

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	CASE NO. 3921-C-82-185
WHATCOM COUNTY)	
)	DECISION NO. 1483-A PECB
For clarification of an existing bargaining unit represented by:)	
)	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL NO. 231.)	DECISION OF COMMISSION

Gene R. Moses, Attorney at Law, appeared on behalf of Whatcom County.

Russell Reid, Attorney at Law, appeared on behalf of International Brotherhood of Teamsters, Local No. 231.

The Executive Director denied the petition for unit clarification and Whatcom County has petitioned for review by the Commission. The county has not helped us with a brief or any citations. We have read the record, including all the exhibits, and affirm the Executive Director.

In Toppenish School District, Decision 1143-A (PECB, 1981), we held:

"A mid-term unit clarification is available to exclude individuals from a bargaining unit covered by an existing collective bargaining agreement if:

a) The petitioner can offer specific evidence of substantial changed circumstances that would warrant such an exclusion,

or

b) The petitioner can demonstrate that, although it signed a collective bargaining agreement covering the disputed position, it put the other party on notice that it would contest the inclusion via the unit clarification procedure and filed a petition for unit clarification with the Commission prior to the conclusion of negotiations."

There has been collective bargaining between the county and the union since the 1940's. This petition seeks a mid-term unit clarification. In 1980 the county orally suggested to the union that in the future it might want the

position of senior services coordinator excluded from the bargaining unit. Yet in the course of negotiations for the 1981-83 contract, it said nothing about the matter and the job title was included in the contract as it had been since 1975.

The Whatcom County Senior Services Organization Chart shows senior services to be a joint venture of the County Park Board and the Whatcom County Council on Aging. This council is a private, non-profit organization which is eligible for grants and funds unavailable to the county. The services are administered by the senior services coordinator who acts as the liaison between the county and the council and supervises 58 of the two organization's employees.

The collective bargaining agreement lists the job title at salary grade 15. These grades run from 1 to 21, although grades 19 and 20 are lacking from the applicable employee list. Effective February 16, 1981, the salary for grade 15 ranged from entry level at \$1,426 per month to \$1,851 per month after seven years. Outranking the senior services coordinator are 12 job titles, none of which the county seeks to exclude from the unit. The next higher grade, grade 16, includes road crew leader: entry level \$1,487, \$1,930 after seven years.

Qualifications for senior services coordinator include a B.A. or B.S. degree in social services, gerontology or parks and recreation, or equivalent experience in one or more of these fields and several years' supervisory experience.

There has been no change in the duties of the senior services coordinator position since July 1981, the month in which the 1981-1983 collective bargaining agreement was signed. On cross-examination Roger DeSpain, Director of the Whatcom County Parks and Recreation Board, testified:

"Q. Were those duties the same in July of 1981 as you have described them this morning?

A. Yes, I would say, but not as large."

That the senior services coordinator had charge of personnel files, prepared the budget, was consulted about and informed of negotiations with the union and participated in handling grievances, did not lead the county to seek exclusion of the holder of this job title from employees eligible to bargain collectively before it executed the agreement in July 1981.

At that time the county apparently did not believe that the position had an intimate fiduciary relationship with the employer including access to confidential labor relations policy information of the employer.

The only change in circumstance shown to have occurred between the time the agreement was signed and the time the petition for unit clarification was filed was the retirement of the senior services coordinator who had held the position since the early 1970's. There was no showing that the duties of the position had changed or were expected to change. There was testimony to the effect that the duties had become heavier over the years, but that development has no effect on the propriety of including the position in the unit. What change of circumstances may warrant a mid-term unit clarification is illustrated by White Pass School District, Decision 573-A (PECB, 1979).


At the time of the hearing the position of senior services coordinator was no more confidential than it had been in July 1981.

The county filed no petition for unit clarification prior to the conclusion of negotiations.

Thus the requirements laid down in Toppenish School District, supra, for a mid-term unit clarification have not been met and the petition is denied.

Issued at Olympia, Washington, this 18th day of January, 1983.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANE R. WILKINSON, Chairman



MARY ELLEN KRUG, Commissioner

Commissioner Mark C. Endresen
did not take part in consideration
or decision of this case.