

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UC-020-07

(REDESIGNATION)

CITY OF ALBANY,)	
)	
Petitioner,)	
)	
v.)	
)	ORDER REDESIGNATING
AMERICAN FEDERATION OF)	BARGAINING UNIT
STATE, COUNTY AND MUNICIPAL)	
EMPLOYEES, LOCAL 2909,)	
)	
Respondent.)	
_____)	

Respondent American Federation of State, County and Municipal Employees, Local 2909 (AFSCME) is the exclusive representative for a bargaining unit of employees who work for Petitioner City of Albany (City). The bargaining unit contains approximately 165 employees, including approximately 9 municipal transit employees. The parties' most recent collective bargaining agreement expired on June 30, 2007, and at the time this petition was filed, they had not completed bargaining over a successor agreement.

In 2007, the Legislature enacted House Bill 2537. It amended the Public Employee Collective Bargaining Act (PECBA), ORS 243.650 to 243.782, to prohibit strikes by employees of a mass transit district, transportation district, or municipal bus system. The bill contained an emergency clause which made it effective when the Governor signed it on June 26, 2007. On that date, the City's municipal transit employees became strike-prohibited, and the AFSCME bargaining unit became a mixed unit containing both strike-permitted and strike-prohibited employees. In a mixed unit, all of the employees are prohibited from striking. *AFSCME v. Executive Department*, 52 Or App 457, 479-80, 628 P2d 1228 (1980), *rev. denied* 291 Or 771, 642 P2d 308 (1981).

On September 26, 2007, the City filed this redesignation petition. The petition seeks to remove the municipal transit employees from the existing unit and place them in a separate new unit represented by AFSCME.

On October 1, 2007, the Elections Coordinator served the petition on AFSCME. On October 2, the City posted notices of the proposed redesignation petition in the work areas of the affected employees. No objections to the petition were filed.

DISCUSSION

We generally will grant a redesignation petition when the petition proposes a facially appropriate unit and there are no objections to the petition.¹ See *Jackson County v. SEIU Local 503, OPEU*, Case No. UC-2-04, 20 PECBR 544 (2004); *Coos County v. Oregon AFSCME Council 75, Local 2936*, Case No. UC-1-04, 20 PECBR 534 (2004); and *Josephine County v. AFSCME, Local 3694, Council 75*, Case No. UC-5-05, 20 PECBR 853 (2005)

This petition meets both tests. There were no objections to it. In addition, the proposed redesignation is facially appropriate. There are approximately 9 strike-prohibited municipal transit system employees in a unit of approximately 165. If these employees were to remain in the unit, the entire unit would be strike-prohibited. We typically will not permit such a small number of strike-prohibited employees to deny the right to strike to the much larger group. *Coos County*, 20 PECBR at 536; *Jackson County*, 20 PECBR at 545; *Josephine County*, 20 PECBR at 854; *Multnomah County v. Multnomah County Employees Union Local 88*, Case No. UC-4-92, 13 PECBR 689, 699-700 (1992).

There are no objections to the petition and it proposes a facially appropriate bargaining unit. We will grant the requested redesignation. AFSCME continues to represent the redesignated units.

Based on the foregoing, this Board issues the following order:

ORDER

1. The petition for redesignation is granted. The bargaining unit description shall be amended to exclude all municipal transit system classifications. The bargaining unit description is amended to read as follows:

¹Board Rule 115-025-0045 provides that we will conduct a hearing “[w]hen a valid petition has been filed and objections * * * have been timely filed * * *.” Because there are no objections to the petition, a hearing is not necessary. *Coos County v. Oregon AFSCME Council 75, Local 2936*, Case No. UC-1-04, 20 PECBR 534, 535 (2004).

“All regular employees of the City of Albany excluding supervisory, managerial, confidential, and other employees excluded by PECBA, and further excluding employees who are included in police and firefighter units, employees employed as municipal transit system workers for the City, and temporary/seasonal or intermittent hires.”

2. The municipal transit system workers are redesignated into an appropriate unit described as follows:

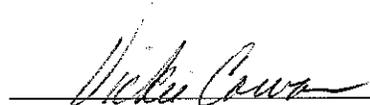
“All regular employees of the City of Albany employed as workers for the City’s municipal transit system, excluding supervisory, managerial, confidential, and other employees excluded by PECBA, and further excluding temporary/seasonal or intermittent hires.”

3. American Federation of State, County and Municipal Employees, Local 2909 represents both units as redesignated.

DATED this 30th day of October 2007



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.