

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
INTERNATIONAL ASSOCIATION OF)	
FIRE FIGHTERS, LOCAL 31)	CASE 9858-E-92-1624
)	
Involving certain employees of:)	DECISION 4249 - PECB
)	
CITY OF FIRCREST)	DIRECTION OF CROSS-CHECK
)	
)	

James L. Hill, International Vice-President, appeared on behalf of the union.

Don Morrison, City Manager, appeared on behalf of the employer.

On June 24, 1992, International Association of Fire Fighters, Local 31 (union) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of certain employees of the City of Fircrest (employer). The petition indicated that the bargaining unit included only two employees. A pre-hearing conference was held on July 20, 1992, at which time the parties stipulated to the jurisdiction of the Commission, the existence of a question concerning representation, the union's status as a bargaining representative, the timeliness of the petition, the absence of blocking charges, and the description of the bargaining unit. The employer claimed, however, that one of the two positions should be excluded from the bargaining unit as a supervisor. A "Statement of Results of Pre-hearing Conference" was issued on August 6, 1992, containing the parties' stipulations.¹ A hearing held on October 1, 1992, before Hearing

¹ Those stipulations became binding on the parties when no objections were filed, by either party, within 10 days following issuance of the statement.

Officer Mark S. Downing, was limited to the "eligibility" issue. The parties waived the filing of post-hearing briefs.

BACKGROUND

The City of Fircrest is situated in Pierce County, Washington, immediately to the south of the city of Tacoma. The employer has a population of 5,500 persons, and is governed by an elected seven-member city council. Don Morrison serves as city manager, and is responsible for implementing decisions of the council. The employer's Fire Department consists mainly of "volunteer" personnel, which total 32 in number.

Fire Chief Jan L. Chamberland is categorized as a "volunteer" in the Fire Department, but the record indicates that he is a full-time employee of this employer. Chamberland is a foreman in the employer's Light Division, working a schedule of 8:00 a.m. to 4:30 p.m.² on Mondays through Fridays. He receives an additional salary of \$600 per month for his work in the role of fire chief. The two functions overlap somewhat, as Chamberland carries a pager while performing his foreman duties, and he responds to Fire Department calls during his foreman workday.³

Six additional "officer" positions in the Fire Department are filled by members of the volunteer force, including the titles of "assistant fire chief", "captain/training officer", "captain" (A and B shifts), and "lieutenant" (A and B shifts). Those persons receive salaries ranging from \$260 to \$425 per month for their work

² This changes to 7:00 a.m. to 3:30 p.m. during the summer.

³ The only indicated exception is where his departure for a Fire Department response would create a hazard for his Light Division work crew.

with the Fire Department, and apparently do not hold other positions with this employer.

The Fire Department has only two full-time employees: Douglas Campbell works under the title of "firefighter/EMT officer"; Gregory Nellist holds the "fire lieutenant/EMS officer" position. Both Campbell and Nellist work during the 8:00 a.m. to 4:00 p.m. shift, on Mondays through Fridays. The "lieutenant" position receives a 7% pay differential above the amount paid to the "firefighter" position.⁴ Both positions receive the same fringe benefit package.

The bargaining unit description stipulated to by the parties during the pre-hearing conference consisted of:

All full-time and regular part-time professional uniformed employees of the fire department, excluding supervisors, confidential employees and all other employees of the employer.

The determination of the question concerning representation in that bargaining unit has been delayed, and the procedure endorsed by the Commission in City of Redmond, Decision 1367-A (PECB, 1982) has not been implemented in this case,⁵ because the "eligibility" issue raised by the employer as to one of the two employees necessarily affects the outcome of the proceedings.

⁴ The pay range for the firefighter position is \$2480.00 to \$2999.00 per month, while the range for the lieutenant position is \$2488.00 to \$3229.00.

⁵ In City of Redmond, the Commission endorsed expedited determination of the question concerning representation where the unit description was stipulated to and the number of "eligibility" issues remaining to be determined was small in relation to the size of the unit.

POSITIONS OF THE PARTIES

The employer argues that the "lieutenant" position held by Nellist should be excluded from the bargaining unit as a "supervisor". It contends that Nellist is the highest ranking full-time employee in the Fire Department, that he is the de facto fire chief during the daytime hours, and that it needs a full-time Fire Department employee in a management position to represent its interests during normal business hours. Based on the fact that, on the average, the Fire Department receives less than one incident call for every 24-hour period of time, the employer asserts that the majority of the duties of the "lieutenant" position involve performing supervisory or managerial functions. In response to Commission precedents relied upon by the union, the employer argues that those decisions involved situations in which another full-time exempt position existed in the fire department.

