

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
WASHINGTON FEDERATION OF STATE)
EMPLOYEES) CASE 18100-C-03-1129
)
For clarification of an existing) DECISION 8446 - PSRA
bargaining unit of employees of:)
)
WASHINGTON STATE - SOCIAL AND) ORDER CLARIFYING
HEALTH SERVICES) BARGAINING UNIT
)
)
_____)

Gladys Burbank, Director of Activities, for the union.

Pam Vest, Labor Relations Specialist, for the employer.

On December 23, 2003, the Washington Federation of State Employees (union) and the Washington State Department of Social and Health Services (employer or DSHS) jointly filed a petition for clarification of a bargaining unit with the Public Employment Relations Commission under WAC 391-35-026, seeking accretion of employees in the employer's Management Services Fiscal Office to an existing non-supervisory bargaining unit represented by the union. An investigation conference was conducted on February 5, 2004, by Hearing Officer Starr H. Knutson.

The Executive Director accepts the information and stipulations presented by the parties during the investigation conference and, acting under WAC 391-35-026(2), modifies the historical bargaining unit to include the employees in the employer's Management Services Fiscal Office and, in the Lands and Building Division, employees in

the Facilities Operations Administration to the bargaining unit of non-supervisory employees.

BACKGROUND

The employer is a state agency which provides a variety of social and health services to the residents of Washington State, including the functions of public assistance. The union represents several bargaining units of DSHS employees. One of those bargaining units consists of employees who provide various economic and social services known collectively as "public assistance" functions. That bargaining unit was created in 1971,¹ and had existed without change since 1976.

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) and (b) 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 employ-

¹ Department of Personnel case RE-4.

ees; the desires of the employees; and the avoidance of excessive fragmentation. . . .

The Commission adopted a rule to implement that statutory provision during the transition period which will exist until the duty to bargain under the new system goes into effect on July 1, 2004, as follows:

WAC 391-35-026 SPECIAL PROVISION--STATE CIVIL SERVICE EMPLOYEES. In addition to the circumstances described in WAC 391-35-020, bargaining units of state civil service employees may be modified under this section until RCW 41.80.050 and 41.80.080 take effect on July 1, 2004.

. . . .

(2) Bargaining units of state civil service employees in existence on June 13, 2002, shall be subject to being "perfected" under this section.

(a) A petition to have an existing bargaining unit perfected may be filed by the exclusive bargaining representative, or by the employer and exclusive bargaining representative jointly.

(b) All of the unit determination criteria set forth in RCW 41.80.070 shall be applicable to proceedings under this section. The history of bargaining in a unit configuration that is fragmentary and/or was based on narrower considerations shall not preclude creation of a "perfected" bargaining unit as to which a community of interests is demonstrated with regard to:

(i) The duties, skills and working conditions of all positions or classifications to be included in the "perfected" bargaining unit; and

(ii) The extent of organization and avoidance of unnecessary fragmentation shall be implemented to avoid stranding of other positions or classifications in units so small as to prejudice their statutory bargaining rights; and

(iii) The required separation of supervisors and nonsupervisory employees is implemented based on the delegations of authority then in existence; and

(iv) Two or more existing bargaining units can be merged through the procedure set forth in this section; and

(v) The exclusive bargaining representative demonstrates that it has majority support among any employees to be accreted to the bargaining unit(s) being "perfected."

On July 23, 2003, the historical "public assistance" bargaining unit was divided into separate units of supervisors and non-supervisory employees under WAC 391-35-026(1).² By the stipulation now before the Executive Director, the parties seek to have the non-supervisory unit "perfected" under WAC 391-35-026(2).

DISCUSSION

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 parties have submitted information and stipulations which satisfy the requirements of WAC 391-35-026(2), 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.

FINDINGS OF FACT

1. The Department of Social and Health Services 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 DSHS employees performing the functions of public assistance.

² *State - Social and Health Services, Decision 8155 (PSRA, 2003).*

3. The union demonstrated that it has majority support among the petitioned-for employees in accordance with WAC 391-25-026 (2) (b) (v).
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 accretion or the demonstration of support described in paragraph 3 of 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 391-35-026.
2. The employees in the Management Services Fiscal Office and the Facilities Operations Administration employees in the Lands and Building Division have duties, skills and working conditions similar to, and a community of interest with, employees in the non-supervisory bargaining unit described in paragraph 2 of the foregoing findings of fact, so that including those positions is appropriate under RCW 41.80.070.

ORDER

The bargaining unit shall be perfected by adding the 33 non-supervisory employees in the Management Services Fiscal Office and the Facilities Operations Administration in the Lands and Building Division to the bargaining unit described as follows:

1. All non-supervisory civil service employees of the Department of Social and Health Services in the following divisions/units: (1) DSHS Office of Appeals; (2) Economic Services Administration; (3) Aging and Adult Services Adminis-

tration; (4) Children's Administration; (5) Medical Assistance Administration; (6) Division of Fraud Investigations; (7) Financial Services Administration; (8) Alcohol and Substance Abuse Division; (9) Information Systems Services Division; (10) Management Services Fiscal Office; and (11) Facilities Operations Administration in the Lands and Building Division, excluding confidential employees, internal auditors, supervisors, non-supervisory Washington Management Service employees (on and after July 1, 2004), and employees included in any other bargaining unit.

2. The employees in the Facilities Operations Administration in the Management Services Fiscal Office and Lands and Building Division are included in that bargaining unit.

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.