

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
Automotive and Special Services
Local Union 461

and

Tacoma-Pierce County Law
Enforcement Support Agency

CASE NO. 36-0-2085

DECISION ON APPEAL AND ORDER

DECISION NO. 84-A PECB

Automotive and Special Services Local Union 461, having, on November 26, 1975, filed a petition with the Washington State Department of Labor & Industries seeking certification as exclusive bargaining representative for Emergency Communications Center Supervisors of the Tacoma-Pierce County Law Enforcement Support Agency; and the authority for administration of Chapter 41.56 RCW having been transferred, effective January 1, 1976, to the Public Employment Relations Commission; and a hearing having been held before a representative of the Public Employment Relations Commission; and said representative having dismissed the petition concluding that the Emergency Communications Center Supervisors are "managerial type supervisors" and thus excluded from the scope of Chapter 41.56 RCW, in a written decision dated July 16, 1976; and Automotive and Special Services Local Union 461 having timely filed a notice of appeal; the Public Employment Relations Commission now makes the following:

Findings of Fact

I.

Automotive and Special Services Union 461 did petition on November 26, 1975, for a designation of exclusive bargaining representative of a unit composed of "shift supervisors" employed by the Tacoma-Pierce County Law Enforcement Support Agency pursuant to Chapter 41.56 RCW.

II.

That the Tacoma-Pierce County Law Enforcement Support Agency is

managed by a Director who is appointed by the Executive Board. That the five Emergency Communications Center Supervisors report to the Director, and direct the activities of thirty-six employees.

III.

That the employees in the petitioned-for unit keep time records, grant sick leave; call in off-duty employees as necessary; schedule overtime work; evaluate employees on a regular basis; take disciplinary action; and effectively recommend the suspension and discharge of employees; meet regularly with the Director concerning Agency operations; and regularly function as acting assistant director.

From these Findings of Fact, the Public Employment Relations Commission reaches the following:

Conclusions of Law

I.

That the Commission has jurisdiction over this matter pursuant to Chapter 41.56 RCW.

II.

That the petitioned-for unit is composed of persons who act on behalf of management and are confidential deputies and administrative assistants to the executive head of the employer and are not public employees within the meaning of RCW 41.56.030(2).

NOW, THEREFORE, IT IS

ORDERED

That the petition filed in this matter be, and the same hereby is, dismissed.

DATED at Olympia, Washington, this 14th day of January 1977.


PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARY ELLEN KRUG, Chairman



ROBERT B. ARKELL, Commissioner



MICHAEL H. BECK, Commissioner

MEMORANDUM ACCOMPANYING DECISION ON APPEAL

Discussion

Automotive and Special Services Union, Local 461¹ (hereinafter referred to as "Local 461") petitioned for a separate unit composed of "shift supervisors" employed by the Tacoma-Pierce County Law Enforcement Support Agency (hereinafter referred to as "LESA").² LESA was established on May 20, 1974, pursuant to a joint resolution of the Tacoma City Council and the Pierce County Board of Commissioners. It became operational on August 21, 1974. The agency functions as a communication center for police, sheriff, fire and other emergency needs, receiving incoming calls and dispatching appropriate municipal services. It also functions as a general information source.

This appeal arises from a determination of the Hearing Officer that Emergency Communications Center Supervisors function as "managerial type supervisors" and thus are excluded from coverage of Chapter 41.56 RCW.³ The Hearing Officer relied primarily upon several cases decided by the Department of Labor & Industries in making this determination.

Position of the Parties on Appeal

In its brief on appeal, Local 461 assigns error to certain factual findings of the Hearing Officer, and to the Officer's legal conclusion that the "shift supervisors" are "managerial-type supervisors" and are, therefore, excluded from the statutory coverage pursuant to RCW 41.56-030(2)(c). It is Local 461's position that in the absence of a specific statutory exclusion of supervisors, the Legislature intended that they be included within the scope of the statute. Furthermore, Local 461 seeks to distinguish Department of Labor & Industries decisions relied upon by the Hearing Officer.

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1. Local 461 is affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.
 2. Whether a separate unit is appropriate need not be considered in view of our disposition of this appeal.
 3. Decision No. 84, July 16, 1976, (PECB)

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LESA in its brief on appeal seeks to rely upon Department of Labor & Industries decisions which have applied the definition of "supervisor" found in the National Labor Relations Act,⁴ in determining which supervisory functions should be excluded from the statutory coverage of Chapter 41.56. RCW. It is LESA's contention that the job functions of the "shift supervisors" meet the criteria, and thus their exclusion from coverage of the statute is required.

Discussion

The LESA is operated by an Executive Board which meets approximately eight to twelve times per year. That board is composed of the Chairman of the Board of Pierce County Commissioners, the Mayor of the City of Tacoma, the Sheriff of Pierce County, the Chief of Police of the City of Tacoma, and a fifth member who is selected by a majority vote of the other members. There is no regular schedule of Board meetings, and the Board has appointed a Director who manages the agency on a day to day basis. The five positions in question report directly to the Director.

The LESA communications center is operated on a 24-hour per day basis. Thirty-six employees classified as call receivers and dispatchers work in the center on eight-hour shifts. The five individuals in question rotate among three different assignments, as follows: Three of the five supervisors function as shift supervisors, who direct the call receivers and dispatchers on a shift. One of the remaining supervisors functions as a relief supervisor. The fifth supervisor functions as the Assistant Director four days per week and acts as a relief supervisor on his fifth work day in the week. The assignments are rotated approximately every four weeks, so that each of the supervisors performs each each of these assignments. The Assistant Director function includes the preparation

of procedures, handling of complaints, development of grant applications,

4. 29 U.S.C. § 152 (11) (1970). The National Labor Relations Act defines a "supervisor" as: any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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assisting in the preparation of the agency budget, and the development of inventory. The supervisors meet with the Director on a monthly basis to review employee performance, and to discuss other matters relevant to the operation of the agency. Supervisors have made effective recommendations on discharge of employees. The supervisors direct and assign the work force, determine the need for overtime and the assignment of overtime, determine the need for employee call-out, authorize the use of sick leave and keep time records. The supervisor assigned on the day shift prepares the monthly work schedule. The supervisors also have the authority, independent of the Director, to suspend an employee from duty should the need arise.

The parties have devoted considerable energy to making legal argument on the legal status of "supervisors" under Chapter 41.56 RCW. However, the Commission concludes that those arguments are inapposite to this case. On the basis of the facts set forth above, and particularly in view of the close working relationship between the five individuals in question and the executive head of the agency, the Commission concludes that the five positions in question are properly classified as confidential deputies or administrative assistants to the executive head of the employer. The five individuals hold functionally similar and interchangeable positions, so there is no basis for subdivision within the group. The Commission, therefore, affirms the result reached by the Authorized Agent.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARY ELLEN KRUG, Chairman


ROBERT B. ARKELL, Commissioner


MICHAEL H. BECK, Commissioner