

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
TEAMSTERS UNION, LOCAL 252 ) CASE 9793-E-92-1611  
Involving certain employees of: ) DECISION 4852 - PECB  
LEWIS COUNTY ) DIRECTION OF ELECTION  
\_\_\_\_\_ )

Davies, Roberts and Reid, by James D. Oswald, appeared on behalf of the union.

Eugene Butler, Deputy Prosecuting Attorney, and Baker, Paroutard, Mano and McCusker, by Brian Baker, appeared on behalf of the employer.

On May 14, 1992, Teamsters Union Local 252 (union) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission. The bargaining unit initially claimed appropriate included employees in the offices of the Lewis County assessor, auditor, and treasurer, as well as employees in public services, community services, and administrative services departments. A hearing was held at Chehalis, Washington, on October 15 and November 9, 1992, before Hearing Officer Walter M. Stuteville. The union moved at the hearing to add employees in the office of the county clerk to the proposed bargaining unit. The parties filed briefs.

BACKGROUND

Lewis County is organized in the traditional manner for county governments, with a board of county commissioners consisting of three elected members, and separately-elected officials holding office as assessor, auditor, clerk, prosecuting attorney, sheriff,

and treasurer. Several bargaining units existed among employees of Lewis County prior to these proceedings:

\* A bargaining unit of "operations and maintenance" employees has existed for an unspecified time, with the Washington State Council of County and City Employees (WSCCCE) as its exclusive bargaining representative;<sup>1</sup>

\* A bargaining unit of employees in the county assessor's office was created in 1975, with the WSCCCE as its exclusive bargaining representative;<sup>2</sup>

\* A bargaining unit of juvenile court detention, casework and clerical employees was created in 1975 with the WSCCCE as its exclusive bargaining representative,<sup>3</sup> and has been represented since 1984 by Teamsters Local 252;<sup>4</sup>

\* A bargaining unit of employees in the sheriff's department was created in 1977, with Teamsters Local 252 as its exclusive bargaining representative;<sup>5</sup>

\* A bargaining unit of employees in the treasurer's office, assessor's office, auditor's office, clerk's office, district

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<sup>1</sup> Notice is taken of the Commission's docket records for Case 231-A-76-14, which indicate that this bargaining unit already had a collective bargaining agreement in existence by early 1976.

<sup>2</sup> Notice is taken of docket records transferred to the Commission by the Department of Labor and Industries, pursuant to RCW 41.58.801. Case O-2003 was closed on August 18, 1975. This bargaining unit appears to have disappeared in subsequent transactions.

<sup>3</sup> Notice is taken of docket records transferred to the Commission by the Department of Labor and Industries, pursuant to RCW 41.58.801. Case O-2004 was closed on September 11, 1975.

<sup>4</sup> Notice is taken of the Commission's docket records for Case 5153-E-84-927. The certification was issued as Lewis County, Decision 1924 (PECB, 1984).

<sup>5</sup> Notice is taken of the Commission's docket records for Case 1022-E-77-199. The certification was issued as Lewis County, Decision 299 (PECB, 1977).

court, maintenance and car pool was created in 1978 with the WSCCCE as its exclusive bargaining representative,<sup>6</sup> but that bargaining unit decertified the WSCCCE in 1984;<sup>7</sup>

\* A bargaining unit of emergency services dispatchers was created in 1986 with Teamsters Local 252 as its exclusive bargaining representative;<sup>8</sup> and

\* A bargaining unit of employees in the office of the prosecuting attorney was created in 1992 with Teamsters Local 252 as its exclusive bargaining representative.<sup>9</sup>

In this case, the union originally sought a bargaining unit similar to the "courthouse" unit for which a certification was issued in 1978. The employer argued that such a unit was inappropriate. The union later modified its position to propose two bargaining units as follows: One unit composed of employees in offices of the county assessor, auditor, clerk and treasurer; and a second unit composed of employees working in the public service, community service and administrative service departments fully controlled by the county commissioners.

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<sup>6</sup> Lewis County, Decision 368 (PECB, 1978).

<sup>7</sup> Notice is taken of the docket records of the Commission for Case 4929-E-83-897. The petition was filed by a bargaining unit employee on October 21, 1983. The certification of "no representative" was issued January 17, 1984. Lewis County, Decision 1823 (PECB, 1984).

