended petition is an appropriate unit described as follows:

All professional, administrative, office and clerical employees covered by RCW 41.06 and RCW 41.80 in the Army Division of the Military Department, excluding supervisors, confidential employees and Washington Management Service employees.

3. A question concerning representation presently exists under RCW 41.80.070 and .080 in the appropriate bargaining unit described in Paragraph 2 of these Conclusions of Law.

DIRECTION OF ELECTION

1. The employer shall provide the Commission with a list of all employees included in the unit.
2. A representation election shall be conducted by mail ballot, under the direction of the Public Employment Relations Commission, in the appropriate bargaining unit described in the foregoing Conclusions of Law, to determine whether a majority of the employees in such unit desire to be represented for the purposes of collective bargaining by the Washington Federation of State Employees or by no representative.

ISSUED at Olympia, Washington, this 17<sup>th</sup> day of April, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

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

**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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PUBLIC EMPLOYMENT RELATIONS COMMISSION



BY: /S/ MAJEL G. BOUDIA

CASE NUMBER: 20759-E-06-03200 FILED: 11/15/2006 FILED BY: PARTY 2  
DISPUTE: QCR UNORGANIZED  
BAR UNIT: MIXED CLASSES  
DETAILS: Professional, Administrative, Office Clerical  
COMMENTS:

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