



STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

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MINUTES

March 10, 2009

The regular meeting of the Public Employment Relations Commission was held at 10:00 a.m. in the Large Conference Room, Public Employment Relations Commission, 112 Henry Street NE, Suite 300, Olympia, Washington. Those present and participating:

Marilyn Glenn Sayan, Chairperson
Pamela G. Bradburn, Commissioner
Thomas W. McLane, Commissioner
Cathleen Callahan, Executive Director
Majel C. Boudia, Confidential Secretary
Dario de la Rosa, Appeals Administrator
David I. Gedrose, Compliance Officer

Also present and participating:

Paul Drachler, SEIU 1199NW
Martha Barron, SEIU 1199NW
Alicia Ozanich, Office of the Governor
Laura Wulf, Office of the Attorney General
John Dryer, OFM Labor Relations Office
Karl Nagel, OFM Labor Relations Office
Herb Harris, Washington Federation of State Employees
Gladys Burbank, Washington Federation of State Employees
Leslie Liddle, Public School Employees of Washington
SEIU 1199NW Members

MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on February 10, 2009, were adopted as presented.

REPORT OF THE EXECUTIVE DIRECTOR

1. Executive Director Callahan reported that there were 66 cases filed during the month of February: 51 cases were filed under Chapter 41.56 RCW, our traditional clientele, and



12 cases were filed under Chapter 41.80, our state clientele. Fifty cases were closed during the month.

2. Ms. Callahan informed the Commission that she took the liberty of unilaterally changing the statistical report because she knew they would like the changes. The first change includes the addition of two bar graphs on the first statistical page. The first graph denotes the case intake for the past 12 months as compared with the prior year. The second graph denotes cases closed by month, as compared with the 12 months of the prior year.

The new fourth page of the statistical report gives a more complete picture of productivity related to issuance of decisions. Instead of just seeing the cases that are coming due and those that are past the 90 day APA guideline, all the decisions that were issued by the Executive Director, the Examiners, and dismissals/partial dismissals issued by the ULP Manager are listed. Those cases referred to as our "red" list, cases beyond the 90-day APA timeline, are at the bottom of the page.

Chairperson Sayan explained the statistics to the audience and copies were distributed.

3. The Executive Director reported on Outreach to our clientele: The first workshop is this Friday in Vancouver. There are about 60 people signed up for the Vancouver workshop, and at least 20 people have registered for the workshop in Tacoma on May 28, 2009.

Martha Nicoloff will be speaking this Friday to the South Puget Sound Labor Management Consortium about PERC services and labor-management committees. This is the first time the agency has been asked to participate in any activity with this group.

4. The Commission reviewed the following letters:
 - Karyl Elinski received two hearty written thank you's this month. The first was from Washington State Council of County and City Employees, Council 2 thanking Karyl for her mediation efforts regarding layoffs in Stevens County. The second was from Mike Boyer of the Washington Education Association thanking Karyl for her work as a settlement mediator in an unfair labor practice involving Northport Education Association. As a result, the unfair labor practice case was withdrawn.
 - Katrina Boedecker received kudos from Glenn Frye at the State Labor Relations office for helping the parties settle a grievance.

MOTION FOR TEMPORARY RELIEF

State – Office of the Governor, Case 22298-U-09-5687.

This case evolves out of unfair labor practice complaint, Case 22289-U-09-5685, filed by Service Employees International Union, Local 1199NW against the Governor of the State of Washington. The union represents approximately 850 nurses employed by the Department of

Social and Health Services and the Department of Health. The union alleges that the Governor committed an unfair labor practice by failing to submit a request to the Legislature for funds necessary for the parties' negotiated collective bargaining agreement. The union's motion asserts that bargaining unit employees will be irreparably harmed unless the Commission uses its authority to compel the Governor to submit a request for funds this legislative session.

