

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	CASE NO. 7036-E-87-1207
	)	
OFFICE AND PROFESSIONAL EMPLOYEES	)	DECISION 2834 - PECB
INTERNATIONAL UNION, LOCAL 23	)	
	)	ORDER DISMISSING
	)	OBJECTIONS TO ELECTION
Involving certain employees of:	)	and
	)	CERTIFICATION
	)	
BREMERTON HOUSING AUTHORITY	)	Representation Election
	)	Pursuant to Agreement
	)	

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Judith J. Zenk, Business Representative, appeared on behalf of the petitioner.

Merrill Wallace II, Executive Director, appeared on behalf of the employer.

Gloria J. Evetts, S. Cleveland, Melissa J. Good, Sheri L. Geary, Gloria VanValey, Virginia Hotten, and Ernestina T. Fuertes, employees, filed objections to the election.

This matter comes before the Commission on "objections" timely filed under WAC 391-25-590. Under the rules, the determination must come directly from the Commission.

The representation petition was filed on September 23, 1987, seeking a unit of office clerical employees. The union supplied a showing of interest, claiming a unit of eight employees. The employer provided a list containing the names of all of its employees. The parties signed an election agreement on October 29, 1987, stipulating to a list of nine eligible voters. A notice was issued on November 3, 1987, setting an election for November 18, 1987.

The election was conducted on November 18, 1987. The member of the Commission staff who served as Election Officer did not report any irregularities coming to his attention. Among the nine eligible voters, five cast ballots for the union and four cast ballots for "no representation." A tally was issued on November 18, 1987.

On November 23, 1987, seven persons co-signed and filed a document with the Commission under the title:

OBJECTIONS UNDER WAC 391-25-590 IN THE  
MANNER THE UNION REPRESENTATIVES INFLUENCE  
THE ELIGIBLE EMPLOYEES OF THE AUTHORITY.

Setting forth allegations in ten numbered paragraphs, the document consists of three and one-half pages of single-spaced, typewritten text. Among the signators, only the following were on the eligibility list for the election:

S. Cleveland  
Virginia Hotten  
Ernestina Fuertes

The remaining signators:

Gloria J. Evetts  
Melissa J. Good  
Sheri L. Geary  
Gloria VanValey

were not on the stipulated list of eligible voters.<sup>1</sup>

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<sup>1</sup> VanValey's name appears on the list of all of the employer's employees which is found in the case file, but that list describes her as a "part-time" employee. Her name was stricken from the stipulated eligibility list filed by the employer and union.

Under WAC 391-25-590, objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters, and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

The Commission has reviewed the "objections" document filed in this case, and finds that it does not set forth any conduct which, as a matter of law, could be deemed objectionable under Chapter 391-25 WAC.

Paragraphs 1, 2 and 3 allege a failure of the union and/or its supporters to conduct an "open forum" prior to the filing of the representation petition with the Commission. The pre-petition period is not within the scope of "objections" proceedings under Chapter 391-25 WAC. Even if it was, there is no duty on the part of employees or a union seeking to organize employees to conduct an "open forum" on organization.

Paragraph 4 complains that none of the employees were given an opportunity to present their views on organization at the pre-hearing conference conducted by the Commission staff. These allegations evidence a misunderstanding of the nature of representation proceedings, and of the pre-hearing conference conducted by the Commission. Even if eligible employees had been present at the October 29, 1987 pre-hearing conference, no testimony would have been taken from them in that setting. Even if the case had gone to hearing on other issues, testimony

about the "pros and cons" of organization would not have been relevant or admissible. The purpose of the election procedure is for the employees to state their views by means of the secret ballot, with the question concerning representation (i.e., whether or not the employees will be organized for the purposes of collective bargaining) determined by majority rule.

Paragraph 5 deals with two separate subjects:

(a) There is a brief reference to one employee being "intimidated" by other employees, but the individual is not identified and the nature of the alleged intimidation is not set forth. This objection must be dismissed as insufficient to state a cause of action.

(b) There is reference to three employees having their hiring delayed in connection with the October 29, 1987 eligibility date for the election. Eligibility cut-off dates are routinely used in representation proceedings in order to avoid or prevent mischief with the election process. This objection would contravene the stipulation entered into by the employer as to the identification of its employees. Whatever the assumptions of the employees may have been about their potential hiring, the employer did not list any "temporary" office clerical employees, let alone the names of three of the objection signators, on the typewritten roster of "Active Employees" which it submitted early in these proceedings. That document is noteworthy for its apparent completeness, even including the employer's Executive Director, employees represented by another labor organization, and a "temporary" janitor who was excluded from the eligibility list by stipulation of the parties. This objection must be dismissed on the basis of the stipulated eligibility list.