The union argues that the "lieutenant" position should be included in the bargaining unit, and that the employer has not met its burden to show that the position meets the statutory definition of "supervisor" contained in RCW 41.59.020(4)(d). The union submits that the lieutenant position does not exercise independent judgment on behalf of the employer to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees. The union maintains that the fire chief is available within the city limits during the same hours as the lieutenant and, in fact, exercises his supervisory authority to administer the Fire Department during a substantial part of his daytime work hours.

DISCUSSION

Supervisors are "public employees" within the meaning and coverage of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. Municipality of Metropolitan Seattle (METRO) v. Department of

Labor and Industries, 88 Wn.2d 925 (1977). As such, they have the right to organize for the purpose of collective bargaining.

Implementing the "unit determination" authority conferred upon it by the Legislature in RCW 41.56.060, the Commission has generally excluded supervisors from bargaining units containing their rank-and-file subordinates. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981). The purpose of such a separation, however, is to avoid conflicts of interest within bargaining units.

Chapter 41.56 RCW does not define "supervisor". That term has a well-established meaning in labor-management relations, however. Section 2(11) of the National Labor Relations Act (NLRA) was the pattern for the definition of "supervisor" found in the Educational Employment Relations Act (EERA), at RCW 41.59.020(4)(d):

[S]upervisor ... means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment ...

The Commission has used the "authority" types listed in the NLRA/EERA definition as the basis for its unit determination decisions under RCW 41.56.060. It is important to note that issues concerning supervisory status are decided on the basis of the actual duties and authority of the employees, and not on the titles of the disputed positions or classifications.

The Commission has drawn a distinction between "supervisors" and employees who are more aptly classified as "lead workers". While lead workers may possess authority to direct subordinates in their

daily job assignments, they generally do not have the authority necessary to make meaningful changes in the employment relationship. In City of Toppenish, Decision 1973-A (PECB, 1985), the Commission stated:

[I]n nearly every organization there exists a work level which may not be clearly characterized as supervisory or non-supervisory. In a hierarchical organization, certain employees may be given some supervisory responsibilities, but not a full complement, or they may be allowed to share supervisory responsibilities with their own superiors.

City of Toppenish, at page 3.

The Commission closely examines whether the duties performed by the disputed position are similar to those of rank-and-file bargaining unit employees. In Morton General Hospital, Decision 3521-B (PECB, 1991), the Commission stated:

Where there is substantial similarity in duties and working conditions shared by the disputed "supervisor" and the bargaining unit employees, there is reduced potential for the types of conflicts of interest which the Commission and courts have sought to avoid through unit determination decisions.

Morton General Hospital, at page 7.

The question before the Commission under RCW 41.56.060 is whether the disputed position exercises such a degree of independent judgment in important areas of authority that it creates a potential conflict of interest supporting exclusion of the position from the rank-and-file bargaining unit.

Precedent Involving Fire Department Personnel

The Commission has had several occasions to examine the supervisory status of personnel in a variety of roles in fire departments of

varied size. Those decisions are instructive in weighing the evidence in the instant case.

City of Issaquah, Decision 395-C (PECB, 1978), involved a situation remarkably similar to that presented in the instant case. The employer had only two full-time fire department employees: A firefighter and a lieutenant. Other fire department personnel worked on a part-time basis, or were volunteers, including the fire chief, an assistant chief, a chief of training, a captain, two lieutenants and various firefighters. The full-time lieutenant was responsible for day-to-day activities at the fire station, including maintenance, cleaning and firefighting duties. When directed, the lieutenant had gathered data for budget input. The lieutenant position did not possess authority to schedule leaves or vacations, to hire or fire employees, to handle grievances or disciplinary actions, or to transfer or assign staff. The lieutenant was included in the rank-and-file bargaining unit in that case, as the supervisory authority possessed by the position was so limited as to call for classification of the position as a lead worker.

