

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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PUBLIC EMPLOYMENT
RELATIONS BOARD

POLK COUNTY BOARD OF SUPERVISORS,)
Petitioner,)
and)
AMERICAN FEDERATION OF STATE,)
COUNTY AND MUNICIPAL EMPLOYEES,)
AFL-CIO, LOCAL 1868,)
Certified Employee)
Organization,)
and)
CENTRAL IOWA PUBLIC EMPLOYEES)
COUNCIL,)
Intervenor,)
and)
MUNICIPAL LABORERS, LOCAL 353,)
Intervenor,)
and)
MUNICIPAL EMPLOYEES ASSOCIATION,)
Intervenor.)

CASE NO. 5540

AMENDMENT OF BARGAINING UNIT AND CERTIFICATION

Upon a petition for amendment of bargaining unit duly filed under Section 13 of the Public Employment Relations Act and subrule 4.6, 621 Iowa Administrative Code, the parties waived hearing and filed with the Public Employment Relations Board a stipulation of bargaining unit agreeing that employees of the Convention Center and Veterans Memorial Auditorium are appropriately included in existing Polk County secretarial/clerical, custodial/maintenance, and professional/paraprofessional bargaining units.

Said stipulation was tentatively approved by the Board and a Public Notice of Proposed Decision was posted in accordance with subrule 4.2(6)(b), 621 I.A.C. Objections to the proposed decision were filed pursuant to subrule 4.2(6)(c), 621 I.A.C. Following an evidentiary hearing on the objections, the Board concluded the objections were without merit and overruled them. Accordingly, the Board issues the following:

ORDER

IT IS HEREBY ORDERED that the positions of electrician and building attendant from the Convention Center and the positions of groundskeeper, groundsperson, building custodian, and building equipment operator from the Veterans Memorial Auditorium are accreted into the maintenance/custodial bargaining unit originally certified in PERB Cases Nos. 120, 227, 276, and 339 and amended in PERB Case No. 1413. Due to the broad and general nature of the present unit description, no amendment of the unit description is required.

IT IS FURTHER ORDERED that the positions of sales assistant, convention services coordinator, and production services technician from the Convention Center and the position of assistant event coordinator from the Veterans Memorial Auditorium are accreted into the professional/paraprofessional bargaining unit originally certified in PERB Case No. 634 and amended in PERB Cases Nos. 768, 1052, 1106, 1147, 1254, 1443, 1770, 1969, 2185, and 2313. Due to the broad and general nature of the present unit description, no amendment of the unit description is required.

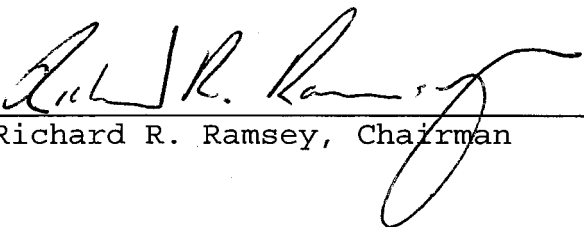
IT IS FURTHER ORDERED that the positions of Clerk Typist II from the Convention Center and the position of Receptionist/Secretary from the Veterans Memorial Auditorium are accreted into the secretarial/clerical bargaining unit originally certified in PERB Cases Nos. 120, 227, 276, and 339 and amended in PERB Cases Nos. 1156, 1769, 2158, 2363, 2507, 2616, 2699, 2837, 2933, 2950, 3074, and 3623. The bargaining unit description is amended to read as follows:

INCLUDED: All secretarial/clerical and general office employees of Polk County including non-supervisory deputies in the following offices and departments: Board of Supervisors, Auditor, Elections Office, Treasurer, Sheriff, Recorder, County Attorney, County Manager, Personnel, General Services, Social Services, Health Department, Public Works, Veterans Affairs, Convention Center and Auditorium.

EXCLUDED: Civil Service employees, dispatchers and detention officers in the Sheriff's Office, Stagehands employees in the auditorium, elected officials, department heads, supervisory employees, confidential employees, all persons excluded by section 4 of the Act.

DATED at Des Moines, Iowa, this 7th day of January, 1997.

PUBLIC EMPLOYMENT RELATIONS BOARD


Richard R. Ramsey, Chairman

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

POLK COUNTY,
Public Employer/Petitioner

and

AFSCME Local #1868,
Certified Employee Organization

CASE NO. 1413

ORDER

(Amending Case Nos. 126, 227,
276 & 339)

AMENDMENT OF BARGAINING UNIT AND CERTIFICATION

Upon a petition for amendment of bargaining unit duly filed under Section 13 of the Public Employment Relations Act and Rule 4.6 of the Public Employment Relations Board's Rules and Regulations, the parties waived hearing and filed with the Public Employment Relations Board a stipulation of bargaining unit removing the job classification of jail cook from the previously determined bargaining unit.

