

City of Lakewood, Decision 6401 (PECB, 1998)

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 14029-E-98-2349
)	
Involving certain employees of:)	DECISION 6401 - PECB
)	
CITY OF LAKEWOOD)	DIRECTION OF CROSS-CHECK
)	
)	

Brock A. Logan, Representative, appeared on behalf of the union.

Daniel Heid, City Attorney, and Debra Young, Human Resource Manager, appeared on behalf of the employer.

On July 15, 1998, the Washington State Council of County and City Employees, 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 employees of the City of Lakewood Municipal Court.

An investigation conference was conducted by telephone conference call on August 19, 1998. The parties disagreed about the method to determine the question concerning representation. The union stated a preference for a cross-check, while the employer objected to the 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.

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 interest submitted in support of the petition indicates that the **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 rules shall not be subject to review by the Commission except upon objections timely filed under WAC 391-25-590.

[Emphasis by **bold** supplied]

Employers occasionally oppose the use of the cross-check procedure on the basis of a general preference for elections. Such general preferences are not, however, sufficient to disregard the rule.

Examination of the case file indicates that the union submitted the kind of substantial showing of interest required by WAC 391-25-391. The union's showing of interest in excess of 70% inherently indicates little likelihood of an election altering the result. The showing of interest is confidential under WAC 391-25-210, and cannot be the subject of a hearing. If employees desire to withdraw their authorization cards, the procedure for doing so is detailed in WAC 391-25-410(2).

DIRECTION OF CROSS-CHECK

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

All full-time, regular part-time employees of the City of Lakewood Municipal Court 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 collective bargaining.

Issued at Olympia, Washington, on the 25th day of August, 1998.

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.