

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petitions of:

STATE – ENTERPRISE SERVICES
(FACILITIES DIVISION)

and

WASHINGTON FEDERATION OF
STATE EMPLOYEES

For clarification of existing bargaining units.

CASE 24598-C-12-1484
DECISION 11665 - PSRA

CASE 24629-C-12-1494
DECISION 11669 - PSRA

ORDERS OF DISMISSAL

CASE 24594-C-12-1480
DECISION 11667 - PSRA

CASE 24599-C-12-1485
DECISION 11668 - PSRA

CASE 24635-C-12-1499
DECISION 11666 - PSRA

ORDERS CLARIFYING
BARGAINING UNITS
AND
DIRECTION OF ELECTION

Younglove & Coker, P.L.L.C., by *Edward E. Younglove III*, Attorney at Law, for the union.

Robert W. Ferguson, Attorney General, by *Kara A. Larsen*, Senior Counsel, for the employer.

This matter comes as a result of legislation that consolidated, created, and abolished several state agencies. Engrossed Substitute Senate Bill (ESSB) 5931 was passed by the Legislature and signed by the Governor in 2011. The legislation created two new state agencies: Consolidated Technology Services and the Department of Enterprise Services (Enterprise Services). The legislation eliminated four agencies: the Public or State Printer, the Department of General

Administration (General Administration), the Department of Information Services (Information Services), and the Department of Personnel. The work and employees of the abolished agencies were dispersed as follows: The Public Printer became part of Enterprise Services; General Administration became part of Enterprise Services; Information Services was split between Consolidated Technology Services, Enterprise Services, and the Office of Financial Management; and the Department of Personnel was split between Enterprise Services and the Office of Financial Management. Additionally, a portion of the Office of Financial Management was transferred to Enterprise Services.

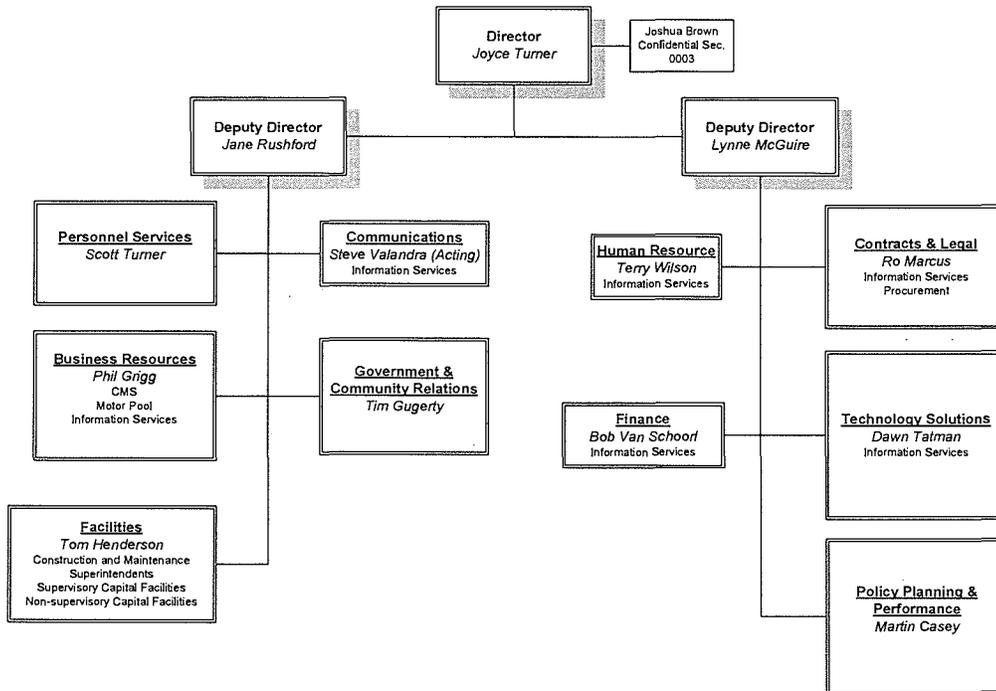
The purpose of the creation of Enterprise Services was to “provide centralized leadership in efficiently and effectively managing resources necessary to support the delivery of state government services.” Section 101 of ESSB 5931. The consolidations and transfers affected several existing bargaining units. At Enterprise Services alone, ten bargaining units transferred from other state agencies. The units transferred to Enterprise Services as follows:

- The Public Printer transferred three bargaining units.¹
- Information Services transferred a portion of its agency-wide bargaining unit.²
- General Administration transferred six bargaining units – Consolidated Mail Services (CMS), Construction and Maintenance Superintendents, Facilities Non-Supervisory, Facilities Supervisory, Motor Pool, and Procurement.

The Washington Federation of State Employees (WFSE) is the certified bargaining representative of all but the Printer bargaining units. The organizational structure of Enterprise Services, including notations of bargaining units or portions of bargaining units contained within a division is shown below:

¹ Those units are addressed in *State – Enterprise Services*, Decisions 11341, 11342, and 11345 (PSRA, 2012).

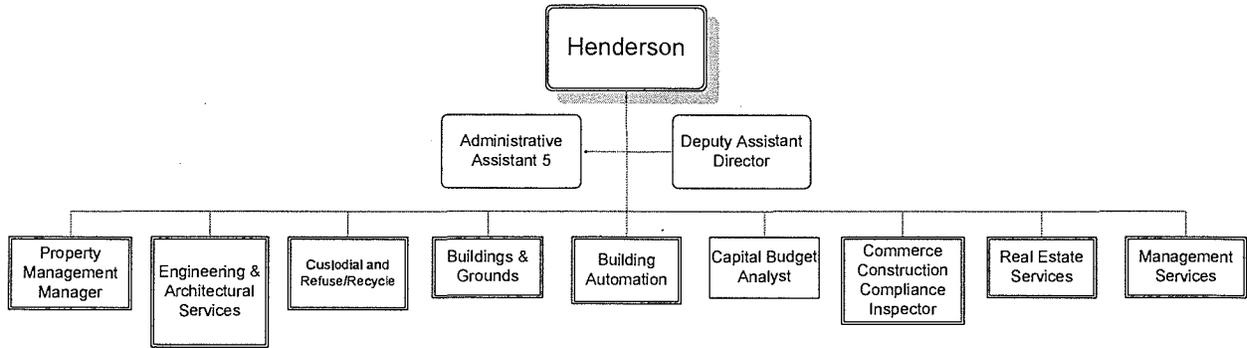
² The remainder of the Information Services bargaining unit transferred to Consolidated Technology Services and is addressed in *State - Consolidated Technology Services*, Decision 11266-A (PSRA, 2012).



The employees in the Motor Pool and Consolidated Mail Services bargaining units are located in the Business Resources Division. The employees in the Construction and Maintenance Superintendents, Supervisory Facilities, and Non-Supervisory Facilities bargaining units are located in the Facilities Division. The employees in the Procurement bargaining unit are located in the Contracts & Legal Services Division. Finally, the employees in the Information Services bargaining unit are dispersed throughout the Business Resources, Communications, Human Resources, Contracts & Legal Services, Finance, Facilities, and Technology Solutions divisions.

Both the employer and union filed petitions seeking review of the bargaining units transferred to the Facilities Division. The Facilities Division provides stewardship and maintenance of state owned buildings and resources. The Facilities Division also manages the State’s real estate services, transactions of third party leases, and assists in the preparation and design of workspaces leased by state agencies.

The organizational structure of the Facilities Division is as follows:



The Facilities Division is comprised of eight different sections: Property Management, Engineering & Architectural Services, Custodial & Refuse/Recycle Services, Buildings & Grounds, Building Automation, Commerce Construction Compliance Inspectors, Real Estate Services, and Management Services. Tom Henderson is the Assistant Director in charge of the division. Additionally, a Capital Budget Analyst, who is a member of the Washington Management Services, reports to Henderson. Employees in the Administrative Assistant, Secretary, and Office Assistant job classes provide administrative support in support the mission of the division and are assigned to individual sections where needed.

The employees in the current Facilities Non-Supervisory bargaining unit are located in the Facilities Division. Those employees were placed in the Asset Management, Custodial & Refuse/Recycle, Buildings & Grounds, and Building Automation sections. The Facilities Non-Supervisory bargaining unit was described as follows:

All non-supervisory civil service employees of the Washington State Department of General Administration in the Capital Facilities Division, excluding confidential employees, internal auditors, supervisors, Washington Management Service Employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors.

State – General Administration, Decision 11013 (PSRA, 2011).

The employees in the current Facilities Supervisory bargaining unit are located in the Facilities Division. Those employees were placed in the Custodial & Refuse/Recycle, Buildings & Grounds, and Building Automation sections. That bargaining unit was described as follows:

All supervisory civil service employees of the Washington State Department of General Administration in the Capital Facilities Division, excluding confidential employees, internal auditors, non-supervisors, Washington Management Service employees (on or after July 1, 2004), and all other employees.

State – General Administration, Decision 10920 (PSRA, 2010).

The bargaining unit of Construction and Maintenance Superintendents is located in the Facilities Division. There were four positions in that bargaining unit. Two positions, one of which is vacant, were placed in the Engineering & Architectural Services Section. Two positions were placed in the Commerce Construction Compliance Inspectors Section. The Facilities Supervisory bargaining unit was described as follows:

All construction and maintenance superintendents of Washington State Department of General Administration in Engineering and Architectural Services, excluding supervisors, confidential employees, and WMS employees.

State – General Administration, Decision 9542 (PSRA, 2007).

Finally, a portion of a bargaining unit from Information Services is located in the Management Services Section of the Facilities Division. That bargaining unit was described as follows:

All non-supervisory civil service employees of the Washington State Department of Information Services covered under Chapter 41.80 RCW, excluding supervisors, confidential employees, WMS employees, and employees in pre-existing bargaining units.

State – Information Services, Decision 8629 (PSRA, 2004).

WFSE's petition seeks a bargaining unit consisting of all the non-supervisory employees in the Facilities Division described as follows:

All employees covered by RCW 41.06 and RCW 41.80 in the Facilities Division of the Department of Enterprise Services, excluding confidential employees, WMS employees, Internal Auditors, and Supervisory employees.

The proposed description encompasses the non-supervisory employees in the Facilities Division who were represented by WFSE when these employees were at General Administration. Currently, there are 182 represented non-supervisory employees located in the Facilities Division. WFSE's proposed description would add or accrete 92 unrepresented non-supervisory employees to the bargaining unit without the need of an election.

