

Lincoln County labor dispute will be appealed to Washington Supreme Court; what does that mean for Spokane?

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The Temple of Justice in Olympia, home of the Washington state Supreme Court. The state's highest court will hear arguments regarding if union contract negotiations with local governments be held in public. (The Spokesman-Review)

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The state's highest court is poised to hear arguments about whether local governments should be able to require public contract negotiations in Washington.

An attorney for Teamsters Local 690, the local union chapter representing some Lincoln County law enforcement officers, said this week they would [appeal a Nov. 3 ruling by appellate judges](#) finding both the union and county committed unfair labor practices.

A decision from the state's highest court could affect future contract negotiations in Spokane County, where commissioners have passed a resolution similar to Lincoln County's requiring collective bargaining to take place publicly, and in the city of Spokane, where voters overwhelmingly approved a charter amendment in 2019 requiring open negotiations.

The decision was handed down by a three-member panel of judges in Spokane, following an appeal of a state commission ruling to the Lincoln County Superior Court. The state Supreme Court will decide whether to hear the case, which involves a trend toward open bargaining that has been seen in Washington and several other states.

Caleb Jon Vandembos, an attorney with the Libertarian-leaning think tank the Freedom Foundation, which is representing Lincoln County in the lawsuit, acknowledged the case's potential importance to other efforts to opening bargaining statewide.

"This is the first case that really is dealing with this," Vandembos said.

The Freedom Foundation, along with other entities, has pushed for negotiations between governments and public sector employees to occur publicly. They argue such discussions involve taxpayer money and should thus be open to public scrutiny. Unions, meanwhile, have pushed back, arguing such laws strip labor groups of rights to negotiate the ground rules for bargaining, and that public discussions would be used as a method to politicize negotiations and drag out the bargaining process.

The Teamsters are not arguing in their legal case that all resolutions and laws statewide calling to open bargaining should be invalidated. Michael McCarthy, the attorney representing the labor group, said his clients had attempted to follow negotiating ground rules laid out by the Public Employment Relations Commission but found themselves in the middle of a larger political battle.

"The Freedom Foundation views this solely as a test case," McCarthy said.

Both the county and the union slapped each other with unfair labor practices complaints following a planned open bargaining session in February 2017 that led to a stalemate after union representatives left the building. The recent appellate ruling leaves in place a finding that both parties negotiated in bad faith.

The Teamsters are appealing to overturn that decision, and also to dispute a finding that should negotiations on ground rules for bargaining fail, the talks wouldn't revert to taking place in closed session.

The Lincoln County Commissioners were scheduled to meet with their counsel via conference call Thursday. The panel of Republican officeholders had indicated in a 2018 statement they would "fight to protect the rights of Lincoln County and its people to promote commonsense government transparency."

The Teamsters' petition for review to the state Supreme Court is due Dec. 3, McCarthy said.

What about Spokane?

In the city and county, public sector unions have signaled they will fight efforts to mandate open bargaining.

The argument for transparency was made by boosters of Spokane County Proposition 1 in November 2019. That charter amendment, approved by 77% of voters, requires all collective bargaining to occur in a place that could be viewed publicly, meeting notices to be published and all collective bargaining agreements to be available for viewing online.

The state's Open Public Meetings Act contains an exemption for collective bargaining sessions. The appellate court's ruling was not based on that law, but rather that both parties violated state labor laws regarding bargaining.

But one judge did examine the case's relevance to open meetings, and his position could fuel arguments against opening the negotiations.

Appellate Judge Kevin Korsmo, who retired from the bench this year and will be succeeded by Municipal Judge Tracy Staab, wrote in a concurrence to the appellate decision that Lincoln County's resolution requiring open bargaining "has to be one of the most cynical political documents drafted in modern times," suggesting such laws attempted to preempt state open government measures while also arguing those laws apply to bargaining.

Spokane City Councilman Michael Cathcart, who pushed for adoption of the Spokane resolution at the same time he was first elected, said last week he continued to believe Spokane's efforts were distinct from those in Lincoln or Spokane counties, because they were written into the city charter.

"It's still my belief that the Lincoln County case is not necessarily relevant to the city of Spokane. What we did here is, we approved via the ballot," Cathcart said.

But McCarthy, the labor attorney for the Teamsters union, said he was dubious about that distinction.

Korsmo's opinion will also likely loom large in negotiations with Local 270, the unit representing a large portion of the city's professional staff.

Joe Cavanaugh, president of the union's chapter, said Thursday that the bargaining unit has sent an initial offer of ground rules for negotiating their next contract after the current one expires Dec. 31, and that they would be requesting closed negotiations as has been practice for years.

“The city can’t amend or change a state law by ordinance or by charter,” Cavanaugh said.

The union could take the case to the courts and cite Korsmo’s argument as grounds to maintain closed bargaining, Cavanaugh said.

The Spokane County Board of Commissioners approved a resolution requiring opening bargaining in December 2018. Earlier this year, Local 492 – a union representing detention workers at the Spokane County Jail – filed an unfair labor practice complaint against the county for requiring contract talks to take place publicly. That complaint is currently before the Public Employment Relations Commission in what Gordon Smith, who represents Local 492 for the Washington State Council of County and City Employees, called a situation “gravitating toward” what is taking place in Lincoln County.

“Our position all along has been if we really thought the open public meetings was about transparency, we’d be open to that,” Smith said. Instead, the efforts seem more about politics and grinding talks to a halt, he said.

The disputes are also being watched by transparency groups, including the Washington Coalition for Open Government, a Redmond-based nonprofit lobbying for greater public access in governance.

The coalition has yet to file an official brief in the case, as Spokane County did defending Lincoln County’s position, said Toby Nixon, a coalition board member and city councilman in Kirkland. But the group broadly supports efforts to conduct government business publicly.

“Labor costs are 70%-75% of most agency budgets. You would like to hope that some of those decisions would be made in public, not all negotiated behind closed doors,” Nixon said.