

University of Washington, Decision 6046 (PECB, 1997)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
 )  
SERVICE EMPLOYEES INTERNATIONAL )  
UNION, DISTRICT 925 ) CASE 13356-D-97-119  
 )  
for a declaratory order concerning ) DECISION 6046 - PECB  
application of Chapter 41.56 RCW )  
to: )  
 ) DECLARATORY ORDER  
UNIVERSITY OF WASHINGTON )  
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Theiler, Douglas, Drachler & McKee, by Martha Barron,  
Attorney at Law, appeared on behalf of the union.

Christine O. Gregoire, Attorney General, by Diana E. Moller,  
Assistant Attorney General, appeared on behalf of  
the employer.

On August 25, 1997, Service Employees International Union, District  
925, filed a petition for declaratory order with the Public  
Employment Relations Commission under RCW 34.05.240, seeking a  
ruling as to the applicability of Chapter 41.56 RCW to certain  
employees of the University of Washington. The matter came before  
the Commission on September 16, 1997, for a ruling under RCW  
34.05.240(5).

The Applicable Statutes

This controversy arises out of a bargaining relationship existing  
between the parties under Chapter 41.56 RCW, following their  
exercise of the option made available to them by RCW 41.56.201.  
The operative portion of the latter statute states:

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the \*\*higher education personnel board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, **chapter \*28B.16 or 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.**

RCW 28B.16.015, which is the sole surviving section of what was once the state higher education personnel law administered by the Higher Education Personnel Board, provides for a concomitant exclusion of the employees in an "option" bargaining unit from the state civil service systems.

The Employer's Withholding of Consent

The employer opposed any assertion of jurisdiction by the Public Employment Relations Commission in this case, citing RCW 34.05.240-(7), which reads:

(7) An agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

While it is clear that the employer withholds its consent in this case, we are unable to find any showing of substantial prejudice in the arguments advanced by the employer. The applicable statute is clear on its face: Under RCW 41.56.201(1)(c), Chapter 41.06 RCW has ceased to apply to all employees in the bargaining units covered by the parties' collective bargaining agreements.

NOW, THEREFORE, acting under the authority conferred upon it by RCW 34.05.240(5)(a), the Public Employment Relations Commission makes and enters the following:

DECLARATORY ORDER

Chapter 41.56 RCW applies exclusively, and Chapter 41.06 RCW has no further application to, any employees in the bargaining units affected by the petition filed in this matter.

Issued at Olympia, Washington, on the 16<sup>th</sup> day of September, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



SAM KINVILLE, Commissioner

Commissioner Joseph W. Duffy  
did not take part in the  
consideration or decision  
of this case.