

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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 In the Matter of the Petition of :  
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 PORTAGE COUNTY : Case 2  
 : No. 43044 ME-367  
 : Decision No. 6478-E  
 Involving Certain Employes of :  
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 PORTAGE COUNTY :  
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Appearances:

Mr. Philip H. Deger, Personnel Manager, Portage County, 1516 Church Street, Stevens Point, Wisconsin 54481, appearing on behalf of the County.

Mr. David White, Staff Representative, Wisconsin Council 40, AFSCME,

AFL-CIO

FINDINGS OF FACT, CONCLUSION OF LAW  
AND ORDER CLARIFYING BARGAINING UNIT

On October 19, 1989, Portage County, hereinafter the County, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify a bargaining unit of municipal employes by excluding the position of Accounting Specialist. Scheduling in the matter was held in abeyance pursuant to the request of the County. On May 23, 1990, the Commission was requested to schedule the matter for hearing. On July 18, 1990, the Commission, by Examiner Coleen A. Burns, a member of the Commission's staff, scheduled a hearing on the petition. Hearing on the petition was held on September 5, 1990, in Stevens Point, Wisconsin. The record was closed on November 8, 1990, upon completion of the post-hearing briefing schedule. Being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. Wisconsin Council 40, AFSCME, AFL-CIO, and its affiliated Portage County Courthouse, Health Care Center, Department of Community Human Services and Library System Employees, Local 348, AFSCME, AFL-CIO, hereinafter collectively referred to as the Union, are labor organizations with offices located at 1203 Wilshire Place, Waukesha, Wisconsin.

2. Portage County, hereinafter the County, is a municipal employer with offices at 1516 Church Street, Stevens Point, Wisconsin 54481.

3. On September 26, 1963, the Commission issued Decision No. 6478 wherein it certified the Union as the exclusive collective bargaining representative of "all employes of the County, excluding elected officials, supervisory personnel and law enforcement personnel". On June 29, 1981, the Commission issued Decision No. 18792 in which it amended the description of the bargaining unit represented by the Union as follows:

all regular full-time non-professional employes in the employ of Portage County in its Courthouse, County Home, and Department of Community Services, but excluding professional employes, licensed practical nurses, summer, seasonal, temporary and part-time employes, employes included in other bargaining units, confidential, supervisory, and managerial employes.

On November 11, 1981, the Commission issued Decision No. 18792-C in which it amended the description of the bargaining unit represented by the Union as follows:

all regular full-time non-professional employes in the employ of Portage County in its Courthouse, County Home, and Department of Community Human Services, and Library System, but excluding professional employes, licensed practical nurses, summer, seasonal, temporary and part-time employes, employes included in other bargaining units, confidential, supervisory and managerial employes.

On February 19, 1985, the Commission issued Decision No. 22235 in which the Commission amended the description of the bargaining unit represented by the Union as follows:

all regular full-time and regular part-time non-professional employes in the employ of Portage County in its Courthouse, County Home, and Department of Community Human Services and Library, excluding craft,

professional, supervisory, managerial and confidential employees and employees included in other bargaining units.

The parties amended the description of the bargaining unit represented by the Union when they adopted Article I of the parties' 1988-1989 collective bargaining agreement, wherein the County recognizes the Union as the sole and exclusive bargaining agent for all regular full-time and regular part-time non-professional employees in the employ of Portage County in its Courthouse, Health Care Center, Department of Community Human Services, and Library, excluding professionals, supervisory, managerial and confidential employees, and employees included in other bargaining units. Article I further recognizes that "Courthouse employees", when used in the Agreement, includes the employees working at the Courthouse, Courthouse Annexes, and Senior Citizens Center.