Paragraph 6 of the "objections" document suggests that those employees who have been around longer should have "more right

to exercise our rights and opinions," and so evidences a rejection of the "one-man-one-vote" principle required by the statute for representation elections. Employees do not acquire greater voting rights under the statute based on seniority with the employer. This allegation also misunderstands the role of the Commission, which does not include investigating the roots of "problems." This objection is also dismissed.

Paragraph 7 makes a vague, and extremely circuitous, allegation of "unlawful assistance" to the union. By the terms of the objections document, the involvement of "Commissioner Steffens" with the Carpenters' union has been "indirect", at best. We can take notice of the circumstance that both the International Brotherhood of Carpenters and Joiners of America and the Office and Professional Employees International Union are affiliated with the AFL-CIO, and can surmise that the petitioner's use of the Carpenters' union facility could as easily be attributed to comity and fealty among the unions as to any improper influence of the employer official. The excerpt from the minutes actually denies conflicting involvements. This objection is dismissed.

Paragraph 8 calls attention to existing personnel policies of the employer, and seems to complain that eligible voters were not sufficiently informed of existing personnel policies before the election. The allegation does not state any concealment or other misconduct. Employees opposed to the union had a right of free speech during the pre-election campaign, and are not entitled to have the election results overturned merely because their choice on the ballot did not prevail.

Paragraph 9 begins by stating a threat to appeal "to the highest court" from an adverse decision of this Commission. The paragraph then goes on to re-state the view that there is

no need for a union. It does not state any objectionable conduct.

Paragraph 10 reverts to the existing personnel policies of the employer, and to the absence of need for a union. The paragraph does not state any objectionable conduct.

The concluding paragraphs of the objections document contain a request for "investigation" by the Commission. On review of these materials, we do not find factual claims on which to demand responses from the union or to set a hearing.

#### FINDINGS OF FACT

1. The above-named petitioner timely filed with the Public Employment Relations 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 FULL-TIME AND REGULAR PART-TIME  
OFFICE AND CLERICAL EMPLOYEES OF THE  
BREMERTON HOUSING AUTHORITY; EXCLUDING  
SUPERVISORS, CONFIDENTIAL EMPLOYEES  
AND ALL OTHER EMPLOYEES.

3. The employer and the petitioner have entered into an election agreement pursuant to WAC 391-25-230, stipulating the propriety of the bargaining unit and the list of eligible voters.
4. 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, if any; a tally of the results was previously furnished to the parties and is attached hereto.
5. Objections were filed with respect to these proceedings by certain employees and/or prospective employees.

CONCLUSION OF LAW

1. As a matter of law, the purported "objections" filed in this matter fail to state any claims on which relief can be granted under Chapter 391-25 WAC and Chapter 41.56 RCW.
2. The bargaining unit described in paragraph 2 of the foregoing findings of fact 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 employees of the above named employer employed in the appropriate collective bargaining unit described in paragraph 3 of the foregoing findings of fact have chosen:

OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL 23

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

DATED at Olympia, Washington, this 19th day of January, 1988.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

*Jane R. Wilkinson*  
JANE R. WILKINSON, Chairman

*Mark C. Endresen*  
MARK C. ENDRESEN, Commission

*Joseph F. Quinn*  
JOSEPH F. QUINN, Commission

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TALLY SHEET

NAME OF EMPLOYER BREMERTON HOUSING AUTHORITY CASE NUMBER 7036-F-87-1207

PART 1 - CROSS-CHECK OF RECORDS

The undersigned agent of the Public Employment Relations Commission certifies that he/she has conducted a cross-check of records in the above case, and that the results were as follows:

Number of Employees in Bargaining Unit.....  
Number of Employee Records Examined.....  
Number of Employee Records Counted as Valid Evidence of Representation...

PART 2 - SECRET BALLOT ELECTION

The undersigned agent of the Public Employment Relations Commission certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated below, were as follows:

- 1. Approximate number of eligible voters..... 9
- 2. Void Ballots.....
- 3. Votes Cast For: OFFICE & PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL 23 ... 5
- 4. Votes Cast For: .....
- 5. Votes Cast For: .....
- 6. Votes Cast For: .....
- 7. Votes Cast For: NO REPRESENTATION..... 4
- 8. Valid Ballots Counted.(total of 3, 4, 5, 6 and 7)..... 9
- 9. Challenged Ballots.....
- 10. Valid Ballots Counted plus Challenged Ballots (total of 8 and 9).....
- 11. Number of Valid Ballots Needed to Determine Election..... 5

Challenges  are sufficient in number to affect the results of the election.  
 are not

The results of the election appear to be  inconclusive.  
 conclusive favoring choice on line 3

PUBLIC EMPLOYMENT RELATIONS COMMISSION

DATE ISSUED 11-18-87

By [Signature]

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For [Signature]

For Judith Zink  
OP&U #23

For \_\_\_\_\_

For \_\_\_\_\_

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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