The employer proposes that the Facilities Non-Supervisory bargaining unit should be modified to include the previously represented non-supervisory employees in the Custodial & Refuse/Recycle Section, the North Cascades Gateway Center in the Property Management Section, the Buildings & Grounds Section except for the Work Management Services work group, the Building Automation Section except for the Building Automation work group, and the Management Services Section. The employer also proposes excluding the unrepresented employees in the Building Automation work group in the Building Automation Section from the Facilities Non-Supervisory bargaining unit. The employer's petition would accrete three unrepresented positions in the Buildings & Grounds Section to the bargaining unit.

WFSE's supervisory petition seeks a bargaining unit consisting of all the supervisory employees in the Facilities Division described as follows:

All Supervisory employees covered by RCW 41.06 and RCW 41.80 in the Facilities Division of the Department of Enterprise Services, excluding confidential employees, WMS employees, and Internal Auditors.

The proposed description encompasses the supervisory employees in the Facilities Division who were represented by WFSE when these employees were at General Administration. Currently,

there are 19 represented supervisory employees located in the Facilities Division. WFSE's proposed description would add or accrete 10 unrepresented supervisory employees to the bargaining unit without the need of an election.

The employer proposes the Facilities Supervisory bargaining unit be modified to include the previously represented supervisory employees in the Custodial & Refuse/Recycle, Buildings & Grounds, and Building Automation sections. The unrepresented supervisory employees in the Supply Management Services work group in the Buildings & Grounds Section would be added to the proposed bargaining unit without the need of an election. No other supervisory positions would be added to the bargaining unit under the employer's proposal, and no supervisory positions would be removed through the employer's petition.

Finally, the employer contends that the Construction and Maintenance Superintendents bargaining unit is no longer an appropriate unit as placed within the Facilities Division. The employer proposes that the represented employees be removed from the Construction and Maintenance Superintendents bargaining unit and that all of the employees in the Engineering & Architectural Services Section be unrepresented. The employer's petition does not speak to the two employees included in the Commerce Construction Compliance Inspectors Section.

ISSUES PRESENTED

1. Are the Facilities Non-Supervisory, Facilities Supervisory, Construction Compliance Inspectors, and Information Services bargaining units appropriate bargaining units under RCW 41.80.070?
2. If any of the bargaining units are deemed inappropriate, how should the bargaining units be modified to make them appropriate under RCW 41.80.070?

None of the existing bargaining units located in the Facilities Division remain appropriate under RCW 41.80.070 because no bargaining unit was placed within the Enterprise Services organizational structure as a distinct, identifiable group. The evidence demonstrates that the

employees in the bargaining units located within the Facilities Division have been commingled with employees who are not represented for purposes of collective bargaining.

Because none of the bargaining units transferred to the Facilities Division are appropriate, the bargaining units must be modified to make them appropriate. The employees in the Facilities Division can be divided into two identifiable categories of job types: those employees who are tasked with the actual physical upkeep of state owned facilities and grounds and those employees who are charged with acquiring, planning, and managing state owned facilities.

Facilities Maintenance & Operations Non-Supervisory Bargaining Unit –

The employees in the Facilities Non-Supervisory bargaining unit located in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, Commerce Construction Compliance Inspectors, and Management Services sections are employees who are responsible for performing the maintenance and operation of state owned facilities. The employees in the Property Management Section except for the employees in the Facilities Senior Planner job class also meet this definition. All of these non-supervisory employees constitute an appropriate bargaining unit under RCW 41.80.070.

The employees that were included in the Facilities Non-Supervisory bargaining unit at General Administration are all located within these sections and groups. The Facilities Non-Supervisory bargaining unit, which will now be known as the Facilities Maintenance & Operations Non-Supervisory bargaining unit, is modified to include the unrepresented positions in these sections. The unrepresented non-supervisory employees in the aforementioned sections are added or accreted to the non-supervisory bargaining unit without the need of an election. The employees in the Information Services bargaining unit located in the Management Services Section are removed from that unit and added to the Facilities Maintenance & Operations Non-Supervisory bargaining unit. The employees in the Construction and Maintenance Superintendents bargaining unit located in the Commerce Construction Compliance Inspectors Section are removed from that unit and added to the employees in the Facilities Maintenance & Operations Non-Supervisory bargaining unit.

Facilities Maintenance & Operations Supervisory Bargaining Unit –

The employees in the Facilities Supervisors bargaining are located in the Custodial & Refuse/Recycle, Buildings & Grounds, and Building Automation sections. All of the supervisory employees in these sections are maintenance and operations employees and constitute an appropriate bargaining unit under RCW 41.80.070. The Facilities Supervisory bargaining unit, which will now be known as the Facilities Maintenance & Operations Supervisory bargaining unit, is modified to include the unrepresented positions in these sections. The unrepresented non-supervisory employees in the aforementioned sections are accreted to the non-supervisory bargaining unit without the need of an election.

Facilities Professional Non-Supervisory Bargaining Unit –

The employees in the Construction & Maintenance Superintendents bargaining unit located in the Engineering & Architectural Services Section have been commingled with non-supervisory employees in that section. The non-supervisory employees in the Engineering & Architectural Services and Real Estate Services sections, as well as the Facilities Senior Planners in the Property Management Section share a community of interest. These employees in these sections are responsible for the design and planning of state owned facilities and share a community of interest and constitute a bargaining unit. Although WFSE represents two positions in the Engineering & Architectural Services Section, it does not represent a majority of the positions in the division. The Construction & Maintenance Superintendents bargaining unit, which will now be known as the Professional Non-Supervisory bargaining unit, is modified to include the unrepresented positions in the aforementioned sections and group. An election is directed to determine the representational status of a bargaining unit comprised of these employees.

Facilities Professional Supervisory Bargaining Unit –

Certain employees in the Engineering & Architectural Services and Real Estate Services sections are supervisory employees. These professional employees share their own community of interest that is separate and apart from the supervisory employees in the Facilities Maintenance & Operations Supervisory bargaining unit and constitute an appropriate bargaining unit. However, because none of the employees in these sections were represented in a bargaining unit prior to their transfer to Enterprise Services, these employees shall remain unrepresented.

Administrative Employees –

Finally, the administrative employees in the Administrative Assistant, Secretary, and Office Assistant job classes performing administrative duties in furtherance of the division's mission share a community of interest with the other administrative employees within Enterprise Services and shall be included in a bargaining unit with those employees.

DISCUSSIONApplicable Legal Standard

ESSB 5931 sets forth the scope and manner of review in this case. In creating, consolidating, and abolishing agencies through this legislation, the Legislature addressed the labor relations impact to the affected employees. ESSB 5931 provides that the affected employees will not automatically experience an alteration or loss of existing collective bargaining rights or relationships upon transfer to Enterprise Services. RCW 43.19.900(7) and RCW 43.19.902(7) discuss the transfer of employees from Information Services and General Administration to Enterprise Services, and state:

(7) Unless or until modified by the public employment relations commission pursuant to RCW 41.80.911 of this act:

(a) The portions of the bargaining units of employees at the department of general administration (information services) existing on the effective date of this section shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall continue as the exclusive bargaining representative of the transferred bargaining units without the necessity of an election.

The Legislature further recognized that the transfer and resulting consolidation may impact any community of interest and render existing bargaining units, or portions thereof, inappropriate. RCW 41.80.911 grants this agency the authority to review any bargaining unit transferred to Enterprise Services in order to ensure that the unit remains appropriate under the standards set forth in RCW 41.80.070. RCW 41.80.911 provides as follows:

(1) By January 1, 2012, the public employment relations commission may review the appropriateness of the collective bargaining units transferred under RCW 43.19.900, 43.19.901, 43.19.902, 43.330.910, and 43.41A.900. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section.

(2) If the commission determines that an existing collective bargaining unit is appropriate pursuant to RCW 41.80.070, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If the commission determines that existing collective bargaining units are not appropriate, the commission may modify the units and order an election pursuant to RCW 41.80.080. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

(4) The commission may require an election pursuant to RCW 41.80.080 if similarly situated employees are represented by more than one employee organization. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

This section provides two ways for this agency to review the appropriateness of any transferred bargaining unit. By January 1, 2012, this agency could, on its own initiative, review the appropriateness of any transferred bargaining unit. Alternatively, both the employer and the certified bargaining representative may petition this agency to review the appropriateness of any transferred bargaining unit. No time limit is placed on this type of review. This specific grant of authority mirrors in many respects the authority generally granted to this agency to determine and modify bargaining units and certify the exclusive bargaining representative of appropriate bargaining units. RCW 41.80.070; *Central Washington University*, Decision 10215-B (PSRA, 2010).

Any review under RCW 41.80.911 utilizes the unit determination standards set forth in RCW 41.80.070. RCW 41.80.070 directs this Commission to examine and consider the duties, skills, and working conditions of the employees, the history of collective bargaining, the extent of organization among the employees, the desires of employees, and the avoidance of excessive fragmentation. None of the statutory criteria predominates to the exclusion of others, but have varying weight, depending on the factual settings of each particular case. *Central Washington University*, Decision 10215-B, citing *City of Centralia*, Decision 2940 (PECB, 1988).

If this agency determines that an existing bargaining unit is appropriate, then the exclusive bargaining representative that was certified as of January 1, 2012, shall continue without requiring an election. If this agency determines that an existing bargaining unit is inappropriate, then the Commission “may modify the bargaining unit and order an election pursuant to RCW 41.80.080.” In that instance, the certified bargaining representative will not be required to demonstrate a showing of interest to be included on the ballot. RCW 41.80.911.

This broad grant of authority to this agency to modify bargaining units in order to make them appropriate also generally mirrors the authority granted to this agency to modify bargaining units under RCW 41.80.070. *Eastern Washington University*, Decision 9950-A (PSRA, 2008). The one difference is the specific grant of authority to conduct a representation election without a showing of interest. Commission precedent generally precludes any unit clarification if the number of employees sought to be included in the unit equals or exceeds the number of employees that are currently in the unit. *See, e.g., City of Vancouver*, Decision 9469 (PECB, 2006) (petition to accrete 200 unrepresented positions into existing bargaining unit of 164 positions was dismissed because the proposed accretion would raise a question concerning representation).

The language in RCW 41.80.911 granting the Commission the authority to order an election without requiring a showing of interest by the employees reflects that the reorganization at issue was imposed by the Legislature, rather than by the employer. Thus, the Legislature did not want the affected employees to automatically suffer a detriment to their collective bargaining rights or existing collective bargaining relationships because of the transfer. Rather, there appears to be a preference to allow the employees to exercise their right of self-determination. Additionally, the Legislature did not want to hamper the newly created agency’s ability to organize its operations in such a manner as to meet the purpose of the consolidation itself.

