

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
WASHINGTON STATE COUNCIL OF)
COUNTY AND CITY EMPLOYEES) CASE 12440-E-96-2078
Involving certain employees of:)
DOUGLAS COUNTY) DECISION 5539 - PECB
DIRECTION OF CROSS-CHECK

Don Boxford, Organizer, and Clem Edwards, Organizer, appeared on behalf of the union.

Anthony F. Menke, Attorney at Law, appeared on behalf of the employer.

On April 17, 1996, the Washington State Council of County and City Employees (WSCCCE), filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of certain employees of the Douglas County. During a pre-hearing conference conducted by telephone conference call on May 14, 1996, the union stated a preference for a cross-check to determine the question concerning representation, while the employer objected to use of the cross-check procedure. The dispute concerning methodology was referred to the Executive Director.

RCW 41.56.060 sets forth the methods for determining questions concerning representation:

The commission shall determine the bargaining representative by (1) examination of organization memberships roles, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

[1975 1st ex.s. c 296 §17; 1967 ex.s. c 108 §6.]

Employers occasionally oppose the use of the cross-check procedure on the basis of a general preference for elections, notwithstanding that cross-checks have been specifically authorized by the statute since its inception in 1967. The Commission endorsed the "70% test" for a cross-check in City of Redmond, Decision 1367-A (PECB, 1982). Employer objections on various grounds were rejected in a trilogy of cases decided in 1990. Port of Pasco, Decision 3398-A (PECB, 1990); City of Centralia, Decision 3495-A (PECB, 1990); City of Winslow, Decision 3520-A (PECB, 1990). As recently amended, the Commission's rules limit the availability of the "cross-check" procedure, as follows:

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. 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 in excess of seventy percent of the employees** to act as their representative for the purposes of collective bargaining, the executive director may issue a direction of cross-check. The 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.

[Statutory Authority: RCW ... 41.56.090, ... 41.58.050, 41.56.060. 96-07-105, § 391-25-391, filed 3/20/96, effective 4/20/96.]

Clearly, this employer's general preference for an election is not a basis to deny use of the cross-check procedure. See, also, Pike Place Market, Decision 3989 (PECB, 1992).

Examination of the petition and pre-hearing statement in this case indicates that the union has submitted the kind of substantial showing of interest required by WAC 391-25-391. Use of the election procedure would inherently delay the determination of the question concerning representation, with little likelihood of an election altering the result.

DIRECTION OF CROSS-CHECK

1. 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 employees of Douglas County Parks and Recreation Department, excluding supervisors, confidential employees, and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized the Washington State Council of County and City Employees, to represent them for purposes of collective bargaining.

2. The employer shall immediately supply the Commission with copies of documents from its employment records which bear the signatures of the employees on the eligibility list stipulated by the parties.

Issued at Olympia, Washington, on the 29th day of May, 1996.

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.