

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF)
COUNTY AND CITY EMPLOYEES,)
and its LOCAL NO. 1341C,)
Complainant,)
vs.)
LEWIS COUNTY)
Respondent.)

Case No. 1990-U-79-272
Decision No. 644 PECB

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

APPEARANCES:

Pamela G. Bradburn, General Counsel, for the union.

Eugene Butler, Chief Civil Deputy Prosecuting Attorney, for the employer.

This matter is before the Commission for decision on a stipulated statement of facts and briefs filed by both parties.

On March 7, 1978, the complainant was certified as the exclusive bargaining representative of a bargaining unit described as:

"All Lewis County Courthouse employees in the Treasurer's office, Assessor's office, Auditor's office, Clerk's office, District Court, Maintenance and Car Pool; excluding the Commissioner's office, elected officials and Juvenile Court employees."

A consent election had been held on January 23, 1978; but the county objected because some eligible voters did not cast ballots. Those objections were overruled and certification followed. Lewis County, Decision 368 (PECB, 1978).

Lewis County then refused to bargain and filed unfair labor practice charges against the union because non-member employees were barred from participation in two union meetings held for the purpose of formulating the union's bargaining proposals. In September, 1978, the county's charges were dismissed as baseless. Lewis County, Decision 464-A (PECB, 1978).

Lewis County raised substantially the same issues again in defense of union refusal to bargain charges against the county, and those defenses were also found to be without merit. Lewis County, Decision 556-A (PECB, 1979). That order issued in February, 1979 has been stayed pending resolution of the instant case.

Now Lewis County is refusing to bargain anything other than wages and wage-related items because the County Commissioners merely determine the number of employees of the several county departments and their wages. The county argues that there is some confusion over the identity of the employer as between the County Commissioners and the elected officials who select their deputies and other necessary employees under RCW 36.16.070.

Lewis County is subject to RCW 41.56. See: 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."

The unit for collective bargaining described in our Decision No. 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. Stipulations of record are binding on the parties to the stipulation. See: WAC 391-08-450. Employees having different duties, skills and working conditions are commonly included in single units for collective bargaining. There was no petition for judicial review of the certification of representatives. That certification was a final order of this Commission which is not subject to collateral attack in this proceeding.

"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.

After agreeing that the unit certified was appropriate for collective bargaining, the county cannot now be heard to contend that the unit is only appropriate for a little collective bargaining. The county is guilty of refusing to engage in collective bargaining as defined in RCW 41.56.030(4) and, accordingly, of an unfair labor practice in violation of RCW 41.56.140(4).

RCW 41.56.160 empowers and directs this Commission to prevent any unfair labor practice and to issue appropriate remedial orders. In the context of this case, it is apparent that an order to the county to cease and desist from its refusal to bargain will be inadequate to effect the intent of the statute. Collective

bargaining sessions did not actually commence after the March 7, 1978 certification of the union until February 5, 1979, because of the two previous unfair labor practice cases. At that, the bargaining which took place following February 5, 1979 was unlawfully limited by the county to wages and wage-related matters. An extraordinary remedy is indicated and, accordingly, we award the complainant its costs and reasonable attorneys' fees in this proceeding.

The complainant may serve on the county and submit to the Executive Director a sworn, itemized list of its costs and of the time spent by its attorneys in the prosecution of this proceeding and the hourly rate charged. The county shall have ten days after such service to protest any item or the hourly rate. The Executive Director will determine the amount due, subject to review by this Commission.

The "cease and desist" and "bargaining" orders issued in this case will not be stayed pending determination of the amount of costs and attorneys' fees.

FINDINGS OF FACT

1. Respondent Lewis County is a county of the State of Washington established in RCW 36.04.210, and is a public employer within the meaning of RCW 41.56.020 and RCW 41.56.030(1).

2. Complainant Washington State Council of County and City Employees, and its Local No. 1341C, are unincorporated labor organizations which are bargaining representatives within the meaning of RCW 41.56.030(3).

3. Complainant is, and since March 7, 1978 has been, the certified exclusive bargaining representative of respondent's employees in a unit agreed by the parties to be appropriate for collective bargaining described as:

"All Lewis County courthouse employees in the Treasurer's office, Assessor's office, Auditor's office, Clerk's office, District Court, Maintenance and Car Pool; excluding the Commissioner's office, elected officials and Juvenile Court employees."

Such certification was a final order of the Public Employment Relations Commission, issued as Decision No. 368 (PECB, 1978).

4. Respondent has refused, and continues to refuse, to negotiate with complainant about any subject other than wages and wage-related items for all employees in the bargaining unit.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction of the parties and the subject matter of this case.