<sup>8</sup> Notice is taken of the Commission's docket records for Case 5479-E-84-984, filed on October 3, 1984. The case was concluded by Lewis County, Decisions 2381, 2381-A (PECB, 1986).

<sup>9</sup> Notice is taken of the Commission's docket records for Case 9746-E-92-1603. The petition filed on April 13, 1992 sought a bargaining unit which included employees in the office of the county clerk, but the parties agreed to limit that unit to the prosecutor's office. The certification was issued on September 28, 1992 as Lewis County, Decision 4162 (PECB, 1992). The union then moved to add the employees in the office of the county clerk to the bargaining unit it seeks in the instant proceeding.

After the close of the hearing in this matter, the employer and union filed a series of election and cross-check agreements which led to docketing of separate cases and determination of questions concerning representation in four bargaining units:

\* Case 10284-E-93-1702 involved a bargaining unit of Community Service Department employees. A certification of "no representative" was issued based on a representation election.<sup>10</sup>

\* Case 10285-E-93-1703 involved a bargaining unit of Public Services Department employees. A certification of "no representative" was issued following a representation election.<sup>11</sup>

\* Case 10286-E-93-1704 involved a bargaining unit of custodial, maintenance and grounds employees. Local 252 was certified as exclusive bargaining representative.<sup>12</sup>

\* Case 10287-E-93-1705 involved a bargaining unit of Administrative Services Department employees. Local 252 was certified as exclusive bargaining representative.<sup>13</sup>

The bargaining unit which remains at issue in this proceeding was thus limited to the non-supervisory employees working in the offices of the county assessor, auditor, clerk, and treasurer. The parties stipulated the list of employees who would properly be included in whatever unit or units are found appropriate.

The county assessor's office appraises the value of real estate and personal property within the county, and certifies such appraisals to the county treasurer as collectible. The 25 employees in the assessor's office generally work from 8:00 a.m. to 4:30 p.m. or 8:00 a.m. to 5:00 p.m.

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<sup>10</sup> Lewis County, Decision 4332 (PECB, 1993).

<sup>11</sup> Lewis County, Decision 4333 (PECB, 1993).

<sup>12</sup> Lewis County, Decision 4318 (PECB, 1993).

<sup>13</sup> Lewis County, Decision 4317 (PECB, 1993).

The county auditor's office records legal instruments, provides the "clerk" role for the board of county commissioners, is responsible for voter registration and conduct of elections, is responsible for licensing of vehicles and vessels, and functions as the county's financial office. There are 17 employees in the auditor's office, with most working from 8:00 a.m. to 5:00 p.m., except when extra hours are scheduled in connection with elections.

The county clerk maintains legal filings for the court system. Approximately 10 employees in the clerk's office work from 8:00 a.m. to 5:00 p.m., except when extra hours are scheduled in connection with jury trials.

The county treasurer is responsible for collecting taxes, investing county money, and disbursing county funds. The five employees in treasurer's office work from 8:00 a.m. to 5:00 p.m., except that extra hours are scheduled during tax collection periods.

Each of the separately-elected officials submits a budget for their office, which is subject to review and approval by the county commissioners. Each of the four separately-elected officials has authority with respect to hiring, supervision, discipline, and termination of the employees in their offices.

All of the employees involved in this proceeding are located on two floors of the courthouse complex. They share common break areas. The salaries, vacations, holidays, sick leave, and insurance benefits of all of the petitioned-for employees are determined by the county commissioners, who also determine the hours the courthouse is open to the public.<sup>14</sup>

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<sup>14</sup> With few exceptions, the hours the courthouse remains open determines the hours of work for the employees involved here.

The limited business contacts between the departments headed by the separately-elected officials may be summarized as follows: One employee from the assessor's office goes to the auditor's office every third day, to obtain copies of documents that have been filed with the auditor's office pertaining to sales, wills and property settlements; cartographers and a sales analyst from the assessor's office perform research on records in the auditor's office for varying periods;<sup>15</sup> one person from the assessor's office has regular contact with the treasurer's office; an employee from the auditor's office contacts the other offices once per month regarding payroll matters;<sup>16</sup> an employee from the auditor's office is required to have contact with an employee in the treasurer's office once per week, regarding county investments; an employee from the clerk's office transmits court receipts to the treasurer's office once each day.