Application of Standard – Transferred Bargaining Units

The starting point for the analysis is the transferred bargaining units. Under ESSB 5931, if a bargaining unit that transferred to Enterprise Services continues to be appropriate under RCW 41.80.070, then that bargaining unit shall continue to be an appropriate bargaining unit at Enterprise Services. A bargaining unit continues to be appropriate if it can be placed into the

Enterprise Services organizational structure without the addition of any employees previously excluded from the bargaining unit, or the subtraction of employees that were previously included in the bargaining unit.

The Facilities Non-Supervisory and Supervisory bargaining units are no longer appropriate under RCW 41.80.070. Prior to the creation of Enterprise Services, the Facilities Non-Supervisory bargaining unit contained approximately 182 employees and the Facilities Supervisory bargaining unit contained 19 employees, all of whom were in the Capitol Facilities Division at General Administration. The fact that members of both bargaining units were employees of the Capitol Facilities Division established the community of interest of those units. Following the enactment of ESSB 5931, the employees in the Facilities Non-Supervisory and Supervisory bargaining units were placed in the Facilities Division at Enterprise Services and commingled with employees who are not represented for purposes of collective bargaining. Since the Facilities Non-Supervisory and Supervisory bargaining units are no longer appropriate, the Commission has the authority to modify the existing units.

The Information Services bargaining unit is also no longer appropriate under RCW 41.80.070. Prior to the creation of Enterprise Services, the Information Services bargaining unit contained approximately 300 employees in a wall-to-wall bargaining unit that encompassed all of the non-supervisory employees of the agency. The fact that all of the bargaining unit's employees were employees of the Department of Information Services established the community of interest of that unit. Following the enactment of ESSB 5931, the employees in the Information Services bargaining unit were dispersed between two different agencies: Enterprise Services and Consolidated Technology Services. Further, the employees assigned to Enterprise Services were dispersed throughout that agency. Applying the "extent of organization" criteria of RCW 41.80.070 requires consideration of the group sought by the union as against the balance of the employer's workforce. *City of Centralia*, Decision 2940.

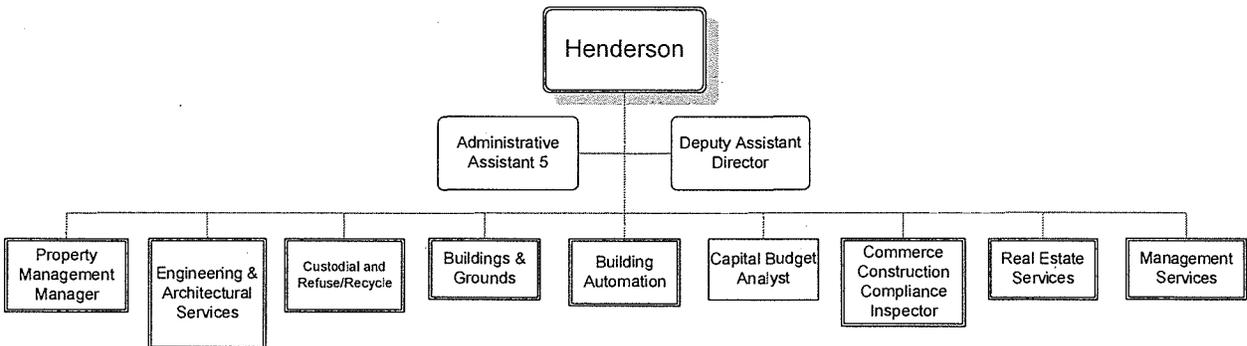
It is clear that the remaining Information Services bargaining unit at Enterprise Services has no community of interest. Excessive fragmentation and work jurisdiction issues would occur with such a unit. Neither the union nor the employer asserts that the remaining Information Services

bargaining unit remains appropriate. Since the Information Services bargaining unit is no longer appropriate, the Commission has the authority to modify the existing unit.

Finally, the Construction and Maintenance Superintendents bargaining unit is no longer appropriate. Prior to the creation of Enterprise Services, the Construction and Maintenance Superintendents bargaining unit contained four positions defined by both division and job class, which established the employees’ community of interest. Following the enactment of ESSB 5931, two of the employees in the Construction and Maintenance Superintendents bargaining unit were placed in the Engineering & Architectural Services Section and commingled with non-represented employees and the employees in the bargaining unit lost the singular identity that they enjoyed at General Administration. The other two employees were placed in the Commerce Construction Compliance Inspectors Section. Since the Construction and Maintenance Superintendents bargaining unit is no longer appropriate, the Commission has the authority to modify the existing unit.

Application of Standards – Modified Bargaining Unit

The Facilities Division provides stewardship and maintenance of state owned buildings and resources. The Facilities Division also manages the State’s real estate services, transactions of third party leases and assists in the preparation and design of workspaces leased by state agencies. Those sections are structured as follows:



The various sections within the Facilities Division perform the following duties:

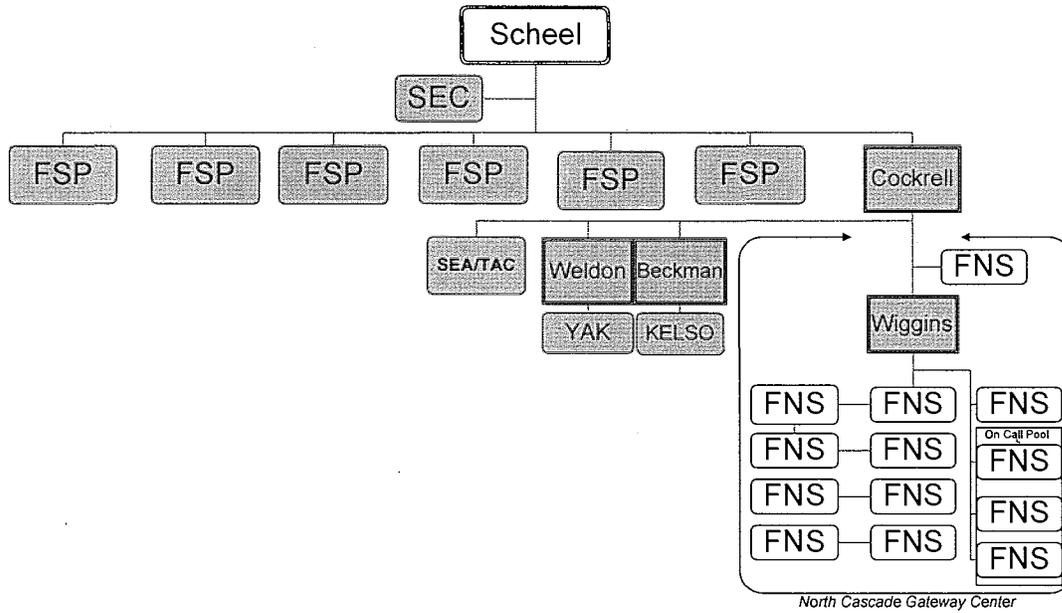
Property Management Section –

The Property or Asset Management Section is responsible for the management of the physical and financial condition of properties and facilities that are owned by Enterprise Services. The properties that Enterprise Services owns and manages are in Thurston County, Kelso, Seattle, Tacoma, Yakima, and the North Cascades. Bonnie Scheel oversees the section. One employee in the Secretary job class reports directly to Scheel.

The Property Management Section can be divided into two groups. The first group contains employees in the Facilities Senior Planner job class. The Facilities Senior Planners are assigned a portfolio of state owned facilities. Each employee is responsible for monitoring and scheduling maintenance of assigned buildings and ensuring that the maintenance is completed. The Facilities Senior Planners are also responsible for developing and negotiating leases for the tenant agencies that utilize state owned properties. The Facilities Senior Planners are also the liaison between the tenant agencies and Enterprise Services' executive management to ensure the long-term financial and physical well being of the facility. For example, the Facilities Senior Planners are responsible for the leases for those state agencies occupying the General Administration building on the Capitol Campus. One Facilities Senior Planner, Nick Cockrell, performs the same tasks as the other Facilities Senior Planners except that he manages the Enterprise Services owned facilities located outside of Thurston County.

The second group of employees in the Property Management Section maintains the Enterprise Services owned facilities in Kelso, Seattle, Tacoma, and Yakima, as well as the North Cascades Gateway Center. These employees are the permanent maintenance and operations staff who perform the necessary maintenance for each facility at the above-listed locations. John Wiggins is assigned to the North Cascades Gateway Center and oversees a staff of 13. John Weldon is assigned to the Yakima facility and has one employee who reports to him. James Beckman oversees the Kelso facility and one employee reports to him. Rick Thomas is assigned to the Seattle and Tacoma facilities and does not have any staff that reports to him.

The Property Management Section is structured as follows:



The positions marked “FNS” were included in the Facilities Non-Supervisory bargaining unit upon transfer from General Administration. Those employees work at the North Cascades Gateway Center. Positions that are marked “FSP” and shaded grey are the Facilities Senior Planners that WFSE seeks to include in its proposed division-wide non-supervisory bargaining unit. Other positions that WFSE seeks to include in its division-wide bargaining unit are the position marked “SEA/TAC” which is Thomas’ position, the position marked “YAK” which performs maintenance at the Yakima facility and reports to Weldon, and the position marked “KELSO” which performs maintenance at the Kelso facility and reports to Beckman. WFSE also seeks to include the positions occupied by Cockrell, Weldon, Beckman, and Wiggins in its proposed division-wide supervisory bargaining unit without the need of an election.

The employer’s petition would include only the currently represented positions marked “FNS” in its proposed non-supervisory bargaining unit. Those positions work at the North Cascades Gateway Center and were included in the Facilities Non-Supervisory bargaining unit at General Administration. The employer proposed that all other employees in the section remain unrepresented.

