

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON STATE COUNCIL OF
COUNTY AND CITY EMPLOYEES

For clarification of an existing bargaining unit
of employees of:

THURSTON CONSERVATION DISTRICT

CASE 136102-C-22

DECISION 13654 - PECB

ORDER AMENDING CERTIFICATION

Michael Rainey, President/Executive Director, for the Washington State Council of
County and City Employees.

Herb Harris, Manager of PERC Activities, for the Washington Federation of State
Employees.

Sarah Moorehead, Executive Director, for the Thurston Conservation District.

The Washington Federation of State Employees (WFSE) represents a bargaining unit of nonsupervisory employees at the Thurston Conservation District (employer).¹ On December 19, 2022, the WFSE and the Washington State Council of County and City Employees (WSCCCE) jointly filed a petition to transfer representation rights from the WFSE to the WSCCCE through an internal union transaction. The WFSE and the WSCCCE are affiliates of the American Federation of State, County and Municipal Employees (AFSCME), which is a national labor organization that represents public sector employees. The employer does not oppose the WFSE and the WSCCCE's petition. The parties' request to transfer representation rights from the

¹ *Thurston Conservation District, Decision 12874 (PECB, 2018).*

WFSE to the WSCCCE is granted. The parties provided evidence that the due process and continuity requirements have been met.

The WFSE represents a bargaining unit described as “All full-time and regular part-time non-supervisory employees of the Thurston Conservation District, excluding confidential employees, and all other employees.” *Thurston Conservation District*, Decision 12874 (PECB, 2018). On October 12, 2022, the WFSE conducted an internal union election to determine whether the employees in the bargaining unit wanted to transfer representation to the WSCCCE through an internal union transaction. The WSCCCE and the WFSE provided evidence that a majority of bargaining unit employees affirmatively voted to transfer representational rights to the WSCCCE as the exclusive bargaining representative. After the transfer of representational rights, the scope of the bargaining unit will remain the same, the existing local leadership structure will remain intact, and any negotiated agreements will remain in effect until expiration.

ANALYSIS

Applicable Legal Standard

Bargaining rights may be transferred between two different locals of the same international union by means of an internal union affairs transaction. *Skagit Valley Hospital*, Decision 2509-A (PECB, 1987), *aff'd*, *Skagit Valley Hospital v. Public Employment Relations Commission*, 55 Wn. App. 348 (1989). In order for the transaction to be valid, the petitioning labor organizations must demonstrate “due process” and “continuity” requirements are satisfied. *Id.*; *State – Home Care Quality Authority*, Decision 8241 (PECB, 2003).

Due process may be satisfied through a vote of the employees in the bargaining unit. The employees must be provided notice of the transfer election, given an opportunity to discuss the matter, and allowed to exercise their choice in a manner with reasonable precautions to maintain ballot secrecy. *Skagit Valley Hospital*, Decision 2509-A. Where the affected employees have been provided an opportunity to vote through an internal union election, the agency will not reject the request to transfer representation between the two entities. *Id.*

The continuity requirement, borrowed from the National Labor Relations Board (NLRB), is premised on balancing this agency's policy against interference in union affairs with this agency's interest and authority in preserving the integrity of representation and certification processes that are based upon RCW 41.56.070 and .080. *Id.* Even so, the Commission treats the continuity requirement with a great deal of caution. "We will not be inclined to overturn a purported union affiliation because of lack of 'continuity' unless the organizational change has been so extensive that a certified bargaining representative has been displaced by a wholly different organization, or unless other, more traditional evidence exists that the successor organization lacks majority support." *Id.*

The standards set forth in *Skagit Valley Hospital* are silent with respect to any existing collective bargaining agreement that may have been in effect at the time of transfer. Under the National Labor Relations Act, if the existing union and employer are parties to a collective bargaining agreement, then the new bargaining representative must honor that agreement until its expiration. *National Labor Relations Board v. Financial Institution Employees of America, Local 1182*, 475 U.S. 192, 203 n.10 (1986). The *Skagit Valley Hospital* decision explicitly cites the *Financial Institution* decision and the maintenance of labor stability during these kinds of internal union transactions requires the parties to honor any existing agreement.