There is very limited history of permanent movement by employees among the offices headed by the four separately-elected officials, and no history of temporary interchange between those offices. While job titles and required skills are similar, in most cases an employee working for one elected official could not function effectively for another elected official without additional training. Some employees must be certified by the state to perform their jobs.

#### POSITIONS OF THE PARTIES

Lewis County and each of the four separately-elected officials maintain that the only appropriate configuration of bargaining

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<sup>15</sup> The records are maintained in a vault, and there is no requirement for contact with employees in the auditor's office.

<sup>16</sup> These individuals may not be within the proposed bargaining unit.

units is a set of separate bargaining units limited to the employees of each elected official. They rely upon the autonomy possessed by each official with respect to hiring, firing and directing their employees, and assert a lack of any real community of interest among the employees of the four officials.

The union maintains that the employer is the county, which established wages, leave policies and insurance benefits and has overall control of labor relations matters for all of the employees involved herein. Moreover, the union asserts that the close proximity of the employees, integration of work activities, the desires of the employees, and the fact that these are the only non-represented administrative and clerical employees working in the employer's courthouse are sufficient to establish the propriety of the petitioned-for unit.

## DISCUSSION

### Identification of the Employer

Resolution of the "separate employers" argument raised in this case requires careful analysis of the applicable collective bargaining statute. The types of local government entities covered by the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, are listed in RCW 41.56.020, as follows:

RCW 41.56.020 APPLICATION OF CHAPTER.  
**This chapter shall apply to any county** or municipal corporation, or any political subdivision **of the state of Washington**, including district courts and superior courts, except as otherwise provided by RCW 54.04.170, 54.04-.180, and chapters 41.59, 47.64, and 53.18 RCW. ...

[Emphasis by **bold** supplied.]

The applicability of the statute to counties dates back to the inception of the statute, in 1967 ex.s. c 108.<sup>17</sup>

The "separate employers" argument advanced in this case has been considered and rejected in the past. In 1978, the Commission certified a multi-department "courthouse" bargaining unit consisting of all Lewis County employees in the:

Treasurer's office, Assessor's office, Auditor's office, Clerk's office, District Court, Maintenance and Car Pool; excluding the Commissioners' office, elected officials and Juvenile Court employees.

Lewis County, Decision 368 (PECB, 1978).

In doing so, the Commission held the employer to its stipulation that the multi-department bargaining unit was appropriate.<sup>18</sup>

In a series of unfair labor practice cases which followed, the employer sought to have that certification set aside. Responding to the assertion that each of the separately-elected officials heading departments within the courthouse bargaining unit was a separate employer, the Commission stated:

Lewis County is subject to ... RCW 41.56.020. It is a public employer within the meaning of RCW 41.56.030(1). The term "public employer" is therein defined as:

... any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

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<sup>17</sup> None of the exception statutes, Chapters 41.59, 47.64, 53.18, and 54.04, have anything to do with counties.

<sup>18</sup> The Commission also overruled employer objections based on a low voter turnout. The employer did not petition for judicial review of that decision.



The unit for collective bargaining as described in our Decision 368-PECB was agreed upon by the county and does not, on its face, or in any manner which has been suggested, offend RCW 41.56.060. . . .

"Collective bargaining" covers grievance procedures, and collective negotiations on personnel matters, including wages, hours and working conditions. See RCW 41.56.030(4).

The fact that the county employees work for different elected officials is immaterial. While the employees of one such official might constitute an appropriate unit, bargaining units are not fragmented into units within units. The differing requirements of assignments under the various elected officials can be accommodated easily by appropriate consultation and adaption of procedures within the employer.

Lewis County, Decision 644 (PECB, 1979), affirmed, Lewis County v. Public Employment Relations Commission, 31 Wn.App. 858 (1982), pet. rev. den. 97 Wn.2d 1034 (1982) [emphasis by underline in original].<sup>19</sup>

Lewis County renewed its "separately-elected officials" theory as a defense against subsequent unfair labor practice charges growing out of a unilateral change of paydays. Rejecting that argument, the Examiner in that case wrote:

The employer seeks to defend its action on the basis that the decision to change paydays resulted from advice from the county auditor, who is not a party in the collective bargaining relationship, so that the county commissioners are not responsible for the decision and are only the implementors of it.