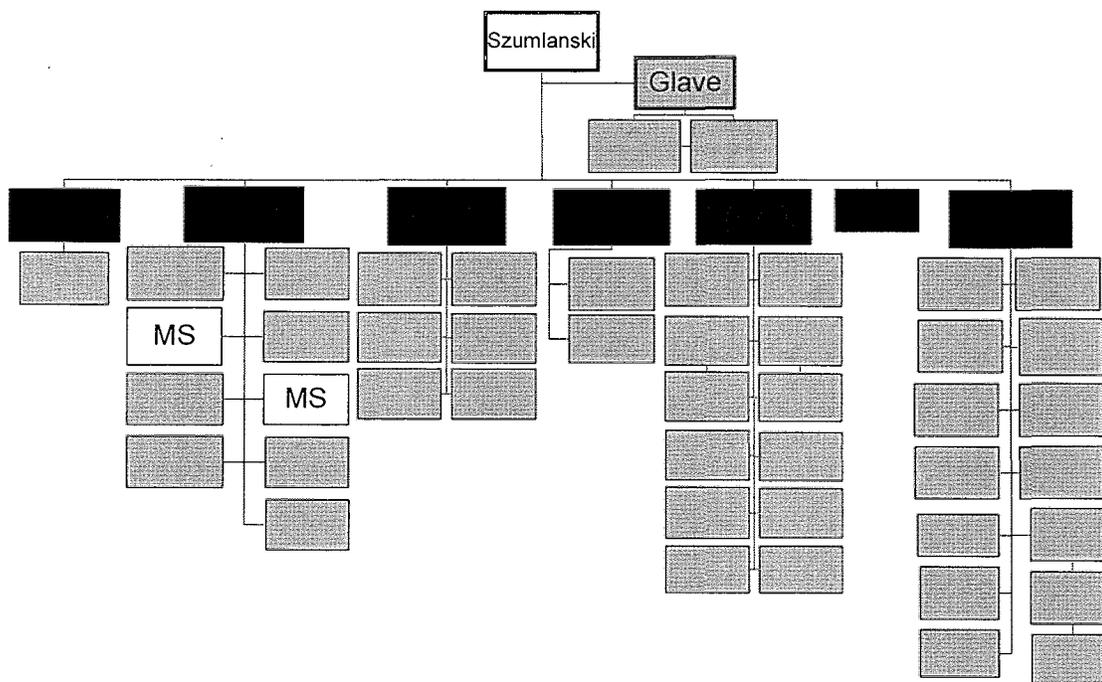
Engineering & Architectural Services Section –

The Engineering & Architectural Services Section designs and manages construction projects for state owned buildings and manages energy performance contract projects. The section also assists its clients in the development of the scope, schedule, and budget for each project, as well as the procurement of the design services for those projects. The design work itself is performed by private sector architects and engineers. The employees in the section oversee the design and architectural work to ensure that contractors are meeting the specifications of each project. Assistant Director Paul Szumlanski manages this section. Terrie Glave, an Administrative Assistant 4, oversees two administrative employees who provide administrative support to Szumlanski.

The staff of the Engineering & Architectural Services Section is divided into different teams that are assigned to work on agency-specific projects. Each team is managed by an employee who is a member of the Washington Management Service. Two teams manage capital projects for state owned facilities in specific regions. Another team manages projects specifically for the Department of Corrections and is co-located with that agency. A fourth team oversees projects for the Department of Social and Health Services. The employees that work in these teams are in the Architect, Construction and Maintenance Superintendent, Construction Project Coordinator, Electrical Engineer, Mechanical Engineer, Civil Engineer, Environmental Engineer, and Construction Project Coordinator job classes.

A fifth team of employees in the section is assigned to the Energy Program. That program examines all capital projects performed by state as well as local government clients to find energy efficiencies and savings within those projects. The employees in this work group are in the Energy Utilities Engineer job class. A sixth team of employees forms the Contracts team. This team ensures that the specification for projects overseen by the section are captured in the proper legal form. The employees in the Contracts team are in the Contracts Specialist job class.

The section is structured as follows:



The positions marked “MS” were included in the Construction and Maintenance Superintendents bargaining unit upon transfer from General Administration. Positions that are blacked out are positions that are either members of the Washington Management Service or exempt from Chapter 41.06 RCW and therefore precluded from exercising collective bargaining rights. Positions that are grey are unrepresented positions that WFSE seeks to add or accrete to its proposed division-wide bargaining unit without the need of an election. WFSE seeks to include the position occupied by Glave in its proposed division-wide supervisory bargaining unit without the need of an election.

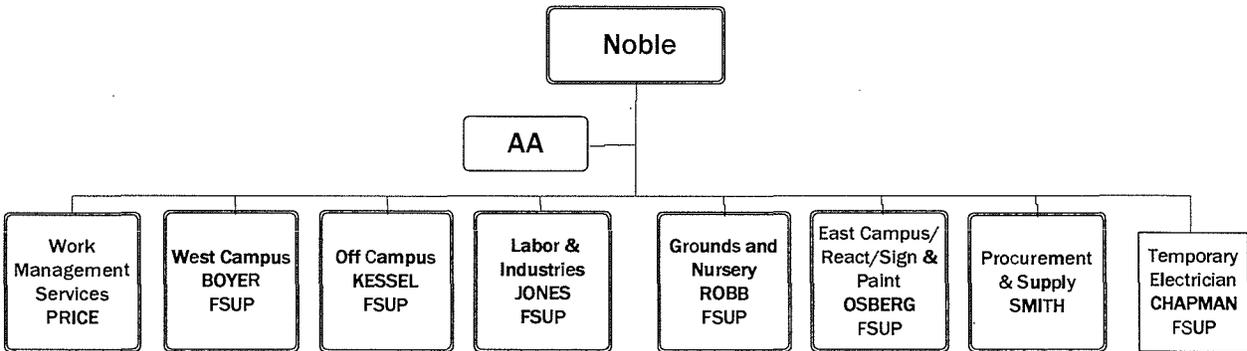
The employer proposes that the positions included from the Construction and Maintenance Superintendents bargaining unit be removed from that unit and all of the employees in the Engineering & Architectural Services Section be unrepresented.

Custodial & Refuse/Recycle Section –

The Facilities Support or Custodial & Refuse/Recycle Section provides custodial and refuse/recycle services for state owned buildings. All of the employees are in the Custodian or

electrical or structural work. Additionally, other agencies contract with the work group to provide maintenance on their buildings. Ron Noble supervises the Buildings & Grounds Section. Searetha Kelly, an Administrative Assistant 4, provides administrative support for the section.

The Buildings & Grounds Section is divided into groups based upon the work or the specific geographic locations of the facilities. Eight other employees oversee their own work groups and report directly to Noble: Deanna Price oversees the Work Management Center and Parking group; Dave Boyer oversees the team of employees responsible for the buildings on the West Capitol Campus work group; Larry Kessel oversees the Off Capitol Campus Buildings work group; Steve Jones oversees the Labor & Industries facilities work group; Mark Robb oversees the Grounds and Nursery work group; Rick Osberg oversees the East Capitol Campus work group, and Charles Smith oversees the Supply Management work group. Richard Chapman is a temporary electrician who does not have any employees reporting to him. The organizational structure of the leadership portion of the Buildings & Grounds Section is as follows:



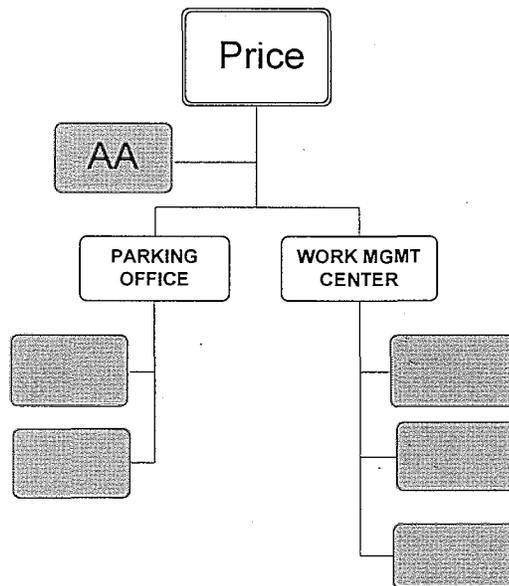
Deanna Price in the Work Management Services group and Charles Smith in the Supply Management Services group are unrepresented. Boyer, Kessel, Jones, Robb, Osberg, and Chapman are currently included in the Facilities Supervisory bargaining unit and marked “FSUP.” WFSE seeks to include Nobel, Price and Smith’s positions in its proposed supervisory bargaining unit without the need of an election. The employer’s petition would include Smith, but not Nobel and Price, in its proposed supervisory bargaining unit. According to the employer, Smith shares a community of interest with the other supervisory employees, while Price does not.

The duties of the eight groups within the Building & Grounds Section are as follows:

- *Work Management Center and Parking Office Work Group –*

The Work Management Center and Parking Office work group is included in the Buildings & Grounds Section. The Work Management Center is responsible for processing maintenance requests from tenants of state owned facilities. When a request for services is received by the Work Management Center, the employees process the request and dispatch skilled maintenance employees to make the necessary repairs. The Parking Office oversees the parking on the Capitol Campus, including assigning permanent parking stalls, submitting payroll deductions for employees who pay for parking, and scheduling maintenance and painting for parking stalls.

The structure of the Work Management work group is as follows:



The positions shaded in grey are positions that WFSE seeks to accrete to its proposed division-wide non-supervisory bargaining unit without the need of an election. WFSE also seeks to include Price’s position in its proposed division-wide supervisory bargaining unit. The employer requests that all of the positions in the work group remain unrepresented.

- *West Campus, Off Campus, Labor & Industries, and East Campus Work Groups –*

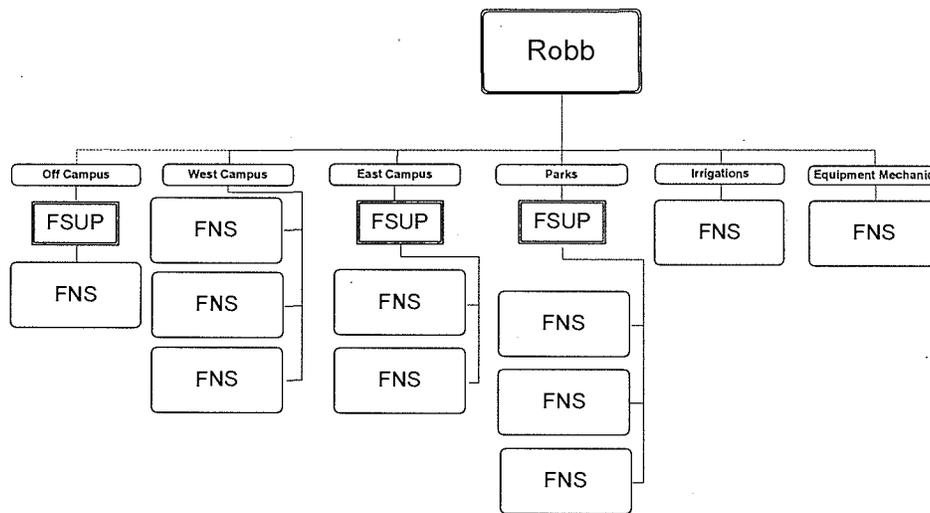
The West Campus, Off Campus, Labor & Industries, and East Campus work groups are responsible for performing the maintenance projects of state owned buildings in their various locations. Each work group consists of specialized maintenance and operations employees. Each work group has at least one electrician, HVAC specialist, Carpenter, and Grounds employee. The West Campus work crew is responsible for the West Capitol Campus facilities. The Labor & Industries work crew is responsible for the Labor & Industries building which is located in Tumwater. The East Campus work crew maintains the East Capitol Campus facilities. The East Campus work crew also contains a group of painters who work at all work locations. The groups are organized as follows:

		-----Maintenance Operations-----			-----Campus Support-----	
		Zone 1 West Dave Boyer	Zone 2 East/React/Sign & Paint Rick Osberg	Zone 3 Off Campus Larry Kessel	Zone 4 L&I Steve Jones	Grounds Mark Robb
Electrician Group	FNS	FNS	FNS FNS FNS	FNS	FNS	
	FNS		FNS FNS FNS			
HVAC Group	FNS	FNS	FNS FNS	FNS	FNS	
	FNS		FNS FNS	FNS	FNS	
Carpenter Group	FNS		FNS FNS	FNS	FNS	
	FNS		FNS FNS FNS			
Grounds Group	FNS	FNS	FNS FNS	FNS FNS	FNS	FNS
	FNS		FNS	FNS FNS	FNS	FNS
Environmental Sign & Paint Group			FNS FNS			
			FNS FNS			
			FNS FNS			

The positions marked “FNS” were included in the Facilities Non-Supervisory bargaining unit. Both WFSE and the employer would include these positions in their proposed non-supervisory bargaining units. The parties would also include Boyer, Osberg, Kessel, Jones, and Robb’s positions in their proposed supervisory bargaining units.

- *Grounds and Nursery Work Group –*

The Grounds and Nursery work group is responsible for landscaping and maintaining the grounds of state owned facilities in Thurston County. Most of the employees are assigned to work specific locations. One employee is responsible for maintaining the irrigation systems for all locations on the Capitol Campus, and one employees maintains the group’s equipment. Robb oversees the workgroup, which is structured as follows:

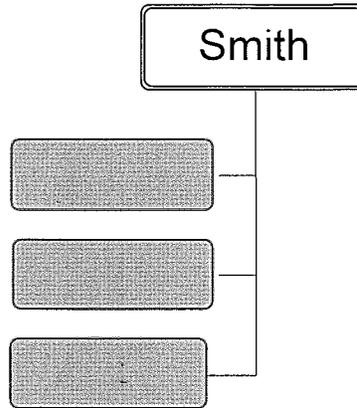


The positions marked “FNS” were included in the Facilities Non-Supervisory bargaining unit. Position marked “FSUP” were included in the Facilities Supervisory bargaining unit. Both WFSE and the employer would include the positions marked FNS in their proposed non-supervisory bargaining units. The parties would also include Robb’s position in each of their proposed supervisory bargaining units.

- *Supply Management Services Work Group –*

The Supply Management Services work group provides support for the Buildings & Grounds, Building Automation, and Custodial & Refuse/Recycle sections. The Supply Management Services work group procures material and services, and stores and delivers supplies to the Buildings & Grounds Section as needed. The section also restocks and inventories the emergency management supplies and equipment, including all the communications devices for the section. The group is responsible for the servicing and upkeep of the Buildings & Grounds

vehicle fleet. Finally, the group interacts on a daily basis with personnel from the Buildings & Grounds Section, other parts of Enterprise Services, other state agencies, and the local vendor community to identify the correct material, equipment, and supplies at the best competitive pricing to support Buildings & Grounds. Smith oversees the work group, which is structured as follows:



The positions shaded in grey are positions that WFSE seeks to accrete to its proposed division-wide non-supervisory bargaining unit without the need of an election. WFSE also seeks to include Smith’s position in its proposed division-wide supervisory bargaining unit. The employer proposes including the non-supervisory employees in the Supply Management Services work group in its proposed non-supervisory bargaining unit, and that Smith should be included in the employer’s proposed supervisory bargaining unit.

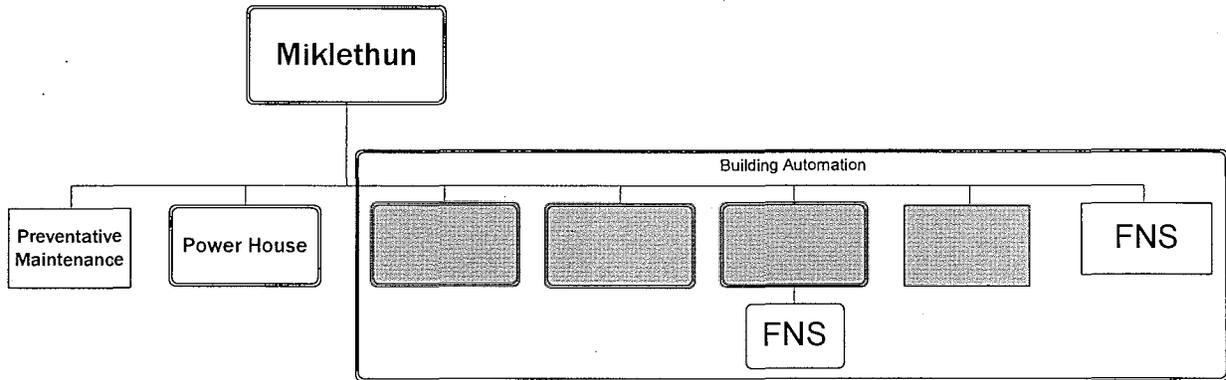
Building Automation Section –

The Building Automation Section is responsible for maintaining the HVAC and fire alarm systems at Enterprise Services owned facilities and for operating the Power House on the Capitol Campus. Rick Miklethun supervises the Building Automation Section. The Building Automation Section is divided into three groups: Building Automation, Preventative Maintenance, and Power House.

- *Building Automation Work Group –*

The Building Automation work group is responsible for monitoring and maintaining the HVAC and fire alarm systems at Enterprise Services owned facilities. In the event that an HVAC or fire alarm system needs repair or replacement, the members of the team will work with vendors to

ensure that the systems are meeting the State’s needs. At the time the petitions were filed, one employee in the maintenance mechanic job class reported to the Telemetry Specialist in the Building Automation work group. The Building Automation Section and Building Automation work group are structured as follows:



The positions marked “FNS” were included in the Facilities Non-Supervisory bargaining unit. Positions that are shaded grey are unrepresented positions that WFSE seeks to accrete to its proposed division-wide non-supervisory bargaining unit without the need of an election. WFSE also seeks to include Miklethun’s position in its proposed division-wide supervisory bargaining unit. The employer proposes that the unrepresented employees in the Building Automation work group be excluded from the non-supervisory bargaining unit. The employer also proposed that Miklethun remain unrepresented.

- *Preventative Maintenance Work Group –*

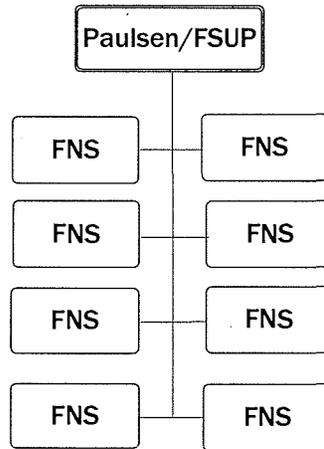
Anthony Seward, a Construction Maintenance Superintendent 3, oversees the Preventative Maintenance program in the Building Automation Section. Seward reports to Miklethun. Seward’s duties include monitoring certain fire alarm systems. When the parties’ petitions were filed, Seward was the only employee in this work group. For functional purposes, Seward has been placed in the Building Automation Section and assigned his own work group.

At the hearing, the testimony demonstrated that the employer intended to move two positions in the Building Automation work group, the Fire Program Telemetry Specialist, and the Fire Program

Sprinkler Technician to Seward’s supervision.³ Seward’s position was included in the Facilities Supervisory bargaining unit.

• *Power House Work Group –*

The Building Automation Section is also responsible for maintaining the Power House that provides chilled and hot water to the Capitol Campus. Pat Paulsen, a Construction Maintenance Superintendent 3, oversees the Power House and supervises eight employees who are included in the non-supervisory bargaining unit. The employees in this work group monitor the Power House on a constant basis and are in the Stat Engineer and Maintenance Mechanic job classes. That work group is structured as follows:



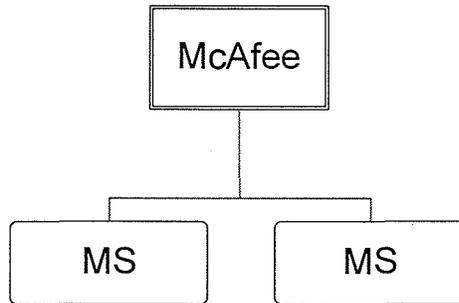
The positions marked “FNS” were included in the Facilities Non-Supervisory bargaining unit. Paulsen’s position was included in the Facilities Supervisory bargaining unit.

