

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, AFL-CIO)	CASE NO. 4499-E-83-828
)	
Involving certain employees of:)	DECISION NO. 1699 - PECB
)	
MASON COUNTY)	ORDER DETERMINING OBJECTIONS TO ELECTION

On February 14, 1983, Washington State Council of County and City Employees, AFSCME, AFL-CIO, (WSCCCE) filed a petition with the Public Employment Relations Commission for investigation of a question concerning representation involving certain employees of Mason County. The parties executed an election agreement on May 3, 1983 wherein they agreed that the unit appropriate for collective bargaining is:

All full-time and regular part-time employees of the Mason County Department of General Services, excluding elected officials, appointed officials, supervisors, confidential employees and all other employees of the employer.

The parties also executed a supplemental agreement under the rules of the Commission, wherein they reserved for later determination a dispute concerning the eligibility of Ken Stevens, Director of the Mason County Department of General Services, to vote in the election. The union proposed exclusion of Stevens from the unit as a supervisor, while the employer proposed that the position be included in the bargaining unit.

A representation election was held on May 31, 1983 under the direction of the Commission. Of 18 persons on the stipulated eligibility list (including Stevens), 17 cast ballots. Seven ballots were cast in favor of the union. Eight ballots were cast for "no representation". The ballot of Stevens was challenged pursuant to the supplemental agreement. The ballot of Ron Howard was challenged by the employer on the basis that Howard had resigned his employment with the County, to be effective shortly after he cast his ballot. A tally of ballots was issued on May 31, 1983, indicating that the challenged ballots were sufficient in number to affect the results of the election, and that the results of the election were inconclusive.

On June 6, 1983, the union timely filed objections to the election, as follows:

1. The County Commissioners improperly affected the results of the election by granting non-union employees significant financial and working condition benefits the month before the election.
2. On April 18, 1983, the County Commissioners adopted Resolution 33-83 (Exhibit A) which granted "all non-union county employees" the following:
 - (a) Additional vacation days for those employed 17 years or more;
 - (b) A floating holiday;
 - (c) The ability to take paid sick leave during the probationary period, retroactive to January 1, 1983;
 - (d) The ability to accumulate up to 150 days of sick leave;
 - (e) Full payment of medical insurance premiums, retroactive to January 1, 1983; and
 - (f) \$31 per month toward the cost of family insurance coverage or salary, at the employee's option.
3. On April 25, 1983, the County Commissioners directed the chief deputy auditor to reimburse the elected officials and non-union employees for the deductions that had been taken from their wages since January 1, 1983, for insurance premiums (Exhibit B).
4. Every person on the eligibility list for the May 31, 1983, election in Case No. 4499-E-83-828 received these refunds and a copy of Resolution 33-83 was stapled to the paycheck they received at the end of April, 1983.
5. AFSCME Local 1504 is in negotiations with Mason County and has been for a number of months. Mason County had been proposing to take away benefits (a), (b), and (f) listed in paragraph 2 until April 13, 1983, when its negotiator announced that these benefits were going to be given to all non-union employees so the County was going to drop its take-away demands.
6. AFSCME Local 1504 is attempting to negotiate retroactive payment by the county of portions of insurance premiums that have been paid by union employees since January 1, 1983. The county has not agreed to date, although by Resolution 33-83 non-union employees were granted this identical benefit.
7. Lowell Bamford, election observer for Mason County, is the county's budget director, administrative assistant to the County Commissioners, and labor negotiator for the County Commissioners. The head of General Services is appointed by and serves at the pleasure of the County Commissioners. Accordingly, Lowell Bamford is a management official having authority over the bargaining unit employees and should not have been an observer. WAC 391-25-490.

8. Mason County included on the eligibility list two persons who are ineligible to vote in order to increase the vote against AFSCME Local 1504: Ken Stevens, Department Director, who is an appointed official and, therefore, excluded by the description stipulated by the county to be appropriate, and Fred Curfman, who, though described as "part-time" on the eligibility list, is in fact a temporary (full-time but no more than six months) employee and, therefore, also excluded by the stipulated description.

