



STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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Re: Benton County  
Decision 4522 (PECB)  
Case 9104-C-91-525

Gentlemen:

At page 15 of the above-referenced position, it was stated that the employee holding the position of "computer operator/administrative assistant" is located at the Prosser office of the Benton County District Court. Neither party petitioned for Commission review of the decision, and the case is now closed.

Sometime after the decision was issued, and even after the time for withdrawal or modification to correct errors had expired, it has been brought to our attention that the individual is actually employed at the Kennewick office, rather than the Prosser office.

A copy of this letter will be placed in the case file, and a copy will be attached to the original decision in the Commission's permanent files. To minimize the repetition of the error or future confusion, we are also asking Book Publishing Company to note a correction in its publication of the decision.

We apologize for the mistake and, further, hope this resolves the problem.

Very truly yours,

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
REX L. LACY, Hearing Officer

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
BENTON COUNTY	)	CASE 9104-C-91-525
	)	
For clarification of an existing	)	DECISION 4522 - PECB
bargaining unit of employees	)	
represented by:	)	
	)	
WASHINGTON STATE COUNCIL OF COUNTY	)	ORDER CLARIFYING
AND CITY EMPLOYEES, LOCAL 87	)	BARGAINING UNIT
	)	
	)	

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

John Cole, Deputy Director, appeared on behalf of the union.

On April 8, 1991, Benton County (employer) filed a petition for clarification of an existing bargaining unit with the Public Employment Relations Commission, seeking rulings as to the eligibility of certain of its employees for inclusion in an existing bargaining unit represented by Washington State Council of County and City Employees (WSCCCE), Local 874CH. A hearing was conducted before Hearing Officer Rex L. Lacy on January 27 and 28, 1992, in Prosser, Washington, and on January 29, 1992 in Kennewick, Washington. The parties submitted post-hearing briefs. Authority to decide the remaining "eligibility" issues has been delegated by the Executive Director to the Hearing Officer, pursuant to WAC 391-25-390.

BACKGROUND

Benton County is governed by a Board of County Commissioners consisting of three members elected by popular vote. The employer

provides a full range of services to its residents, conducting its operations out of offices in Kennewick and Richland, Washington, in addition to the courthouse facility located in Prosser, Washington.

Washington State Council of City and County Employees, Local 874CH, is the exclusive bargaining representative of full-time and regular part-time office-clerical and related employees of Benton County who work at the courthouse and outlying offices.

The parties' bargaining relationship predates the creation of the Public Employment Relations Commission.<sup>1</sup> The employer and union have been parties to a series of collective bargaining agreements. On April 22, 1991, the parties executed a collective bargaining agreement that was effective from January 1, 1991 to December 31, 1991. That agreement described the bargaining unit as follows:

The Employer recognizes the Union as the exclusive bargaining collective bargaining agent for certain regular full-time, regular part-time and probationary employees of the Employer for which the Union has been certified in Labor and Industries, case numbers SK-1364, SK-1447, SK-1678, and PERC case numbers 783-E-77-142, 810-E-77-148, 1250-E-77-232, and 2513-E-79-458, 6234-E-86-1110, as collective bargaining representative as provided by RCW 41.56, Public Employee's Collective Bargaining Act. Furthermore, the Employer recognizes the Union as the bargaining representative in the Juvenile department only for purposes of wages and wage related matters.

The parties had not executed a successor agreement as of early 1992, when the hearing was held in this matter.

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<sup>1</sup> From the time of its enactment in 1967 through 1975, Chapter 41.56 RCW was administered by the Department of Labor and Industries. The WSCCCE retained its status in a representation proceeding conducted by the Public Employment Relations Commission in 1987. See, Benton County, Decision 2719-B (PECB, 1989).