4. On August 31, 1981, the Commission issued Decision No. 18792-B wherein it certified the Office and Professional Employees International Union Local 95, AFL-CIO, as the exclusive collective bargaining representative of all regular full-time and all regular part-time professional employees in the employ of Portage County in its Department of Community Human Services, but excluding all other employees, as well as confidential, supervisory and managerial employees. Article I of the 1988-1989 collective bargaining agreement between the County and Office and Professional Employees International Union, Local 95, AFL-CIO, recognizes Local 95 as the sole collective bargaining agent for all regular full-time and regular part-time professional employees of the Portage County Community Human Services Department, Department on Aging, Registered Nurses of the County Home, and the Social Worker of the County Home, exclusive of supervisory, managerial, confidential, clerical, limited-term, federal project, maintenance and non-professional employees.

5. On October 25, 1989, the County filed a unit clarification petition with Commission requesting that the position of Accounting Specialist be excluded from the collective bargaining unit represented by the Union. At the time of hearing, this position was occupied by Cathey LaHaye. The County, contrary to the Union, maintains that the position of Accounting Specialist is appropriately excluded from the bargaining unit represented by the Union on the basis that the position is supervisory, confidential, and/or professional.

6. Cathey LaHaye has occupied the position of Accounting Specialist in the County's Department of Business Administration since the position was created in September of 1989. Prior to that time, she was the Department's Payroll Accountant. There are two other employees in the County's Department of Business Administration, i.e., Jerry Glad, the Department Administrator, and Collene Stevens, a Bookkeeper II. All of the employees of the Business Administration Department are full-time employees who normally work within the Business Administration Department's normal work hours of 7:30 a.m. to 4:30 p.m. Glad, who is the head of the Business Administration Department, is not a member of any bargaining unit. LaHaye and Stevens are members of the bargaining unit represented by the Union. Since the position was created in September of 1989, the position of Accounting Specialist has had the following position description:

This position requires a thorough knowledge of municipal accounting and budgeting. It requires the ability to comprehend the financial accounting system of all county departments and relate that system to operating budgets. Work is performed within the guidelines established for the county accounting system, with the employees expected to exercise considerable independent judgement in solving problems. This employee is the sole staff support to the Business Administrator for confidential management/union matters.

#### DESCRIPTION OF DUTIES

Characteristic Duties & Responsibilities/Essential Knowledge & Abilities:

##### A. MONITOR THE COUNTY'S GENERAL LEDGER ACCOUNTING SYSTEM

1. Maintain the chart of accounts.
2. Code, batch and input into the computer system journal entries and appropriation entries. Audit manual general checks and receipts for proper distribution to general ledger accounts. Reconcile the computer generated month and input error report to manually calculated totals. Corrections are inputted to produce a final month end budget and

- expense report.
3. Monitor and distribute financial reports to departments and work with those department staff members on special accounting report requirements.
  4. Direct and control the ongoing reconciliation of numerous accounts within the central accounting system to ensure accuracy and to provide detailed information.

B. COUNTY-WIDE BUDGET PROCESS FUNCTION

1. Audit all salary and fringe benefits.
2. Restate financial data when program changes occur to provide meaningful comparisons.
3. Assist the Budget Administrator in the audit function of analyzing all department budget requests to verify compliance of budget guidelines.

C. FINANCIAL REPORTING FUNCTION

1. Assist the Business Administrator with internal audit programs for numerous departments.
2. Compiling financial reports using raw financial data and programming through the use of LOTUS software for a variety of reports particularly during the budget process.
3. Assist the Budget Administrator in preparing a wide variety of complex financial reports for state agencies, restating data from the county's accounting system to conform with different reporting requirements of the state agencies.

D. INSURANCE PROGRAM

1. Act as liaison with worker's compensation insurance carriers reporting all initial claims and status of active claimants.
2. Process all worker's compensation claims for self-funded portion of the worker's compensation program.
3. Audit worker's compensation benefits paid for lost wages and medical expenses by insurance carrier and reconcile lost wages benefits to payroll records.
4. Act as liaison for general liability program to ensure that completed accident reports are submitted timely to insurance carriers.

