

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
COWLITZ COUNTY) CASE 10756-C-93-638
For clarification of an existing)
bargaining unit of its employees) DECISION 5008 - PECB
represented by:)
CHAUFFEURS, TEAMSTERS & HELPERS,) ORDER CLARIFYING
LOCAL 58) BARGAINING UNIT
_____)

Dick Anderson, Director of Personnel, appeared on behalf of the employer.

Cary Bertram, Business Representative, appeared on behalf of the union.

On November 1, 1993, Cowlitz County (employer) filed a petition for clarification of an existing bargaining unit with the Public Employment Relations Commission, seeking division of an existing bargaining unit of employees represented by Chauffeurs, Teamsters & Helpers, Local 58 (union). A pre-hearing conference was held by Hearing Officer Katrina Boedecker in Kelso, Washington, on September 14, 1994, at which time the parties entered into an agreement to resolve the matter. This order is issued to accept and implement the parties' stipulations.

BACKGROUND

Cowlitz County has a population of approximately 86,000. The employer has collective bargaining relationships with a number of employee organizations. Of interest to this case, the employer and Teamsters Local 58 have had a bargaining relationship which appears to pre-date the existence of the Public Employment Relations

Commission.¹ The particular bargaining unit involved in this case included the non-supervisory employees working in the employer's Corrections Department.

In 1984, the Washington State Legislature amended the definition of "uniformed personnel" in RCW 41.56.030(7), to extend the coverage of the interest arbitration procedures of RCW 41.56.430 et seq. to law enforcement officers employed by the state's larger counties. Cowlitz County was one of those affected, and the parties' historical bargaining unit was divided into two units. Cowlitz County, Decision 2067 (PECB, 1984).

The employer later created a separate Corrections Department, and the employer and union agreed to subdivide the "non-uniformed" unit created in 1984 into two separate units. One of those units consisted of office-clerical employees of the Sheriff's Department; the other unit consisted of the clerks, cooks, and correctional officers of the new Corrections Department.

In 1993, the Legislature further amended the definition of "uniformed personnel" in Chapter 41.56 RCW to cover "correctional employees" of certain counties, including Cowlitz County. That legislation, codified as RCW 41.56.030(7)(c), used the following terms in expanding the definition of "uniformed personnel":

... correctional employees who are uniformed and non-uniformed, commissioned and non-commissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates

¹ The first reference to these parties in the Commission's docket records is a grievance arbitration case filed on May 24, 1976. (Case 283-A-76-21).

The change in the statute prompted the employer to file the instant clarification petition. In its petition, the employer stated:

Corrections officers who are trained for and charged with the responsibility of controlling and maintaining inmates enjoy the benefits of impasse resolution procedures specified in RCW 41.56.430 through 41.56.490 and therefore should not be in the same unit as clerks and cooks who do not enjoy such impasse resolution procedures.

At the pre-hearing conference, the employer and the union resolved their dispute by agreeing to divide the existing collective bargaining unit into two separate bargaining units: One bargaining unit will henceforth be composed of correction officers only; the second bargaining unit will be composed of the remainder of the employees from the previous Corrections Department unit.

DISCUSSION

This case comes before the Executive Director in the context of a series of legislative actions spread over a period of more than 20 years. A review of the legislative history regarding interest arbitration for certain corrections personnel is fully detailed in Pierce County, Decision 4788 (PECB, 1994).

A long line of Commission precedent establishes that it is not appropriate to mix employees eligible for interest arbitration in the same bargaining units with employees who are not eligible for interest arbitration. Thurston County Fire District 9, Decision 461 (PECB, 1978); City of Yakima, Decision 837 (PECB, 1980); City of Prosser, Decision 3283 (PECB, 1989). In this case, the employer and the union agree that the corrections officers now enjoy the benefits of the interest arbitration procedure specified in RCW 41.56.430 through 41.56.490, and they agree that the corrections

officers should no longer be in the same bargaining unit as the clerks, secretaries, and cooks who do not have access to that impasse resolution procedure.

The Executive Director concludes that the parties' stipulations in this case are consistent with Commission policy and precedent. The historical unit encompassing all employees in the Corrections Department is no longer an appropriate collective bargaining unit. The employer has not questioned the continued majority status of the union in either of the new units stipulated by the parties. As in City of Yakima, supra, it suffices to merely divide the historical bargaining relationship into two relationships.

FINDINGS OF FACT

1. Cowlitz County is a county of the State of Washington and is a public employer within the meaning of RCW 41.56.030(1).
2. Chauffeurs, Teamsters & Helpers, Local 58, a bargaining representative within the meaning of RCW 41.56.030(3), was recognized prior to 1984 as the exclusive bargaining representative of a unit consisting of all employees of the Cowlitz County Sheriff's Department, excluding elected officials, confidential employees, and supervisors.
3. By subsequent agreements of the parties, the bargaining unit described in paragraph 2 of these findings of fact has been modified to encompass all employees of the Cowlitz County Corrections Department, excluding elected officials, confidential employees, and supervisors.
4. The parties agree that, in view of the enactment of Chapter 379, Laws of 1994, a department-wide bargaining unit in the Corrections Department is no longer appropriate, because the

corrections officers in that bargaining unit are now "uniformed personnel" as defined in RCW 41.56.030(7).

5. The parties have stipulated to divide the department-wide unit in the Corrections Department to create two units, of which one will be composed of corrections officers only, and the other will be composed of the non-uniformed employees of the Corrections Department.
6. No question concerning representation is raised as to the continued majority status of Chauffeurs, Teamsters & Helpers, Local 58, among either the uniformed or the non-uniformed employees.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. A bargaining unit consisting of all of the employees of the Cowlitz County Corrections Department, including both "uniformed" employees eligible for interest arbitration and other employees, is no longer an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.
3. A bargaining unit consisting of all full-time and regular part-time corrections officers defined as "uniformed personnel" in RCW 41.56.030(7)(c), excluding elected officials, confidential employees, supervisors, and "non-uniformed" employees, is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.
4. A bargaining unit consisting of all "non-uniformed" employees of the Cowlitz County Corrections Department, including

office-clerical employees and cooks, and excluding elected officials, confidential employees, supervisors, and "uniformed" personnel as defined by RCW 41.56.030(7)(c), is an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.

ORDER

The bargaining unit formerly comprised of all employees of the Cowlitz County Corrections Department is clarified to constitute two separate bargaining units, as follows:

1. All full-time and regular part-time corrections officers defined as "uniformed personnel" in RCW 41.56.030(7)(c), excluding elected officials, confidential employees, supervisors, and "non-uniformed" employees.
2. All "non-uniformed" employees of the Cowlitz County Corrections Department, including office-clerical employees and cooks, and excluding elected officials, confidential employees, supervisors, and "uniformed" personnel as defined by RCW 41.56.030(7)(c).

DATED at Olympia, Washington, this 7th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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