Following oral arguments where both parties were given an opportunity to present their positions and answer questions from the Commission, the Commission recessed to deliberate the issue in Executive Session. Following the recess, Commissioner McLane presented a motion to deny the union's request for temporary relief. Additionally, Commissioner McLane moved that the Commission use its authority under WAC 391-08-003 to waive the existing unfair labor practice rules for Case 22289-U-09-5685 and, in accordance with the parties' prior discussion, directed the parties to file cross-motions for summary judgment with stipulated facts, established an expedited briefing schedule, and stated that the Commission, not the previously assigned Examiner, would issue a decision in the case. Commissioner Bradburn seconded the motion and the motion was carried.

LEGISLATIVE REPORT

Executive Director Callahan gave a brief report on bills that directly affect collective bargaining. HB 1276, the symphony bill, is still alive. It places certain symphony orchestras, operas, and performing arts that do not meet the NLRB's jurisdiction under PERC's jurisdiction. The bill applies only to musicians.

HB 1329/SB 5572 would allow unions to organize employees of child care centers so that the union can negotiate with the state over subsidies and other terms and conditions of employment.

HB 1389/SB 5492 would provide interest arbitration to operations and maintenance employees at nuclear power plants.

HB 1801/SB 5819 would provide interest arbitration to employees of juvenile detention facilities under county jurisdictions.

HB 1822 would provide interest arbitration to certain peace officers at certain jointly administered ports.

HB 5986 provides for collective bargaining for the lecturers at the University of Washington.

Of these bills, fiscal impact is minimal and can be absorbed, although the child care bill could result in fiscal impact should there be litigation resulting from possible federal pre-emption issues. The Executive Director thanked Dario de la Rosa for keeping track of the legislation as it winds its way from house to house and from committee to committee.

COMPLIANCE DOCKET

Compliance Officer David I. Gedrose reported on the following cases:

Clark County, Case 21610-U-08-5513. Mr. Gedrose reported that both parties have responded and that the matter can be closed. Following review of the documents, the Commission unanimously accepted compliance, and the case will now be closed.

State – Social and Health Services, Case 19966-U-05-5068. Mr. Gedrose reported that compliance was tendered and the union has no objection to closing the case. The Commission unanimously accepted compliance, and the case will now be closed.

University of Washington, Case 21440-U-07-5466. Mr. Gedrose asked, and the Commission concurred, that this case be held over until the April Commission meeting.

COURT DOCKET

City of Mukilteo, Case 19391-U-05-4923. Mr. de la Rosa reported that the judge in King County Superior Court overturned the Commission's decision and remanded the case to the Commission for an appropriate supplemental decision. Nothing further has been heard from the parties. Mr. de la Rosa will monitor the case and notify the Commission if it is appealed to the Court of Appeals.

City of Seattle, Case 19522-U-05-4955. Mr. de la Rosa reported that this case has been appealed to King County Superior Court.

OTHER BUSINESS

The Commission reviewed and approved the applications of John W. Tapp and Frederick J. Rosenberry for the Dispute Resolution Panel.

COMMISSION DOCKET

Western Washington University, Case 18898-U-04-4804. The Executive Director reviewed the case and informed the Commission that Eric Nordlof, General Counsel for Public School Employees of Washington, had filed a letter serving as a Motion to Reopen the case where the Commission had ordered interest arbitration in the event the parties did not reach an agreement. The parties reached agreement; however, the Governor did not submit the contract to the Legislature for approval. Following a short discussion and review of Mr. Nordlof's submission, Commissioner Bradburn made a motion to have Ms. Callahan write a letter to Mr. Nordlof denying the motion. The motion was unanimously approved.

The Commission docket was reviewed and the status of each case was discussed.

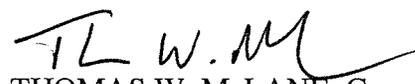
ADJOURNMENT

There being nothing further to come before the Commission, the meeting was then adjourned.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson

PAMELA G. BRADBURN, Commissioner


THOMAS W. McLANE, Commissioner

ATTEST:



CATHLEEN CALLAHAN
Executive Director