The notion of separation among the county's elected officials was previously advanced by this employer before the Commission and was rejected by both the Commission and the

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<sup>19</sup> The arguments advanced by the employer there were found to be so lacking in merit that the employer was ordered to pay the union's attorney fees as an extraordinary remedy for its unfair labor practices.

courts. [Quotation from Decision 368 set forth above is omitted here]

**The union has a bargaining relationship with the political subdivision which is Lewis County, and that public employer acts through its various elected and appointed officials. The implementation of the change in paydays, and the impact of that change on county employees, are clearly within the authority and control of the employer. The actions of employer officials are inconsistent with the argument made here, since the auditor actually submitted the change of paydays to the commissioners for action, and the commissioners acted as if they had authority to do so. If there had been a conflict among the auditor and the commissioners, the duty to bargain as an employer collectively imposed upon them by Chapter 41.56 RCW required them to work out their differences by "appropriate consultation and adoption of procedures within the employer" before fulfilling their obligations towards the union.**

Lewis County, Decision 2957 (PECB, 1988) [emphasis by bold supplied].

The Examiner's decision finding an unfair labor practice stood as the final order in that case.<sup>20</sup>

Reference to other statutes dealing with the distribution of authority within county governments provides a useful insight into the question of what persons or bodies act on behalf of a county:

\* Under RCW 36.01.020, all actions and proceedings touching the corporate rights, property and duties of a county must be done under the corporate name of the county as designated by law.

\* Under RCW 36.01.030, the powers of a county can only be exercised by the board of county commissioners, or by agents or officers who act either under their authority or the authority of

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<sup>20</sup> The employer sought Commission review of the Examiner's decision in that case, but its petition for review was dismissed as untimely. Lewis County, Decision 2957-A (PECB, 1988). The employer did not seek judicial review.

law. Apart from language in that statute which is sufficiently expansive to incorporate the authority to bargain collectively, the considerable authority vested in the board of county commissioners to manage county business and to determine personnel policy on a county-wide basis is expressly recognized in other statutory language,<sup>21</sup> in court precedent,<sup>22</sup> and in attorney general opinions.<sup>23</sup> There also is considerable implied authority for the proposition that the board of county commissioners, as opposed to other elected county officials, is the public employer for purposes of Chapter 41.56 RCW.<sup>24</sup>

The evidentiary record in this case conforms to the allocation of responsibility suggested in the authorities cited above. The board of county commissioners approves the budget and sets the wage rates and benefits for all of the petitioned-for employees, so that the separately-elected officials only act as agents in implementing those standardized employment conditions. Even when they exercise authority to hire, direct, discipline or discharge employees within their offices, the separately-elected officials must necessarily act in the name of Lewis County.<sup>25</sup> Although elected officials are

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<sup>21</sup> RCW 36.32.120, which is titled "Powers of legislative authority", includes care of the county property and the management of county funds and business and prosecution and defense of all actions for and against the county.

<sup>22</sup> Clallam County Deputy Sheriff's Guild v. Board of Clallam County Commissioners, 92 Wn.2d 844 (1979).

<sup>23</sup> AGO 1982 No. 8; Letter opinion to Chelan County Prosecuting Attorney Gary A. Riesen, dated September 17, 1993.

<sup>24</sup> See, Klauder v. San Juan County Deputy Sheriff's Guild, 107 Wn.2d 338 (1968); Clallam County Deputy Sheriff's Guild v. Board of Clallam County, 92 Wn.2d 844 (1979); Lewis County v. PERC., *supra*; Zylstra v. Piva, 85 Wn.2d 743, 746 (1975); State ex. rel., Bain v. Clallam County Board of Commissioners, 77 Wn.2d 542, 547 (1970); Grant County, Decision 1638 (PECB, 1983).

<sup>25</sup> RCW 36.01.020, *supra*.

categorically excluded from the definition of "public employee" in RCW 41.56.030(2), the county assessor, auditor, clerk and treasurer effectively act in the same manner as would any employer agent excluded from a rank-and-file bargaining unit as a "supervisor".