In City of Redmond, supra, the employer had dispensed with the paramilitary titles commonly used in fire departments, and sought exclusion of a "director", two "manager" positions and six "supervisor" positions. While the parties agreed that 21 firefighters should be included in the bargaining unit and that the "director" and "manager" positions should be excluded from the bargaining unit, they disagreed concerning the "supervisor" positions. The disputed individuals were each responsible for a shift of four to five firefighters. They had limited authority in scheduling vacations, could not schedule overtime, and did not have the ability to hire, fire, discipline, transfer, or promote employees. The Commission concluded that the "supervisors" did not have a sufficiently distinct separation in their duties, skills and working conditions to exclude them from the rank-and-file bargaining unit.

In King County Fire District 16, Decision 2279 (PECB, 1986), the employer's organizational structure included a fire chief, a battalion chief, 4 lieutenants, and 16 firefighters. The employer sought to exclude the "lieutenant" positions from the bargaining unit. The lieutenants worked 24-hour shifts, and were assigned to one of four platoons along with rank-and-file firefighters. As shift officers, the lieutenants assigned daily maintenance and safety checks, and announced the time and subject of training drills. The lieutenants received notices from firefighters if they were ill and unable to report for duty, but did not possess discretion to determine whether the reason for absence given by a firefighter qualified for paid leave. Lieutenants conditionally approved time-off requests that were in accordance with pre-determined departmental requirements, but the fire chief retained the final decision on such matters. Authority to schedule overtime was possessed only by the fire chief or his delegate. While lieutenants prepared evaluations on firefighters, the fire chief and battalion chief had authority to review and modify those reports. The lieutenants had no ability to adjust grievances. The decision in that case summarized the authority of the lieutenants in the following manner:

The lieutenants' primary function is one of leading a team whose objective is fire suppression and emergency response, not one of managing the department.

King County Fire District 16, at page 19.

The lieutenants were thus included, along with the firefighters, in the rank-and-file bargaining unit.

Positions with titles of captain, lieutenant and fire marshall were at issue in Cowlitz County Fire District 2, Decision 2836-A (PECB, 1988). The employer's full-time personnel included the fire chief, a deputy fire chief, a captain, 2 lieutenants, a fire marshall, and 12 firefighters. A large number of volunteers completed the

employer's workforce. The captain, lieutenants and firefighters were divided into three platoons, with the captain or a lieutenant in charge on each shift. The principal duties of the captain included supervision of the maintenance of apparatus, equipment and station facilities. Unless a superior saw a conflict, the captain had authority to approve leaves. The captain had no role in hiring or firing decisions, however, and could only attempt to correct minor disciplinary infractions. The lieutenants also coordinated and directed activities on their shifts, but did not have the authority to approve overtime or leaves. The captain and lieutenant positions were included in the unit, as their main functions involved responsibility for shift routines and maintenance of various records, and not in the actual formulation of policies. The responsibilities of the fire marshall primarily involved fire code enforcement and public education, rather than the supervision of any employees, and that position was also included in the rank-and-file bargaining unit.

More recently, Pierce County Fire District 5, Decision 4047 (PECB, 1992) determined whether a "captain" position should be excluded from the bargaining unit in a full-time workforce consisting of a fire chief, two assistant chiefs, three captains, eight firefighter/paramedics and eight firefighter/emergency medical technicians. This work force was supplemented by a large contingent of volunteer personnel. While the fire chief and assistant chiefs worked eight-hour daytime shifts, the remaining personnel were assigned to rotating 24-hour shifts. The captains each headed a platoon and were responsible for operations during their shift, including directing the work of firefighters assigned to that shift. Captains had authority to make routine maintenance assignments, schedule overtime and make minor changes in work schedules. While captains conducted physical agility drills as part of the hiring process, they did not recommend hiring decisions to the fire chief. Captains prepared evaluations of firefighters, but those forms were forwarded to the assistant chiefs for

independent review. Although captains collected information concerning discipline and forwarded that information to the assistant chiefs for consideration, the fire chief or assistant chiefs made final decisions in this area. The captains attended monthly staff meetings with the fire chief and assistant chiefs where personnel issues were discussed, but it was concluded that the captains had a minor role in an administrative structure that provided for an independent review of all substantial decisions at higher levels of the organization. The captains were characterized as "working foremen" and included in the rank-and-file bargaining unit.

Application of Precedent

Reporting Relationships -

Contrary to the employer's claim that Nellist is the highest ranking full-time employee in the Fire Department, the evidence establishes that the fire chief has a presence at nearly all of the times that the petitioned-for employees are on duty. The fire chief spends a significant portion of his "light foreman" work hours, averaging one to two hours per day, performing work related to the Fire Department. Outside of his light foreman work hours, the fire chief spends approximately 16 additional hours per week performing administrative functions for the Fire Department. As a matter of protocol, Nellist reports directly to Fire Chief Chamberland or to the assistant fire chief. The assistant chief is generally not within the city limits during daytime hours, however, so the practice is that Nellist most often looks to Chamberland for direction on day-to-day operating matters.

