STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TACOMA EDUCATION ASSOCIATION, Complainant, vs. BATES TECHNICAL COLLEGE, Respondent.	)	CASE 11070-U-94-2578 DECISION 5140 - PECB SUMMARY JUDGMENT

Eric R. Hansen, Attorney at Law, represented the union.

Christine O. Gregoire, Attorney General, by David A. Stolier and Richard M. Montecucco, Assistant Attorneys General, represented the employer.

On April 18, 1994, the Tacoma Education Association filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Bates Technical College violated RCW 41.56.140(1) and (4), by unilaterally changing employee health insurance benefits. The complaint was processed pursuant to the "preliminary ruling" procedure of WAC 391-45-110, and was found to state a cause of action. The employer filed a timely answer admitting the facts alleged in the complaint, but denying that the complained-of personnel action was in contravention of Chapter 41.56 RCW.

On October 20, 1994, the employer filed a motion for summary judgment, calling for dismissal of the unfair labor practice complaint. On December 7, 1994, the union filed a motion for summary judgment in its favor. By letter dated December 8, 1994, the undersigned Examiner advised the parties that their motions for summary judgment appeared to be in proper form, and that the pleadings disclose no disputed issues regarding material facts relevant to the disposition of the case. There was no response

from either party. Accordingly, the requirements of WAC 391-08-230 have been met and summary judgment is issued.

BACKGROUND

Bates Technical College is now a state institution of higher education operated under Title 28B RCW. It was formerly operated by the Tacoma School District as the "L.H. Bates Vocational-Technical Institute". The operation was transferred to state control pursuant to the "Community and Technical College Act of 1991".[1]

While the institution was operated by the Tacoma School District, the Tacoma Education Association was recognized as the exclusive bargaining representative, under Chapter 41.56 RCW, of a bargaining unit composed of secretarial, professional and technical employees. That bargaining relationship continued in existence upon the transfer of the institution to state control, and these parties had a collective bargaining agreement for the period from September 1, 1991 to August 31, 1993. That contract provided health insurance benefits through a private carrier, stating:

> Section 16. Insurance Benefits
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> 16.1 All insurance programs shall be offered to the employees through the Sound Partnership (formerly the Tacoma School Employees Insurance Trust) (hereinafter "TRUST"). Unless otherwise expressly provided for the term of this agreement. There shall be eight (8) trustees, three (3) of whom are appointed by the Tacoma

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[1] Chapter 238, Laws of 1991, amended various statutes in connection with the transfer of five vocational-technical institutes from various school districts to state control. Parts of that act are codified in Chapter 28B.50 RCW, while other parts of the same act amended Chapter 41.56 RCW. See: RCW 41.56.024.

School District, three (3) by the TEA President, one (1) by the Operating Engineers, Local 286, and one (1) by the Tacoma Federation of Paraprofessionals, Local 461.

16.1.1 The length of the appointment, responsibilities and powers of the trustees shall be determined by the Trust document, provided the trustees shall have no authority to act in violation of this section.

16.2 In keeping with the powers and responsilities [sic] as described in the Trust document, the funding available from the College and/or plan participants, the trustees shall determine the benefits to be provided and the contibutuions [sic] required of plan participants. The Trust shall offer Long Term Disability, Group Term Life, Vision, Dental and Health insurances.

16.3 The College shall provide an insurance benefit contribution to the TRUST of the State allocation amount per month, per FTE (1440) hours classified).

16.4 Eligibility - An employee is eligible for insurance benefits if the employees' regular working assignment is at least half time but less than full time. An employee whose working assignment is for at least half time or more but not full time shall be eligible for a prorated payment for insurance benefits.

16.4.1 Employees not eligible, including substitutes, will be extended the privilege of payroll deduction of the entire premium, provided they meet the requirements of the individual plan.

16.5 In the event of a death, divorce or retirement of a spouse, in whose name a policy has been issued, an employee will be allowed 30 days in which to enroll in the health insurance plan.

16.6 The insurance benefits contributions provided by this section may be reopened by the Association for negotiations in any of the following events: (1) the compensation limitation laws are voided

> by court action; (2) the legislature removes or eases compensation limitations; (3) the TRUST is dissolved; or considers dissolving; (4) the TRUST acts in violation of this section.

As the expiration of their 1991-1993 agreement approached, the parties entered into negotiations for a successor agreement. The union proposed that the insurance provisions of the 1991-1993 contract be carried forward in a successor agreement.

In a letter dated December 8, 1993, the chairperson of the Bates board of trustees informed the union that the Attorney General's office had taken the position that the "Community and Technical College Act of 1991" did not contain an exception from requiring that health care benefits be limited to those offered by the state Health Care Authority.[2]

By memorandum dated December 9, 1993, Assistant Attorney General Richard M. Montecucco notified Bates that it had until April 1, 1994, to enroll its employees in insurance plans offered by the Public Employees Benefits Board,[3] rather than plans offered by private insurance carriers.

On or about December 10, 1993, Thorpe informed union negotiators that the members of the bargaining unit could no longer be covered by health insurance plans offered by private carriers, and that all

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[2] The state "Health Care Authority" was created by the Washington State Health Care Reform Act of 1988, codified in Chapter 41.05 RCW. It was directed to provide comprehensive health care with the least financial burden for state employees and those dependent on the state for medical insurance.

[3] The "Public Employees Benefit Board" is created within the Health Care Authority to design and approve insurance benefits plans for state and school district employees.

employees must enroll in plans offered by the state. Thereafter, the employer unilaterally implemented its announced intentions.

POSITIONS OF THE PARTIES

The union contends that employee medical insurance is a mandatory subject of collective bargaining under Chapter 41.56 RCW, so that the employer was obligated to bargain with it regarding the matter. The union denies there is a statutory requirement obligating the employer to unilaterally enroll its classified employees in health insurance plans developed by the Public Employees Benefits Board.

The employer maintains that the Community and Technical College Act of 1991 required that it submit control of employee health insurance to the Public Employees Benefits Board, and that it has no authority to bargain with the union regarding the matter. According to the employer, the Health Care Authority (as directed by the Public Employees Benefits Board) is designated as the sole agent for purchasing health services for state employees. The employer contends its employees do not belong to any specifically excluded category of state employee that would allow it to collectively bargain employee medical insurance. The employer further contends that its collective bargaining obligation is limited to wages, hours and working conditions which may be "peculiar" to the bargaining unit, that the Legislature has adopted a health care program that is uniformly applied to all state employees, and that health insurance is not peculiar, or unique to its employees.

DISCUSSION

As employees of the Tacoma School District, non-teaching employees at the L.H. Bates Vocational-Technical Institute were subject to the jurisdiction of the Public Employment Relations Commission

under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. That statute covers nearly all local government employers and employees. Prior to 1991, the only "state" employees covered by Chapter 41.56 RCW were Washington State Patrol troopers,[4] district court and superior court employees,[5] and printing craft employees at the University of Washington.[6]

When the five vocational-technical institutes were converted to technical colleges in 1991, the Public Employment Relations Commission had no jurisdiction over the non-teaching employees of other state institutions of higher education.[7] Like most employees of the state of Washington, they came under the coverage of the state civil service laws.[8] The civil service laws contained limited collective bargaining rights, but did not authorize bargaining of wages or wage-related benefits. Thus, a simple

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[4] See, RCW 41.56.020 and 41.56.030(3), as amended by Chapter 135, Laws of 1987.

[5] See, RCW 41.56.020. Prior to amendments to that statute, district court and superior court employees were deemed to be jointly employed by the respective county (which is a covered employer) and by the state judicial branch (which is not a covered employer) under Zylstra v. Piva, 85 Wn.2d 743 (1975).

[6] See, RCW 41.56.022.

[7] The academic faculty employees of state community colleges did have full-scope collective bargaining rights administered by the Commission under Chapter 28B.52 RCW.

[8] Major exclusions from civil service included academic faculty of state four-year colleges and universities, employees of the state public printer, and assistant attorneys general. Until 1993, two separate civil service systems existed: Chapter 28B.16 RCW covered non-teaching employees of certain state institutions of higher education, and was administered by the Higher Education Personnel Board; Chapter 41.06 RCW covered employees of state general government agencies, and was administered by the State Personnel Board. Those systems have since been merged under Chapter 41.06 RCW, and are now administered by the Washington Human Resources Board.

conversion of the affected institutions into community colleges would have had the effect of depriving the non-teaching employees of the full-scope collective bargaining rights which they had theretofore enjoyed under Chapter 41.56 RCW.

The Transfer Legislation

The "Community and Technical College Act of 1991" explicitly preserved the collective bargaining rights of non-teaching employees being transferred to the renamed technical colleges. RCW 28B.50.874 provided:

> 28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges--Personnel rights. **When the** state system of community and **technical colleges assumes administrative control** of the vocational-technical institutes, **personnel** employed by the vocational-technical institutes **shall**:
>
> (1) **Suffer no reduction in** compensation, **benefits**, seniority, or employment status. After September 1, 1991, classified employees shall continue to be covered by chapter 41.56 RCW ...;
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> ...
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> An exclusive bargaining representative certified to represent a bargaining unit covering employees of a vocational-technical institute on September 1, 1991, shall remain the exclusive representative of such employees thereafter until and unless such representative replaced or decertified in accordance with state law.
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> Any collective bargaining agreement in effect on June 30, 1991, shall remain in effect as it applies to employees of vocational technical institutes until its expiration or renewal date or until renegotiated or renewed in accordance with chapter 28B.52 or 41.56 RCW. **After the expiration date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement, as it applies to employees of vocational-technical institutes, shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termina-**

> **tion date stated in the agreement.** The board of trustees and the employees may mutually agree to continue the terms and conditions of the agreement beyond the one year extension. However, **nothing in this section shall be construed to deny any employee right granted under chapter 28B or 41.56 RCW. Labor relations processes and agreements covering classified employees of vocational technical institutes after September 1, 1991, shall continue to be governed by chapter 41.56 RCW.**
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> [Emphasis by **bold** supplied.]

That is the origin of the bargaining relationship between these parties under Chapter 41.56 RCW.

Obligations Under Chapter 41.56 RCW

The duty to bargain under the Public Employees' Collective Bargaining Act is defined in RCW 41.56.030(4), as follows:

> "Collective bargaining" means ... to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit ...

Interpretation of Chapter 41.56 RCW in a manner consistent with the National Labor Relations Act has been favored by the Supreme Court. IAFF v. PERC (City of Richland), 113 Wn.2d 197 (1989).

The potential subjects for bargaining between an employer and union are commonly divided into categories of "mandatory", "permissive" and "illegal". Federal Way School District, Decision 232-A (EDUC, 1977), citing NLRB v. Wooster Division of Borg Warner, 356 U.S. 342 (1958). Mandatory subjects of bargaining are those matters about which an employer is obligated to bargain in good faith, upon request, with the exclusive bargaining representative. Permissive

subjects are matters of management or union prerogative which do not affect wages, hours, or conditions of employment. The parties may bargain regarding permissive subjects, but are not required by law to do so. The parties to a collective bargaining relationship have a legal obligation to refrain from bargaining matters which would result in an unlawful outcome, i.e., "illegal" subjects.

An employer cannot implement "unilateral" changes on mandatory bargaining subjects unless it has provided the union with adequate notice of the contemplated change and a reasonable opportunity for bargaining regarding the matter. Where the exclusive bargaining representative makes a request for bargaining, the employer must bargain in good faith to either an agreement or an impasse. Lewis County, Decision 3418 (PECB, 1990; Pierce County, Decision 1710 (PECB, 1983).

The one-year extension language found in RCW 28B.50.874 for contracts in effect as of June 30, 1991, reflects the one-year extension previously established in RCW 41.56.123 for collective bargaining agreements negotiated under Chapter 41.56 RCW, as follows:

> RCW 41.56.123 COLLECTIVE BARGAINING AGREEMENTS--EFFECT OF TERMINATION--APPLICATION OF SECTION. (1) After the termination date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.
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> (2) This section does not apply to provisions of a collective bargaining agreement which both parties agree to exclude from the provisions of subsection (1) of this section and to provisions within the collective bargaining agreement with separate and specific termination dates.

> (3) This section shall not apply to the following:
> (a) Bargaining units covered by RCW 41.56-.430 et seq. for factfinding and interest arbitration;
> (b) Collective bargaining agreements authorized by chapter 53.18 RCW;
> (c) Collective bargaining agreements authorized by chapter 54.04 RCW.
> (4) This section shall not apply to collective bargaining agreements in effect or being bargained on July 23, 1989. [1993 c 398 §4; 1989 c 46 §1.]

The effect of RCW 41.56.123 is to keep contract terms in place for at least one year, regardless of whether they concern a "mandatory" or "permissive" subject of bargaining. The possibility of a lawful unilateral implementation after bargaining to an impasse does not exist during that one-year period.

It is clear that the employer acted in this case less than one year after the expiration of the parties' 1991-1993 collective bargaining agreement. It is also clear that the employer acted unilaterally, over the union's objections. No provision is cited or found in the parties' 1991-1993 contract which would have constituted a waiver under RCW 41.56.123(2), and none of the exceptions set forth in RCW 41.56.123(3) is applicable to the non-teaching employees of a technical college. Thus, the employer will have committed an unfair labor practice in this case unless the employee insurance provisions of the parties' 1991-1993 contract were an "illegal" subject of bargaining by operation of some other statute.

Legality of 1991-1993 Contract Terms

It is well settled that funding and premium maintenance to pay for the cost of employees medical insurance is a mandatory subject of bargaining under Chapter 41.56 RCW, as an alternative form of compensation within the general heading of "wages". City of Seattle, Decision 651 (PECB, 1979); City of Poulsbo, Decision 2068

(PECB, 1985). It is also well established that medical plan specifications are a mandatory subject of bargaining. City of Dayton, Decision 1990-A (PECB, 1985).[9]

The transition legislation addressed the subject of employee health care benefits in a somewhat oblique manner, stating:

> 28B.50.484 Health care service contracts--Transferred employees of vocational-technical institutes. The state employees' benefit board shall adopt rules to preclude any preexisting conditions or limitations in existing health care service contracts for school district employees at vocational-technical institutes transferred to the state board for community and technical colleges. The board shall also provide for the disposition of any dividends or refundable reserves in the school district's health care service contracts applicable to vocational-technical institute employees.
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> . . .
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> 28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges--Personnel rights. **When the** state system of community and **technical colleges assumes administrative control** of the vocational-technical institutes, **personnel** employed by the vocational-technical institutes **shall**:
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> . . .
>
> (3) **Be eligible to participate in** the health care and other insurance plans provided by the health care authority and the state employee benefits board pursuant to Chapter 41.05 RCW;
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> . . .

[Emphasis by **bold** supplied.]

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[9] The employer does not defend here that the switch to the state plans would be without effect on its premium costs or the plan specifications. In City of Dayton, it was held that employer did not breach its bargaining obligation when it unilaterally changed providers, where there were no material changes in plan specifications.

The language found in the transition law clearly falls short of the expressed limitations on bargaining rights imposed by the Legislature before and after 1991 on certain other classes of state employees covered by Chapter 41.56 RCW. Amendments to RCW 41.56.030(4) enacted in 1987 concerning Washington State Patrol troopers impose clear limits on the scope of bargaining for those employees, stating in relevant part:

> In the case of the Washington State Patrol, "collective bargaining" shall not include wages and wage-related matters.

Similarly, legislation enacted in 1993 to permit the non-teaching employees of other state colleges and universities to transfer their status (i.e., from civil service under Chapter 41.06 RCW to collective bargaining under Chapter 41.56 RCW),[10] states:

> RCW 41.56.201 COLLECTIVE BARGAINING OPTION --CLASSIFIED EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.
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> ...
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> (5) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

Thus, the employer's arguments in this case are based on statutory language that is much weaker than has been used by the Legislature

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[10] RCW 28B.50.030(11) distinguishes "technical colleges" from "community colleges". RCW 41.56.024 distinguishes "technical colleges" from "institutions of higher education".

in comparable situations.[11] The employer's arguments present nothing better than a conflict of laws.

RCW 28B.50.484 refers to "existing health care services contracts". This section ensures broad eligibility for employee medical insurance as part of the assumption of administrative control from local school districts.[12] It does not impose enrollment in the benefit plans sponsored by the Public Employees Benefits Board, but rather only instructs that body to take the steps necessary to assure that medical insurance providers do not apply exclusions of pre-existing conditions to claims for benefits.

The language of the transition law also fell short of **requiring** that technical college employees be covered by state plans administered under Chapter 41.05 RCW. RCW 41.05.011(6)(b) permits the state Health Care Authority to allow voluntary participation by non-state employees in HCA-sponsored plans, stating:

> "Employee" includes ... (b) employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority .... to public employees of counties, municipalities, school districts, and other state political subdivisions.

Thus, the Tacoma School District **could** arrange insurance coverage for its employees under the HCA plans. RCW 28B.50.874(3) provided only that technical college personnel were "**eligible**" to partici-

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[11] Chapter 41.32 RCW sets forth the details of the Teachers Retirement System. Chapter 41.40 RCW sets forth the details of the Public Employees' Retirement System.

[12] RCW 28A.400.350 grants K-12 common school board of directors authority to provide medical insurance for employees and their dependents through private carriers.

pate in the HCA plans. "Eligible" is an elective term that makes enrollment optional. There is no absolute requirement that the members of the bargaining unit be enrolled in HCA offered plans. Their participation, like that of many other employees employed in segments of public employment is voluntary.

The transition law did not amend Chapter 41.56 RCW, as would have been required to modify the parties' collective bargaining rights and obligations. See, Washington Education Association v. State of Washington, 93 Wn.2d 37 (1980), where the Supreme Court overturned salary limitation imposed by the Legislature in a state appropriations act, because the Legislature had not followed constitutionally-required procedures to modify: (1) the salary-setting authority given to school districts in Title 28A RCW, or (2) the collective bargaining rights of affected employees under Chapters 41.56 and 41.59 RCW.[13]

The employer's argument that Chapter 41.05 RCW takes precedence over Chapter 41.56 RCW is flawed. In Rose v. Erickson, 106 Wn.2d 420 (1986), the Supreme Court of the State of Washington held:

> [A] liberal construction should be given to all of RCW 41.56 and conflicts resolved in favor of the dominance of that chapter.

In City of Pasco v. Public Employment Relations Commission, 119 WN.2d 504 (1992), the Supreme Court once again emphasized that the collective bargaining statute is to be liberally interpreted, and is dominate if it conflicts with other laws. Allowing that the economies provided by mass purchasing power may be a worthy objective in the health care arena, the Legislature has not closed

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[13] The Legislature subsequently corrected its error in Chapter 16, Laws of 1981 (House Bill 166), which added RCW 41.59.935 and RCW 41.56.960 (since repealed) to limit the collective bargaining rights of school district employees.

the door to collective bargaining on that subject by technical college employees covered by Chapter 41.56 RCW.

The "Peculiar" Defense

In addition to its rationalization that its obligation to bargain health insurance benefits was usurped by Chapter 41.05 RCW, the employer asserts that any bargaining obligation was nullified because the matter is not "peculiar" to the members of the bargaining unit, citing the use of that term in the definition of "collective bargaining" found at RCW 41.56.030(4).

The employer's "peculiar" defense is not novel. Essentially the same theory has been advanced and rejected in past cases. City of Seattle, Decision 3051-A (PECB, 1989); City of Wenatchee, Decision 2194 (PECB, 1985), where it was held to mean that the union has bargaining rights only for the employees in its own bargaining unit.

In City of Pasco v. Public Employment Relations Commission, supra, the court accepted the employer's assertion in Pasco that the word "peculiar" in RCW 41.56.030(4) rendered that section ambiguous,[14] but it held that deference should be accorded to the Commission's interpretation in the event of such an ambiguity. The Court wrote:

> [U]nder the City's analysis, the matters of (1) grievance procedures, (2) personnel matters, (3) wages, (4) hours and (5) working conditions would have to be peculiar to the bargaining unit

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[14] The Pasco case originally was raised as an unfair labor practice complaint filed by the employer. The employer sought to have a union proposal concerning a grievance procedure removed from a roster of issues to be submitted to an interest arbitrator on the basis that they were not "peculiar to an appropriate bargaining unit". Such a determination would render the issue a non-mandatory subject of bargaining and not arbitrable.

> before they were mandatory subjects of collective bargaining.
>
> Such a reading of the statute would reduce the mandatory subjects of collective bargaining to a very narrow and unpredictable segment of employer-employee relations. We do not perceive legislative intent to so narrowly restrict the right to collectively bargain.

Aside from its basic assertion that all state employees must be enrolled in benefit programs sponsored by the Public Employees Benefits Board (so as to render the matter of medical insurance as not "peculiar" to its employees), the employer offers no evidence to support its position.

From a broad perspective, little is "peculiar" or unique in most public employment relationships. Employment is an exchange of hours of labor performed under prescribed conditions for remuneration in the form of wages and benefits. The narrow interpretation of the statute promoted by the employer could be applied to virtually any term or condition of employment, so as to render an obligation to collectively bargaining only matters which may be "peculiar" virtually meaningless. The word "peculiar" is subjective to the extent that, arguably, it can be applied to support most any purpose or interest. The Supreme Court has determined that this was not the legislative intent. The employer's interpretation of the statute is unduly restrictive, erroneous and contrary to law.

Prior Judgments Not Applicable

The employer contends that the issue at hand has been ruled on in two court proceedings. The employer looks to a motion filed in Pierce County Superior Court by the union in which it sought an order restraining it from implementing the same health insurance changes. In that case the union sought a court order directing that the employer bargain with it regarding the matter. The court

dismissed the case for several reasons, including that the union had failed to exhaust its administrative remedies. The court directed the union to the Public Employment Relations Commission to seek its requested relief.[15] The employer's interpretation of this order in incorrect in the context of the issue at hand and it is not dispositive of the issue.