The definition of "public employer" found in RCW 41.56.030 relates more to identifying the officers and agents of the institutional employers listed in RCW 41.56.020. In harmony with the conclusion reached by the Examiner in Lewis County, Decision 2957, supra, the assessor, auditor, clerk, and treasurer of Lewis County are each within the definition which encompasses "... any **officer**, board, commission, council **or other person** or body **acting on behalf of any public body governed by this chapter ...**".

Had the Legislature wanted to establish each separately-elected county official as a separate public employer, it could easily have done so. The first suggestion of a joint-employer structure did not surface, however, until a decision issued by the Supreme Court of the State of Washington some eight years after the statute was enacted.<sup>26</sup> There is no indication whatever of any legislative intent in 1967 to create joint-employer structures with respect to employees working under county assessors, auditors, clerks, or treasurers.

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<sup>26</sup> In Zylstra v. Piva, 85 Wn.2d 743 (1975), the Court sought to maximize the collective bargaining rights of juvenile court employees who it found to be employed at two different levels of government (i.e., by a county, and by a component of the state judicial branch). The Court gave the employees a right to bargain at least their wages and wage-related benefits with the county, which was covered by Chapter 41.56 RCW. The employees had no bargaining rights concerning their working conditions controlled by the superior court judges, who were not covered by Chapter 41.56 RCW at that time. Subsequent amendments to RCW 41.56.020 and .030 have explicitly established joint-employer bargaining structures for employees of district courts and superior courts.

The Supreme Court of the State of Washington has ruled that Chapter 41.56 RCW prevails over conflicting statutes.<sup>27</sup> The bifurcated and inherently clumsy bargaining structure established for court employees is directly attributable to their involvement in two separate levels of government, and to the constitutionally-based separation of the state judicial branch. The better view of the statute is that the employees of a county have a right to simple and straightforward bargaining with the **entity** that is their employer, and that the **entity** has a duty to present itself at the bargaining table through officials who are authorized and prepared to represent its interests. To fulfill the obligations of the entity, various county officials may have to work out their roles and differences internally before coming to the bargaining table on behalf of the entity. The fact that a county assessor, auditor, clerk, or treasurer is elected by popular vote is not a basis to deem that official a separate employer.

#### Appropriate Bargaining Units

The Legislature has delegated authority to the Commission to determine "appropriate" bargaining units. RCW 41.56.060. The Commission need not establish the most appropriate unit in each case, and must only determine whether the unit configuration sought is **an** appropriate unit. Ben Franklin Transit, Decision 2357-A (PECB, 1986); City of Pasco, Decision 2636-B (PECB, 1987).

The Commission has found units consisting of "all of the employees of the employer" to be appropriate. City of Winslow, Decision 3520-A (PECB, 1990). It has also given general affirmation to the propriety of dividing an employer's workforce into two or more bargaining units:

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<sup>27</sup> RCW 41.56.905; Rose v. Erickson, 106 Wn.2d 420 (1986).

Units smaller than employer-wide may also be appropriate, especially in larger work forces. The employees in a separate department or division may share a community of interest separate and apart from other employees of the employer, based upon their commonality of function, duties, skills and supervision. Consequently, **departmental (vertical) units have sometimes been found appropriate** when sought by a petitioning union. [Footnote omitted.] Alternately, employees of a separate occupational type may share a community of interest based on their commonality of duties and skills, without regard to the employer's organizational structure. Thus, **occupational (horizontal) bargaining units have also been found appropriate**, on occasion, when sought by a petitioning union. ...

City of Centralia, Decision 3495-A (PECB, 1990) [emphasis by **bold** supplied].

Decisions of the National Labor Relations Board also recognize the propriety of separate "plant" or "facility" bargaining units, and sometimes group together all employees working for an employer within a limited geographical area.

The starting point for any unit determination under RCW 41.56.060 is the unit configuration sought by the petitioning union. There have been cases, however, where petitioned-for units have been rejected as inappropriate. In City of Vancouver, Decision 3160 (PECB, 1989), the petitioned-for unit would have stranded some employees in units too small for them to implement their bargaining rights. In Forks Community Hospital, Decision 4187 (PECB, 1992), a proposed clerical / service / maintenance / technical unit in a small facility would still have stranded other technical positions. In Port of Seattle, Decision 890 (PECB, 1980), the petitioned-for unit would have artificially divided the employer's office-clerical workforce into two or more separate bargaining units. When a petitioned-for unit is found inappropriate and cannot be rehabilitated by a minor adjustment, the Commission must dismiss the petition.