E. SUPERVISION

1. Directly involved in the interview and hiring process of the Bookkeeper II position.
2. Closely supervise all work activity of the Bookkeeper II position.
3. Have the authority to discipline the Bookkeeper II position if necessary.

F. GENERAL ACTIVITY

1. Provide staff support to Business Administrator in management/union confidential matters.
2. Attend Finance Committee meetings.

KNOWLEDGE, SKILLS AND ABILITIES

Knowledge of Worker's Compensation law and regulations. D1, D2  
Thorough knowledge of governmental accounting and budgeting principles and procedures. A1-A4, B1-B3, C1-C3  
Knowledge of payroll procedures and principles. B1  
Knowledge of computer application to general accounting and payroll systems. A1, A3, B1  
Knowledge of LOTUS software application for compiling reports. C1, C2  
Ability to compile and analyze statistical, financial and narrative reports and summaries. A4, A5, C, D.  
Ability to communicate effectively orally and in writing. A4, A5, C1, D1, D4, E, F  
Ability to operate a computer terminal with speed and accuracy. A3  
Ability to operate a personal computer. F  
Ability to operate a calculator with speed and accuracy. A, B, C

QUALIFICATIONS

Accounting degree and/or equivalent work experience.

Since Stevens commenced her position as Bookkeeper II on October 18, 1989, she has worked under the following position description:

This employee has the responsibility for processing county-wide payroll and processing county-wide general vouchers. This employee requires a broad knowledge of accounting systems chart of accounts. This employee is closely supervised by the Business Administration's Accounting Specialist.

#### DESCRIPTION OF DUTIES

#### Characteristic Duties & Responsibilities/Essential Knowledge & Abilities

##### A. PAYROLL FUNCTION

1. This employee audits payroll data submitted outside department staff for:
  - a. Verifies total hours reported for distribution of regular hours, holiday, overtime, etc.
  - b. Verification of accounting codes to distribute payroll expenses to proper departmental budgets or program accounts.
2. Computes changes to salary rates effected by promotions, progressions, and new hires.
3. Communicates with outside department staff to inform them of their payroll errors.
4. Input biweekly, through the computer terminal, summarized payroll data submitted by all departments which is used to generate county-wide payroll.
5. Originates correcting adjustments and inputs into system preliminary payroll run to produce final payroll.
6. Maintains computerized master employment record.
7. Direct responsibility for reconciling all payroll tax accounts and also payroll withholding accounts within the county's general accounting records. This function requires the initiation of payments to proper agencies pertaining to payroll taxes and payroll withholdings; i.e., income tax withholding reports, social security and retirement reports, fringe benefit withholdings and credit union deductions.

B. GENERAL VOUCHER PROCESSING FUNCTION

1. Audit general vouchers for proper documentation, account classification and amounts.
2. Reconcile the computer generated report with manually calculated totals.
3. Communicate with outside department staff to inform them of their voucher processing errors.
4. Handle inquiries from vendors and outside department staff.
5. Control and maintain a vendor listing used for all general voucher payments.

C. SPECIAL ASSIGNMENTS

1. Compile a variety of financial reports as assigned.

D. GENERAL OFFICE FUNCTION

1. Workload includes filing, typing, photocopying and telephone answering.

KNOWLEDGE, SKILLS AND ABILITIES:

Knowledge of payroll principles and procedures. A1, A5  
Knowledge of municipal accounting principles and procedures. A1, B5  
Knowledge of state and federal withholding regulations and reporting requirements. A7  
Knowledge of Wisconsin Retirement Program and reporting requirements. A7  
Knowledge of union contracts. A1, A2  
Knowledge of computer application to payroll matters and general accounting. A4, A6  
Ability to compile reports and maintain complete and accurate records. C1  
Ability to operate a computer terminal with speed and accuracy. A4, B1, B2, B5  
Ability to communicate effectively, orally and in writing. A3, B3, B4  
Ability to operate a calculator with speed and accuracy. A, B, C

In addition to the above duties, LaHaye works closely with Bob Stanke, the County's Safety Officer, to monitor accidents and develop safety procedures. At the time of hearing, LaHaye and Stanke were developing a safety policy manual. In preparing financial reports, LaHaye works under the direction and supervision of her supervisor, Glad, who identifies the reports to be prepared and provides LaHaye with guidelines to prepare the report. Frequently, LaHaye is given a set of assumptions and requested to make projections on the basis of these assumptions. The information which forms the basis of the financial reports prepared by LaHaye is contained in the County's financial records. LaHaye does not determine the type of information which is maintained in the County's financial records. In determining the chart of accounts, LaHaye follows state guidelines establishing account numbers for revenues and expenditures. When a Department has received a grant for a new program, LaHaye establishes new revenue and expense accounts. If it is an unusual program or one that she is not familiar with, she seeks advice from Glad.

7. Prior to September 1, 1989, LaHaye did not have any responsibility for hiring County employees. In September of 1989, LaHaye was advised that she would be responsible for hiring employees within her Department. When the County posted the vacancy for the Bookkeeper II position currently occupied by Stevens, two bargaining unit employees signed the posting. LaHaye prepared a list of questions for the applicant interviews and presented the list to the Personnel Department for review as to legality. LaHaye and Lisa Jakusz, a Personnel Department employee, jointly interviewed the two employees who signed for the posting. Under the terms of the Union's collective bargaining agreement, the County was required to offer the position to the most senior applicant who qualified for the position. LaHaye determined that Stevens, the most senior applicant, was qualified and offered the position to Stevens. When

LaHaye advised Glad that she had extended the job offer to Stevens, Glad indicated that he did not agree with LaHaye's decision. Stevens accepted the offer and has been working in the position since October 18, 1989. LaHaye does not have any responsibility for hiring any County employe other than for the position currently occupied by Stevens. In the Fall of 1989, LaHaye hired two temporary employes. On May 11, 1990, upon completion of Steven's trial period, LaHaye evaluated Stevens' work performance. LaHaye's evaluation of Stevens was reviewed and signed by Glad. LaHaye had the authority to determine whether or not Stevens satisfactorily completed her trial period. The Business Administration Department does not have an annual evaluation process and LaHaye has not evaluated any other County employe. LaHaye will be evaluating Stevens at the end of Stevens first year in the Bookkeeper II position.

8. The Bookkeeper II wage rate is established in the labor contract and LaHaye does not have authority to alter this wage rate. LaHaye considers employe transfers and lay-offs to be governed by the Union's collective bargaining agreement. LaHaye has been advised that she has authority to discipline Stevens, but has not had an occasion to do so. LaHaye does not consider it necessary to obtain approval from any other County employe prior to exercising her disciplinary authority. LaHaye considers herself to have the same disciplinary authority as any other immediate supervisor, including the authority to impose verbal and written reprimands, and recommend suspensions and discharge. Prior to imposing discipline, LaHaye would consult with the County Personnel Department to ensure that she complied with applicable labor contract provisions and/or County personnel policies. At the time of hearing, LaHaye did not have disciplinary authority over any County employe other than Stevens.