At the direction of the fire chief, Lieutenant Nellist has compiled various statistics for the budget process. The fire chief prepares all budget requests, however. The lieutenant has no authority to address the city council concerning Fire Department issues. While Lieutenant Nellist has the ability to make purchases on his own

that do not exceed \$300, he typically will first discuss with the fire chief purchases over \$100.

Distinguishing Characteristics -

For comparative purposes, it is instructive to compare the job descriptions of the disputed "lieutenant" position and the "firefighter" position that Lieutenant Nellist allegedly supervises. Both of those job descriptions list the same general purpose for the positions, as follows:

Protects life and property by performing fire fighting, emergency aid, hazardous materials, and fire prevention duties. Maintains fire equipment, apparatus, and facilities.

Both the lieutenant and firefighter job descriptions require that incumbents in those positions possess a current EMT Certificate. Both positions exercise supervisory control over volunteer firefighters. The job descriptions note that the firefighter and lieutenant positions are both exposed to the same working conditions, which are listed as follows:

Work is performed primarily in office, vehicles, and outdoor settings, in all weather conditions, including temperature extremes, during day and night shifts. Work is often performed in emergency and stressful situations. Individual is exposed to hearing alarms and hazards associated with fighting fires and handling hazardous materials including smoke, noxious odors, fumes, chemicals, liquid chemicals, solvents and oils, and extreme heights.

The physical activities performed by both positions are identical, and are listed by their job descriptions in the following manner:

Individual is required to perform strenuous or peak physical effort and to move heavy objects; wear heavy equipment and chemical resistant clothing; and run, crawl, climb,

bend and push. Hand-eye coordination is necessary to operate machinery and various equipment. ...

The "examples of duties" for the two positions are identical, except for two subject areas. The job description for the lieutenant position lists the following examples of duties to be performed:

Essential Functions:

1. Performs fire fighting activities including driving fire apparatus, operating pumps and related equipment, laying hose, and performing fire combat, containment and extinguishment tasks.
2. **Assists with the annual Fire Department and E.M.S. Department annual budgets.**
3. Performs emergency aid activities including administering first aid and providing other assistance as required.
4. Assists in department supervisory and administrative activities as assigned.
5. **Attends County & State required meetings and classes to maintain Departmental standards of E.M.S. related care; records, maintains and trains all Fire Department personnel in E.M.S. related activities.**
6. Participates in fire drills, attends classes in fire fighting, emergency medical, hazardous materials, and related subjects.
7. Assists in supervising volunteer firefighters as required; assists in training new employees as assigned.
8. Receives and relays fire calls and alarms; operates radio and other communication equipment.
9. Participates in the inspection of buildings, hydrants and other structures in fire prevention programs.
10. Maintains fire equipment, apparatus and facilities; performs minor repairs to departmental equipment.

11. Performs general maintenance work in the upkeep of fire facilities and equipment; cleans and washes walls and floors; cares for grounds around station; makes minor repairs; washes, hangs and dries hose; washes, cleans, polishes, maintains and tests apparatus and equipment.
- B. Peripheral Functions:
1. Assists in developing plans for special assignments such as emergency preparedness, hazardous communications, training programs, fire fighting, hazardous materials, and emergency aid activities.
 2. Presents programs to the community on safety, medical, and fire prevention topics.
 3. Performs salvage operations such as throwing salvage covers, sweeping water, and removing debris.
 4. Performs all other similar duties as assigned.

[Emphasis by **bold** supplied.]

The lieutenant position has two more duties than the firefighter position. Those are assisting with the annual budget, and maintaining the department's emergency medical services (EMS) activities, including training of staff.⁶

The first duty of both the lieutenant and firefighter is answering Fire Department emergency calls. In practical terms, Lieutenant Nellist otherwise spends from one-half to all of his normal workday performing general maintenance and cleaning duties in the public

⁶ As the "EMS Officer" for the department, Lieutenant Nellist normally attends an annual EMS conference sponsored by the Washington State Association of Fire Chiefs. The conference topics include current issues related to management and operation of EMS programs. The conference participants have the opportunity to obtain continuing education credits necessary to maintain their Washington State Emergency Medical Technician (EMT) Certificate.

safety building and on various apparatus housed there. He is responsible for vacuuming three offices in the building on a daily basis; the apparatus floor must be mopped every week. Nellist does have the option of assigning some of these day-to-day tasks to the firefighter.