During the course of the hearing in this matter, the parties stipulated to the exclusion of certain classifications from the bargaining unit on the basis indicated:

1. Director of Personnel (confidential/supervisor)
2. Personnel Assistant (confidential)
3. Accounting Services Internal Auditor (confidential/supervisor)
4. Payroll Deputy/Payroll Specialist (confidential)
5. Programmer/Analyst IV (confidential/supervisor)
6. Senior Computer Operator (confidential/supervisor)
7. Financial Administrative Accountant (confidential/supervisor)
8. Tri-City Office Manager (confidential/supervisor)
9. Legal Secretary Supervisor (confidential/supervisor)
10. Director of Administrative Services (confidential)
11. Clerk of the Board (confidential)
12. Administrative Secretary - Commissioners Office (confidential)
13. District Court Confidential Secretary (confidential)

During the course of the hearing, the parties also stipulated to the inclusion of certain classifications in the bargaining unit:

1. Micro-Computer Technician
2. Programmer Analyst I
3. Programmer Analyst II
4. Programmer Analyst III
5. Computer Operator I
6. Computer Operator II
7. Computer Operator III
8. Senior Secretary
9. Chief Cashier/Foreclosure Deputy
10. Executive Secretary/Senior Secretary
11. Tax Collection Specialist
12. Paralegal

At the close of the hearing, seven positions remained at issue, as follows:

1. Office Manager (Kennewick)
2. Office Manager (Richland)
3. Legal Process Supervisor (Kennewick)
4. Records Manager (Prosser)
5. Computer Operations/Administrative Assistant (Prosser)
6. Deputy Court Administrator
7. Calendar Administrator

Five of the seven positions remaining at issue in this proceeding are in general government departments. They are the office manager positions (also known as "license deputy II"), the legal process supervisor (also known as "legal process assistant IV"), the records manager, and the computer operations position. The remaining two disputed classifications were in the Benton County Superior Court.

## DISCUSSION

### The General Government Positions

The employer contends that the employees holding the office manager positions in Kennewick and Richland, as well as the legal process supervisor, records manager, and computer operations/administrative assistant positions, are "confidential" employees within the meaning of RCW 41.56.030(2)(c) and/or "supervisors" within the meaning of Commission precedent, so that they should not be included in the bargaining unit represented by the union.

The union contends that the employees who currently fill the positions remaining in dispute are not "confidential" employees as defined by RCW 41.56.030(2)(c), because they are not involved in the formulation, implementation, or effectuation of the employer's labor relations policies and practices. Additionally, the union argues that the employees holding positions identified by the employer do not meet the criteria for exclusion as supervisors.

### Statutes and Precedents on "Confidential" Exclusion -

Employers are allowed some reasonable number of personnel who are exempt from the rights of the collective bargaining statute, in order to perform the functions of the employer in the collective bargaining process. Clover Park School District, Decision 2243-A (PECB, 1987). The statutory definition of "public employee" in RCW

41.56.030(2) excludes employees "**whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship**" from the coverage of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. Interpreting that definition in City of Yakima v. IAFF, 91 Wn.2d 101 (1978), the Supreme Court of the State of Washington held:

When the phrase confidential relationship is used in the collective bargaining act, we believe it is clear that the legislature was **concerned with an employees' potential misuse of confidential employer labor relations policy and a conflict of interest.**

...  
We hold that in order for an employee to come within the exception of RCW 41.56.030(2), **the duties which imply the confidential relationship must flow from an official intimate fiduciary relationship with the executive head of the bargaining unit or public official ...** The nature of this close association must concern the official and policy responsibilities of the public office or executive head of the bargaining unit, **including formulation of labor relations policy.** General supervisory responsibility is insufficient to place an employee within the exclusion.

[Emphasis by **bold** supplied.]