9. If Stevens were to file a grievance, LaHaye would provide the County's first step response to the grievance. LaHaye considers herself to be Stevens' immediate supervisor and Stevens considers LaHaye to be her immediate supervisor. At the time of hearing, LaHaye had a wage rate of \$9.07 per hour and Stevens had a wage rate of \$7.88 per hour. LaHaye has authority to authorize overtime for Stevens and has exercised this authority. If LaHaye were to be absent from work and there is a worker's compensation claim which must be filed, then Stevens would file the claim. Stevens does not perform any of LaHaye's other job responsibilities. LaHaye does not perform Stevens' normal work duties unless Stevens is absent and there is a deadline which must be met. At the time of hearing, LaHaye was training Stevens and estimated that she devoted between 10 and 25% of her work time to supervising Stevens. When Steven's training is completed, she should be able to perform the majority of her duties, *i.e.*, payroll and vouchers, with little direction from LaHaye. LaHaye assigns work to Stevens when LaHaye observes that there is insufficient work for Stevens and has authority to interrupt Stevens in the performance of her normal work duties to assign other work, but would not do so if Stevens were working under a deadline. LaHaye is responsible for ensuring that an employe is present in her Department during its normal business hours. LaHaye approves all of Stevens' requests for time off from work such as vacations and sick leave. Prior to approving Stevens' requests for time off, LaHaye may check with Glad to determine if there are any special projects which require Stevens' attendance. LaHaye has never had an occasion to deny Stevens' requests for time off, but believes that she does have such authority. While Glad also has authority to authorize overtime for Stevens, he has not exercised this authority. If LaHaye were absent from work, then Glad would exercise authority to approve Stevens' requests for time off from work. LaHaye has authority to recommend that Stevens be promoted or reclassified. Such a recommendation would be made to her supervisor, Glad.

10. LaHaye's Department works closely with the Finance Committee of the County Board. On an annual basis, the Finance Committee meets with the Personnel Committee of the County Board to discuss wage and benefit guidelines. This meeting is held in closed session. LaHaye does not attend the closed session, but is aware of announcements which are made in the open session. Glad attends Department Head meetings. LaHaye has never attended any of the Department Head meetings. When LaHaye noticed that the work schedule of the Sheriff's Deputies resulted in the Deputies' owing time to the County, she advised Glad and other County officials of the same. LaHaye was present when Glad and/or employes of the County Personnel Department discussed the possibility of negotiating a change in the schedule and the costs of such a change. LaHaye was not involved in any closed session discussions with the Personnel Committee or any County Board committee regarding changes in the Deputies' schedule. LaHaye has had discussions with representatives of the Personnel Department concerning the need to standardize language and/or benefits between collective bargaining agreements. LaHaye has had these discussions when she feels the language is cumbersome or has an adverse impact on the performance of her work duties. One such discussion involved the costs and benefits of negotiating a change in the disability benefit contained in the Sheriff's Deputies' collective bargaining agreement. When a grievance was filed by Sheriff's Department employe, the County Personnel Director contacted LaHaye to ask how the County was paying overtime to the Sheriff's deputies and whether or not such overtime included shift differential. As a result of discussions between Glad, LaHaye and the Personnel Department, the County developed a contract proposal to amend or eliminate shift differential language

and the disability pay fringe benefit for the Sheriff's Deputies. At times, LaHaye and other employes of the Business Administration Department are asked to determine an employe's wage and/or benefits. In responding to such questions, Department employes refer to the County's collective bargaining agreements. If LaHaye or another employe of the Business Administration Department decide that the contract language is ambiguous, the Personnel Department is requested to provide an interpretation. LaHaye has an Associate Degree in Accounting from Mid-State Technical College. Her course work at Mid-State Technical College included Accounting, Auditing, Accounting Systems, Economics, Business Law and Income Tax. LaHaye has also taken a three-day governmental accounting class.

11. Jerry Glad has been the County Business Administrator for approximately 17 years. Glad did not participate in either the employment interview for the Bookkeeper II position occupied by Stevens or Stevens' performance evaluation, but rather, delegated the responsibility for hiring a Bookkeeper II and evaluating the Bookkeeper II to LaHaye. Glad devotes more than half his work time to meeting with committees and other department heads. During these meetings, Glad is not available to supervise employes in his department. Glad has requested, and the County Finance Committee has approved, the reclassification of LaHaye's position to a salary level of \$22,676. Glad has an Accounting degree from UW-Milwaukee, a Master's degree in Business Administration and is a Certified Public Accountant. Glad's primary responsibility is budget planning and preparation, floating bond issues and advising members of the County Board on financial matters. Glad develops the County audit programs and audit internal control systems. Glad has delegated the responsibility to monitor these programs to LaHaye. Glad and LaHaye meet once a week. At these meetings, Glad identifies the projects to be completed and gives LaHaye a deadline for completing these projects. LaHaye has the discretion to perform the work herself or assign it to Stevens.