2. The refusal by Lewis County to negotiate with Washington State Council of County and City Employees and its Local 1341C about any subject other than wages and wage-related items constitutes a refusal to bargain collectively, in violation of RCW 41.56.140(4) and (1).

3. An extraordinary remedy is warranted, and respondent should be ordered to pay complainant's costs and reasonable attorneys' fees incurred in the prosecution of this case.

ORDER

Lewis County, its offices and agents, shall immediately:

1. Cease and desist from:

- (a) Refusing to bargain collectively with Washington State Council of County and City Employees and its Local 1341C as the exclusive bargaining representative of all of the employees in the bargaining unit described in paragraph 3 of the foregoing findings of fact, with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to such appropriate bargaining unit.
- (b) In any other manner, interfering with, restraining or coercing employees in the exercise of their rights guaranteed by RCW 41.56.040.


2. Take the following affirmative action which the Commission finds will effectuate the policies of the Public Employees Collective Bargaining Act:

- (a) Upon request, bargain collectively with Washington State Council of County and City Employees and its Local 1341C as the exclusive bargaining representative of the employees in the aforesaid appropriate bargaining unit, with respect to all subjects of bargaining as described in RCW 41.56.030(4).

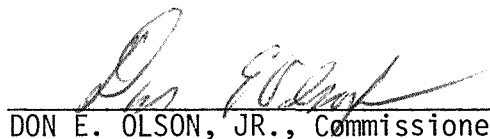
- (b) Reimburse Washington State Council of County and City employees and its Local 1341C for their costs and reasonable attorneys' fees incurred in the prosecution of this case, upon presentation of a sworn and itemized statement of such costs and fees.
- (c) Notify all employees, by posting, in conspicuous places on its premises where notices to all employees are usually posted, copies of the notices attached hereto and marked "Appendix A". Such notices shall be signed and posted immediately upon receipt of a copy of this Order and shall remain posted for sixty (60) days thereafter. Reasonable steps shall be taken by the respondent to ensure that said notices are not altered, defaced or covered by other material.
- (d) Notify the Public Employment Relations Commission, in writing, within thirty (30) days following the date of this Order as to what steps have been taken to comply herewith.

Dated at Olympia, Washington, this 23rd day of May, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

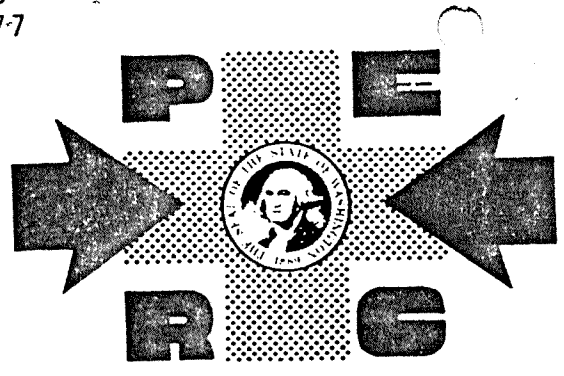

MARY ELLEN KRUG, Chairman


PAUL A. ROBERTS, Commissioner


DON E. OLSON, JR., Commissioner

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PUBLIC EMPLOYMENT RELATIONS COMMISSION



NOTICE

"APPENDIX A"

PURSUANT TO AN ORDER OF THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, AND IN ORDER TO EFFECTUATE THE POLICIES OF THE PUBLIC EMPLOYEES COLLECTIVE BARGAINING ACT, WE HEREBY NOTIFY OUR EMPLOYEES THAT:

- 1. WE WILL, upon request, bargain collectively with Washington State Council of County and City Employees and its Local 1341C as the exclusive bargaining representative of all Lewis County courthouse employees in the Treasurer's office, Assessor's office, Auditor's office, Clerk's office, District Court, Maintenance and Car Pool, excluding the Commissioner's office, elected officials and Juvenile Court employees, with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions.
- 2. WE WILL reimburse Washington State Council of County and City Employees, and its Local 1341C for their costs and reasonable attorneys' fees incurred in the successful prosecution of unfair labor practice charges against Lewis County.
- 3. WE WILL NOT interfere with, restrain or coerce our employees in the exercise of their right to form and join employee organizations and to bargain collectively through representatives of their own choosing.

All our employees are free to become, remain, or refrain from becoming members of Washington State Council of County and City Employees and its Local 1341C or any other labor organization.

LEWIS COUNTY

By: _____
Authorized Signature

Title

Dated this ____ day of _____, 1979.

THIS NOTICE MUST REMAIN POSTED FOR SIXTY (60) DAYS FROM THE DATE HEREOF AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL.