

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of)	
CHAUFFEURS, TEAMSTERS AND)	
HELPERS, LOCAL 58,)	CASE NO. 1499-C-78-67
Petitioner,)	DECISION NO. 501-PECB
and)	
CITY OF KELSO, WASHINGTON,)	DECISION AND ORDER
Employer)	
For Unit Clarification)	
_____)	

APPEARANCES:

RONALD J. BROWN, business representative, and LAYTHELL J. BALES, secretary-treasurer, Teamsters Local No. 58, appearing for and upon behalf of petitioner.

MARSHALL BINGHAM, city manager, Kelso, Washington, appearing for and upon behalf of employer.

Chauffeurs, Teamsters and Helpers, Local 58 (hereinafter referred to as the "union") on July 17, 1978 filed an amended petition for unit clarification under RCW 41.56.060 of the Public Employees' Collective Bargaining Act, wherein it requested clarification of a position in the City of Kelso (hereinafter referred to as the "city") which is under the Comprehensive Employment and Training Act (CETA). A hearing was held on August 9, 1978 before Willard G. Olson, a hearing officer of the Public Employment Relations Commission.

BACKGROUND

Teamsters Union Local 58 was certified by the Department of Labor and Industries on April 11, 1975 as the exclusive bargaining representative for "all clerical employees of the City of Kelso", excluding confidential secretaries, deputy clerk-treasurer, the administrative assistant to the city manager and department heads. (Exhibit No. 1).

The union has a current collective bargaining agreement with the city covering "clerical employees." The agreement contains recognition and security clauses as follows:

RECOGNITION AND SECURITY

ARTICLE 1.

1.1 The employer recognizes the union as the sole collective bargaining agent for all of its clerical employees within the jurisdictional limits of the union in all employer operations.

1.2 It shall be a condition of employment that all employees of the employer covered by this agreement who are members of the union in good standing on the effective date of this agreement shall remain members in good standing. It shall also be a condition of employment that any and all employees covered by this agreement and hired on or after its effective date shall, on the thirtieth day following the beginning of such employment, become and remain members in good standing in the union.

The city applied for, and received funding for the position of "resource coordinator" from the federal government under the Comprehensive Employment and Training Act (CETA) and Jane Weedman was hired to fill that position. She was paid at the CETA-approved rate of \$611.00 per month for December, 1977 and raised to \$663.00 per month in January of 1978. The union insisted the position was that of "engineer and building clerk typist" which is one of the clerical positions listed in the contract wage schedule and her pay was raised on February 1, 1978 to the clerk typist rate of \$672.98 where it remained through April, 1978.

As the result of the union's insistence that Weedman was included in the bargaining unit and shall join the union, conferences were held between the union, the city and the CETA program agent administrator, Mr. Frank L. Schubert. In a letter of May 12, 1978 Schubert expressed the opinion that the CETA position was not the same as the engineer and building clerk typist even though there were certain similarities of duties. Had there not been sufficient differences in duties, the city would have been in violation of CETA regulations and would not have been entitled to the funding. As a result, Weedman's salary was reduced by the city to \$663.00 per month and the overpayments were recovered by withholding from future checks. ^{1/}

The CETA employee, Weedman, states that because of the temporary nature of the position, she should not be included in the bargaining unit or be required to join the union.

^{1/} There is no intention here to voice any opinion as to what the wage rate of the CETA employee should be. The only question to be resolved by the Commission is whether or not the employee is included in the bargaining unit.

POSITION OF THE UNION

The union argues that the resource coordinator position is substantially the same as that of the engineering and building clerk typist which is listed in the contract. In any event, the union maintains that the position is a "clerical" position and thus within the bargaining unit under both the certification and the recognition clause of the collective bargaining agreement.

POSITION OF THE CITY

The city maintains that the position of resource coordinator is considerably different than the previous position of engineering and building clerk typist. The CETA position duties include filing and coordinating for specific city projects which had not been done in the past.

The city does not take the position extolled by the employee, Weedman, that CETA employees should be excluded because of the temporary nature of their employment. (Tr. p. 21, li. 3-16). The city maintains that because the position of resource coordinator is not specifically listed in the collective bargaining agreement, it is therefore not included in the bargaining unit.