Commerce Construction Compliance Inspectors Section –

The Commerce Construction Compliance Inspectors Section is a special temporary section of employees that are overseeing the Weatherization Project at the Department of Commerce. The employees involved with the project are currently located with the Department of Commerce until the project is completed. Once completed, the employer intends to move these employees to the Buildings & Grounds Section. At the time of the reorganization that created Enterprise Services,

³ These proposed changes do not affect the outcome of these decisions.

two non-supervisory employees in the work group were included in WFSE’s Construction and Maintenance Superintendents bargaining unit. Carey McAfee supervised this unit at one time but he has since left this position. The employer has no plan to fill the supervisory position. The Section is structured as follows:



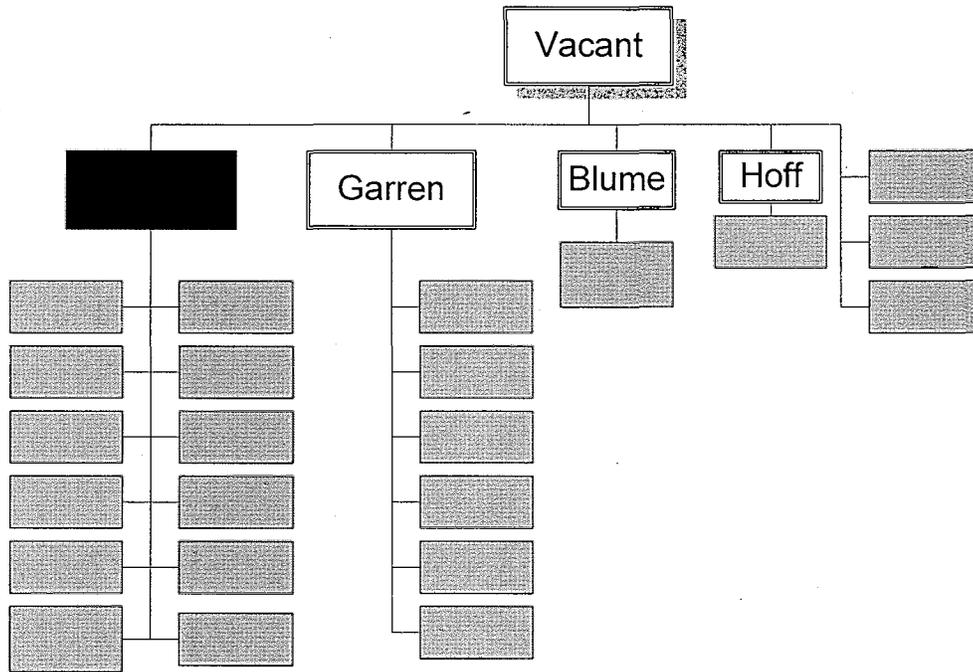
The positions marked “MS” were included in the Construction and Maintenance Superintendents bargaining unit. WFSE seeks to include these positions in its proposed division-wide bargaining unit. WFSE also seeks to include McAfee’s position in its proposed division-wide supervisory bargaining unit.

The employer’s petitions do not comment on the unit placement of any of these positions.

Real Estate Services Section –

The Real Estate Services section acts on behalf of client agencies to lease facilities for the client’s use and to assist in the design of the client’s workspace. The Real Estate Services Section is divided into work groups that work with client agencies in specific regions. Employees in the Property and Acquisition Specialist and Contracts Specialist job classes are leasing specialists who negotiate and manage leases. Employees in the Facilities Senior Planner job class assist clients in locating and designing leased office space to best serve the client’s needs. Julie Blume oversees the Property and Acquisition Specialists. The section also employs positions in the Architect job class who design the internal structure of the new location and manage the construction project of the new facility. James Garren is the acting manager of the section and continues to oversee the work group of Architects. Finally, Kathleen Hoff, an Administrative Assistant 4, oversees one temporary contracts specialist and supports the mission of the section.

The Real Estate Services Section is structured as follows:



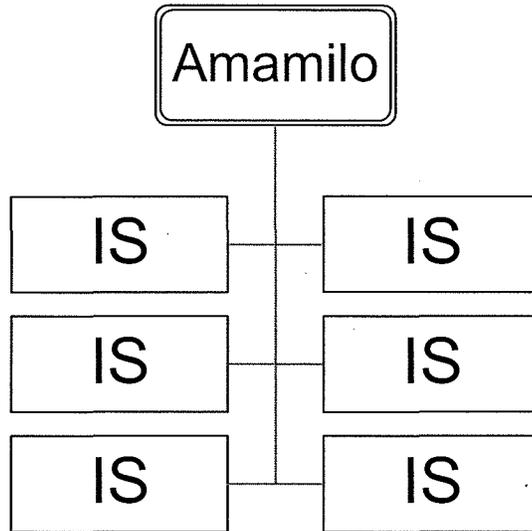
The positions that are shaded in grey are unrepresented positions that WFSE seeks to add to its proposed division-wide non-supervisory bargaining unit without the need of an election. WFSE seeks to add Garren, Blume, and Hoff to its proposed division-wide supervisory bargaining unit without the need of an election. Positions that are blacked out are positions that are either members of the Washington Management Service or exempt from Chapter 41.06 RCW and therefore precluded from exercising collective bargaining rights.

The employer requests that all of the non-supervisory and supervisory employees in the Real Estate Services Section be unrepresented.

Management Services Section –

The Management Services Section provides support for the Enterprise Services headquarters. The section receives materials, provides limited space planning and supports moves within the headquarters. The section also manages the employer’s copy rooms and ensures that those rooms are maintained and properly stocked. The employees in the section are in the Maintenance

Mechanic, Truck Diver, Warehouse Operator, Facilities Coordinator, and Facilities Planner job classes. Ruben Amamilo oversees the section. The Management Services Section is structured as follows:



The positions marked “IS” were included in the Information Services bargaining unit. Amamilo was previously unrepresented. WFSE seeks to include the positions marked “IS” in its proposed division-wide non-supervisory bargaining unit. WFSE seeks to include Amamilo’s position in its proposed division-wide supervisory bargaining unit.

The employer proposed to include the positions marked “IS” in its proposed non-supervisory bargaining unit. The employer also proposed to include Amamilo’s position in its proposed supervisory bargaining unit.

The Appropriate Bargaining Unit

In determining the appropriate bargaining unit, RCW 41.80.070 directs the Commission to examine the following: the duties, skills, and working conditions of the employer; the history of collective bargaining; the extent of organization among the employees; the desires of the employees, and the avoidance of excessive fragmentation. The application of those criteria demonstrates that both represented and unrepresented employees within the division share a common supervision structure and working conditions. However, while the duties of the

employees in the Facilities Division may facially appear similar, i.e., the acquisitions, planning and maintenance of state owned and leased buildings, the actual duties and functions of the employees are for the most part isolated and there is no true continuum of functions throughout the division.

Ordinarily, employees are permitted a voice in the selection of an exclusive bargaining representative. RCW 41.56.040, 41.56.060 and RCW 41.80.050, 41.80.070. The “accretion” or addition of employees or positions to an existing bargaining unit is an exception to the statutory general rule of employee free choice. *City of Auburn*, Decision 4880-A (PECB, 1995). *Id.* An accretion will be allowed only where changed circumstances lead to employees or positions that logically belong in only one particular existing bargaining unit. In that instance, the affected employees are placed into the only appropriate unit by order without giving those employees a choice in the matter. *Seattle School District*, Decision 9868. Accretion will be denied if the employees or positions could stand on their own as a separate bargaining unit or could be claimed by any other bargaining unit. *City of Auburn*, Decision 4880-A.

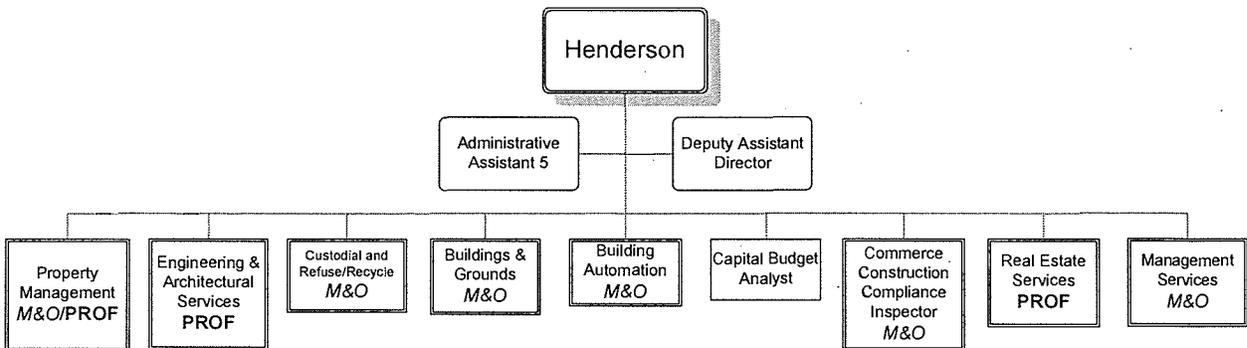
Accretions will also be denied where the addition of employees would create doubt as to the ongoing majority status of the incumbent bargaining representative. *See* WAC 391-35-030(5)(c). When determining whether a group of employees can stand on their own, the analysis begins with an examination of the community of interest of the similarly situated employees. This is particularly true for bargaining units comprised of mixed job classes. If a majority of similarly situated employees are unrepresented, accreting the unrepresented employees to the larger bargaining unit is not appropriate.

In *State – Enterprise Services (Information Technology)*, Decision 11663 (PSRA, 2013), the employees in the Technology Solutions Division worked in several different functions, including acquiring computer software, designing computer infrastructures, and programming computer applications. The employees shared a community of interest because the evidence demonstrated that they worked side-by-side in a team setting across the continuum of functions needed to support the mission of the division. For the Facilities Division, no such continuum of functions exists. For example, no evidence suggests that the employees in the Real Estate Services Section

work side-by-side with other employees in the Facilities Division in a team setting or that the employees in any section or the division interact on a regular basis. Rather, the evidence demonstrates that each section within the Facilities Division works mostly in isolation, and no one section is dependent on another to perform their daily tasks. While the Facilities Senior Planners in the Property Management Section and the Construction and Maintenance Superintendents in the Engineering & Architectural Section utilize the staff in the Buildings & Grounds Section for some projects, the testimony demonstrates that outside contractors are used for other projects. Because the duties, skills, and working conditions differ between the various sections of the Facilities Division, a wall-to-wall bargaining unit of all of the employees is not mandated by application of the RCW 41.80.070 criteria.

This record demonstrates that the employees in the Facilities Division fall into two broad categories: those employees who are responsible for maintaining and operating the buildings and grounds of state owned facilities and those employees who are responsible for acquiring, planning, and managing state owned and leased facilities.

Applying these distinctions to the organizational structure of the Facilities Division demonstrates the following:



The sections marked “M&O” are sections that contain employees who perform maintenance and operations functions. These employees are located in the Property Management, Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, and Management Services sections. Sections marked “PROF” are sections that contain professional employees who perform duties

associated with property management and the acquisition and planning of state facilities. These employees are located in the Property Management, Engineering & Architectural and Real Estate Sections. The Property Management Section is the only section that contains a mix of maintenance and operations and professional employees.