The "separate unit per elected official" theory advanced here by Lewis County has not been pursued with anything approaching similar vigor in the state's 38 other counties. Multi-department "court-house" units exist in several counties, and the Commission has even certified bargaining units that encompass the offices of two or more separately-elected county officials.<sup>28</sup> To now declare that any such bargaining unit is inappropriate would do violence to bargaining relationships all over the state.

The "courthouse" bargaining unit originally sought in this case could theoretically have been an appropriate unit. The employees in that unit performed office-clerical, technical and related work in the same location.<sup>29</sup> Their commonalities of working conditions included generally similar classifications and wages, uniform leave policies, and basically similar hours of work. The "history of bargaining" during the 1978-1984 period may not have been very salutary, but that relationship has been out of existence for a longer time than it existed, and the legal issues raised by various unfair labor practice cases in that unit are long-since resolved. Application of the "extent of organization" aspect of the statutory unit determination criteria would have encouraged a multi-department unit configuration, because it would have avoided a fragmentation and proliferation of bargaining units among a workforce which totaled only 113 employees.

If there is a basis to question the propriety of the four-office bargaining unit now sought by the petitioner, it lies in the

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<sup>28</sup> In Douglas County, Decision 1341 (PECB, 1982), there was no dispute about the propriety of the multi-department unit. Wahkiakum County, Decision 1876 (PECB, 1984), includes an affirmative ruling that an "employer-wide" unit was appropriate in a small county workforce.

<sup>29</sup> The multi-department bargaining unit which existed from 1978 to 1984 similarly drew its community of interest and propriety from its inclusion of most or all of the employees working at or near the courthouse "plant".

parties' stipulations to break out four other bargaining units from within the unit originally sought. In doing so, the parties headed down a slippery slope toward a fragmentation of bargaining units which could adversely affect their bargaining relationships for years to come. An exclusive bargaining representative has been certified for two of the four stipulated units, while the other two units rejected union representation. The history of bargaining which existed a decade or more ago was buried in antiquity when the parties set off in that new direction. The unit now sought by the union cannot be characterized as a "horizontal (occupational)" unit encompassing **all** of the employer's office-clerical employees, and the linkage holding the four petitioned-for offices together is clearly no longer as compelling as it might have been. Nevertheless, the possibility of having as many as eight bargaining units in this small workforce is highly undesirable. The Commission is not bound by the agreements of parties on unit determination matters,<sup>30</sup> and it is concluded that their agreement to subdivide the "courthouse" workforce does not compel an untenable result in the instant case. Despite the noted difficulties, the bargaining unit now sought by the union still encompasses employees having generally similar duties, skills and working conditions in a common facility, and could still be "**an**" appropriate unit under RCW 41.56.060.

It is clear that each of the four departments involved in this case could have been an appropriate separate bargaining unit, if it had been organized as such.<sup>31</sup> Even if the four offices had been organized separately, however, Tumwater School District, Decision 1388 (PECB, 1982) and Mount Vernon School District, Decision 1629

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<sup>30</sup> City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981); Kent School District, Decision 127 (PECB, 1976).

<sup>31</sup> Lewis County, Decision 644, supra. Examples of such separate units do exist around the state.



(PECB, 1983) stand for the proposition that bargaining units can be merged by vote of the employees in a representation proceeding, if the resulting unit will be an appropriate bargaining unit under RCW 41.56.060. The Commission routinely conducts unit determination elections to assess the "desires of the employees" where application of other unit determination criteria result in a conclusion that any of two or more bargaining unit configurations could be appropriate. Under the highly unusual circumstances of this case, where the post-hearing stipulations of the parties substantially changed the landscape from that which existed at the time of the hearing, it is concluded that principles set forth in Tumwater and Mount Vernon can be adapted to assure that the employees desire what is left of a multi-department unit.

#### Election Procedure

Unit determination elections will be conducted separately in the offices of the county assessor, auditor, clerk and treasurer, to determine whether a majority of those eligible to vote in each of those departments desires the multi-department unit sought by the union. If any one or more of the four departments fails to validate the multi-department unit, it will fail as inappropriate under RCW 41.56.060.

