STATE OF WASHINGTON
**PUBLIC EMPLOYMENT RELATIONS COMMISSION**
MARVIN L. SCHURKE, Executive Director
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# MINUTES

March 16, 2004

The regular meeting of the Public Employment Relations Commission was held in the Public Employment Relations Commission Conference Room, 603 Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington, at 10:00 a.m. Those present and participating were:

Marilyn Glenn Sayan, Chairperson
Joseph W. Duffy, Commissioner
Pamela G. Bradburn, Commissioner

Marvin L. Schurke, Executive Director
Majel C. Boudia, Confidential Secretary

Also present and participating:

Gladys Burbank, Washington Federation of State Employees
Herb Harris, Washington Public Employees Association

## MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting held on February 10, 2004, were approved, as corrected, at this meeting.

## REPORT OF THE EXECUTIVE DIRECTOR

1. Case intake for the month of February was slightly below average, with 71 cases filed.
2. Case closures for the month of February were above average, with 77 cases closed.
3. There were 607 cases pending at the end of February. Mr. Schurke reviewed pending cases by type:
   - Grievance mediation ("H" case) statistics are stable;
   - A large number of unit clarifications ("C" cases) have been processed. Mr. Schurke read from a letter sent by state Labor Relations Director Gary Moore to various unions, stressing that bargaining units have to be

separated before bargaining can begin. The parties have been able to stipulate some or all of the issues in many cases, which has allowed the Commission staff to issue interim or final orders that divide the bargaining units. Many of those cases will close in March, at which point the agency will be "over the hill" on restructuring the state employee bargaining units in conformity with the new law. The few cases in which hearings are needed will be processed in a timely manner. Mr. Schurke praised the work of Starr Knutson in processing these cases and preparing orders for his or Kenneth Latsch's signatures. The Commission also thanked Ms. Knutson for her efforts in processing these cases.

- Representation elections were being conducted in two large bargaining units (each with 4000 to 5000 employees): The tally for the TA/RA bargaining unit at the University of Washington was to occur on March 18; the tally for the corrections officers at the Department of Corrections was to occur on March 31.
- Mr. Schurke reported that the Washington Federation of State Employees began contract negotiations with the employer (the Labor Relations Office within OFM) in February, and that the parties were still negotiating ground rules. There is a strong potential for mediation cases when the law goes fully into effect July 1, 2004.

4. The status of the preliminary ruling process was reviewed. Unfair Labor Practice Manager Mark Downing had previously estimated he would not be caught up on preliminary rulings until June, but his case processing is now current. With that, many cases are being assigned and many withdrawals have been filed. Commissioner Bradburn mentioned hearing from several parties during the conference who were surprised to have received their preliminary ruling so soon.

5. The "red list" (cases ready for decision more than 90 days) was reviewed. Two cases on the list were to be issued by the assigned staff members on the day of the Commission meeting or on the next day. Commissioner Duffy asked about a Richland School District case that had been on the "red list" for a substantial period, and Mr. Schurke responded that the decision had been issued on March 15, 2004.

6. The "yellow list" (cases ready for decision 46 to 89 days) was also reviewed. There were only two staff cases on that list, and Mr. Schurke reported that staff members were actively working on each of those cases.

7. PERC/FMCS/NLRB/IRRA Conference. The Commission discussed the conference held March 10 and 11, 2004. Commissioner Bradburn

suggested that comments be requested from attendees, especially if attendees expected more detailed information. Mr. Schurke agreed that comments assist in planning, and assured the Commission members that they are actively solicited from attendees. He also reported that Walter Stuteville was the lead person from the agency, with Karl Nagel, Martha Nicoloff, and Starr Knutson assisting, and that they did a terrific job. This year's attendance was the largest in the history of the conference, and planning for this conference is difficult. Gladys Burbank offered that time allotment places restraints on the training made available.