The lieutenant has no general supervisory authority over Fire Department decisions. Five officers, including the fire chief, assistant chief and three captains, hold higher ranks in the organization. The department follows an "incident command structure" when responding to calls for assistance, under which the highest ranking member of the department present at the incident scene, regardless of full-time or volunteer status, has the authority to take command of the situation. Therefore, Lieutenant Nellist's orders can be countermanded or overruled by any of the five higher-ranking departmental officers when those individuals arrive at an incident scene.

The lieutenant's involvement in hiring and promotional decisions has been minimal, and even that has been limited to making recommendations concerning various openings for volunteer positions. Although the fire chief requested recommendations concerning volunteer officer positions, the final promotional decisions are made by the fire chief and assistant chief. When requested, Lieutenant Nellist has provided his recommendations where he has had knowledge concerning particular individuals applying to join the volunteer force, and he has forwarded requests for background checks to the police department, but the fire chief and assistant fire chief make the final selection concerning volunteers. After individuals are selected, Nellist has assisted in the department's orientation meeting for new volunteer firefighters. Since the volunteers would not be in the rank-and-file bargaining unit, there is no potential for conflicts of interest within the bargaining unit as a result of the limited exercise of authority by the lieutenant.

The lieutenant has had no involvement in handling disciplinary problems within the department. The fire chief and assistant chief have responsibility for such matters. While Lieutenant Nellist makes observations and provides input into the evaluation for the department's only other full-time employee, the fire chief draws his own conclusions in preparing the weekly evaluation forms.

The department's training program is supervised by the volunteer captain/training officer. Under the direction of the fire chief and assistant chief, Lieutenant Nellist may assist in planning training programs. However, all officers, including Nellist, participate in teaching various training programs. Although the department's volunteers hold a Monday night drill program, Nellist does not generally attend those training sessions.

The department has adopted a "duty week" system for emergency calls received outside of the Monday through Friday daytime hours when the full-time employees are normally on duty. This responsibility is rotated among the volunteer officers, including the fire chief. The lieutenant position is not included in that rotation. Lieutenant Nellist receives overtime pay for responding to alarms outside of his normally scheduled work hours.

Lieutenant Nellist provides hands-on firefighting and emergency medical services to the public. Employer records indicated that 70% of the calls handled by the Fire Department involve providing emergency medical services. When providing such services, Lieutenant Nellist has direct contact with patients. His duties include stabilizing the patient, taking blood pressure and pulse readings, and performing cardio-pulmonary resuscitation (CPR), if necessary. Nellist is also skilled in the use of various medical aid equipment, including heart defibrillator. When responding to fire-related calls, his duties include driving various fire apparatus, operating pumps, handling nozzles, ventilating a structure and rescuing citizens, if necessary. These functions are

performed during daytime hours when, according to the record, the availability of the "volunteer" force is limited. The lieutenant and firefighter work together to provide those services.

Conclusion -

The lieutenant position is almost wholly lacking in the types of authority over subordinates that are the basis for an exclusion from a rank-and-file bargaining unit. The disputed individual maintains daily contact with the fire chief, and does not have authority to hire, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to effectively recommend such actions. The position's authority to make routine work assignments to a single subordinate is typical of status as a lead worker. Lieutenant Nellist routinely performs the same work as the employee under his direction, and shares a substantial community of interest with that employee. The employer has not established that there is a substantial potential for conflict of interest within a bargaining unit that includes both the lieutenant position and the subordinate firefighter position.

One-Employee Bargaining Units

The employer's proposed exclusion of the "lieutenant" from the petitioned-for bargaining unit in this case raises an additional issue concerning the propriety of the bargaining unit(s) that would result. If the lieutenant position is excluded, the only position remaining in the "rank-and-file" unit would be the "firefighter".

An early Commission decision involving this same employer, Town of Fircrest, Decision 248-A (PECB, 1977), established the principle that a bargaining unit consisting of only one employee is not an appropriate unit for the purposes of collective bargaining under

Chapter 41.56 RCW.⁷ Consistent with precedent under the NLRA, the sole employee in a one-person unit has nobody to interact with on a "collective" basis, and so cannot engage in collective bargaining. When looked at in light of that precedent, the exclusion of the "lieutenant" position proposed by the employer in this case would effectively exclude **both** of the employees from all collective bargaining activity.

