STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2024, Complainant, vs. KING COUNTY FIRE PROTECTION DISTRICT NO. 39, Respondent.	CASE NO. 5610-U-84-1021 Decision 2160-B PECB DECISION OF COMMISSION

The complainant filed unfair labor practice charges alleging that the respondent, by making a unilateral change in the pool from which it selects new employees who will be in the unit represented by complainant, has committed an unfair labor practice, namely, refusal to engage in collective bargaining.

The Executive Director issued a preliminary ruling pursuant to WAC 391-45-110,[1] which pointed out a potential problem with the bargaining unit and an insufficiency of facts on which to conclude that a cause of action might exist. The complainant thereupon filed an amended complaint. Reviewing that amended complaint, the Executive Director issued an order dismissing the complaint [2] on a basis of failure to allege sufficient facts to conclude that the employer's new minimum qualifications vitally affect existing employees, so as to be a mandatory subject of collective bargaining.

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1 Decision 2160 (PECB, February 28, 1985).

2 Decision 2160-A (PECB, April 10, 1985).

Without setting forth any specific facts on which they are based, the amended complaint contained the following conclusionary allegations:

> ...This unilateral change adversely impacts the working conditions of Unit employees. A limitation on the pool of candidates from 400 to 20 will adversely affect the quality of new hires. Any lessening in the quality of new hires creates a safety hazard to Unit employees, who must work alongside new hires and rely upon the skilled performance of their jobs in often dangerous firefighting situations.

The Executive Director pointed out in his order of dismissal that it does not necessarily follow that a reduction in the number of applicants results in a reduction of the quality of applicants, and that the facts alleged are subject to the interpretation that hiring standards have been increased, rather than lowered. The Executive Director did not give the union another chance to amend its complaint. On appeal, the union continues to allege, generally, that the restriction of the pool will result in the hiring of less competent persons, thereby posing a safety hazard to the employees (firefighters) in the unit it represents. The complainant wants a chance to prove its allegations of impaired safety in a hearing.

Section 8(d) of the National Labor Relations Act provides, in part:

> (d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to <u>wages, hours, and other terms and conditions of employment</u>, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, ... (emphasis ours.)

RCW 41.56.030(4) may be subject to a broader interpretation. The pertinent part of RCW 41.56.030(4) provides:

> (4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, ... (Emphasis ours.)

Recruitment and hiring are often included in the term "personnel matters". State v. Hernandez, 89 N.M. 698, 556 P.2d 1174 (1976).

We cannot assume from conclusionary allegations that the respondent will hire unqualified applicants, or that the restriction of the applicant pool will adversely affect the safety of bargaining unit employees. Our unfair labor practice procedures differ substantially from those of the NLRB. We neither investigate nor prosecute charges. In making a preliminary ruling, the Executive Director must assume that all of the facts alleged are true and provable, but nevertheless must consider only that which is alleged in the complaint. The insufficiency of the factual allegations was pointed out once in this case, and it appears that the union made a genuine effort. We think that it should be given an additional chance to set forth facts supporting its theory, so that the Executive Director might evaluate the existence of a cause of action and the employer might, if a cause of action is found to exist, be able to answer and defend.

The complainant is granted leave to file and serve an amended complaint within fourteen days following the date of this

Order. The matter is remanded to the Executive Director for further proceedings consistent with this Order.

DATED at Olympia, Washington this 3rd day of December, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Jane R. Wilkinson

JANE R. WILKINSON, Chairman

Mark C. Endresen

MARK C. ENDRESEN, Commissioner

Mary Ellen Krug

MARY ELLEN KRUG, Commissioner