LEGISLATIVE UPDATE

1. Legislation on teacher strikes. Several bills and/or amendments were proposed, including bills that would have imposed interest arbitration and/or lock-step mediation and factfinding processes, but that they all died.

2. Legislation on wage bargaining for the Washington State Patrol Troopers. A bill to match up the bargaining rights of state patrol troopers with other state employees also died.

3. Legislation permitting 6-year contracts. Cowlitz County (with some concurrence from the Washington State Council of County and City Employees) supported an amendment of RCW 41.56.070 to permit contracts for up to six years. Mr. Schurke observed that the existing language is in the section of the statute that controls representation case processing, and appears to be a poor paraphrase of the "contract bar" policy of the National Labor Relations Board (which would permit contracts to be of any length negotiated by the parties, but will only honor them for "contract bar" purposes for three years). The bill died.

4. Legislation prohibiting fragmentation of bargaining units. Public School Employees of Washington supported an amendment of RCW 41.56.060 that would have prohibited any severances from existing bargaining units of classified employees in school districts. The bill died in the Senate.

5. Legislation permitting charter schools. The bill passed by the Legislature creates two different bargaining situations:

   - New charter schools are authorized, which will add up to five new employers to PERC's jurisdiction each year for three years, then will add 10 per year for the next three years (for a total of 45). Employees of those charter schools will be permitted to organize (teachers under Chapter 41.59 RCW; classified employees under Chapter 41.56 RCW), but will not be permitted to be in the school

district bargaining units for five years. Thereafter, they will be able to merge with units at the school district where the charter school is located.

- Conversion charter schools are authorized without limitation as to their number. Employees of those charter schools will remain in the bargaining units of similar employees in their respective school districts, but the charter school will be entitled to demand bargaining on variances from the collective bargaining agreements covering the entire school district. (The Office of the Superintendent of Public Instruction estimated that 11 conversion schools will be created over the first six years.)

PERC will be responsible for all of the labor relations case processing, including representation cases on the new charter schools and mediation of variances on the conversion charter schools. The legislature gave PERC a $41,000 appropriation to cover the estimated costs for Fiscal Year 2005, and the fiscal note calls for that appropriation to increase each year. Chairperson Sayan asked if there were restrictions on spending of the charter school appropriations. Mr. Schurke noted that the supplemental appropriation is limited to work done on charter schools.

6. The supplemental budget includes several small adjustments to the PERC budget, but nothing that is of concern.

COMPLIANCE DOCKET

Mr. Schurke announced that the Compliance Officer function has been shifted from Katrina Boedecker to Mark Downing.

The following cases were reviewed:

*Lower Columbia College*, Case 16499-U-02-4259. The Commission reviewed a letter from the employer, tendering compliance. The steps taken appeared to conform to the order, and there had been no objection from the union. In view of the rapid sequence of the events and correspondence, it was moved and seconded to accept compliance as tendered with a one week delay before closing the case. If the union were to register an objection in that week, the case would be kept open and brought before the Commission again.

*Whatcom County*, Case 15383-U-00-3889. The Commission reviewed a letter received March 3, 2004, and a supplemental letter received March 8, 2004, which included the signed notice. Wendy Wefer-Clinton reported in the second letter that the notice had been read into the minutes of a County Council meeting, and that she

will send a copy of the minutes to Mr. Downing. The Commission unanimously accepted compliance. The case will now be closed.

COURT DOCKET

*City of Anacortes*, Case 14629-U-99-3665

Mr. Schurke reviewed the history of the case (which involved the unilateral creation of student firefighter program) and reported that the Superior Court for Thurston County took the case under advisement after hearing oral argument on the union's motion for enforcement.

COMMISSION DOCKET

The Commission docket was reviewed in detail, 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

JOSEPH W. DUFFY, Commissioner

PAMELA G. BRADBURN, Commissioner

ATTEST:

MARVIN L. SCHURKE, Executive Director