Facilities Maintenance & Operations Non-Supervisory Bargaining Unit –

The goal of any unit determination is to find employees who share *common* duties so that they may bargain effectively regarding the terms and conditions of their employment. The non-supervisory employees in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, Management Services, and Commerce Construction Compliance Inspectors sections, as well as the employees at the Kelso, Seattle, Tacoma, Yakima, and North Cascades Gateway Center facilities in the Property Management Section share common duties. These employees are primarily maintenance and operations employees who directly work on the facilities to which they are assigned. No work jurisdiction issues are created with such a bargaining unit. The employees in these sections or work groups constitute an appropriate bargaining unit under RCW 41.80.070 described as follows:

All non-supervisory employees covered by Chapter 41.06 RCW and Chapter 41.80 RCW employed by the Department of Enterprise Services in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, Management Services, and Construction Compliance Inspectors sections, including the employees at the Kelso, Seattle/Tacoma, Yakima, and North Cascades Gateway Center facilities in the Asset Management Section, excluding supervisors, confidential employees, members of the Washington Management Service, and all other employees.⁴

The Facilities Non-Supervisory bargaining unit shall now be known as the Facilities Maintenance & Operations Non-Supervisory bargaining unit. In order to achieve this bargaining unit definition, the Facilities Maintenance & Operations Non-Supervisory bargaining unit is modified as follows:

⁴ Nothing would preclude the parties from filing a unit clarification petition to modify the bargaining unit description should the Commerce Construction Compliance Inspectors Section be fully eliminated and the employees in that section transferred to other parts of Enterprise Services.

- The Information Services bargaining unit is clarified to remove the positions that were included in the Management Services Section. Those employees are placed in the Facilities Maintenance & Operations Non-Supervisory bargaining unit.
- The Construction and Maintenance Superintendents bargaining unit is clarified to remove the positions that were included in the Commerce Construction Compliance Inspectors Section are removed from that bargaining unit and placed in the Facilities Maintenance & Operations bargaining unit.
- The unrepresented employees in the Buildings & Grounds and Buildings Automation sections, as well as the unrepresented employees at the Kelso, Seattle, Tacoma, Yakima, and North Cascades Gateway Center facilities in the Asset Management Section, are added to the Facilities Maintenance & Operations Non-Supervisory bargaining unit without the need of an election.

Facilities Maintenance & Operations Supervisory Bargaining Unit –

A bargaining unit consisting of all of the supervisors in the Custodial & Refuse/Recycle, Building & Grounds, Building Automation, and Management Services sections of the Facilities Division constitutes an appropriate bargaining unit under RCW 41.80.070. All of these employees perform tasks that are associated with supervising employees who maintain buildings and grounds. Supervisory employees generally share a community of interest, and the known supervisors in the Custodial & Refuse/Recycle, Building & Grounds, Building Automation, and Management Services sections have similar duties, skills, and working conditions to warrant a single bargaining unit. No work jurisdiction issues are created with such a bargaining unit. The employees in each of these sections or work groups are included in a bargaining unit described as follows:

All supervisory employees covered by Chapter 41.06 RCW and Chapter 41.80 RCW employed by the Department of Enterprise Services in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, and Management Services sections, excluding non-supervisory employees, confidential employees, members of the Washington Management Service, and all other employees.

In order to achieve this bargaining unit definition, the Facilities Supervisory bargaining unit is modified as follows:

- The unrepresented employees in the Buildings & Grounds and Building Automation sections are added to the Facilities Maintenance & Operations Supervisory bargaining unit without the need of an election.⁵

The employees in the Property Management Section that WFSE asserts should be included in the supervisory bargaining unit, Cockrell, Weldon, Beckman, and Wiggins, do not qualify as supervisors within the meaning of RCW 41.80.005(13).⁶ None of the employees spends a preponderance of their time performing supervisory duties. Weldon, Beckman, and Wiggins do not perform a preponderance of the supervisory duties. While these three employees may direct the work of other employees and have limited authority to discipline employees, they lack the independent authority to hire, promote, layoff and recall, discharge, and adjust grievances of any subordinate employees. Cockrell does not direct the day-to-day activities of the employees but is involved in disciplining employees and preparing and authorizing employee evaluations but he lacks the independent authority to hire, promote, layoff and recall, and discharge any employees.⁷

⁵ Noble and Miklethun are both covered by Chapter 41.06 RCW and are not members of the Washington Management Service. Therefore, both employees are included in the Facilities Supervisory bargaining unit. However, there may other reasons to exclude these employees and a supplemental hearing may be necessary to determine the eligibility of specific individuals.

⁶ The standard for supervisors under RCW 41.80.005(13) was discussed in *State – Administrative Hearings*, Decision 11503 (PSRA, 2012). That standard is incorporated by reference. It is important to stress that the definition of supervisor utilized by the Commission in RCW 41.80.005(13) may be more restrictive than the common understanding of the term supervisor, and the Commission’s definition is limited to bargaining unit determinations and designed to prevent conflicts of interest that would occur by commingling supervisors in the same units as other bargaining unit employees. A determination under the Commission’s definition of supervisor does not negate or strip away any titular or other supervisory authority of that employee. Indeed, an employee may possess a lower level of supervisory authority and be deemed a “supervisor” by subordinates, but that authority does not pose the level of conflict contemplated by the statute which would require separating the employee out of the bargaining unit.

⁷ Weldon, Beckman, and Wiggins will be included in the Facilities Non-Supervisory bargaining unit. Cockrell will be included in a bargaining unit with the other Facility Senior Planners in the Property Management Section.

In its brief, the employer requests that the employees who have been previously unrepresented be given the opportunity to vote. The general rule is to allow employees the opportunity to choose their representative. That general rule is not absolute. For example, upon hiring into a position in an existing bargaining unit, the new employee is not given the opportunity to vote as to whether the employee wants to be included in that bargaining unit. Similarly, when a unit has been defined and there are unrepresented employees performing work that belongs to that unit, the employees are added to that unit without an election. That is the case here.

Facilities Professional Non-Supervisory Bargaining Unit –

A bargaining unit consisting of the non-supervisory employees in the Engineering & Architectural Services and Real Estate Services sections, as well as the Facilities Senior Planners in the Property Management Section, constitute an appropriate bargaining unit. The employees in these sections are professional employees whose duties include developing the scope, schedule, and budget for each project and procurement of the design services for those projects. No work jurisdiction issues would be created if the employees in these sections were included in a separate bargaining unit. These employees share a community of interest that warrants their inclusion in the same bargaining unit. This bargaining unit of employees shall be described as follows:

All non-supervisory civil service employees covered by Chapter 41.80 RCW and Chapter 41.06 RCW of the Washington State Department of Enterprise Services in the Facilities Senior Planner job class in the Property Management Section, Engineering & Architectural Services and Real Estate Section of the Facilities Division, including the non-supervisory employees Facilities Senior Planner job class in the Property Management Section, excluding supervisors, confidential employees, members of the Washington Management Service, administrative employees, and all other employees.

This bargaining unit shall be known as the Professional Non-Supervisory bargaining unit.

The Facilities Senior Planners in the Property Management Section are included in the Facilities Professional bargaining unit. The Facilities Senior Planners in the Property Management Section share a community of interest with the employees in that unit, particularly the Facilities Senior Planners in the Real Estate Services Section. The Facilities Senior Planners in those two sections

perform the same work with one doing so for state owned facilities and one for state leased facilities. The Facilities Senior Planners have no community of interest with the employees in the Facilities Maintenance & Operations bargaining unit and are appropriately placed within the Facilities Professional bargaining unit.

Permitting the two employees to remain in their own two person bargaining unit would create work jurisdiction issues with the other employees who share a community of interest. The evidence demonstrates, however, that WFSE represents only two of the approximately 73 eligible positions in these sections and work groups. WFSE does not represent a majority of the employees. It would be inappropriate to accrete the unrepresented employees into a bargaining unit where the incumbent bargaining representative does not represent a majority of the employees. *See* WAC 391-35-020(5)(c).

Because the represented employees should not have their collective bargaining rights extinguished without due process, an election is directed for the non-supervisory employees in the Professional Non-Supervisory bargaining unit to determine their representational status. This election will ensure that all of the employees who share a community of interest have the same representational status.

Facilities Professional Supervisory Bargaining Unit –

The supervisory employees in the Real Estate Services and Engineering & Architectural Services sections supervise employees responsible for design and planning of state owned facilities and share a community of interest and constitute a bargaining unit.⁸ The duties, skills, and working conditions for these employees are distinct from the employees in the Facilities Maintenance & Operations Supervisory bargaining unit. No alleged supervisory employee in either of these sections has been included in any bargaining unit transferred to Enterprise Services. If WFSE wishes to represent these employees, it should file a representation petition under Chapter 391-25 WAC.

There are no supervisory employees in the Property Management Section. There may be other employees in these sections who, while identified as supervisory positions, do not qualify as supervisors for purposes of RCW 41.80.070(a)(a).

Administrative Employee

Finally, the administrative support employees in the Administrative Assistant, Secretary, and Office Assistant job classes are excluded from any bargaining unit covered by these petitions. Bargaining units consisting solely of office-clerical employees are presumptively appropriate. *Quincy School District*, Decision 3962-A. The employer has presented credible evidence that the administrative employees are a shared resource for all divisions within Enterprise Services. As such, the administrative support employees in the Facilities Division shall be included with the other administrative support employees in Enterprise Services.⁹

FINDINGS OF FACT

1. The Department of Enterprise Services is a public employer within the meaning of RCW 41.80.005(8).
2. The Washington Federation of State Employees (WFSE) is a bargaining representative within the meaning of RCW 41.80.005(7).
3. Prior to October 1, 2011, WFSE represented a bargaining unit of Facilities Non-Supervisory employees at the Department of General Administration. That bargaining unit was described in *State – General Administration*, Decision 11013 (PSRA, 2011).
4. Prior to October 1, 2011, WFSE represented a bargaining unit of Facilities Supervisory employees at the Department of General Administration. That bargaining unit was described in *State – General Administration*, Decision 10920 (PSRA, 2010).

⁹ While a majority of the administrative employees in Enterprise Services are unrepresented, several were included in WFSE represented bargaining units. Because some of the administrative employees are represented, all of the administrative employees shall be provided an opportunity to vote on representation. However, there may be other administrative employees in Enterprise Services that should be included in an administrative unit that have not been identified through these proceedings. A separate proceeding will be initiated to determine the status of the administrative employees.