Said stipulation having been tentatively approved by the Board and posted in conformance with the Board's Rules and Regulations, and no objections having been filed thereto, and the Board having no objections;

ORDER

IT IS HEREBY ORDERED that the bargaining unit previously determined in case numbers 126, 227, 276 & 339 and the certification of AFSCME Local 1868 in that case be and hereby are amended to read as follows:

INCLUDED: All maintenance, custodial, and other support employees of Polk County.

EXCLUDED: Professional employees, clerical employees, civil service employees in the Sheriff's Office, supervisors, all persons excluded by Section 4 of the Act, the Jail Cook in the Sheriff's Office, and all other County employees.

DONE by the Public Employment Relations Board this 12th day of February, 1979.



VERNON C. COOK, BOARD MEMBER

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:)
POLK COUNTY BOARD OF SUPERVISORS,)
PUBLIC EMPLOYER)
AND) CASE NO. 768
AMERICAN FEDERATION OF STATE, COUNTY AND)
MUNICIPAL EMPLOYEES, AFL-CIO,)
LOCAL NO. 1868,)
PETITIONER)

RECOMMENDED DECISION AND ORDER

RONALD HOH, HEARING OFFICER. This proceeding arises pursuant to a petition filed under Rule 4.6(1) of the Rules and Regulations of the Public Employment Relations Board (hereinafter Board), and requests an amendment and clarification of a bargaining unit previously determined by the Board in Polk County Board of Supervisors Cases Nos. 120, 227, 276 and 339 (1975). That appropriate bargaining unit was described as follows:

"All professional and para-professional employees of Polk County; but excluding Civil Service employees in the Sheriff's office, supervisors, all persons excluded by Section 4 of the Act and all other county employees."

Subsequent to that unit determination, the five employees at issue herein voted in the representation election for that unit, and their ballots were challenged by the Board representative on the grounds that their names did not appear on the eligibility list. The challenged ballots were determinative of the outcome of the election and timely objections to the election were filed by the petitioner. At the hearing on challenges and objections held on March 10 and 11, 1976, testimony was taken regarding the job functions of the five persons at issue herein. At the close of the hearing, the parties jointly requested an immediate ruling on the objections. At that time, I ruled that the election be rerun due to substantial inaccuracies in the eligibility list and lack of notice to affected employees.^{1/}

1/ Polk County Board of Supervisors PERB Case No. 634 (Ruling on Objections, March 16, 1976).

The parties agreed to hold the challenged ballot resolution in abeyance until either party filed the petition for unit clarification. On May 28, 1976, the instant petition was filed, and the parties stipulated to the prior record on June 23, 1976.

The employer contends that employee Helen Knoll is properly included in the custodial-maintenance unit, rather than in the professional and para-professional unit, and that Martin Rosenstein, Carolyn Bayreder, Ray Sears and Gary Claxton are supervisory, managerial and confidential employees, and thus excluded from coverage under the Act. Petitioner claims Knoll is properly included within the professional and para-professional unit, and that the other four persons at issue herein are also properly included within that unit. Upon the entire record in this case, I make the following:

FINDINGS OF FACT

Helen Knoll

Helen Knoll is employed in the Polk County Juvenile Home. Prior to July 1, 1975, the Juvenile Home carried on a nursery care facility, and Knoll was classified as a Group Worker II, a classification whose primary function was the care and supervision of children in the nursery. As of July 1, 1975, the nursery facility at the Juvenile Home was closed, and the Group Worker II classification was abolished. Persons employed in the Group Worker II classification were retrained in the facility and put in the new areas of responsibility, including the classification of Group Worker III, a classification which works with more difficult youth at the detention center, rather than at the shelter care facility. Helen Knoll, however, was judged not qualified for the Group Worker III position and was reclassified as an Alternate I. Subsequent to this, Knoll filed a grievance alleging that the reduction in pay resulting from the reclassification was in violation of the County's memorandum of agreement with the Union. The grievance was settled at the third step, with Knoll receiving the pay and retaining the classification of Group Worker II, despite the fact that she was now functioning as an Alternate I.

Based upon the findings of fact set forth above, it is my considered judgment that Bayreder and Sears do not fall within the category of "representatives of the public employer". They do not formulate, effectuate or determine management policies. While they do make recommendations which may ultimately affect county funding and staffing patterns, such recommendations are reviewed by the director or senior planner and by the Board of Supervisors, who make the decision on whether the recommendation should be implemented. Bayreder and Sears act as facilitators or technical assistants, coordinating and assembling information necessary for the Board of Supervisors to make substantive decisions.