In Yakima, the Supreme Court took direction from the definition of "confidential employee" found in the Educational Employment Relations Act, Chapter 41.59 RCW.<sup>2</sup>

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<sup>2</sup> RCW 41.59.020(4)(c) provides:

- (c) Confidential employees, which shall mean:
  - (i) Any person who **participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and**
  - (ii) Any person who **assists and acts in a confidential capacity to such person.**

A "confidential employee" need not work on "labor nexus" matters exclusively, or even primarily, so long as the assignments can be described as "necessary", "regular" and "ongoing". The fiduciary relationship must be with the executive head of the bargaining unit, either directly or derivatively through another "confidential" employee.<sup>3</sup>

Statutes and Precedents on "Supervisors" -

Early in its history, the Commission noted that Chapter 41.56 RCW differs significantly from the National Labor Relations Act in its treatment of "supervisors", and that "supervisors" are "public employees" within the coverage of the state law. City of Tacoma, Decision 95-A (PECB, 1977). The Commission's approach was adopted by the Supreme Court in Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries, 88 Wn.2d 925 (1977).

The determination and modification of bargaining units is a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.56.060 provides:

**RCW 41.56.060 DETERMINATION OF BARGAINING UNIT -- BARGAINING REPRESENTATIVE.** The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the du-

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[Emphasis by **bold** supplied.]

<sup>3</sup> The Yakima court cited, with approval, the decision of the Executive Director in Edmonds School District, Decision 231 (PECB, 1977), where it was shown that the secretaries to top managers in a school district assisted and acted in a confidential capacity to persons who formulated, implemented, and effectuated management policies on labor relations. They had a confidential relationship to the executive head of the school district derivatively, through their managers.

ties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. ...

Soon after Tacoma was decided, the Commission addressed the potential conflict of interest that is inherent in having supervisors and their subordinates in the same bargaining unit, and it applied RCW 41.56.060 to exclude supervisors from such bargaining units. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981). That separation remains the Commission's policy.

The Time For Filing Unit Clarification Petitions -

The decision in City of Richland, supra, made it clear that the Commission was not creating a perpetual "open season" to disrupt bargaining units or to abuse Commission procedures:

**Absent a change of circumstances** warranting a change of the unit status of individuals or classifications, **the unit status of those previously included in** or excluded from **an appropriate unit** by agreement of the parties or by certification **will not be disturbed**.

[Emphasis by **bold** supplied]

In Richland, the recent substantial change of statutory interpretation made in City of Tacoma, supra, and METRO, supra, was deemed a sufficient basis to upset a long-standing inclusion of those supervisors in the bargaining unit. The employer had filed its petition in that case during negotiations for a successor contract, and the Commission (as well as the Department of Labor and Industries and a superior court) had rejected the notion that the



parties' subsequent signing of a collective bargaining agreement invalidated the unit clarification petition already on file.<sup>4</sup>

As labor and management sought to implement the principles laid down in Tacoma, METRO, and Richland, disputes continued to arise as to the "timeliness" of petitions. The thrust of the Commission's concern was that parties give notice of any potential changes to the scope of the bargaining unit, so that bargaining would reflect the actual situation between the employer and union. Toppenish School District, Decision 1143-A (PECB, 1981). For the notice to be deemed adequate, it must be delivered and the unit clarification petition must be filed before a new collective bargaining agreement is ratified. The two-step approach outlined in Toppenish, supra, was later codified in the Commission's rules, as follows:

WAC 391-35-020                      PETITION--TIME FOR  
FILING. (1) Disputes concerning status as a  
"confidential employee" may be filed at any  
time.

(2) Except as provided in subsection (1)  
of this section, where there is a valid writ-  
ten and signed collective bargaining agreement  
in effect, a petition for clarification of the  
covered bargaining unit will be considered  
timely only if:

(a) The petitioner can demonstrate, by  
specific evidence, substantial changed circum-  
stances during the term of the collective  
bargaining agreement which warrant a modifica-  
tion of the bargaining unit by inclusion or  
exclusion of a position or class; or

(b) The petitioner can demonstrate that,  
although it signed the current collective  
bargaining agreement covering the position or  
class at issue in the unit clarification  
proceedings, (i) it put the other party on  
notice during negotiations that it would  
contest the inclusion or exclusion of the  
position or class via the unit clarification  
procedure, and (ii) it filed the petition for  
clarification of the existing bargaining unit

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<sup>4</sup> See City of Richland, Decision 279 (PECB, 1977) at  
paragraph 4.

prior to signing the current collective bargaining agreement.

