

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
CLIFFORD L. HELGESON)	CASE NO. 3875-E-81-731
Involving certain employees of:)	DECISION NO. 1339 - PECB
KITTITAS VALLEY COMMUNITY HOSPITAL)	ORDER OF DISMISSAL

On April 23, 1981, United Food and Commercial Workers Local Union 1439 was certified by the Public Employment Relations Commission as exclusive bargaining representative of certain employees of the above-named employer. (Decision No. 1141 - PECB). On December 7, 1981, the above-named petitioner filed with the Commission a petition for investigation of a question concerning representation, seeking decertification of Local 1439. By letter dated December 9, 1981, the provisions of RCW 41.56.070 and WAC 391-25-030(2) concerning a one year certification bar were called to the attention of the parties and a period of time was specified for any party to show cause why the petition should not be dismissed as untimely. The petitioner filed no response. The employer filed a written response wherein it relies on NLRB v. Globe Automatic Sprinkler, 199 F2d 64, 30 LRRM 2651 (3rd Circuit, 1952) and reasons from the premise that the "certification bar" was included in the statute (impliedly solely) to protect a certified union from incursions of a rival union.

In addition to the legislative intent suggested by the employer, the one year certification bar period contained in the statute and PERC rules protects a recently certified union from a "no union" contingent within the bargaining unit, giving the union assurance that it will have one full year in which to negotiate a first contract. Further, the certification bar provision protects the State from abuse of its processes, giving employees an opportunity to change their mind about union representation, but no more often than once a year. The provisions of the statute are clear and unambiguous:

"No question concerning representation may be raised within one year of a certification or attempted certification." (RCW 41.56.070)

There is no claim or evidence that the union has abandoned the bargaining unit or otherwise conducted itself so as to require that the certification be withdrawn or vacated. If an election were to be directed, it would be on the basis that a "question" existed as to the desires of the employees

"concerning representation", and a re-certification of the union would be a potential result of such an election. If the employer's position were to be accepted here, such a re-certification could be followed with a never-ending series of decertification petitions, filed without regard to the time intervening between elections at any time a dissident group could muster a 30% showing of interest. Such a result would invite undermining of the collective bargaining process and abuse of the processes and procedures of this Commission.

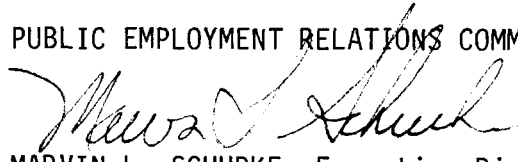
NOW THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-entitled matter is dismissed as untimely filed.

DATED at Olympia, Washington this 5th day of January, 1982.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director