

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

KING COUNTY

For clarification of an existing  
bargaining unit represented by:

WASHINGTON STATE COUNCIL OF  
COUNTY AND CITY EMPLOYEES

CASE 131960-C-19

DECISION 13154 - PECB

ORDER CLARIFYING  
BARGAINING UNIT

*Ed Stemler*, General Counsel, for the Washington State Council of County and City Employees.

*Robert S. Railton*, Deputy Director of Labor Relations, for King County.

King County (employer) operates a juvenile detention facility pursuant to the Juvenile Justice Act of 1977. RCW 13.40.010. The Washington State Council of County and City Employees (union) represents a bargaining unit of juvenile detention division supervisors at the juvenile detention facility. *King County*, Decision 7397 (PECB, 2001).

In 2019, the legislature amended the definition of uniformed personnel who are eligible for interest arbitration. Laws of 2019, ch. 280 (hereafter, SB 5199). Specifically, the legislature added to the definition of uniformed personnel correctional employees working in regional jails created under RCW 70.48.095 and correctional employees working in juvenile detention facilities created under chapter 13.40 RCW that are located in counties with a population of over 1.5 million. *Id.*; RCW 41.56.030(13). SB 5199 requires this agency to review the continued appropriateness of the juvenile detention division supervisors bargaining unit and modify the bargaining unit to ensure its continued appropriateness.

On July 30, 2019, the employer filed a unit clarification petition asking this agency to remove interest arbitration-eligible supervisors from the union's existing juvenile detention division supervisory unit and to place those positions in their own separate bargaining units due to the different impasse resolution procedures. WAC 391-35-310; *see also Chelan Public Hospital District 2*, Decision 11395 (PECB, 2012). The union is in agreement with the employer's petition.

The employer's request to remove the interest arbitration-eligible supervisors from the union's juvenile detention division supervisory unit is granted. This Commission follows the long-standing principle that employees with interest arbitration impasse procedures should not be commingled in bargaining units with employees who do not share the right to interest arbitration impasse procedures. *Thurston County Fire Protection District No. 9*, Decision 461 (PECB, 1978); *King County*, Decision 6668 (PECB, 1999).

### ANALYSIS

The legislature delegated the authority to determine an appropriate bargaining unit to this Commission. RCW 41.56.060. In doing so, the legislature outlined a number of factors to consider in making unit determinations for employees covered by chapter 41.56 RCW. Those factors include the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. RCW 41.56.060. *See also Community Transit*, Decision 8734-A (PECB, 2005). No one factor predominates and not all statutory factors must be considered in every case. Rather, the factors are collectively applied to discern sufficient similarities or a "community of interest" among the employees so that they will be able to bargain effectively with their employer. *Id.*

This Commission follows the long-standing principle that employees with interest arbitration impasse procedures should not be commingled in bargaining units with employees who do not share the right to interest arbitration impasse procedures. *Thurston County Fire District 9*, Decision 461; *King County*, Decision 6668.

The statute determines whether employees occupy positions eligible for interest arbitration. When the legislature enacted SB 5199, it provided final and binding interest arbitration as a means of settling labor disputes for correctional employees working in juvenile detention facilities. Because the juvenile detention division supervisors were already included in bargaining units with noninterest arbitration-eligible employees, the legislature recognized that existing bargaining units would be rendered inappropriate unless a mechanism was in place to allow this agency the opportunity to review the bargaining units for continued appropriateness. The employer triggered that review process through its petition, and the juvenile detention division supervisors must be placed in their own separate bargaining units based upon long-standing rule and precedent. The union shall continue to represent the juvenile detention division supervisors for purposes of collective bargaining.

#### ORDER

1. The bargaining unit described in *King County, Decision 7397* shall be modified to remove the supervisory uniformed personnel (juvenile detention division supervisors) as defined by RCW 41.56.030(13). The supervisory uniformed personnel shall be placed in a separate bargaining described as follows:

All full-time and regular part-time Corrections Supervisors of the King County Juvenile Detention Division, excluding confidential employees, and all other employees.

2. The Washington State Council of County and City Employees shall continue to represent the bargaining unit of supervisory uniformed personnel (juvenile detention division supervisors) described in this paragraph.

ISSUED at Olympia, Washington, this 17th day of January, 2020.

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.



# RECORD OF SERVICE

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ISSUED ON 01/17/2020

DECISION 13154 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 131960-C-19

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