When a unit clarification petition is not filed in accordance with the provisions of WAC 391-35-020, it will be dismissed. Stevens County, Decision 3347 (PECB, 1989); King County, Decision 3534 (PECB, 1990). Even where "confidential" claims are properly before the Commission, untimely-filed "supervisor" claims will not be considered or ruled upon in the same proceeding. Yakima County, Decision 4105 (PECB, 1992).

Legal Process Supervisor -

This position is located at the Kennewick office of the Benton County Clerk. The incumbent, Elie Garcia, reports directly to, and is supervised by Kay Bacca, the county clerk. The job description for this position includes the following:

EXAMPLES OF JOB DUTIES:

Coordinates, schedules and oversees all legal process activities for superior court to assure that the court system operates efficiently according to appropriate guidelines, procedures and regulations. Coordinates work with other agencies and the general public.

**Assigns, supervises and evaluates work of the assigned staff;** advises, assists subordinates as necessary; **initiates and implements disciplinary actions;** conducts performance appraisal of subordinates; **participates in the selection of new employees and makes recommendations regarding the transfer and termination of subordinate employees.** **Handles overtime, vacation and sick leave requests** for subordinate employees.

Develops, recommends and implements approved policies and procedures to assure effective and safe functioning of assigned activities and compliance with departmental standards and legal requirements.

Develops and maintains an accurate, current and secure filing system for all cases processed by the Superior Court. Coordinates

routine destruction. Reviews and coordinates requests for file sealing, destruction. or other access to files.

Supervises the operation of the SCOMIS computer system. Assures that all court actions and case assignment data is entered into computer system in a timely and accurate manner including state mandated indexes and dockets.

Assures that all court actions are properly docketed and reports and notices are distributed to appropriate parties in compliance with statutory requirements and due process and timely hearings.

Prepares regular and special reports concerning assigned activities.

Responds to, or supervises the resolution of, inquiries, complaints or requests for information regarding area of assignment from other departments and the general public, providing information within scope of knowledge and authority, or refers to appropriate individual.

Performs other job related duties as required.

WORKING CONDITIONS:

Work is primarily performed in an office environment.

KNOWLEDGE, SKILLS, AND ABILITIES:

Thorough knowledge of principles, practices, and techniques relating to court operations and management.

Thorough knowledge of court rules.

Knowledge of the SCOMIS computer system.

Knowledge of supervisory principles and practices.

**Ability to set work priorities and direct, guide, motivate and evaluate the work of subordinates.**

Ability to establish and maintain effective working relationships with employees, court staff, and the general public.

Ability to communicate effectively, both orally and in writing.

EDUCATION AND EXPERIENCE:

High School diploma or G.E.D. and five years of progressively responsible court experience, including **one year of lead supervisory experience**; or any combination of education and experience which would provide the applicant with the desired skills, knowledge and ability required to perform the job.

[Emphasis by **bold** supplied.]

Garcia testified that she is responsible for the day-to-day operation of the Kennewick office when Bacca is not present. Garcia has the authority to schedule the work of other employees in the office, and she rules on their requests for time off for sick leave or emergencies. Garcia participates in hiring new employees, is consulted on budget matters, and can "sign off" on daily reports and daily accounting matters. More important, Garcia has the authority to discipline employees for infractions of departmental rules and policies. Thus, Garcia has authority and responsibility that meets the criteria for exclusion as a supervisor.

Records Manager -

This position, currently held by Netta Vegar, is located at the Prosser office of the Benton County Clerk. Vegar reports directly to, and is supervised by, Bacca.

Due to the conflict over which job description was appropriate to use in this matter, no job description was placed into evidence for this position. Vegar did not testify in this proceeding. It is undisputed that she is responsible for maintaining departmental records, and that she recommends departmental policy and procedure change in that regard.

