

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of:	)	
	)	
WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, AFSCME, AFL-CIO	)	CASE NO. 1248-E-77-248 DECISION NO. 368-PECB
Involving Certain Employees of:	)	ORDER DISMISSING OBJECTIONS
	)	and
LEWIS COUNTY	)	CERTIFICATION
_____	)	

APPEARANCES:

MS. PAMELA G. BRADBURN, General Counsel, for the Petitioner.

MR. JEREMY RANDOLPH, Prosecuting Attorney, by MR. CHARLES RAY BIRD, Chief Civil Deputy, for the Employer.

The petition filed with the Commission on December 2, 1977 claims as appropriate a bargaining unit composed of:

"Included: Courthouse employees: Treasurer, Assessors, Auditors, Maintenance, Clerks, District Court, Car Pool.

Excluded: Commissioners Office and elected officials and juvenile court."

The petitioner itself initiated discussion of a consent election agreement. On December 5, 1977, PERC received a copy of a letter from the Board of County Commissioners of Lewis County to the petitioner, in which the employer declined to enter into a consent election agreement and indicated that "A unit composed of all eligible courthouse employees, including all departments, would be more appropriate". (Emphasis supplied).

On December 7, 1977, the Executive Director of PERC routinely directed a letter to the County, requesting a list of the employees in the bargaining unit specified in the petition. The County replied by letter dated December 15, 1977 over the signature of the Chairman of the County Board, to which was attached a list containing the names of 76 employees. The notation (PT) followed 10 of those names.

On January 4, 1978, PERC received correspondence from the petitioner indicating that the employer had withdrawn its objections and that a consent election agreement would be forthcoming. A signed consent agreement was filed on January 10, 1978 under cover of a letter of transmittal from the employer.

Notices of Election were issued on January 11, 1978, setting a secret ballot election to be conducted between the hours of 2:30 P.M. and 5:30 P.M. on January 23, 1978. The list of employees attached to the Notice of Election contained the names which appeared on the list filed by the employer on December 15, 1977, including all of those which had been noted "(PT)". The election was conducted as provided in the notice and the tally issued on January 23, 1978 indicates 57 valid ballots cast, with 31 votes in favor of the petitioner, 26 votes for no representation and no challenged ballots.

On January 27, 1978, the County filed objections to the election, summarized as:

1. Only 57 of 72 eligible voters cast ballots.
2. Three eligible voters were absent due to illness on the day of the election.
3. Six part-time employees abstained from voting, believing that abstention counted as a negative vote.
4. Seven employees were extremely busy in their employment (which is ordinary on Monday mornings) and did not vote. Two other employees were away from the County on business. One employee included on the eligibility list was a high school work-study student who should not have been included in the unit. Two persons were included in the eligibility list who are supervisory and should not have been included in the unit.

The petitioner responded in writing on February 6, 1978.

#### DISCUSSION

This election was conducted under WAC 391-20-225, which provided:

"(6) In any election where there are only two choices on the ballot, an organization shall be certified if it receives a majority of the votes cast."

The PERC rule is consistent with the practices under the National Labor Relations Act. NLRB v. Deutsch Co., 265 F.2d 473 (CA 9, 1959). The first objection must be dismissed as insufficient on its face.

The Public Employment Relations Commission does not utilize absentee ballot procedures. METRO, Decision No. 131-A (PECB, 1977). Employees must, therefore, present themselves at the polls and cast ballots in order to influence the outcome of a representation election. The employer makes no objection with respect to the adequacy of notice to employees. The Notice of Election was accompanied by an "Eligibility List" containing the names of all eligible voters. Pursuant to WAC 391-20-150, regular part-time employees were

properly included in the bargaining unit. Even allowing that three employees were absent due to illness, six part-time employees abstained from voting due to a mistaken understanding of the law, seven employees did not vote on Monday afternoon following an extremely busy Monday morning, and two employees were away on business, those facts do not constitute sufficient cause to set aside the election.

PERC's consent election procedures call for the stipulation of all parties as to the bargaining unit and the eligibility of all employees who are to vote in the election. Stipulations made in proceedings before the Commission are binding upon the parties to the stipulation. WAC 391-08-450. The eligibility list for the election was the list submitted by the employer and accepted by the petitioner. The County withdrew its objections to the bargaining unit proposed by the petitioner, and entered into a consent election agreement which references the unit described in the petition. The unit described in the petition is not inappropriate on its face, and the Commission staff proceeded in this matter on the basis of the County's own representations as to the composition of the bargaining unit. The "work-study" situation and the two alleged supervisors would be appropriate matters for unit clarification proceedings at some later time, but would not constitute a basis for the conduct of a new election.

On the basis of the foregoing, the Commission makes the following:

#### FINDINGS OF FACT

1. The above-named Petitioner timely filed with the Commission a petition for investigation of a question concerning representation of employees of the above-named employer; said petition was accompanied by a showing of interest which was administratively determined by the Commission to be sufficient; and the employer declined voluntarily to extend recognition to the Petitioner as the exclusive bargaining representative of its employees.

2. These representation proceedings were conducted by the Commission in the bargaining unit described as:

All Lewis County Courthouse employees in the Treasurer's office, Assessor's office, Auditor's office, Clerk's office, District Court, Maintenance and Car Pool; excluding the Commissioners' office, elected officials and Juvenile Court employees.

3. All proceedings were conducted under the supervision of the Commission in a manner designed to afford the affected employees a free choice in the selection of their bargaining representative; a tally of the

results of the election was previously furnished to the parties; and no meritorious objections have been filed with respect to these proceedings.

CONCLUSIONS OF LAW

The unit described in Finding of Fact Number 2 is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060; and all conditions precedent to a certification have been met.

NOW, THEREFORE, it is

CERTIFIED

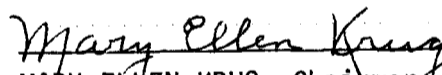
The majority of the employees of the above-named employer employed in the appropriate collective bargaining unit described in Finding of Fact Number 2 have chosen:

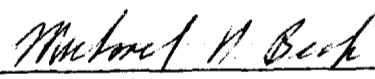
WASHINGTON STATE COUNCIL OF COUNTY AND  
CITY EMPLOYEES, AFSCME, AFL-CIO

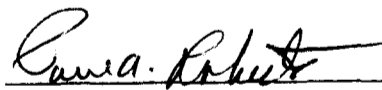
as their representative for the purposes of collective bargaining with their employer with respect to wages, hours and conditions of employment.

DATED this 7th day of March, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARY ELLEN KRUG, Chairman

  
MICHAEL H. BECK, Commissioner

  
PAUL A. ROBERTS, Commissioner

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Dated this 7<sup>th</sup> day of March, 1978

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Mary Ellen Krug  
MARY ELLEN KRUG, Chairman

Michael H. Beck  
MICHAEL H. BECK, Commissioner

Paul A. Robert  
PAUL A. ROBERT, Commissioner