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, has been described by the Supreme Court as "remedial" legislation, and the Supreme Court of the State of Washington has sought to preserve the maximum range of employee access to collective bargaining rights. METRO, supra; International Association of Fire Fighters v. City of Yakima, 91 Wn.2d 101 (1978); and Zylstra v. Piva, 85 Wn.2d 743 (1975). The "supervisor exclusion" and "one-person units inappropriate" precedents both flow from the unit determination provisions of the statute, under which the task is limited to the allocation of persons who meet the definition of "public employee" into appropriate groupings for bargaining. Where two different lines of policy and precedent emanating from the Commission's unit determination authority come into conflict, the cited Supreme Court precedents suggest that the dispute should be resolved in a manner which preserves the collective bargaining rights of the employees. Thus, were rejection of the employer's proposed "supervisor" exclusion not indicated by application of established precedent to the facts of this case, it would nevertheless be necessary to reject that exclusion on the basis that it would result in two inappropriate bargaining units.

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The employer's defenses to a discriminatory discharge allegation in that case included that a bargaining relationship already existed, and would not have been disturbed by a discharge which reduced the size of the bargaining unit from two employees to one. The Commission rejected that employer defense.

FINDINGS OF FACT

1. The City of Fircrest is a public employer within the meaning of RCW 41.56.030(1).
2. International Association of Fire Fighters, Local 31, a bargaining representative within the meaning of RCW 41.56.030-(3), has filed a timely and properly supported petition for investigation of a question concerning representation, seeking to represent uniformed employees of the employer's Fire Department.
3. The parties to this proceeding stipulated that a bargaining unit consisting of:

All full-time and regular part-time professional uniformed employees of the fire department, excluding supervisors, confidential employees and all other employees of the employer

is an appropriate bargaining unit, pursuant to RCW 41.56.060, for the purposes of collective bargaining.

4. The employer's Fire Department is headed by a full-time employee who holds dual titles as a foreman in the employer's Light Division and as fire chief. The functions overlap somewhat, as the individual carries a pager, responds to Fire Department alarms and performs other Fire Department functions during the Monday through Friday daytime hours when he is nominally working as a foreman in the Light Division.
5. Other part-time officers of the Fire Department include an assistant fire chief, captain/training officer, two captains and two lieutenants.

6. The only full-time employees of the Fire Department are one lieutenant and one firefighter. Those employees work a schedule of 8:00 a.m. to 4:00 p.m. on Mondays through Fridays.
7. A group of "volunteer" firefighters provide the services of the Fire Department outside of the Monday through Friday daytime hours covered by the two full-time employees, and they supplement the work of the full-time employees during the Monday through Friday daytime hours.
8. The lieutenant is required to possess skills similar to those of the firefighter, and the two positions have similar duties, hours, working conditions, and benefits.
9. The lieutenant does not have authority, in the interest of the employer, to hire, promote, transfer, layoff, recall, suspend, discipline, or discharge the full-time firefighter, or to effectively recommend such actions.
10. Actions taken by the lieutenant in relation to the selection, training, supervision or removal of "volunteer" firefighting personnel do not create a potential for conflicts of interest within the petitioned-for bargaining unit.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-25 WAC.
2. The position of Fire Lieutenant/EMS Officer does not exercise sufficient supervisory authority on behalf of the employer to warrant exclusion, pursuant to RCW 41.56.060, from the appropriate bargaining unit stipulated by the parties, as described in paragraph 3 of the foregoing findings of fact.

3. A question concerning representation currently exists in the appropriate bargaining unit described in paragraph 3 of the foregoing findings of fact.
4. The union has provided a substantial showing of interest in support of its petition, such that conduct of a representation election would unduly delay the certification of an exclusive bargaining representative with little likelihood of altering the result.

DIRECTION OF CROSS-CHECK

A cross-check of records shall be made under the direction of the Public Employment Relations Commission in the bargaining unit described in paragraph 3 of the foregoing findings of fact, to determine whether a majority of the employees in that bargaining unit have authorized International Association of Fire Fighters, Local 31, to represent them for the purposes of collective bargaining.

ENTERED at Olympia, Washington, this 10th day of December, 1992.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.