DISCUSSION

The position of resource coordinator and that of engineering and building clerk typist, while having some similarities, are not the same. The report of May 12, 1978 of Mr. Schubert, program agent administrator for CETA (Exh. No. 7) states in part:

"After review of both descriptions of the above-mentioned positions, it was the belief of the program agent that the descriptions had some similarities, but that they are separate; and secondly, that there has been no violation of the "Act". These conclusions are based on the following facts. When the "typist" description was originally composed, the department was few in number and, therefore, segregation and delineation of tasks was counterproductive, since a few had to do all. However, the department had to expand, and this resulted in a more realistic and contemporary delineation of duties. Recent and ever increasing needs and requests for current and realistic demographic data regarding constituency characteristics has created a workload that was unforeseen when the "typist" description was formulated. This need for data was, in fact, a contributing factor for the city requesting a "coordinator" position, thus the creation and request for a CETA participant. For the "typist"

position had been unable, partially for the above-stated reason, plus others, to adequately fulfill responsibilities in the area of updating maps with current and needed information.

Therefore, in order for the City of Kelso to obtain a CETA participant, it was mentioned that the position must be an entry level, and not be one which replaced a present employee or permanent staff position which was in the city budget. It is recognized that the "coordinator" position performs functions, at times, similar in nature to those performed by the "typist" position, but not more so than other employees presently within the same general office area."

It is clear, however, that the position of resource coordinator is a clerical position. In testimony at the hearing Marshall Bingham, city manager, stated that he considered the position to be clerical (Tr. p. 55, li. 24; p. 48, li. 5-7). It follows that if the union represents all clerical employees of the city, and the resource coordinator is a clerical position not specifically excluded, then the position is included in the bargaining unit.

Based upon the foregoing, and the record as a whole, the undersigned now makes the following:

FINDINGS OF FACT

I

The City of Kelso, Washington is a "public employer" within the meaning of RCW 41.56.020 and RCW 41.56.030(1).

II

Chauffeurs, Teamsters and Helpers, Local 58 is a "labor organization" within the meaning of RCW 41.56.010 and is a "bargaining representative" within the meaning of RCW 41.56.030(3).

III

Teamsters Union Local No. 58, on April 11, 1975, was certified as the exclusive bargaining representative of "All clerical employees employed by the City of Kelso" excluding confidential secretaries, deputy clerk-treasurer, administrative assistant to the city manager, and department heads.

IV

The union is recognized, in the collective bargaining agreement between the parties, "as the sole collective bargaining agent for all of its clerical employees. . ."

V

The position of resource coordinator, created in accordance with the Comprehensive Employment and Training Act (CETA), has some of the same duties of the engineering and building clerk typist, but there are sufficient differences to indicate it is a separate and distinct position.

VI

The position resource coordinator is a clerical position with duties, skills and working conditions similar to other clerical employees of the City of Kelso.

From the foregoing findings of fact, the hearing officer now makes the following:

CONCLUSIONS OF LAW

I

The Public Employment Relations Commission has jurisdiction over this matter by virtue of RCW 41.56.

II

The bargaining unit consisting of all clerical employees of the City of Kelso, Washington, excluding confidential secretaries, deputy clerk-treasurer, administrative assistant to the city manager, and department heads, is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060, and the inclusion of the resource coordinator position in the unit is appropriate.

From the foregoing findings of fact and conclusions of law, the hearing officer now issues the following:

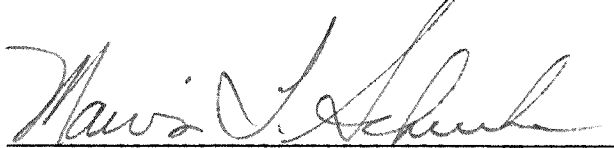
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ORDER

The clerical bargaining unit described in conclusions of law, paragraph II, shall include the position of resource coordinator.

DATED at Olympia, Washington this 26th day of September, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", written over a horizontal line.

MARVIN L. SCHURKE, EXECUTIVE DIRECTOR