Representation election(s) will be conducted at the same time as the unit determination elections, but the representation ballots will be kept segregated by department until the results of the unit determination election are known:

\* If the multi-department unit is validated in the unit determination elections, then all of the representation ballots will be mixed and counted as one group and one certification will be issued for that bargaining unit.

\* If the multi-department unit fails, the representation ballots will be counted separately in the four departments, and separate certifications will be issued in four bargaining units.

FINDINGS OF FACT

1. Lewis County is a "public employer" within the meaning of RCW 41.56.020(1).
2. Teamsters Union, Local 252, a bargaining representative within the meaning of RCW 41.56.030(3), filed a timely and properly supported petition for investigation of a question concerning representation for a multi-department bargaining unit which included certain employees in the offices of the Lewis County assessor, auditor, clerk, and treasurer, along with employees in other Lewis County departments.
3. Subsequent to the hearing in this matter, Lewis County and Teamsters Local 252 entered into election agreements and cross-check agreements which subdivided the bargaining unit originally sought by the union in this proceeding, and led to determination of questions concerning representation in four separate bargaining units within the group originally sought. The union continues to seek a multi-department bargaining unit which includes certain employees in the offices of the Lewis County assessor, auditor, clerk, and treasurer.
4. The Lewis County Board of Commissioners determines the wage rates, leave policies and insurance benefits for all employees of Lewis County.
5. The assessor, auditor, clerk, and treasurer of Lewis County are elected by popular vote, and they hire, direct, discipline, and discharge subordinate employees working in their offices.
6. The employees in the petitioned-for bargaining unit have the skills commonly associated with office-clerical, accounting,

technical and related work, while performing diverse specific duties.

7. The employees in the petitioned-for bargaining unit work in or near the courthouse complex, share the same break facilities, and generally have the same hours of work.
8. Some work-related contacts routinely occur among the employees of the four elected officials, in the performance of their duties.
9. There is no temporary interchange of employees among the departments encompassed in the petitioned-for unit bargaining unit, but one instance of a permanent transfer is established in this record.
10. The employees in the unit now sought by the union constitute all of the unrepresented employees in the four offices who are neither supervisors nor confidential employees.
11. The change of circumstances resulting from the subdivision of the bargaining unit originally sought in this proceeding raises a question as to the desires of the employees concerning the configuration of bargaining units.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW, and a question concerning representation currently exists.
2. Separate bargaining units limited to the full-time and regular part-time non-supervisory employees working in the offices of the Lewis County assessor, auditor, clerk, and treasurer,

respectively, would be appropriate units for the purpose of collective bargaining under RCW 41.56.060.

3. A bargaining unit consisting of all full-time and regular part-time employees in the offices of the Lewis County assessor, auditor, clerk, and treasurer could be an appropriate unit for the purposes of collective bargaining under RCW 41.56.060, if the desires of the employees so indicate.

#### DIRECTION OF ELECTIONS


1. A unit determination election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission, in the voting groups described as:
  - a. All full-time and regular part-time employees working in the office of the Lewis County assessor, excluding elected officials, confidential employees, supervisors and all other employees of the employer;
  - b. All full-time and regular part-time employees working in the office of the Lewis County auditor, excluding elected officials, confidential employees, supervisors and all other employees of the employer;
  - c. All full-time and regular part-time employees working in the office of the Lewis County clerk, excluding elected officials, confidential employees, supervisors and all other employees of the employer; and
  - d. All full-time and regular part-time employees working in the office of the Lewis County treasurer, excluding elected officials, confidential employees, supervisors and all other employees of the employer;

for the purpose of determining whether a majority of the employees eligible to vote in each voting group desire to constitute themselves as a single bargaining unit encompassing all full-time and regular part-time employees in the offices of the Lewis County assessor, auditor, clerk and treasurer, excluding elected officials, confidential employees, supervisors and all other employees of the employer.

2. A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission in the voting groups described in this order, for the purpose of determining whether a majority of the employees in the appropriate unit or units desire to be represented for the purposes of collective bargaining by Teamsters Union, Local 252 or by no representative. The conduct of this representation election is conditioned upon the result of the unit determination election directed herein, and the representation election ballots will be counted separately in each of the four voting groups in the event that the unit determination elections fail to validate the propriety of the multi-department bargaining unit.

DATED at Olympia, Washington, this 28th day of September, 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.