No. 992801

IN THE WASHINGTON STATE SUPREME COURT

TEAMSTERS LOCAL 690,
Petitioner,

v.

LINCOLN COUNTY, et. al.
Respondents.

LINCOLN COUNTY'S ANSWER TO PETITION FOR REVIEW OF A DECISION TERMINIATING REVIEW OF AN ADMINISTRATIVE DECISION, AND CROSS-PETITION FOR REVIEW

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I. INTRODUCTION

This case is about transparency in government. The Commissioners of Lincoln County passed a Transparency Resolution opening their collective bargaining deliberations to public observation to promote trust with the voters and support for a tax increase. Teamsters Local 690 ("Local 690" or "the union") opposes transparency, and walked out of the second round of negotiations after demanding the County rescind the Resolution.

The ultimate question this case presents is who gets to decide how transparent elected officials' decision making processes during bargaining deliberations is going to be—a private labor organization, or the elected representatives charged with enacting the voters' will and responsible for the use of public funds? This Court should take this opportunity to establish that under the Public Employees Collective Bargaining Act (PECBA) elected officials enjoy discretion to open their bargaining sessions to the public as an employer prerogative. This will grant guidance to the jurisdictions moving in that direction, and will promote open government.

II. IDENTITY OF CROSS-PETITIONER

The cross-petitioner is Lincoln County, appellant in Division III.

III. CITATION TO COURT OF APPEALS DECISION

The decision below is *Lincoln County v. Public Employment Relations Commission*, 475 P.3d 252 (Wn. App. 2020), issued by Division III on Nov. 3, 2020, Petitioner's Appendix at 1-23, ("Decision"), affirming and reversing in part the decision of the Public Employees Relations Commission (PERC), Decision 12844-A.

IV. COUNTER-ISSUES FOR REVIEW

1. Whether this Court should grant review of Division III's affirmation of PERC's decision that the County committed an Unfair Labor Practice (ULP), where the union brought the issue of open meetings to the bargaining table, demanded that the County rescind its open bargaining Transparency Resolution, and left the bargaining table when its demands were not met?
2. Whether the County was entitled to decline to rescind its Transparency Resolution, where opening deliberations to public view is a core method for elected officials to communicate and develop trust with voters, and manage government affairs?

V. COUNTER-STATEMENT OF THE CASE[1]

A. The Parties

Lincoln County is governed by three elected Commissioners. It possesses extensive powers to "enforce… all such local police, sanitary and other regulations as are not in conflict with general laws," Wa. Const. art. XI, § 11, and has an affirmative duty to manage county resources. RCW 36.32.120. The County Commissioners bargain directly for the County .

Teamsters Local 690 ("Local 690 or "the union") is a local of the international labor organization, The Teamsters, and is headquartered in Spokane, WA. It represents two collective bargaining units consisting of commissioned and non-commissioned public safety officers in Lincoln

[1]The County disagrees with many of the characterizations made in Local 690's Statement of the Case, does not address them here, but reserves the right to do so if review is granted.

County. The County and Local 690 are parties to collective bargaining agreements ("CBAs") between the officers and the County. Local 690 began representing the two units of employees in 2014, at which time it performed housekeeping changes and signed on to an existing CBA. The parties' 2014 CBAs were set to expire December 31, 2016. *See* Decision at 2.

B. The County Enacts a Transparency Resolution to Encourage Voters to Support a Tax Increase

Public safety takes up a great share of Lincoln County's tight budget. Administrative Record ("AR") at 645, 696-98, 711. Facing increased safety expenses, the Commissioners wanted to proposea tax increase on the November 2016 local ballot, even though their citizens had twice rejected such tax increases. [2] AR at 696. To encourage public support, the Commissioners reviewed an idea they had considered before: opening bargaining sessions to public observation to increase voter trust that their resources were being used judiciously.[3] AR at 696, 753-54. The Commissioners wanted to do "everything in [their] power to demonstrate… that [they] were going to spend [the voters'] money as openly and transparently as [they] possibly could." AR at 753. The message was relayed in newspaper articles and public conversations. *Id.* There were "lots of conversations with the public" on the subject. AR at 711.

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[2] The initiative had failed at least twice before, with no transparency resolution. *See* http://results.vote.wa.gov/results/20071106/lincoln/; http://results.vote.wa.gov/results/20081104/lincoln/ (last visited Dec. 29, 2020).