5. Prior to October 1, 2011, WFSE represented a bargaining unit of Construction and Maintenance Superintendents at the Department of General Administration. That bargaining unit was described in *State – General Administration*, Decision 9542 (PSRA, 2007).
6. Prior to October 1, 2011, WFSE represented an all employees bargaining unit at the Department of Information Services. That bargaining unit was described in *State – Information Services*, Decision 8629 (PSRA, 2004).
7. Laws of 2011, 1st Spec. Sess., ch. 43 PV (ESSB 5931), eliminated the Public or State Printer, the Department of General Administration, the Department of Information Services, and the Department of Personnel. The employees at the Public Printer became part of Department of Enterprise Services; the employees at General Administration became part of Enterprise Services; the employees at Information Services were split between Consolidated Technology Services, Enterprise Services, and the Office of Financial Management; and the employees at the Department of Personnel were split between Enterprise Services and the Office of Financial Management. Additionally, a portion of the Office of Financial Management was transferred to Enterprise Services.
8. The Facilities Division is comprised of eight different sections: Property Management, Engineering & Architectural Services, Custodial & Refuse/Recycle Services, Buildings & Grounds, Building Automation, Commerce Construction Compliance Inspectors, Real Estate Services, and Management Services. A Capital Budget Analyst, who is a member of the Washington Management Services, reports to Henderson. Employees in the Administrative Assistant, Secretary, and Office Assistant job classes support the mission of the division and are assigned to individual sections where needed.
9. The Property Management Section is responsible for the management of the physical and financial condition of properties and facilities that are owed by Enterprise Services. The properties that Enterprise Services owns and manages are in Thurston County, Kelso, Seattle, Tacoma, Yakima, and the North Cascades Gateway Center.

10. One group of employees in the Property Management Section consists of employees in the Facilities Senior Planner job class. The Facilities Senior Planners are assigned a portfolio of state owned facilities. Each employee is responsible for monitoring and scheduling maintenance of assigned buildings and ensuring that the maintenance is completed.
11. A second group of employees in the Property Management Section maintain the Enterprise Services owned facilities in Kelso, Seattle, Tacoma, and Yakima as well as the North Cascades Gateway Center.
12. The Engineering & Architectural Services Section designs and manages construction projects for state owned buildings and manages the energy performance contract projects. The section also assists its clients in developing the scope, schedule, and budget for each project and procurement of the design services for those projects.
13. The Custodial & Refuse/Recycle Section provides custodial and refuse/recycle services for state owned buildings.
14. The Buildings & Grounds Section is divided into groups based upon the work or the specific geographic locations or the facilities. Those groups include the Work Management Center and Parking, West Capitol Campus, Off Capitol Campus Buildings, Labor & Industries Facilities, Grounds and Nursery, East Capitol Campus, and Supply Management work groups. A temporary electrician is also assigned to the section.
15. The Work Management Center work group in the Buildings & Grounds Section is responsible for processing maintenance requests from tenants of state owned facilities. When a request for services is received by the Work Management Center, the employees process the request and dispatch skilled maintenance employees to make the necessary repairs. The Parking Office oversees the parking on the Capitol Campus, including assigning permanent parking stalls, submitting payroll deductions for employees who pay for parking, and scheduling maintenance and painting for parking stalls.

16. The West Campus, Off Campus, Labor & Industries, and East Campus work groups in the Buildings & Grounds Sections are responsible for performing the maintenance projects of state owned buildings in various locations. Each work group consists of specialized maintenance and operations employees. Each work group has an electrician, HVAC specialist, Carpenter, and Grounds employee.
17. The Grounds and Nursery work group in the Buildings & Grounds Section is responsible for landscaping and maintaining the grounds of state owned facilities in Thurston County.
18. The Supply Management Services work group in the Buildings & Grounds Section provides support for the Buildings & Grounds, Building Automation, and Custodial & Refuse/Recycle sections. The Supply Management Services work group provides material and services procurement, and stores and delivers supplies to the Buildings & Grounds Section as needed.
19. The Building Automation Section is responsible for maintaining the HVAC and fire alarm systems at Enterprise Services owned facilities and for operating the Power House on the Capitol Campus.
20. The Building Automation work group in the Building Automation Section is responsible for monitoring and maintaining the HVAC and fire alarm systems.
21. The Preventative Maintenance work group is in the Building Automation Section. This work group is responsible for monitoring certain fire alarm systems.
22. The Power House work group in the Building Automation Section is responsible for maintaining the Power House that provides chilled and hot water to the Capitol Campus.
23. The Commerce Construction Compliance Inspectors Section is a special temporary section of employees that are overseeing the Weatherization Project at the Department of Commerce. The employees involved with the project are currently located with the

Department of Commerce until the project is completed. Once completed, the employer intends to move these employees to the Buildings & Grounds Section.

24. The Real Estate Services Section acts on behalf of client agencies to lease facilities for the client's use and to assist in the design of the client's workspace.
25. The Management Services Section provides support for Enterprise Services headquarters. The section receives materials, provides limited space planning, and supports moves within the headquarters. The section also manages the employer's copy rooms and ensures that those rooms are maintained and properly stocked.
26. Employees in the Administrative Assistant, Secretary, and Office Assistant job classes performing administrative duties for the Facilities Division.
27. All of the represented and non-represented non-supervisory employees described in Findings of Fact 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, and 25 perform duties associated with the maintenance and operation of state owned facilities.
28. All of the represented and non-represented supervisory employees described in Findings of Fact 11, 13, 14, 15, 16, 17, 18, 19, 21, 22, and 25 perform duties associated with the maintenance and operation of state owned facilities.
29. All of the represented and non-represented non-supervisory employees described in Findings of Fact 10, 12, and 24 perform duties associated with the design and planning of state owned and leased facilities.
30. All of the non-represented supervisory employees described in Findings of Fact 12 and 24 perform duties associated with the design and planning of state owned and leased facilities. There are no represented employees described in Findings of Fact 12 and 24 that perform duties associated with the design and planning of state owned and leased facilities.

31. As a result of the transfer of employees described in Finding of Fact 7, all of the employees in the Facilities Non-Supervisory bargaining unit described in Finding of Fact 3 transferred to the Department of Enterprise Services and were placed in the Asset Management, Custodial & Refuse/Recycle, Buildings & Grounds Administration, and Building Automation sections of the Facilities Division described in Finding of Fact 8.
32. As a result of the transfer of employees described in Finding of Fact 7, all of the employees in the Facilities Supervisory bargaining unit described in Finding of Fact 4 transferred to the Department of Enterprise Services and were placed in the Custodial & Refuse/Recycle, Buildings & Grounds, and Building Automation sections of the Facilities Division described in Finding of Fact 8.
33. As a result of the transfer of employees described in Finding of Fact 7, all of the employees in the Construction and Maintenance Superintendents bargaining unit described in Finding of Fact 5 transferred to the Department of Enterprise Services and were placed in the Engineering & Architectural Services and Commerce Construction Compliance Inspectors sections of the Facilities Division described in Finding of Fact 8.
34. As a result of the transfer of employees described in Finding of Fact 7, a group of employees performing management services duties that were previously included in the bargaining unit described in Finding of Fact 6 transferred to the Department of Enterprise Services and were placed in the Management Services Section of the Facilities Division described in Finding of Fact 8.
35. Section 1001 of ESSB 5931 permits the Public Employment Relations Commission to review the appropriateness of any bargaining unit transferred to the Department of Enterprise Services.
36. WFSE represents a majority of the employees in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, Commerce Construction Compliance Inspectors, and Management Services sections of Enterprise Services.

37. WFSE represents a majority of the employees described in Finding of Fact 11.
38. WFSE does not represent a majority of employees in the Engineering & Architectural Section described in Finding of Fact 12.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW, Laws of 2011, 1st Spec. Sess., ch. 43 PV, and Chapter 391-35 WAC.
2. The bargaining units described in Findings of Fact 3, 4, 5, and 6 are no longer appropriate bargaining units under RCW 41.80.070.
3. A bargaining unit consisting of the non-supervisory maintenance and operations employees described in Findings of Fact 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, and 25 constitute an appropriate bargaining unit under RCW 41.80.070.
4. A bargaining unit consisting of the supervisory maintenance and operations employees described in Findings of Fact 11, 13, 14, 15, 16, 17, 18, 19, 21, 22, and 25 constitute an appropriate bargaining unit under RCW 41.80.070.
5. A bargaining unit consisting of the non-supervisory professional employees described in Findings of Fact 10, 12, and 24 constitute an appropriate bargaining unit under RCW 41.80.070.
6. A bargaining unit consisting of the supervisory professional employees described in Findings of Fact 12 and 24 constitute an appropriate bargaining unit under RCW 41.80.070.
7. The administrative employees described in Finding of Fact 17 shares a community of interest with the other administrative employees in the Department of Enterprise Services.

ORDER

1. Case 24599-C-12-1485 – The bargaining unit description issued in *State – General Administration*, Decision 11013 (PSRA, 2011), is amended to read as follows:

All non-supervisory employees covered by Chapter 41.06 RCW and Chapter 41.80 RCW employed by the Department of Enterprise Services in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation, Management Services, and Construction Compliance Inspectors sections, including the employees at the Kelso, Seattle/Tacoma, Yakima, and North Cascades Gateway Center facilities in the Asset Management Section, excluding supervisors, confidential employees, members of the Washington Management Service, and all other employees.

2. Case 24635-C-12-1499 – The bargaining unit description issued in *State – General Administration*, Decision 10920 (PSRA, 2010), is amended to read as follows:

All supervisory employees covered by Chapter 41.06 RCW and Chapter 41.80 RCW employed by the Department of Enterprise Services in the Custodial & Refuse/Recycle, Buildings & Grounds, Building Automation and Management Services sections, excluding non-supervisory employees, confidential employees, members of the Washington Management Service, and all other employees.

3. Case 24594-C-12-1480 – The bargaining unit description issued in *State – General Administration*, Decision 9542 (PSRA, 2007), is amended to read as follows:

All non-supervisory civil service employees covered by Chapter 41.80 RCW and Chapter 41.06 RCW of the Washington State Department of Enterprise Services in the Facilities Senior Planner job class in the Property Management Section, Engineering & Architectural Services and Real Estate Section of the Facilities Division, including the non-supervisory employees Facilities Senior Planner job class in the Property Management Section, excluding supervisors, confidential employees, members of the Washington Management Services, administrative employees, and all other employees.

Processing of this case shall be remanded to the Representation Case Administrator to conduct a representation election under RCW 41.80.911 and Chapter 391-25 WAC, including the possibility of a supplemental hearing to determine the eligibility of any existing employee.

4. The bargaining unit described in *State – Information Services*, Decision 8629 (PSRA, 2004) is modified to remove any employees who meet the bargaining unit described in paragraph 1 of this order.
5. The bargaining unit described in *State – General Administration*, Decision 9542 (PSRA, 2007) is modified to remove any employees who meet the bargaining unit described in paragraph 1 of this order.
6. Any unrepresented employee that meets the definition of the bargaining unit described in paragraphs 1 and 2 of this order shall be included in that bargaining unit without the need for an election.
7. The petition in case 24598-C-12-1484 is dismissed.
8. The petition in case 24629-C-12-1494 is dismissed.

ISSUED at Olympia, Washington, this 15th day of March, 2013.

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.