Bacca testified that the "records manager" role is a one-person operation, and that Vegar generally works alone. Other employees fill in when Vegar is on vacation or other leave. Additional personnel are assigned to assist Vegar only infrequently. Vegar is

responsible for providing on-hands training for employees who are assigned to assist or relieve her. She can authorize overtime, and can recommend discipline of employees temporarily assigned to assist her. Additionally, Vegar reviews time cards, is involved in departmental employee performance reviews, and is consulted when employees are being promoted within the department. Because Vegar supervises paperwork, not employees, on a regular basis, she does not meet the requirements established by Commission precedent for exclusion from the bargaining unit as a supervisor.

Office Manager and/or License Deputy II -

These positions are located at the branch offices in Kennewick and Richland. The positions are currently filled by Bobbie Romine (Kennewick) and Sherry Partridge (Richland). They report directly to, and are supervised by, Benton County Auditor Bobbie Gagner.

The job description for the "office manager" classification sets forth the duties and responsibilities, as follows:

Plans, organizes, coordinates and supervises all facets of vehicle registration, licensing, sales tax, tonnage and special permit issuance in the Licensing Department of the County Auditor's Office.

This position performs many responsible duties involving the implementation and enforcement of Washington State Laws and other regulations as they relate to the registration, licensing and title transactions on vehicles and vessels, with authority to notarize signatures on all State Department of Licensing forms.

I. KNOWLEDGE

EDUCATION: High School graduate or equivalent. Ability to efficiently and accurately operate typewriter, electronic calculator, and computer equipment.

EXPERIENCE: Three years of responsible experience related to motor vehicle administration.

II. WORK COMPLEXITY

DUTIES: Serves as liaison and provide technical licensing assistance to automobile dealers and financial institutions which process auto license and vessel transactions; answer technical questions as required. Performs audits to insure correct procedure is being followed and balance bank account.

Supervises the collection and remittance of license fees to the proper government jurisdiction.

**Trains subordinates** to operate computer terminal which is on line with Washington State DOL.

Responsible for the collection of money from all NSF checks, either from the financial institution, the customer or Olympia.

Maintain daily and monthly inventories.

Prepares remittance and bank deposit daily.

Ability to apply complex laws and rules; maintain favorable public relations; communicate clearly by speaking and writing; analyze complex problems and reach logical conclusions.

Registering and licensing motor vehicles and vessels. Calculate and collect the fees and make change for incoming monies promptly and accurately using a cash drawer. Closes out at end of day with responsibility to balance against the days work.

Ability to perform all functions of the Licensing Department, including but not limited to, the daily transmittal, ordering of supplies and **training new employees. Also responsible for evaluation of employees.**

With the implementation of CAAP (The County Auditor's Automatic Project) these deputies the responsibility to research documentation and make the decision whether or not to issue titles. Prior to the CAAP the Department of Licensing was responsible for checking title applications to see that proper documentation was attached.

This position also performs a variety of tasks for the Auditor's office as needed including accepting recording documents, accepting marriage licenses and voter registrations.

ANALYTICAL ACTION: Receives new regulations and procedure changes daily or every other day; implements and disseminates new regulations and procedural changes as soon as received to the staff; receives, investigates and resolves customer complaints.

Responsible for the accurate inventory of license plates, tabs, and special forms and permits used. Assists the public with problems, transactions and inquiries at the computer, by telephone, and by mail, using as required the Vehicle Title and Registration Control Operations Manual, and such manuals, statutes, schedules, rules and regulations as might be required, with patience and diplomacy.

Analyzes circumstances involved in order to properly assess penalties for title transfers and advises customers of various options available in difficult title transfers and in determination of ownership.

### III. RESPONSIBILITY FOR RESULTS

RESPONSIBILITY: Accepts responsibility for all money collected for title and licensing work.

Responsible for daily and monthly inventories of all accountable items.

**Responsible for employee evaluations.**

Responsible for accurate calculation of vehicle and vessel fees.