Therefore, I find that Carolyn Bayreder and Ray Sears are not managerial employees, and are appropriately included in the unit.


Based upon the foregoing, I hereby issue the following recommended:

ORDER

IT IS HEREBY ORDERED

1. That Helen Knoll be included in the maintenance and custodial bargaining unit.
2. That Martin Rosenstein be excluded from coverage as a "confidential employee" as defined in Section 3.7 of the Act.
3. That Gary Claxton be excluded from coverage as a "representative of the public employer" as set forth in Section 4.2 of the Act.
4. That Carolyn Bayreder and Ray Sears be included in the professional and para-professional bargaining unit.

DATED at Des Moines, Iowa, this 29th day of July, 1976.


RONALD HOH
HEARING OFFICER

STATE OF IOWA

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:)
)
 POLK COUNTY BOARD OF SUPERVISORS,)
 PUBLIC EMPLOYER)
)
 AND)
)
 AFSCME (AMERICAN FEDERATION OF STATE,)
 COUNTY AND MUNICIPAL EMPLOYEES),)
 LOCAL #1868,)
 PETITIONER)

CASE NO. 636

ORDER OF CERTIFICATION

NOW on this 23rd day of March 1976, the Board being advised that an election was conducted pursuant to Order of the Board, and that AFSCME, Local #1868 an employee organization, received an affirmative vote of the majority of employees in the bargaining unit, and the Board having further found that the employee organization has fully complied with all regulations of the Act and the rules and regulations thereunder,

IT IS HEREBY ORDERED BY THE BOARD that AFSCME, Local #1868 should be, and hereby is, designated and certified by this Board to be the exclusive bargaining representative for the employees of Polk County Board of Supervisors a public employer, in the following bargaining unit:

INCLUDED: All maintenance, custodial, and other support services employees of Polk County;

EXCLUDED: Professional employees, clerical employees, civil service employees in the sheriff's office, supervisors, all persons excluded by Section 4 of the Act, and all other county employees.

DONE by the Public Employment Relations Board


 John R. Loihl, Board Member

STATE OF IOWA
BEFORE THE
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:
POLK COUNTY BOARD OF SUPERVISORS,
PUBLIC EMPLOYER
AND
INTERNATIONAL BROTHERHOOD OF
PAINTERS & ALLIED TRADES, AFL-CIO,
LOCAL NO. 246,
PETITIONER
AND
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO,
PETITIONER
AND
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO, LOCAL NO. 234,
PETITIONER
AND
OVER THE ROAD, CITY TRANSFER DRIVERS,
HELPERS, DOCKMEN AND WAREHOUSEMEN,
LOCAL UNION NO. 147,
PETITIONER/INTERVENOR

CASE NOS. 120
227
276
339

ERRATUM

Now on this 10th day of December, 1975, the Board having found a scrivener's error in its Decision and Order dated November 24, 1975,

IT IS HEREBY ORDERED that said Decision and Order is amended by striking from the caption "Case No. 126" and substituting "Case No. 120."

DONE by the Board this 10th day of December, 1975.

PUBLIC EMPLOYMENT RELATIONS BOARD


JOHN R. LOTHL, BOARD MEMBER

STATE OF IOWA
BEFORE THE
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:)	
POLK COUNTY BOARD OF SUPERVISORS, PUBLIC EMPLOYER)	
AND)	
INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES, AFL-CIO LOCAL NO. 246, PETITIONER)	
AND)	
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, PETITIONER)	CASE NOS. 120 227 276 339
AND)	
INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, LOCAL NO. 234 PETITIONER)	
AND)	
OVER THE ROAD, CITY TRANSFER DRIVERS, HELPERS, DOCKMEN AND WAREHOUSEMEN, LOCAL UNION NO. 147, PETITIONER/INTERVENOR)	

DECISION AND ORDER

Upon petitions duly filed under Sections 13 and 14 of the Public Employment Relations Act (hereinafter called the Act), a hearing was held before the Public Employment Relations Board (hereinafter called the Board), Members Cook and Loihl, on April 28, May 6, May 7, May 8, May 15, May 16 and May 22, 1975. Prior to the close of the hearing, the Board requested that the parties submit certain additional information; that information was received, in part, by the Board on October 24, 1975. At

hearing, the Employer appeared by Polk County Attorney Ray A. Fenton; International Brotherhood of Painters and Allied Trades, Local Union No. 246 (hereinafter called the Painters) appeared by James E. Brick; American Federation of State, County and Municipal Employees (hereinafter called AFSCME) appeared by Arthur C. Hedberg, Jr.; International Union of Operating Engineers, Local Union No. 234 (hereinafter called Operating Engineers) and Over the Road, City Transfer Drivers, Helpers, Dockmen and Warehousemen, Local Union No. 147 (hereinafter called the Teamsters) appeared by Robert E. Conley.

