

## BOARD OF PERSONNEL APPEALS

### Report of Investigation

Petitioner: Ricky Walsh, International  
Association of Firefighters.

Case Number: 20200334

Respondent: City of Billings, Billings Fire  
Department.

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#### I. SUMMARY

On February 28, 2020, Ricky J. Walsh filed a Petition for Unit Clarification. Within his petition, Mr. Walsh sites no specific statutes or rules to support his case. He identifies that Article 1 In the International Association of Fire Fighters (IAFF) Collective Bargaining Agreement (CBA) recognizes the Association as the exclusive bargaining agent for all employees of the Billings Fire Department except the Fire Chief, Assistant Chief, Administrative support employees and all initial probationary firefighters.

In his request for a unit clarification, Mr. Walsh does not seek to change the bargaining unit description in the IAFF Agreement. Instead, his proposal identifies a bargaining unit represented by Teamsters Local 190 and suggests the workers under that agreement are fire fighters working at the fire station at the Billings Airport. He argues, those workers should be represented by IAFF rather than Teamsters Local 190. Attached is a copy of the initial complaint. (**Documents #1**)

In his request for assistance, Mr. Walsh states:

*"IAFF Local 521 contends that with the inclusion of binding arbitration, eligible employees included in a collective bargaining agreement with non-binding arbitration employees has a causal effect of producing an inappropriate unit. The position of ARFF that is included within the text of Teamsters Local 190 clearly identifies these positions as firefighters employed by the City of Billings. Granted the positions as morphed over time into primary firefighters with maintenance duties."*

In response to an information request, Jim Larson, Secretary/Treasurer for Teamsters Local 190 indicated the employees in question have been represented by Teamsters Local 190 since at least 1981. He also said the employees' primary duty is to perform maintenance. As an additional duty, the employees are trained in firefighting in case of a large-scale aircraft accident, where all airport workers assist the firefighters. Attached is a copy Jim Larson's March 17, 2020 e-mail (**Document #2**)

A request for information was also sent to the City of Billings. In their response, they disagree with Mr. Walsh's petition and provide numerous reasons for their objection. The City further indicates that the issue of switching bargaining units is not new and has come up several times over the last 10 years. Additionally, they argue the neither the employees nor Teamsters Local 190 support this change. (**Document #3**)

## **II. DETAILS OF INVESTIGATION**

This investigation report is presented based on the authority appointed to the department under Administrative Rules of Montana (ARM) 24.26.630. The focus of this investigation is to determine if the petition is properly filed as unit clarification in accordance ARM 24.26.630 (1) and (2).

ARM 24.26.630 (1), **"requires the petition be filed by an exclusive representative of the bargaining unit in question or by the public employer"** (emphasis added). In his petition, Mr. Walsh clearly identifies himself as the Bargaining Representative which initially provides the appearance he meets the requirements. However, in his Description of Proposed Clarification of the Unit, he explains he does not seek to change the bargaining unit description found in the IAFF Collective Bargaining Agreement. Instead, he asks the Board to clarify the unit description of another recognized bargaining unit (Teamsters Local 190), suggesting job descriptions in their Collective Bargaining Agreement have morphed over time to be considered firefighters.

As the public employer of both bargaining units in question, the City of Billings was asked to respond to the Petition for Unit Clarification. On March 30, 2020, Billings Logan International Airport (BIL) responded, indicating the positions in question are Airfield Maintenance Workers. As reflected in their job description and job posting, airfield maintenance is the primary duty of their job. BIL agrees the positions are trained to respond and assist the Fire Department in the case of an emergency at the airport. The City of Billings clarified that the position of an ARFF/AFM Worker has not morphed over time and the job requires the employee to spend much more time focusing on airfield maintenance, construction projects, operations, and snow removal than firefighting. (**Document #4 and #5**)

Mr. Walsh suggests that because the IAFF Agreement provides binding arbitration and the Teamsters Agreement provides non-binding arbitration, coupled with the alleged change in job descriptions, it has created a causal effect to the current Teamsters bargaining unit members large enough to warrant them to unilaterally become members of the IAFF. However, he has provided no evidence to show the change in job description.

ARM 24.26.630 (2), (g), requires the petitioner to provide a statement that no other employee organization is certified to represent any of the employees who would be directly affected by the proposed clarification. Mr. Walsh did not provide a statement as required. Furthermore, the petition asks, "is any employee organization, other than the representative listed in the petition certified to represent any of these employees who would be directly affected by the proposed clarification". Mr.



Walsh answers the question by marking “yes”. He also indicates the employees are currently represented by Teamsters Local 190.

With this answer and the fact that the petitioner is not the exclusive representative of the bargaining unit in question, this investigator finds the petition to be defective in form.

### **III. CONCLUSION AND RECOMMENDATION**

Within each union’s by-laws, there are set jurisdictions. Example: IAFF=Firefighting, Teamsters=Maintenance, etc. In the public sector, in order to maintain the most cost-effective work environment, it is common to see jurisdictional crossover, one union doing the jurisdictional work of other unions. In this case, the City does not maintain a specific IAFF jurisdiction fire department at the airport. Rather, non-firefighters are trained to assist the fire department when emergencies arise onsite.

In this case, the petition for unit clarification is denied because:

1. Mr. Walsh is not the exclusive representative of the bargaining unit in question.
2. BIL is the public employer and, as provided by ARM 24.26.630 (1) they have the legal right to file a Petition for Unit Clarification. They clearly state they believe the employees in question are correctly a part of the Teamsters Local 190.
3. Teamsters Local 190 is the exclusive representative of the employees in question and, as provided in ARM 24.26.630 (1) they have the legal right to file a Petition for Unit Clarification. The Teamsters argue these employees are airfield maintenance and they do not feel a need for a Unit Clarification.
4. The job description and job requirements show the primary duties of these employees is not firefighting.

After careful review of the petition, contracts, e-mails, job descriptions, and witness testimony, this investigator has concluded the petition is defective in form as provided in ARM 24.26.630 (1) and (2). As such, it is recommended that this petition be dismissed.

### **IV. APPEAL RIGHTS**

If either party disagrees with this decision, they may appeal the decision to the Board of Personnel Appeals. An appeal **must be received no later than April ( ), 2020** in accordance with **ARM 24.26.630**. The request should be directed to:

Board of Personnel Appeals  
PO Box 201503 Helena, MT 59620-1503  
FAX: 406-444-4140  
Email: [dliedbopa@mt.gov](mailto:dliedbopa@mt.gov)

If an appeal is not filed by the deadline provided above, this decision will become the final decision of the Board of Personnel Appeals.

### **V. WITNESS**

1. Jim Larson, Secretary Treasurer

**VI. SUPPORTING DOCUMENTS**

1. Copy of ARM 24.26.630
2. Copy of March 17, 2020 e-mail / Jim Larson
3. Copy of City of Billings March 30, 2020 response
4. Copy of ARFF/ Airfield Maintenance Worker Job Description
5. Copy of IAFF CBA
6. Copy of Teamster Local 190 CBA



Investigator  
Dave Luckey  
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**CERTIFICATE OF SERVICE**

The undersigned does certify a true and correct copy of this document was served upon the following on the 2nd day of April, 2020, postage paid and addressed as follows:

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