INDEPENDENT ACTION: Independently plans, **schedules and directs all regular work performed by license deputies** in their office, and **consults with license supervisors should questions arise.**

### IV. JOB RELATIONS

COMPLEXITY OF CONTACTS: Ability to work cooperatively and in close proximity with fellow employees, always maintain a pleasant and professional attitude with the public, and perform complex transactions under sometimes stressful working conditions. Responds to inquiries in person, by telephone, and through written correspondences with the public, auto dealers, and lending institutions.

BREADTH OF CONTACTS: Maintains effective working relations with co-workers, public

officials, the general public, other county departments, lending institutions, auto dealers, and other agencies.

**DIRECTION OF OTHERS: Kennewick Office Manager supervises four License Deputies. Richland Office Manager supervises two License Deputies.**

[Emphasis by **bold** supplied.]

References in the job description to supervision of other employees almost seem to be an afterthought to a position which is primarily a lead worker or working foreman. The testimony at the hearing established, however, that the office managers at the Kennewick and Richland branch offices do have independent authority to schedule employees' work time, to grant sick leave and time off for emergencies, to evaluate branch office employees, to make effective recommendations on the hiring of employees, to administer low-level discipline and effectively recommend higher levels of discipline as necessary, to train employees at their respective office, and to recommend employees for promotion within the Benton County Auditor's Office. Thus, Romine and Partridge, possess the types of authority and responsibility that meet the criteria for exclusion from the bargaining unit as supervisors.

Computer Operator/Administrative Assistant -

This position, currently held by Patricia Peterson, is located at the Prosser office of the Benton County District Court. Peterson reports to, and is supervised by, Benton County District Court Administrator Carol Schneidmiller. There are approximately 17 other employees in the district court operation.

Schneidmiller testified that Peterson supervises the district court operation in her absence. Peterson has independent authority to schedule employees' work time, to grant sick leave and time off in emergencies, to evaluate employees, to effectively recommend employees to be hired, to administer low-level discipline and effectively recommend higher levels of discipline, to train



employees at their respective office, and can recommend employees for promotion within the Benton County Auditor's Office. In addition, Peterson attends management team meetings where confidential labor relations matters involving the Benton County District Court are discussed. The matters under discussion at those meetings include formulating responses to union proposals made during contract negotiations. Thus, Peterson is properly deemed to be a "confidential" employee under RCW 41.56.030(2)(c), and would also be excludable from this bargaining unit on the basis of her authority and responsibility that meets the criteria for exclusion as a "supervisor".

#### The Benton/Franklin Superior Court Issue

The unit clarification petition filed by the employer in this case sought to have positions titled "deputy court administrator" and "calendar administrator" excluded from the bargaining unit, on the basis that the individuals holding those positions were "supervisors" and/or "confidential" employees. At the hearing, the employer asserted, as an additional ground for exclusion from this bargaining unit, that the scope of bargaining for these positions was limited to wages and wage-related benefits under Zylstra v. Piva, 85 Wn.2d 743 (1975).

It came out during the hearing that Benton County and Franklin County recently created a bi-county Benton/Franklin Superior Court, and that the Benton County Superior Court and the Franklin County Superior Court have ceased to exist as separate entities. The two courts have merged their operations into a single joint-employer venture and, upon implementation of the interlocal agreement, the positions which formerly existed in the Benton County Superior Court were vacated and abolished. The superior court employees originally at issue in this case thus came to be employed by a new employer. The union argued that the Commission should make no ruling here on vacant or non-existent positions.

Based on the evidence of the interlocal merger, it appears that there is no reason to determine the unit placement of the two superior court classifications. The positions no longer exist in the Benton County workforce. A ruling as to their status would be appropriate only when (if ever) an attempt is made to organize the employees of the new joint-employer operation.