Statement of the Case

Although the original petitions in this matter involved, in substance, only three groups of employees (a unit of courthouse employees sought by the Painters and AFSCME; a unit of secondary roads employees sought by the Operating Engineers; and a unit of sheriff's employees sought by the Teamsters), due to the position of the Employer that all employees of Polk County should comprise a single bargaining unit, this case involves, for purposes of unit determination, the unit placement of all employees of Polk County. Subservient to that primary issue, the unit structure for employees of Polk County, are a large number of important secondary issues, including the supervisory status of various county employees, whether certain employees are outside the coverage of the Act as employees of the courts or another exclusion under Section 4 of the Act, and whether certain employees are employees of Polk County or some other political subdivision. For purposes of maximum possible clarity, the decision below addresses all issues, save the ultimate unit determinations, on a department-by-department basis.

Findings of Fact

The various offices and departments of Polk County are housed in many and various locations throughout Des Moines, Polk County and, in some cases, beyond the physical limits of

them in that unit. Consistent, however, with our reluctance, as stated above, to fragment employees with the same job classifications into different bargaining units, we shall exclude from this unit clerical and secretarial employees, and place them into the occupational bargaining unit for that group. Black Hawk County, supra.

In view of all of the foregoing, we find that the following units are appropriate for purposes of collective bargaining:

1. All secretarial, clerical and general office employees of Polk County, including non-supervisory deputies, in the following offices and departments: board of supervisors, auditor, election office, treasurer, clerk of court, sheriff, recorder, county attorney, budget department, maintenance department, custodial department, zoning, building and real estate, rape crisis center, friend of the court, offender advocate, appellant attorney, improved charge analysis, goodwill liaison, juvenile home, county engineer, weed commission, veterans affairs, alcoholic service center, department of social services, medical examiner and department of court services; but excluding professional employees, civil service employees in the sheriff's office, supervisors, all persons excluded by Section 4 of the Act, and all other county employees.
2. All maintenance, custodial, and other support services employees of Polk County; but excluding professional employees, clerical employees, civil service employees in the sheriff's office, supervisors, all persons excluded by Section 4 of the Act, and all other county employees.
3. All professional and para-professional employees of Polk County; but excluding civil service employees in the sheriff's office, supervisors, all persons excluded by Section 4 of the Act, and all other county employees.
4. All employees of the sheriff's office of Polk County; but excluding division directors, chief bailiff of the associate district court, captains, the confidential secretary to the sheriff, all clerical employees, and all other county employees.

5. All secondary roads employees of Polk County, including maintenance mechanics, highway equipment operators, maintenance laborers, and public works foremen; but excluding office clerical employees, supervisors, all persons excluded by Section 4 of the Act, and all other county employees.

Petitions for representative determination (election petitions) have not been filed for the employees in Unit No. 2 or Unit No. 3 above. Further, although such petitions are on file for the employees of Unit No. 1 and Unit No. 5, due to the determination above of units different than those requested by the Petitioners, election orders are withheld pending further investigation of the sufficiency of the interest showings previously submitted. To facilitate such investigation, however, and pursuant to Rule 5.1(2), the Employer is directed, as set forth below, to submit to the Board the necessary eligibility lists. Should further evidence of interest be necessary to fulfill the requirement of Section 14(2)(b) of the Act, Rule 4.4(4) shall apply. With respect to Unit No. 4, an election is directed.

ORDER

IT IS HEREBY ORDERED that an election be conducted in Unit No. 4 above, under the supervision and direction of the Public Relations Board, at a time and place to be determined by the Board. Eligible to vote are all employees in the above described Unit No. 4 who were employed during the payroll period immediately preceding the date below and who are also employed in the bargaining unit on the date of the election.

IT IS FURTHER ORDERED that the public employer in this case submit to the Board within seven days alphabetical lists of the names, addresses and job classifications of all the eligible voters in Unit Nos. 1, 4 and 5 as set forth above.

DATED at Des Moines, Iowa this 24th day of November, 1975.

PUBLIC EMPLOYMENT RELATIONS BOARD



VERNON C. COOK, BOARD MEMBER



JOHN R. LOIHL, BOARD MEMBER