

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

INTERNATIONAL ASSOCIATION  
OF FIRE FIGHTERS, LOCAL 29

For clarification of an existing bargaining  
unit of employees of:

CITY OF SPOKANE

CASE 26148-C-13-1577

DECISION 12090 - PECB

ORDER AMENDING CERTIFICATION

Robblee Detwiler & Black, P.L.L.P., by *SaNni M-K Lemonidis*, Attorney at Law,  
for the union.

Nancy L. Isserlis, City Attorney, by *Erin A. Jacobson*, Assistant City Attorney, for  
the employer.

The Spokane Association of Fire Officers (SAFO) is the current exclusive bargaining representative of a supervisory bargaining unit of Battalion Chiefs and Fire Marshall employed by the City of Spokane (employer). City of Spokane, Decision 1377 (PECB, 1982). SAFO and the employer are parties to a collective bargaining agreement that expires on December 31, 2015. The International Association of Fire Fighters, Local 29 (Local 29) represents the non-supervisory fire fighters employed by the employer.

In October 2013, SAFO's membership voted to affiliate with Local 29. On December 17, 2013, Local 29 filed a petition seeking to amend the existing bargaining unit certification to reflect that the SAFO was now affiliated with Local 29. Don Waller, Local 29's current President, provided an affidavit indicating that SAFO's membership was provided an opportunity to vote on the affiliation. The affidavit also indicated that although Local 29's current president would be now preside over both the supervisory and non-supervisory bargaining units, the current SAFO President would be a Local 29 Vice-President overseeing the supervisory bargaining unit and

would responsible for the collective bargaining relationship between the employer and the supervisory bargaining unit.

The employer objected to the proposed affiliation based upon the lack of continuity between SAFO and Local 29. The employer argued that SAFO would lose its autonomy because the Local 29 President would now have signatory authority over the agreements reached between the employer and the supervisory bargaining unit.

The issue to be decided is whether SAFO satisfied the due process requirements and continuity requirements to warrant amendment to the existing certification to reflect that SAFO is now an affiliate of Local 29. Local 29's petition to amend the existing certification to reflect that SAFO has affiliated with Local 29 is granted. The SAFO membership was afforded an opportunity to vote on affiliation, thus satisfying the due process requirements. There is also substantial continuity of the bargaining representative. Although Local 29's existing president will now preside over both the supervisory and non-supervisory bargaining unit, SAFO's current president has a leadership role within Local 29 and will continue to be responsible for collective bargaining between the supervisory bargaining unit and the employer.

## DISCUSSION

### Applicable Legal Standards

When a union seeks to amend a certification due to its affiliation with another labor organization, it must show that its members were provided with due process during the affiliation process. Due process may be satisfied through a vote of the union's membership. *Skagit Valley Hospital*, Decision 2509-A (PECB, 1987), *aff'd*, *Skagit Valley Hospital v. PERC*, 55 Wn. App. 348 (1989).

Generally, this Commission will not reject a union affiliation where the membership has been provided an opportunity to vote. However, an affiliation vote may be overturned due to a lack of "continuity" between the pre- and post- affiliation union. A lack of continuity will exist if the organizational changes to the union have been so extensive that a certified bargaining representative has been displaced by a wholly different organization. *Skagit Valley Hospital*,

Decision 2509-A. Factors that are often considered when examining continuity are continued leadership responsibilities of the existing union officials, the frequency of membership meetings, and the continuation of the manner in which contract negotiations, administration and grievance processing are effectuated, and the preservation of the certified union's facilities, books and assets. *Western Commercial Transport, Inc.*, 288 NLRB 214 (1988).<sup>1</sup> The perpetuation of membership rights, such as eligibility for membership, qualification to hold office, oversight of executive council activity, and the dues/fees structures are also considered. *Id.* An affiliation vote may also be overturned if other, more traditional, evidence exists that the successor organization lacks majority support. *Skagit Valley Hospital*, Decision 2509-A.

The petitioning labor organization must satisfy due process concerns by providing evidence or documentation that the employees are in favor of the transfer. The employees must be provided notice of the election, given an opportunity to discuss the matter and allowed to exercise his or her choice in a manner with reasonable precautions to maintain ballot secrecy.

#### Application of Standards

The employer does not assert that the due process requirement has not been satisfied in the case. Waller's affidavit demonstrates that the due process requirements were satisfied by allowing the SAFO membership to vote on affiliation. The employer focuses only on the continuity component of the affiliation standard.