FINDINGS OF FACT

1. Benton County, Washington, is a public employer within the meaning of RCW 41.56.030(1). As a part of its overall services to its residents, the employer maintains offices at the Courthouse in Prosser, Washington, as well as branch offices at Kennewick and Richland, Washington.
2. Washington State Council of County and City Employees, Local 874CH, a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of certain full-time and regular part-time employees of Benton County who work at the courthouse and outlying offices.
3. The employer and union were engaged in negotiations for a successor collective bargaining agreement as of April 8, 1991. On that date, the employer filed a petition for clarification of an existing bargaining unit with the Public Employment Relations Commission, seeking to have several classifications excluded from the bargaining unit as "confidential employees" pursuant to RCW 41.56.030(2)(c) and/or as "supervisors" under RCW 41.56.060.
4. The parties subsequently signed and effectuated a collective bargaining agreement effective for the period from January 1, 1991 through December 31, 1991. The date of April 22, 1991 was annexed to the employer's execution of that contract.

5. Following further negotiations and stipulations by the parties, only the classifications titled "legal process supervisor", "records manager", "office manager / license deputy II", "computer operator / administrative assistant", "deputy court administrator" and "calendar administrator" remained at issue between the parties.
6. The employee holding the title of "records manager" performs administrative and clerical duties including typing and filing of correspondence, maintaining departmental records, compiling periodic reports, and recommending administrative policies and procedures in the Benton County Clerk's Office. This employee has no subordinates on an ongoing basis, and has only a limited role in the training, assignment and oversight of other employees who may be temporarily assigned to the "records" function from time to time.
7. Two employees holding positions titled "office manager / license deputy II" perform a variety of specialized tasks in the Benton County Auditor's Office. They supervise the employees assigned to their respective branch offices in Kennewick and Richland, including the hiring, assignment, evaluation, and discipline of such employees.
8. The employee holding the position titled "computer operator / administrative assistant" performs a variety of specialized tasks in the Benton County District Court. This employee is in charge of the 17-member workforce of the department when the district court administrator is not present. On an ongoing basis, this employee supervises other employees assigned to the district court, including the assignment, evaluation, and discipline of such employees. Additionally, this individual participates on the management team involved in collective bargaining negotiations with the union.

9. The positions formerly titled "deputy court administrator" and "calendar administrator" in the Benton County Superior Court have been eliminated and the Benton County Superior Court and the Franklin County Superior Court have been merged into a single entity, the Benton/Franklin Superior Court.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. The petition for clarification of an existing bargaining unit was timely filed in this matter, under WAC 391-35-020, while the parties were in negotiations for their collective bargaining agreement for 1991.
3. The employee holding the position titled "records manager" is a public employee, and is not a supervisor whose duties and authority present a potential for conflicts of interest warranting separation from the existing bargaining unit under RCW 41.56.060.
4. The employees holding the positions titled "legal process supervisor", "office manager / license deputy II", and "computer operator / administrative assistant" are supervisors within the meaning of Commission precedent, and have duties and authority which presents a potential for conflicts of interest warranting their separation from the existing bargaining unit under RCW 41.56.060.
5. The individual holding the position titled "computer operator / administrative assistant" is a "confidential" employee within the meaning of RCW 41.56.030(2)(c).

6. No dispute currently exists under Chapter 391-35 WAC as to the bargaining unit status of the positions titled "deputy court administrator" and "calendar administrator" formerly assigned to the Benton County Superior Court, inasmuch as those positions have been abolished.

ORDER

1. The employees holding the position titled "records manager" shall continue to be included in the existing bargaining unit involved in this proceeding.
2. Employees holding the positions titled "legal process supervisor", "office manager / license deputy II", and "computer operator / administrative assistant" shall be excluded from the existing bargaining unit involved in this proceeding.
3. The petition in this proceeding is dismissed as moot, with respect to the positions titled "deputy court administrator" and "calendar administrator".

DATED at Olympia, Washington, this 28th day of October, 1993.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
REX L. LACY, Hearing Officer

This order may be appealed by filing a petition for review with the Commission pursuant WAC 391-35-210.