

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
& HELPERS OF AMERICA, AUTOMOTIVE &
SPECIAL SERVICES, NO. 461,

Petitioner,

vs.

TACOMA-PIERCE COUNTY LAW
ENFORCEMENT SUPPORT AGENCY
(LESA),

Employer.

CASE NO. 1505-E-78-302

DECISION NO. 537 PECB

DIRECTION OF CROSS-CHECK

APPEARANCES:

Petitioner: Mr. Steven B. Frank, Attorney at Law.

Employer: Mr. Richard J. Sokolowski, Personnel Director, City of Tacoma.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Automotive and Special Services, Local No. 461 filed a petition on May 26, 1978 for investigation of a question concerning representation of a bargaining unit of supervisory employees of Tacoma - Pierce County Law Enforcement Support Agency, hereinafter called LESA. A hearing was held at Tacoma, Washington on July 17, 1978 before Rex L. Lacy, Hearing Officer.

POSITION OF THE PARTIES

The employer contends that shift supervisors are excluded from the provisions of RCW 41.56.030 because of their present and past confidential relationship with the employer. The employer relies upon Tacoma - Pierce County Law Enforcement Support Agency, PERC Decision No. 84-A PECB, as the basis for continued exclusion of shift supervisors from bargaining units.

The union contends that the employer has restructured its management and organizational chain of command to include an assistant director, and has assigned to the new position the "confidential" functions previously performed by shift supervisors. The union contends that the shift supervisors may now appropriately be included in a bargaining unit comprised solely of supervisors.

BACKGROUND

LESA was created in May 1974 to provide centralized communications and record-keeping services for City of Tacoma police department and Pierce County sheriff's department. LESA is governed by an executive board of city and county officials. John Lomax is the director of LESA. Gerald Petrequin is communications center manager.

The Union filed a petition with the Washington State Department of Labor and Industries in November, 1975 seeking certification as exclusive bargaining representative of shift supervisors of LESA. The authority for administration of RCW 41.56 was transferred to the Public Employment Relations Commission on January 1, 1976. The petition was dismissed by the Commission because the petitioned-for unit was composed of persons who acted on behalf of management and were confidential deputies and administrative assistants to the executive head of the employer and who were not public employees within the meaning of RCW 41.56.030 (2).

In January 1978, Gerald Petrequin was appointed Communication Center Manager by Lomax. Petrequin was provided with extra remuneration when promoted to the newly created position, and he assumed the functions previously performed by the four shift supervisors on a rotating basis.

STATUTORY AUTHORITY:

RCW 41.56.030 (2) defines public employees as:

"(2) 'Public Employee' means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer."

The authority of the Commission to determine bargaining units is established by RCW 41.56.060.

DISCUSSION

At the time the Commission decided to exclude LESA shift supervisors as confidential employees acting on behalf of management, the duties and responsibilities of shift supervisors included keeping time card records; granting sick leave; calling off-duty employees to work when necessary; scheduling overtime work; evaluating

employees; taking disciplinary action; recommending discipline, suspension, and discharge of employees; meeting with the director concerning agency operations; participating in the collective bargaining process; and regularly functioning as assistant director.

The appointment of Petrequin as communications center manager and the assignment of duties and responsibilities previously performed by shift supervisors to the newly-created job classification has considerably altered the conditions prevalent in January 1977. Whereas shift supervisors previously reported directly to Director Lomax, they now report to Petrequin, and have only indirect dealings with Lomax and the executive board of the employer.

Petrequin has assumed the previous shift supervisor responsibilities in labor relations; grievance procedures (except step 1 which may involve a shift supervisor); disciplinary actions, agency operations, calling in employees, scheduling employees; budgetary input, office functions, and hiring procedures. The communications center manager has become the full-time acting assistant director who, because of his duties, responsibilities, and relationship with the director of LESA, is a confidential employee within the meaning of RCW 41.56.030 (2).

Petrequin's salary was increased to include the premium pay allocated to shift supervisors when rotating through the acting assistant director classification. Shift supervisors thus have lost the opportunity to receive extra pay for added responsibilities along with the opportunity to serve in a more prestigious position three times annually.

FINDINGS OF FACT

1. Tacoma Pierce County Law Enforcement Support Agency is a public employer within the meaning of RCW 41.56.030. LESA provides communication and record-keeping services for Pierce County and City of Tacoma.

2. International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Automotive and Special Services Local No. 461, a labor organization within the meaning of RCW 41.56, filed a petition on May 26, 1978 claiming to represent a majority of employees in a bargaining unit comprised of all shift supervisors employed by LESA; and filed a showing of interest in support of its petition which indicates it has the support of a substantial majority of the employees in the petitioned for bargaining unit.

3. The shift supervisors previously were held to be "confidential employees acting on behalf of management" by the Public Employment Relations Commission on January 14, 1977. (PERC Dec. 84-A PECB 1977)

4. In January 1978, the employer appointed Gerald Petrequin to the position of communication center manager. Petrequin was assigned the duties and responsibilities previously performed on a rotating basis by shift supervisors when acting as assistant director of LESA.

5. The nature of shift supervisors' current duties and conditions of employment do not now necessarily imply a confidential relationship with the director of LESA.

6. The shift supervisors have duties, skills, working conditions and a history of bargaining which is separate and distinct from those of non-supervisory employees of the employer, but share a community of interest among themselves.

CONCLUSION OF LAW

1. LESA shift supervisors are public employees within the meaning of RCW 41.56.030 (2).

2. A unit composed of all LESA shift supervisors is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.

3. A question concerning representation has arisen in the appropriate bargaining unit described in paragraph 2 of these conclusions of law, and such question concerning representation can appropriately be resolved under RCW 41.56.060 and WAC 391-21-125 by a cross-check of records.

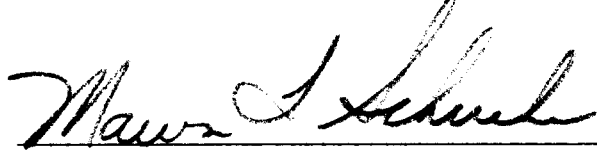
NOW THEREFORE, IT IS

DIRECTED

A cross check of records shall be conducted under the direction of the Public Employment Relations Commission by comparison of authorization cards filed in support of the petition filed herein against the employment records of LESA, to determine whether a majority of the employees in the bargaining unit described as: All shift supervisors of Tacoma Pierce County Law Enforcement Support Agency, excluding the director, the communications center manager and non-supervisory employees, have designated International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Automotive and Special Services Local No. 461 as their exclusive bargaining representative.

Dated at Olympia, Washington this 14th day of November 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director