

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

LEWIS COUNTY

For clarification of an existing bargaining
unit represented by:

WASHINGTON STATE COUNCIL OF
COUNTY AND CITY EMPLOYEES

CASE 26721-C-14

DECISION 12312-A - PECB

DECISION OF COMMISSION

Audrey B. Eide, General Counsel, for the Washington State Council of County and City Employees.

Prosecuting Attorney Jonathan Meyer, by *J. David Fine*, Senior Civil Deputy Prosecuting Attorney, for Lewis County.

Lewis County (employer) operates a Public Works Department, which includes the Solid Waste Division. Employees working in the Public Works Department are represented by the Washington State Council of County and City Employees (union). The bargaining unit included the Accounting Technician Senior position in the Solid Waste Division. In June 2012, the employer reclassified the position from Accounting Technician to Accountant. The employer filed a unit clarification petition to remove the Accountant position from the bargaining unit. The Executive Director dismissed the employer's petition, finding that the Accountant continued to share a community of interest with the bargaining unit.¹ The employer filed a timely appeal.

The issue on appeal is whether the Accountant position, after reclassification from Accounting Technician to Accountant, continues to share a community of interest with the bargaining unit. The Accountant continues to share a community of interest with the bargaining unit. While the Accountant is involved in the budget process, its involvement in that process does not deprive the position of a community of interest with the bargaining unit.

¹ *Lewis County, Decision 12312 (PECB, 2015).*

ANALYSIS

Legal Standards

The Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. We review findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the Executive Director's conclusions of law. *City of Bellingham*, Decision 7322-B (PECB, 2002). Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *Id.*

Employees may be excluded from a bargaining unit if they are confidential employees, supervisory employees, or do not share a community of interest with the bargaining unit. RCW 41.56.030(11); WAC 391-35-340(1); and RCW 41.56.060(1). The burden of proof to exclude an employee from collective bargaining rights is heavy. *City of Seattle*, Decision 689-A (PECB, 1979).

The determination and modification of bargaining units is a function delegated to the Commission by the Legislature. RCW 41.56.060. RCW 41.56.060(1) requires the Commission to consider the duties, skills, and working conditions of the employees, the history of collective bargaining, the extent of organization among the employees, and the desires of the employees. The criteria are applied collectively to discern the existence of a community of interest among the employees of a particular employer, and no one criteria is of greater import than the others. *State – Enterprise Services*, Decision 11665-A (PSRA, 2013). Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than the other depending upon the facts presented. *Kitsap Transit*, Decision 10234-A (PECB, 2009). When making bargaining unit determinations, the Commission's goal is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *See Quincy School District*, Decision 3962-A (PECB, 1993).

Application of Standards

The employer does not contend that the Accountant is a confidential employee or a supervisor. Rather, the employer argues that an employee promoted to a professional position now has job duties that deny her a community of interest with the bargaining unit. Accordingly, the employer

seeks a ruling that such an employee owes a higher degree of loyalty to the employer and must be removed from the bargaining unit.

Kristen Buckman is the incumbent in the Accountant position. Prior to the position's reclassification in June 2012, Buckman held the Accounting Technician position. Buckman reports to Steve Skinner, the Solid Waste Manager. Skinner supervised Buckman when she was the Accounting Technician.

After reclassification the Accountant position continued to perform some of the Accounting Technician duties.² The Accountant also took on more of a role in assisting with the Solid Waste budget.

Public Works Director Tim Elsea included the Accountant on the budget team. As part of the budget team, Buckman spends 60-80 hours per year working on the public works budget. The budget team generates ideas for cost savings. Buckman contributes ideas and runs scenarios, but Elsea decides which budget to recommend to the County Commissioners.

The employer's argument that the Accountant owes a higher degree of loyalty to the employer and no longer shares a community of interest with the bargaining unit because the Accountant spends 60-80 hours per year assisting with budget preparation is without merit. The Accountant is one member of the budget team and does not make final budget decisions. Providing input, running scenarios, and preparing budget documents does not deprive an employee of a community of interest with the bargaining unit. The Accountant's job duties do not weigh against finding a community of interest with the bargaining unit.

No changes were made to the Accountant's working conditions as a result of that position's reclassification from Accounting Technician to Accountant. The Accountant continues to work in the same office with other bargaining unit members. The Accountant's working conditions support finding a community of interest continues to exist.

² The record does not contain evidence about who performs Accounting Technician duties that are no longer performed by the Accountant.

After reclassification, the Accountant position remained in the bargaining unit. The union bargained on behalf of the Accountant and, previously, the Accounting Technician. There is no evidence to suggest that the union would be unable to continue to bargain on behalf of the Accountant.

The union represents the non-supervisory employees in the Public Works Department. While other accountants of the employer bargain in a separate bargaining unit, those accountants are maintained within a separate department. The extent of organization among the employees supports a community of interest.

CONCLUSION

Considering the statutory factors, the Accountant continues to share a community of interest with the bargaining unit. The additional job duties of participating in preparing the budget does not rupture the community of interest.


NOW, THEREFORE, it is

ORDERED

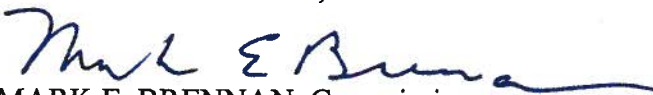
The Findings of Fact, Conclusions of Law, and Order issued by Executive Director Michael P. Sellars are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 11th day of August, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


THOMAS W. McLANE, Commissioner


MARK E. BRENNAN, Commissioner



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 08/11/2015

DECISION 12312-A - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:


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