[3] Local 690 argues bad faith from the fact that the Freedom Foundation publicly offered a draft of the original text of the Resolution for use by any local government. Every tribunal below has rejected that argument.

In September 2016 the Commissioners passed their Transparency Resolution, Resolution 16-22, which read in part:

> **WHEREAS**, Both taxpayers and employees deserve to know how they are being represented during collective bargaining negotiations; and…
>
> **WHEREAS**, The impression of secret deal-making will be eliminated by making collective bargaining negotiations open to the public, and…
>
> **THEREFORE, BE IT RESOLVED,**
>
> From this day forward, Lincoln County shall conduct all collective bargaining contract negotiations in a manner that is open to the public;…

AR at 560-561. The appeal worked and the tax increase ballot initiative passed, for the first time. It received 58 percent support.[4]

C. Local 690 Files an ULP Complaint that is Rejected by PERC

Soon thereafter Local 690's representatives met with the Commissioners and demanded that they rescind the Resolution, suggesting it would be a "costly endeavor" if not. AR at 708-10. The Commissioners did not, and on September 26, 2016 the union filed two ULP complaints against the County. AR 711-713; AR at 566, 592.

PERC Unfair Labor Practice Manager Jessica Bradley dismissed the complaints. The Resolution did not "deprive[] any of [the County's] employees of some ascertainable right, benefit, or status," and did not "constitute[] a change to a mandatory subject of bargaining." *Lincoln*

[4]*See* https://results.vote.wa.gov/results/20161108/lincoln/ (last visited Dec. 29, 2020).

County, Decision 12648 (PECB, 2017).[5] Moreover, opening bargaining to public view did not "describe any specific examples of the employer refusing to meet and bargain at reasonable times and places." *Id.* The union withdrew its appeal, and PERC closed the case. AR at 629.

D. The County Attempts to Bargain, the Union Resolves *not* to Bargain under the Resolution, and Bargaining Breaks Down

i. January 17, 2017 bargaining session

In October 2016 the County reached out to the union to initiate bargaining. AR 714-716, 632. On January 17, the union's ULP complaint still pending, the three Commissioners met with Local 690 for their first bargaining session. Commissioner Coffman announced the negotiations were open to public observation, but not participation. AR at 809; *see* AR at 796. At least one member of the public, a local journalist, was present. AR at 826, 793. The parties worked through proposals and reached tentative agreements, AR at 721, 723, 867-74, but needed to set over additional negotiations for a later date.

ii. Local 690 resolves not *to bargain in view of the public*

On February 16, 2017, and unbeknownst to the County, Local 690's Executive Board passed an internal resolution titled its "Integrity in Bargaining Resolution." AR at 475. It resolved to bargain only in private:

> **THEREFORE**, Teamsters Local 690 does hereby resolve:
>
> All collective bargaining on behalf of members of Teamsters 690 with their respective employer representatives shall be

[5]Available at https://decisions.perc.wa.gov/waperc/decisions/en/item/214545/index.do?q=resolution+16-22 (Last visited Dec. 29, 2020).

performed in a private atmosphere.

AR at 475-76. Local 690 later admitted it made this decision to bring the issue to a head. *See* AR at 851-52 ("We needed to get some formal ruling from PERC on the matter…."); AR at 884; *see also* AR at 214 ("Teamsters Local 690 eventually 'teed up' the disagreement for resolution by PERC by passing a resolution of its own….").

iii. February 27, 2017 bargaining session

On February 27, the County and Teamsters 690 met again to continue negotiations in public. Unsurprisingly, the meeting resulted in deadlock. Commissioner Coffman again convened the open meeting, AR 728, and one member of the public, the local journalist from the January 17 bargaining session, was in attendance. AR at 793.

At the beginning of negotiations the union requested that everyone leave the meeting except the bargainers. *Id*. The Commissioners did not support this request, and stated that, pursuant to its Transparency Resolution, the session would be open to the public. The parties stated their positions back and forth several times and eventually the union left the room. *Lincoln County* Decision 12844 (PECB, 2018),[6] Finding of Fact No. 11, 12; AR at 260, Petitioner's Appendix ("Appendix") at 51.

E. The parties' Dueling ULP Complaints and Procedural History

Lincoln County filed an ULP Complaint against the union for

[6] "During the restatement of positions, Commissioner Scott Hutsell questioned, "I guess we are not going to bargain today?" The meeting ended with [the attorney for the union] communicating that it looked like there would not be any negotiations. The union team left the meeting and went into the break room. The employer kept the meeting open until the union team left the building."

refusing to bargain and PERC issued a cause of action against the union on March 23, 2017. AR at 1122-24.

The union also filed a complaint against the County. First it alleged that the County had made a unilateral change to a past practice of negotiating in private session. Second, it alleged that the County had refused to bargain. AR at 1118. PERC rejected the first claim on the grounds that it failed to state a cause of action for unilateral change to a mandatory subject of bargaining. AR at 1120. Local 690 amended its complaint and PERC issued a cause of action against the County on May 15, 2017. AR at 1097.

Hearing Examiner Jamie Siegel considered the consolidated cases and ruled that both parties committed ULPs. *See Lincoln County (Teamsters Local 690)*, Decision 12844 (PECB, 2018); AR at 260-61, Appendix at 38. The County and the union appealed to the PERC Commission.

The PERC Commission, *Lincoln County (Teamsters Local 690)*, Decision 12844-A (PECB, 2018)[7] AR at 8, Appendix at 24, also ruled that both parties committed ULPs. As a remedy, the PERC Commission ordered the County and union to negotiate regarding whether meetings would be open to the public. Appendix at 33. The Commission also ordered the parties to revert to bargaining in private if the parties could not reach agreement: "if the parties are unable to come to a resolution through good-faith negotiations and mediation, the parties will negotiate from the *status*

[7] The citations for the Commission and the Examiner's decisions are similar, but not identical. The Commission's is differentiated by an "A:" the Commission's decision is "12844-A" and the Examiner's is "12844."

quo—that is, in private meetings." Appendix at 33. PERC declined to take a position on the substantive merits of open versus closed meetings.

The parties appealed PERC's decision to the Superior Court, which summarily affirmed PERC. The parties appealed to Division III.

F. Division III's Decision

Division III issued its decision on November 3, 2020, affirming in part and reversing in part, Appendix at 1, but ultimately concluding that both parties had committed ULPs by refusing to bargain. Decision at 15-16.

Like every tribunal below, Division III rejected the union's argument that the OPMA bars passage of the Transparency Resolution, Decision at 10, that the non-profit Freedom Foundation's promotion of the Resolution is relevant, Decision at 6, fn. 2, and it took no position on the merits of the openness policy debate. Division III affirmed PERC in so far as it had ruled against the County that opening meetings to public observation is not a public employer prerogative. Decision at 14.

Division III agreed with the County and reversed PERC's decision in part, however, as regards to PERC's remedy. PERC had accepted the union's argument that the past practice of the parties should control this conflict—a novel argument fusing the *status quo* doctrine of mandatory subjects together with permissive subjects. PERC had ruled (incorrectly) that the parties must return to what it believed was the *status quo* of the parties: closed meetings. This, Division III recognized, was in error:

> This issue has been examined extensively by PERC itself. Before this case, PERC's decisions have consistently concluded that the status quo doctrine was inappropriate

when looking at permissive subjects of bargaining.

Decision at 16. Local 690 appealed Division III's decision and the County timely files this answer and cross-petition for review.

VI. STANDARD OF REVIEW

Lincoln County presents a cross-petition for review of Division III's decision affirming the Superior Court's affirmation of a PERC decision under RAP 13.4—a matter involving substantial public interest.

If review is granted, the Court will review the PERC decision directly under the APA. *State, Dep't of Ecology v. Douma*, 147 Wn. App. 143, 151, 193 P.3d 1102, 1106 (2008) (citations omitted). PERC's errors, compounded to the extent that they were affirmed by Division III (but not reversed), are reviewable under RCW 34.05.570(3)(a) (violation of constitutional provision), (3)(b)(outside statutory authority), (3)(d) (erroneous interpretation of law), and 3(h) (order inconsistent with rule of agency without explanation). The Court gives deference to PERC's PECBA interpretations, but under the error of law standard may substitute its interpretation for that of PERC's. *Pasco Police Officers' Ass'n v. City of Pasco*, 132 Wn.2d 450, 458, 938 P.2d 827, 832 (1997).

VII. ARGUMENT

This Court should grant review of the decision below. It was the union that committed an ULP when it refused to bargain mandatory subjects of bargaining with the County. Moreover, this Court should accept review to clarify that, in the absence of agreement, opening or closing collective bargaining sessions to public observation is a managerial prerogative for

elected officials acting as representatives of their citizens. This is consistent with the PECBA, and puts the open government policy decision in the hands of those it should be in: those responsible to the public.

On the other hand, this Court should not grant review to decide whether bargaining always is better when conducted in secret, or to alter PECBA law. The PECBA "expressly refrains from mandating any result or procedure for achieving final resolution of an intractable bargaining dispute," *Pasco Police Officers' Ass'n*, 132 Wn.2d at 460 (1997) (internal citations, quotations omitted), and the decision below is a straightforward application of PECBA principles: a finding that the parties may not refuse to bargain mandatory subjects over disagreement on permissive ones.

A. This Court Should Refrain from Legislating Over Whether Open or Closed Meetings are 'Healthier' for Collective Bargaining

Local 690 asks this Court to grant review because this case involves a matter of significant public interest. RAP 13.4(b)(4); Petitioner's Brief at 14. Implicitly, it asks this Court to grant review on the merits of the public policy debate over open meetings. This Court should reject that invitation.

Local 690 correctly identifies that PERC has given no guidance on whether meetings are to be opened or closed. *See* Petitioner's Brief at 14-15. However, the reason for this is that, under the PECBA, the parties need not bargain over permissive subjects of bargaining so long as no bad faith is involved. *See* sec. B, *infra*. The parties agree that opening meetings is a permissive subject of bargaining, and the union has been unable to show bad faith. Division III's decision, holding that the parties have no duty to

bargain over this issue, is unsurprising.

What *is* surprising is that the union is asking this Court to weigh in on the substantive merits of the open versusclosed bargaining debate. Local 690 asks this Court to accept review because, it implies, open meetings threaten the 'health' of collective bargaining. According to the union, "authoritative guidance" is necessary because advocacy by the Freedom Foundation has created a "problem" whereby openness is "exploding statewide." Petition at 14-15. While the Freedom Foundation is flattered that Local 690 believes its advocacy for open government is effective, the conclusion from the growing trend is simply that elected representatives, and by extension their voters, believe open government is a good policy. Local 690 may think that openness in government decision making is a problem, but, as every tribunal below has agreed, that does not mean it is a forbidden policy choice under the PECBA or the OPMA.

Whether open meetings are 'healthy' to collective bargaining is a policy decision and this Court should refrain from accepting review to decide that policy issue. Even PERC, the tribunal most appropriate to first weigh in on this issue, has denied doing so in this case and the original ULP filed by the union seeking to invalidate the Resolution. This Court should not grant review to weigh in on the policy debate over open meetings.

B. Division III's Decision is a Straightforward Application of Settled PECBA Law—There is no Conflict nor Internal Inconsistency

Local 690 argues that Division III's decision implicitly contradicts existing case-law, RAP 13.4(b)(1), and is internally inconsistent. By Local

690's reading, Division III found the union committed a ULP by refusing to bargain over the permissive subject of open meetings.[8] Petition at 16-18.

That is not the correct reading of Division III's decision. It is true that Division III censured the parties for their insistence on their positions:

> Neither party offered to bargain the disputed procedure in good faith. Rather, each insisted that their procedure be used.

Decision at 16. This was not, however, the reason the Court upheld the ULPs. Division III upheld the ULPs because, according to it, the parties refused to bargain mandatory subjects without justification:[9]

> This insistence held collective bargaining hostage and resulted in an impasse over a permissive subject.

Id. In other words, Division III concluded the parties committed ULPs because they refused to bargain mandatory subjects over disagreement on permissive subjects. This is a straightforward application of the rule that "bargain[ing] to impasse over a nonmandatory subject" is an ULP. *Klauder v. San Juan Cty. Deputy Sheriffs' Guild*, 107 Wash. 2d 338, 342, 728 P.2d 1044, 1047 (1986) (internal citations omitted).

The union's argument regarding internal inconsistency[10] suffers from the same misreading. Local 690 argues that the decision is internally

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[8] Local 690's argument appears to be directed towards the PERC decision, however, with the supposed contradiction in Division III's opinion only implied. Petition at 17, fn. 37.

[9] The County objects to the characterization that it held collective bargaining hostage. It did not refuse to bargain on Feb. 27, 2019. It is true that the County would not alter its Transparency Resolution in response to the union's demands, but this is something it was not required to do, and the union had no right to insist upon it doing so. The County was justified to decline to alter its position on open meetings, under its managerial prerogative. *See* Sec. C, *infra*. It was only the union that committed a ULP by refusing to bargain.

[10] Internal inconsistency is not a consideration for review under RAP 13.4(b), and this Court should reject this grounds for review on this basis alone.

contradictory because, according to it, it condemns the union's unwillingness to bargain a permissive subject while simultaneously affirming that it has no such duty to bargain. Petition at 18-19. Again, there is no contradiction: the fact that Division III frowns upon the union's unwillingness to bargain a permissive subject does not mean that that is why Division III issued the ULP. Division III affirmed the ULP against the union because it refused to bargain *mandatory* subjects of bargaining—wages, hours, working conditions. Decision at 16.

C. To Provide a Path Forward, This Court Should Establish That Opening the Bargaining Process to Public View is an Elected Employer's Prerogative

Despite the above shortcomings in Local 690's petition, Local 690 is correct to request clarity on how the parties should proceed. This Court should grant review under RAP 13.4(b)(4)—not to weigh in on the substantive merits of the open government policy debate, but to clarify with whom this policy decision lies. This Court should rule that elected public employers enjoy a prerogative to open their meetings to the public under the PECBA. This will give clarity to the parties and other jurisdictions around the State, and will promote transparency in Washington State.

1. The PECBA's prerogative doctrine

The doctrine of employer prerogatives[11] stems from the PECBA's limited scope. The duty to bargain extends only to "wages, hours and

[11] Unions enjoy prerogatives, too. For example, they have the prerogative to engage in so-called "coordinated bargaining," whereby the representatives of separate bargaining units participate in the negotiations of other units for the purpose of assisting one another. *Gen. Elec. Co. v. NLRB.*, 412 F.2d 512 (2d Cir. 1969). This right, in turn, stems from the rights of *both* parties to determine their own representatives. *See Missouri Portland Cement Co*.,

working conditions," and the scope of mandatory bargaining "thus is limited to matters of direct concern" to the employees of the bargaining unit. *Int'l Ass'n of Fire Fighters, Local Union 1052 v. Pub. Employment Relations Comm'n*, 113 Wn.2d 197, 200, 778 P.2d 32, 34 (1989) (citations omitted). "Managerial decisions that only remotely affect 'personnel matters', and decisions that are predominantly 'managerial prerogatives', are classified as nonmandatory, or permissive, subjects." *Id.*; *City of Seattle*, Decision 11588-A (PECB, 2013).

The United States Supreme Court developed the doctrine of prerogatives in the National Labor Relations Act ("NLRA") context. In passing the NLRA, Congress had "no expectation" that unions would become "equal partner[s] in the running of the business…." *First Nat. Maint. Corp. v. NLRB*, 452 U.S. 666, 676 (1981). There is an "undeniable limit to the subjects about which bargaining must take place," which includes "only issues that settle an aspect of the relationship between the employer and the employees." *Id*. (internal citations omitted). Decisions with only an "indirect and attenuated impact on the employment relationship," are not subjects about which management must bargain, since they relate to matters "wholly apart from the employment relationship." *Id*.

PERC recognizes "that public sector employers are not 'entrepreneurs' in the same sense as private sector employers." *Central*

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284 NLRB 432, 434 fn.13 (1987). Likewise, unions may unilaterally determine how its proposals are developed or the ratification process. *See Lewis County*, Decision 464 (PECB, 1978), *aff'd Lewis County*, Decision 464-A (PECB, 1978).

Washington University, Decision 12305-A (PSRA, 2016).[12] For this reason, in the public sector "entrepreneurial control should consider the right of the public sector employer, *as an elected representative of the people*, to control management and direction of government." *Id.* (italics added)

A public employer enjoys prerogative to determine its budget, for example, *Spokane Education Association v. Barnes*, 83 Wn.2d 366, 376 (1974); *see also Kitsap Cty. v. Kitsap Cty. Corr. Officers' Guild, Inc*., 193 Wn. App. 40, 53 (2016). Jurisdictions enjoy prerogatives to pass measures of a moral and value-laden character as well, such as measures combating racial profiling. *Claremont Police Officers Ass'n v. City of Claremont*, 39 Cal. 4th 623, 639, 139 P.3d 532, 542 (2006); *see also Local 346, Int'l Bhd. of Police Officers v. Labor Relations Comm'n*, 391 Mass. 429, 430, 462 N.E.2d 96, 97 (1984) (prerogative subject officers to polygraphs).

2. Opening meetings to the public is a core way that elected officials manage and direct government

PERC employs a balancing test to determine whether a subject is an employer prerogative, balancing (1) the extent to which the action impacts wages, hours, or working conditions, compared to (2) the extent to which the subject lies "at the core of entrepreneurial control," or is a management prerogative. *Int'l Ass'n of Fire Fighters*, 113 Wn.2d at 203. The decision focuses on which characteristic predominates. *Id.* As to the first consideration, the unionagreeds that public meetings have no impact on

[12] https://decisions.perc.wa.gov/waperc/decisions/en/item/171385/index.do

wages, hours, or working conditions. Thus the first factor weighs unequivocally in favor of finding that it is an employer prerogative.

As to the second consideration: opening meetings to public observation also weighs heavily in favor of being a decision that is at the core of managerial control for *elected* public officials. It takes only a moment's reflection, or a review of these facts, to make this apparent.

Elected officials' job description is to safeguard and employ public money in a responsible manner, *consistent with the community's goals and values*. *See* RCW 42.30.010 ("The legislature finds and declares that all public commissions, boards, councils… *exist to aid in the conduct of the people's business*.") (italics added). In an ideal world there would be perfect synchronicity between the will of the community and the actions of the representatives: elected officials would always know and abide by community goals regarding resources, and the community would always know the elected official was acting consistently with its wishes.

In the real world, elected officials must create avenues and channels for this communication to take place, for trust to develop, and for such synchronicity to emerge. One powerful way, recognized as the general policy of Washington State is to open meetings to the public. *See* RCW 42.30.010 (the OPMA: "It is the intent of this chapter that [public commissions'] actions be taken openly and that their *deliberations* be conducted openly.")(emphasis added). In other words, opening decision making processes to the public is a method of promoting communication, trust, and synchronicity between the voters and the elected officials—which

is the elected official's job. Improving this synchronicity is an essential function of elected representation because it improves the official's understanding of citizens' wishes, and citizens' understanding too.

The facts of this case put the above theory into practice. Here, the Commissioners passed a Transparency Resolution to promote that trust and support a tax increase. They deliberately increased opportunities for the public to observe their deliberations to develop unchallengeable trust. This is core business for elected officials, and this Court should conclude the same.

PERC erred when it failed to acknowledge that an elected employer enjoys a prerogative to open meetings to public observation. Instead, PERC characterized the decision as a mere "ground rule," where neither party has any prerogative. *See* Appendix at 31 ("We see no reason to treat the question of whether negotiations should be held in open public meetings differently than other procedures for how bargaining will be conducted.").

Division III likewise failed to grapple with the issue. It concluded in one line that opening meetings was not a prerogative. Referring to the OPMA's exemption of collective bargaining from the OPMA's mandate, RCW 42.30.140(4)(a), it stated:

> If public bargaining was at the core of entrepreneurial control, the legislature—itself a public entity—would not have exempted collective bargaining from open meetings.

Decision at 14. With due respect to Division III, this statement borderlines the nonsensical. If the State exempted bargaining sessions from the OPMA's mandate, it does not follow that the matter is not at the core of an

elected official's control. The fact that the State *removed* bargaining sessions from the OPMA's mandate *reinforces* the argument that elected officials enjoy discretion. *See* Decision at 12. Removing collective bargaining from the OPMA's open meeting *mandate* gives local jurisdictions flexibility. Division III erred when it concluded otherwise.

Elected officials relate to their constituency by opening up the government decision making process. This is how they act in the citizen's interests. This Court should recognize that this decision is a core "right of the public sector employer, *as an elected representative of the people*, to control management… of government.".[13]

VIII. CONCLUSION

This Court should review PERC's decision below to establish that local jurisdictions have discretion, under the PECBA, to open their deliberative process with unions to public view, as an employer prerogative.

RESPECTFULLY SUBMITTED on January 4, 2021.

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[13] https://decisions.perc.wa.gov/waperc/decisions/en/item/171385/index.do

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on January 4, 2020, I electronically filed with the Court the foregoing document, Petitioner's Motion for Discretionary Review, and this declaration of service and served the same by mail and email respectively, upon the following:

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FREEDOM FOUNDATION

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