A request to transfer representation rights will be rejected if the parties fail to demonstrate that the due process and continuity requirements have been satisfied. A request to transfer representation rights may also be rejected if other, more traditional evidence exists that the successor organization lacks majority support. *Id.*

Application of Standard

Bargaining rights will be transferred from the WFSE to the WSCCCE through an internal union transaction. Both the WSCCCE and the WFSE are locals of the same national organization, the AFSCME. The due process requirement has been met. The WSCCCE and the WFSE demonstrated that the bargaining unit employees were permitted an opportunity to vote on the transfer of bargaining rights from the WFSE to the WSCCCE, and the employees affirmatively voted in favor of the transfer. After the transfer, the structure of the bargaining unit will remain unchanged, the

existing local leadership structure will remain intact, and any negotiated agreements will remain in effect. Accordingly, the existing certification is amended to reflect that the WSCCCE is now the exclusive bargaining representative.

FINDINGS OF FACT

1. The Thurston Conservation District is a public employer within the meaning of RCW 41.56.030(13).
2. The Washington State Council of County and City Employees (WSCCCE) is a bargaining representative within the meaning of RCW 41.56.030(2). The WSCCCE is a council of the American Federation of State, County and Municipal Employees (AFSCME).
3. The Washington Federation of State Employees (WFSE) is a bargaining representative within the meaning of RCW 41.56.030(2). The WFSE is a council of the AFSCME.
4. The WFSE represents a bargaining unit of nonsupervisory bargaining unit of employees at the Thurston Conservation District that is described as “All full-time and regular part-time non-supervisory employees of the Thurston Conservation District, excluding confidential employees, and all other employees.”
5. On December 19, 2022, the WFSE and the Washington State Council of County and City employees (WSCCCE) jointly filed a petition to transfer representation rights from the WFSE to the WSCCCE through an internal union transaction.
6. The WFSE and the WSCCCE are affiliates of the AFSCME, which is a national labor organization that represents public sector employees.
7. The employer does not oppose the WFSE and the WSCCCE’s petition.
8. On October 12, 2022, the WFSE conducted an internal union election to determine whether the employees in the bargaining unit wanted to transfer representation to the WSCCCE through an internal union transaction. The WSCCCE and the WFSE provided evidence

that a majority of bargaining unit employees affirmatively voted to transfer representational rights to the WSCCCE as the exclusive bargaining representative.

9. The WSCCCE provided evidence demonstrating that the scope of the bargaining unit will remain the same, the existing local leadership structure will remain intact, and any negotiated agreements will remain in effect until expiration.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to chapter 41.56 RCW.
2. Based upon findings of facts 4, 6, 7, and 8, the due process requirement was met when employees in the nonsupervisory bargaining unit affirmatively voted on the transfer of bargaining rights to the Washington State Council of County and City Employees.
3. Based upon findings of fact 4, 6, 7, and 9, the continuity requirement was met when the Washington State Council of County and City Employees agreed that the scope of the bargaining unit would remain unchanged, the existing local leadership structure would remain intact, and any negotiated agreements would remain in effect following the transfer of bargaining rights.

ORDER

Representation rights of employees are transferred to the Washington State Council of County and City Employees for a bargaining unit described as:

All full-time and regular part-time non-supervisory employees of the Thurston Conservation District, excluding confidential employees, and all other employees.

ISSUED at Olympia, Washington, this 18th day of April, 2023.

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

ISSUED ON 04/18/2023

DECISION 13654 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 136102-C-22

EMPLOYER: THURSTON CONSERVATION DISTRICT

REP BY: SARAH MOOREHEAD
THURSTON CONSERVATION DISTRICT
918 FERGUSON ST SW STE A
TUMWATER, WA 98512
smoorehead@thurstoncd.com

PARTY 2: WSCCCE

REP BY: MICHAEL RAINEY
WSCCCE
PO BOX 750
EVERETT, WA 98206-0750
michaelr@council2.com

PARTY 3: WASHINGTON FEDERATION OF STATE EMPLOYEES

REP BY: HERB HARRIS
WASHINGTON FEDERATION OF STATE EMPLOYEES
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
perc@wfse.org