

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
INTERNATIONAL ASSOCIATION OF)
FIRE FIGHTERS, LOCAL 3542) CASE 10760-E-93-1780
Involving certain employees of:)
CITY OF SUNNYSIDE) DECISION 4587 - PECB
DIRECTION OF CROSS-CHECK
_____)

On November 3, 1993, International Association of Fire Fighters, Local 3542, 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 City of Sunnyside. The showing of interest filed in support of the petition indicates that the union has the support of a substantial majority of the petitioned-for employees.

A pre-hearing conference was conducted, by telephone, on December 21, 1993. During the course of the pre-hearing conference, the parties stipulated that an appropriate bargaining unit can be described as:

All full-time and regular part-time uniformed employees of the City of Sunnyside Fire Department, excluding supervisors, confidential employees, and all non-uniformed employees of the employer.

The parties also stipulated to an eligibility list, but were unable to agree about the method of determining the question concerning representation. A statement of results of the pre-hearing conference was issued, and no objections or proposed amendments to that statement have been filed by any party.

POSITIONS OF THE PARTIES

The union argues that a cross-check of employment records is appropriate, based on the substantial showing of interest filed in support of the petition.

The employer objected to use of the cross-check procedure, and expressed a general preference that the matter be resolved by an election among eligible voters. The employer did not, however, advance any specific impediments to the use of the cross-check procedure in this case.

DISCUSSION

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, acknowledges both the "election" and "cross-check" procedures as valid methods for determining a question concerning representation. The selection of the method to be used in a particular case is a matter delegated by the Legislature to the Commission. RCW 41.56.060. While numerous employers have voiced opposition to the use of the cross-check procedure over the years, the continued viability of that statutory procedure was affirmed by the Commission in a trilogy of cases issued in 1990: Port of Pasco, Decision 3398-A (PORT, 1990); City of Centralia, Decision 3495-A (PECB, 1990); City of Winslow, Decision 3520-A (PECB, 1990).

The Commission has adopted WAC 391-25-391, which specifies the circumstances under which a cross-check of employment records may be ordered. That rule provides:

Where only one organization is seeking certification as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that such organization has been

authorized by a substantial majority of the employees to act as their representative for the purposes of collective bargaining, and the executive director finds that the conduct of an election would unnecessarily and unduly delay the determination of the question concerning representation with little likelihood of altering the outcome, the executive director may issue a direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

The Commission has interpreted the "substantial majority" terminology of that rule as "evidence of 70% support" among the petitioned-for employees. City of Centralia, supra. Where such a showing of interest exists, the concurrence of the employer is not required to direct the use of the cross-check procedure.

Examination of the petition and pre-hearing statement in this case indicates that the requirements of WAC 391-25-391 have been met: The bargaining unit has not been represented in the past; there is only one union involved at the present time; the showing of interest submitted by the union meets the test for "substantial" set forth in the rule. There are no substantive issues in dispute. Given these circumstances, a cross-check of employment records is an appropriate method to resolve the question concerning representation.

DIRECTION OF CROSS-CHECK


A cross-check of records shall be made under the direction of the Public Employment Relations Commission in the appropriate bargaining unit described as:

All full-time and regular part-time uniformed employees of the City of Sunnyside Fire Department, excluding supervisors, confidential employees, and all non-uniformed employees of the employer.

to determine whether a majority of the employees in that bargaining unit have authorized International Association of Fire Fighters, Local 3542 to represent them for the purposes of collective bargaining.

ISSUED at Olympia, Washington, this 19th day of January, 1994.

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.