The employer also looks to a legal proceeding in King County Superior Court. That case involved Renton Technical College's desire to unilaterally enroll its classified staff in medical insurance plans provided by the Public Employees Benefits Board.[16] A different union sought an injunction prohibiting the employer from implementing such a unilateral change. Again, the Examiner disagrees with the employer's interpretation of the court order and does not find it dispositive of the issue. The court stated:

> 5. Insurance benefits are a part of wages and a mandatory subject of collective bargaining under chapter 41.56 RCW. Classified employees that are covered by the collective bargaining agreement have the right to negotiate with the state for insurance benefits. During such negotiations, the State is not precluded from taking the position that insurance benefits are exclusively covered by chapter 41.05 RCW.

The court award offered dicta and a temporary resolution to the dispute, but its holding does not control the issue.

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[15] That action was docketed by the Pierce County Superior Court as Cause 94-2-02568-1. An order dismissing the complaint was issued on June 24, 1994.

[16] That case was docketed by King County Superior Court as Cause 91-2-17231-5. The order was executed on November 24, 1991.

Conclusions

The employer has not established that the parties were precluded by law from agreeing upon the employee insurance benefit provisions which they included in their 1991-1993 collective bargaining agreement, and it violated RCW 41.56.140(4) by implementing a unilateral change in contravention of RCW 41.56.123.

FINDINGS OF FACT

1. Bates Technical College is operated by the state of Washington under Title 28B RCW. It is administered in accordance with Chapter 28B.50 RCW, Community and Technical Colleges, and is a "public employer" within the meaning of Chapter 41.56 RCW.

2. The Tacoma Education Association affiliated with the Washington Education Association, a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of a unit of classified employees who provide secretarial, professional, and technical services for Bates Technical College.

3. The employer and the union were parties to a collective bargaining agreement for the period from September 1, 1991 to August 31, 1993. That collective bargaining agreement provided employee health insurance benefits through a private carrier.

4. Concurrent with the expiration of the 1991-93 agreement the union proposed that the existing employees health insurance provisions be carried forward to a successor agreement.

5. By letter dated December 8, 1993, the employer notified the union that it interpreted technical and community college transition legislative changes that took place in 1991 as

requiring that health care benefits be limited to those offered by the Public Employees Benefits Board.

6. On or about December 10, 1993, the employer informed union negotiators that the members of the bargaining unit must enroll in plans offered by the Washington State Health Care Authority. The employer subsequently implemented its announced intentions.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapters 28B.52 RCW and 41.56 RCW.

2. By declining to collectively bargain with the union and unilaterally requiring that employees enroll in Public Employees Benefits Board sponsored health insurance programs, Bates Technical College failed to bargain in good faith and violated RCW 41.56.140(1) and (4).

ORDER

Bates Technical College, it officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Refusing to bargain collectively with Tacoma Education Association, an affiliate of the Washington Education Association, as the exclusive bargaining representative of the employees in the appropriate bargaining unit described in paragraph 2 of the foregoing findings of fact.

   b. Imposing unilateral changes in terms and conditions of employment without having bargained in good faith.

c. In any other manner interfering with, restraining or coercing its employees in their exercise of their collective bargaining rights secured by the laws of the State of Washington.

2 TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW.

a. Reinstate the provisions of Article 16 of the parties' 1991-93 collective bargaining agreement with respect to participation in the Sound Partnership "Trust".

b. Make all employees adversely affected by the unilateral change of health care insurance whole for all loss of benefits resulting from the unilateral change.

c. Upon request, bargain collectively in good faith with the Tacoma Education Association, an affiliate of the Washington Education Association, prior to implementing any changes in employees health insurance benefits.

d. Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall be duly signed by an authorized representative of the above-named respondent, and shall remain posted for 60 days. Reasonable steps shall be taken by the above-named respondent to ensure that such notices are not removed, altered, defaced, or covered with other material.

e. Notify the above-named complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same

time provide the above-named complainant with a signed copy of the notice required by the preceding paragraph.

f. Notify the Executive Director of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Executive Director with a signed copy of the notice required by this order.

ENTERED at Olympia, Washington, on the 7th day of June, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Frederick J. Rosenberry

FREDERICK J. ROSENBERRY, Examiner

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL, upon request, bargain collectively in good faith with the Tacoma Education Association regarding any changes in employee health insurance benefits prior to implementing any change of benefits.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DATED: _____

BATES TECHNICAL COLLEGE

BY: _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.