

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
 )  
CLASSIFIED PUBLIC EMPLOYEES ) CASE NO. 6897-E-87-1189  
ASSOCIATION/WASHINGTON EDUCATION )  
ASSOCIATION ) DECISION 2734 - PECB  
 )  
Involving certain employees of: )  
 )  
BAINBRIDGE ISLAND SCHOOL DISTRICT ) SUMMARY  
 ) DIRECTION OF ELECTION  
 )  
 )  
 )

Warren Henderson, Field Representative, appeared on behalf of the petitioner.

Michael Boring, Superintendent, appeared on behalf of the employer.

Greg T. Mowat, Representative, appeared on behalf of incumbent intervenor Service Employees International Union, Local 123. Hafer, Price, Rinehart & Schwerin, by John Burns, attorney at law, filed a statement of position.

On June 3, 1987, the above-named petitioner filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, pursuant to Chapter 391-25 WAC. The petitioner seeks certification as exclusive bargaining representative of certain employees of the above-named employer who have heretofore been represented by Service Employees International Union, Local 123. The Commission held a pre-hearing conference on July 6, 1987, which was attended by representatives of the petitioner, the employer and the incumbent exclusive bargaining representative. No contested issues of fact were identified by the parties at the pre-hearing conference, although the parties disagreed

about the timing and methodology for conducting a representation election. A statement of results of the pre-hearing conference was issued pursuant to WAC 391-08-220. No objections have been filed as to the statement of results of the pre-hearing conference, although both of the labor organizations involved have submitted letters setting forth their views on the proper scheduling and conduct of an election.

The Executive Director has considered the entire record in the matter. The determination of questions concerning representation is a function delegated by the legislature to the Commission. RCW 41.56.060; 41.56.070. The Commission staff operates under direction from the Commission to be expeditious in the processing of representation cases. cf. City of Redmond, Decision 1367-A (PECB, 1982). There are only a limited number of issues which arise in a representation case, and these parties have indicated no dispute as to the scope or description of the bargaining unit or the eligibility list of an election.

The issue which separates the parties in this case goes to the procedures to be applied, rather than to the substantive rights of the parties. The rules of the Commission, at WAC 391-25-230(7), invite the suggestions of the parties concerning arrangements for conduct of an election. WAC 391-25-490 authorizes the conduct of elections by mail ballot, and sets conditions on the exercise of that authority which include "undue delay". It is a fact of life that the fiscal year for all school districts ends on August 31, and that collective bargaining agreements in the schools are normally written to be co-terminus with the employer's fiscal year. Accordingly, the contract bar "window" period of RCW 41.56.070 and WAC 391-25-030(1) commonly falls in the month of June, and it is virtually

impossible to have a representation cases processed to election before the close of the school year. Against that background, the Commission has, for a number of years, conducted representation elections in school employee bargaining units by the use of mail ballot procedures during the summer months, thus avoiding undue delay of the determination of the question concerning representation. No case is cited or found where a mail ballot election was challenged for low voter turnout.

Accepted and carried to their logical extensions, the "wait until September" arguments advanced by the incumbent intervenor in the instant case would preclude the conduct of mail ballot elections during the summer except upon the consent of all parties. That is not the rule set forth by the Commission, and would promote fears and speculation about low voter turnout over favorable actual experience, the parties will have the right to file objections challenging the election results.

NOW, THEREFORE, it is

ORDERED

1. In lieu of the posting of an Election Agreement pursuant to WAC 391-25-230 or of a notice of hearing pursuant to WAC 391-25-290, the employer shall post copies of this Order in conspicuous places on the employer's premises where notice to affected employees are usually posted. This Order shall remain posted for seven (7) days, and the employer shall take reasonable steps to ensure that such posting is not removed, altered, defaced or covered by other material. The employer shall enter the date of initial posting on each copy posted.

2. Motions for intervention in these proceedings will be considered only if made to the Commission within seven (7) days following the initial date of posting specified in paragraph 1 of this Order.

IT IS FURTHER

DIRECTED

1. An election, by secret ballot, shall be conducted by the Public Employment Relations Commission among all employees in the bargaining unit described as:

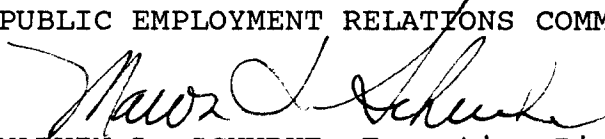
All full-time and regular part-time employees in maintenance and operations of the school buildings, grounds, food service and transportation of the Bainbridge Island School District, excluding confidential employees, supervisors, student help and all other employees of the employer.

to determine whether the employees in that bargaining unit desire to be represented by Service Employees International Union, Local 123, or by Classified Public Employees Association/WEA or by no representative.

2. The election shall be conducted by mail ballot to avoid undue delay of the proceedings.

Dated at Olympia, Washington, this 21st day of July, 1987.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

POSTED: \_\_\_\_\_