STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of TEAMSTERS UNION LOCAL NO. 763 Involving certain employees of ISSAQUAH SCHOOL DISTRICT	CASE NO. 2349-E-79-426 DECISION NO. 775 PECB ORDER SUSTAINING CHALLENGES TO BALLOTS

Jon L. Rabine, Secretary-Treasurer, appeared on behalf of the petitioner.

Harold N. Skow, Administrative Assistant, appeared on behalf of the employer.

Larry McKibben, President, appeared on behalf of intervenor Washington State Council of County and City Employees, AFL-CIO

Frank J. Warnke, Executive Director, appeared on behalf of Intervenor Public School Employees of Washington

On September 26, 1979, Teamsters Local 763 filed a petition with the Public Employment Relations Commission seeking a representation election under RCW 41.56 and Chapter 391-21 WAC among bus driver employees of the employer who had theretofore been represented by the Washington State Council of County and City Employees, AFL-CIO. The incumbent bargaining representation and Public School Employees of Washington were each permitted to intervene in the proceedings based on administrative determination of the sufficiency of their showing of interest. A consent election agreement was signed by the representatives of the parties and filed with the Commission, together with a stipulated list of eligible voters. Certain "substitute" bus drivers who lacked "regular part-time" status were excluded from the stipulated eligibility list.

The election was held on November 9, 1979. Two persons who had acquired "regular" status were added to the eligibility list by stipulation of all parties, bringing the number of eligible voters up to 61. Nine (9) persons not listed on the stipulated eligibility list presented themselves at the polls and were permitted to vote by challenged ballots. The challenged ballots were sufficient in number to affect the outcome of the election, and all parties were afforded an opportunity, by letter dated November 14, 1979, to show cause why the previous stipulations as to eligibility should

not be followed. The incumbent representative supported its previous stipulation in a letter filed on Nobember 19, 1979. No other response was received by the November 21, 1979 deadline established.

The stipulations made by the parties to representation proceedings in the context of a consent election agreement are binding unless withdrawal is permitted for good cause shown. Community College District No. 5, Decision 448 (CCOL, 1978).

FINDINGS OF FACT

1. A timely and properly supported petition has been filed, and a dispute exists concerning representation of bus driver employees of Issaquah School District No. 411. Washington State Council of County and City Employees, AFL-CIO and Public School Employees properly qualified as and were granted status as intervenors in the proceedings.

2. On or about October 22, 1979, in connection with the filing of a consent election agreement signed by the representatives of all parties, a stipulated eligibility list was filed with the Commission. The names of Genny Becker, Alan Bohling, Shirley Johnson, Evan Jones, Sandra Mandelar, Margaret Rude, Bob Sharp, Marily Shuck and Ron Stadick were either expressly deleted from that list or were omitted from that list.

3. The individuals named in findings of fact paragraph 2 cast challenged ballots in the representation election conducted by the Commission on November 9, 1979. Each such person, upon presenting her or himself at the polls, claimed to be a "substitute" bus driver for the employer.

4. No party has shown cause why the stipulations of the parties should be vacated.

CONCLUSIONS OF LAW

1. The consent election procedures of the Public Employment Relations Commission (unlike the consent election procedures of the National Labor Relations Board) require the stipulation of all parties as to the list of all employees eligible to vote in a representation election conducted pursuant to WAC 391-21-114.

2. No party has made a satisfactory showing in this case why its stipulation excluding the individuals identified in finding of fact 2 from

eligibility to vote in the election in this case was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal of such stipulation at this time will not unjustly prejudice the rights of other parties to the proceeding. Pursuant to WAC 391-08-450, the stipulations of record made by parties in proceedings before the Commission are to be conclusively presumed against any party bound thereby, and no other evidence is to be received.

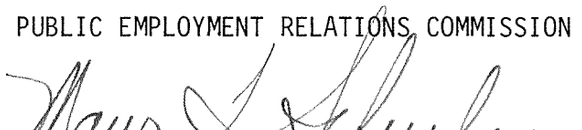
3. The individuals identified in finding of fact 2 were not eligible to vote in the representation election conducted by the Commission on November 9, 1979, and their positions are not included within the bargaining unit.

O R D E R

The challenges to the eligibility of Genny Becker, Alan Bohling, Shirley Johnson, Evan Jones, Sandra Mandelar, Margaret Rude, Bob Sharp, Marily Shuck and Ron Stadick are sustained. An amended tally sheet is attached.

DATED at Olympia, Washington, this 27th day of November, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

Amended

TALLY SHEET

NAME OF EMPLOYER Issaquah School District No. 411 CASE NUMBER 2349-E-79-426

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..... 61
2. Void Ballots..... 9
3. Votes Cast For: Washington State Council of County & City Employees. 32
4. Votes Cast For: Teamsters Union Local No. 763 ... 19
5. Votes Cast For: Public School Employees of Washington... 5
6. Votes Cast For: NO REPRESENTATION..... 0
7. Valid Ballots Counted.(total of 3, 4, 5, and 6)..... 56
8. Challenged Ballots..... 0
9. Valid Ballots Counted plus Challenged Ballots (total of 7 and 8)..... 56
10. Number of Valid Ballots Needed to Determine Election..... 31

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

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

DATE ISSUED November 27, 1979

PUBLIC EMPLOYMENT RELATIONS COMMISSION

By Marvin L. Schurke

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 _____ For _____

For _____ For _____