Waller's affidavit demonstrates that there exists a substantial continuity of representation pre- and post- affiliation. SAFO's existing officers retained their post-affiliation positions. The current SAFO President will still have the primary responsibility of negotiating with the employer on behalf of the employees and administering the collective bargaining agreement that currently applies to the employees. Additionally, SAFO's members continue to enjoy the same rights and

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<sup>1</sup> Decisions construing the National Labor Relations Act (NLRA), while not controlling, are generally persuasive in interpreting state labor laws that are similar to or based upon the NLRA. *Nucleonics Alliance v. WPPSS*, 101 Wn.2d 24 (1981). While there are differences, the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, is similar to the NLRA, and the Commission may look to National Labor Relations Board (NLRB or Board) decisions when ruling on disputes between most employers and employees under its jurisdiction.

privileges they enjoyed prior to the affiliation vote and the SAFO membership will also retain the ability to vote on any negotiated agreement that applied to the membership.

The fact that Local 29's President will preside over both bargaining units, will attend meeting and negotiations, and will be required as a signatory party on all documents does not demonstrate a lack of continuity in representation. All affiliations result in some changes to how the affiliating organization operates. In *Skagit Valley Hospital*, the affiliation was accepted even though the new union's staff would handle negotiations on behalf of the employees. However, the bargaining unit employees continued to enjoy the right to vote on any negotiated agreement. The evidence also demonstrated that the affiliating union's executive board continued to set its own policy and continued to operate essentially autonomously as a division of the parent union. The situation here is similar and nothing in Waller's affidavit suggests that the supervisory bargaining unit will not enjoy the same level of autonomy.

#### Conclusion

The evidence submitted by Local 29 demonstrates that the SAFO membership was afforded due process in determining whether they desired to affiliate with Local 29 and voted to do so. The evidence also demonstrates that there is a substantial continuity of representation for the employees in the bargaining unit.

#### FINDINGS OF FACT

1. The City of Spokane is a public employer within the meaning of RCW 41.56.030(12).
2. The Spokane Association of Fire Officers is a bargaining representative within the meaning of RCW 41.56.030(2).
3. The International Association of Fire Fighters, Local 29 is a bargaining representative within the meaning of RCW 41.56.030(2).

4. The SAFO represents a bargaining unit of Battalion Chiefs and Fire Marshall that is currently described as follows:

Included: All employees of the City of Spokane Fire Department classified as Battalion Chief or Fire Marshall.

Excluded: All other employees of the City of Spokane Fire Department.

5. On December 17, 2013, Local 29 filed a petition seeking to amend the existing certifications of the supervisory bargaining units described in Finding of Fact 4 to reflect that the employees voted to affiliate and merge with Local 29.
6. Local 29 provided evidence demonstrating that the employees were provided an opportunity to vote on whether or not to affiliate and merge the SAFO into Local 29, evidence demonstrating that the employees affirmatively voted for the affiliation.
7. Local 29 provided evidence demonstrating that SAFO's existing officers retained their positions post-affiliation. The current SAFO President will still have the primary responsibility of negotiating with the employer on behalf of the employees and administering the collective bargaining agreement that currently applies to the employees. The SAFO membership will also retain the ability to vote on any negotiated agreement that applied to the membership.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. Based upon Finding of Fact 6 and 7, the SAFO provided due process to employees in allowing them to vote on whether or not to affiliate with Local 29 and substantial continuity in representation exists.

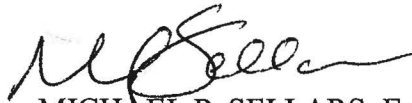
3. Based upon Finding of Fact 6 and 7, SAFO has affiliated with Local 29.

ORDERED

The certification issued in *City of Spokane*, Decision 1377, (PECB, 1982), is amended to reflect that the International Association of Fire Fighters, Local 29 is now the exclusive bargaining representative of record. The bargaining unit description remains unchanged.

ISSUED at Olympia, Washington, this 17<sup>th</sup> day of June, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

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BY:/S/ MAJEL C. BOUDIA

CASE NUMBER: 26148-C-13-01577 FILED: 12/17/2013 FILED BY: PARTY 2  
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BAR UNIT: FIREFIGHTERS  
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