Exhibit A is a resolution entitled "Personnel Policies - Non-Union Employees". Exhibit B is a copy of the letter, signed by all three members of the Board of County Commissioners, together with a list containing the names of 60 individuals and their refund computations.

On June 9, 1983, the union filed a statement of its position concerning the challenged ballots, wherein it contended that Ron Howard should be deemed an eligible voter under precedents established by the National Labor Relations Board. The union at the same time reiterated its position that Ken Stevens was not an eligible voter.

By letter dated June 13, 1983, the Executive Director requested a written statement of position from Mason County concerning the objections and the challenged ballots. The response filed on June 22, 1983 states:

We are in receipt of your letter of June 13, 1983, directing us to file and serve our written statement of position concerning the election that was held on May 31, 1983 in our General Services Department. Our position is as follows:

1. For this election we will withdraw our objection to Ron Howard voting in the election. This will allow PERC to open his ballot.
2. For this election we will withdraw our objection to excluding Ken Stevens from voting, therefore, PERC can destroy his ballot.
3. Fred Curfman was a full-time employee on May 3, 1983 and on May 31, 1983.
4. Lowell Bamford doesn't have any authority over the General Services Department.
5. When Lowell Bamford was hired on January 10, 1983, one of the many assignments we gave him was to review the fringe benefits received by all Mason County employees. Due to his findings the Mason County Commissioners passed Resolution 33-83, Personnel Policies - Non-Union Employees, on April 18, 1983. The resolution was retroactive to January 1, 1983. The improvements were as follows:
 - (a) Increase payment of medical insurance premiums from \$70.60 per month to \$82.69 per month.

- (b) Increased the accumulation limit on sick leave from 120 days to 150 days.
- (c) Ability to take accumulated sick leave during probationary period.
- (d) Two days additional vacation for those employed 17 years or more.

We feel that this was a fair election with the employees of the General Services Department expressing their desire. With us releasing the final two ballots PERC should be able to bring this matter to a quick fair solution.

The response was signed by all three members of the Mason County Board of Commissioners.

We find it unnecessary to require that a formal hearing be held on the objections at hand, as the admissions made by the employer in its statement are sufficient to conclude that the results of the election must be vacated and a new election held. Changes by an employer of employee wages, hours and working conditions during the pendency of a question concerning representation improperly affect the laboratory conditions necessary to the free exercise by employees of their right to vote. Paragraphs 5.(a) through 5.(d) of the county's response acknowledge its objectionable conduct.

NOW, THEREFORE, It is


ORDERED

1. The results of the representation election conducted in the above-entitled matter on May 31, 1983 are set aside.
2. A new election by secret ballot shall be held under the direction of the Public Employment Relations Commission among all full-time and regular part-time employees of the Mason County Department of General Services, excluding elected officials, appointed officials, supervisors, confidential employees and all other employees of the employer, to determine whether a majority of the employees desire to be represented for the purposes of collective bargaining by Washington State Council of County and City Employees, AFL-CIO or by no representative.

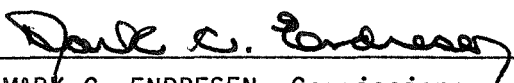
3. The Notice of Election issued by the Executive Director shall contain a notice to employees in accordance with Lufkin Rule Co., 147 NLRB 341 (1964).

ISSUED at Olympia, Washington this 6th day of September, 1983.

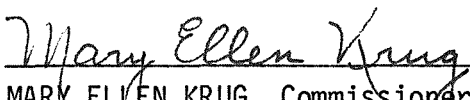
PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANE R. WILKINSON, Chairman



MARK C. ENDRESEN, Commissioner



MARY ELLEN KRUG, Commissioner