12. Cathey LaHaye, the individual occupying the position of Accounting Specialist, possesses and/or exercises supervisory authority in sufficient combination and degree as to render her a supervisory employe.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

Cathey LaHaye, the individual occupying the position of Accounting Specialist in the County's Department of Business Administration, is not a municipal employe within the meaning of Sec. 111.70(1)(i), Stats., but rather is a supervisory employe within the meaning of Sec. 111.70(1)(o)(1), Stats., and, therefore, is appropriately excluded from the collective bargaining unit represented by the Union.

ORDER CLARIFYING BARGAINING UNIT 1/

The position of Accounting Specialist, occupied at the time of hearing by Cathey LaHaye, shall be and hereby is excluded from the collective bargaining unit set forth in Finding of Fact 3.

Given under our hands and seal at the City of  
Madison, Wisconsin this 14th day of February,  
1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/  
A. Henry Hempe, Chairman

Herman Torosian /s/  
Herman Torosian, Commissioner

William K. Strycker /s/  
William K. Strycker, Commissioner

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An



agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If

(Footnote 1/ continues on page 10.)  
(Footnote 1/ continues from page 9.)

all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT

POSITIONS OF THE PARTIES:

County:

The position of Accounting Specialist in the Business Administration Department should be excluded from the collective bargaining unit represented by the Union on the basis that the employe occupying this position is a supervisory, confidential and/or professional employe. The occupant of this position, Cathey LaHaye, currently supervises one full-time bargaining unit employe and has also hired and supervised temporary employes on occasion. The record establishes that LaHaye has authority to hire permanent and temporary employes, to direct and assign work, to change work schedules, to authorize overtime work, to approve time off requests, to evaluate and recognize employe performance, to discipline employes, to recommend promotion, transfer or reclassification of employes, and to orient and train employes. The Department Head, the Business Administrator, exercises the aforementioned supervisory duties over the Bookkeeper II only in the absence of the Accounting Specialist.

As the testimony of the Business Administrator establishes, he is out of the office or otherwise unavailable well over half of his work time and, therefore, has effectively delegated daily office management, including supervision of permanent bargaining unit, as well as temporary employes, to the Accounting Specialist. As the record demonstrates, the Business Administrator did not interfere with LaHaye's decision to hire the current Bookkeeper II, although he may have had some reservations about her decision to do so. The Accounting Specialist devotes approximately 10 to 25% of her work time to supervisory activities. The balance of her time is spent on professional accounting duties. The Accounting Specialist and Bookkeeper have few, if any duplicate duties. Therefore, the Accounting Specialist cannot be considered to be a lead worker. The Accounting Specialist's salary is currently 15% greater than the pay of the Bookkeeper II. The Business Administrator and the County Finance Committee have recommended an additional 20% position upgrade. If approved by the County Personnel Committee, the Accounting Specialist's salary will be comparable to comparable County supervisory and professional positions.

The Accounting Specialist's formal education, as well as her continuing education, permits her to act in a consulting/advisory/training role for bargaining unit employes in the County. The Accounting Specialist is required to have the knowledge, skill, and ability customarily acquired through the type of specialized educational instruction described in Sec. 111.70(1)(L)(1)(d), Stats. The Accounting Specialist recalled that she had been previously excluded from closed sessions of Personnel Finance Committee meetings where collective bargaining wage/benefit objectives and strategy are discussed merely because she was within a bargaining unit position at the time. The Accounting Specialist has discussed, on several occasions, collective bargaining objectives and alternative strategies with the County Personnel Director and/or Business Administrator. Although there has been no opportunity to do so, the Accounting Specialist could represent the Business Administrator at Department Head meetings and, thus, be privy to confidential labor relations matters.

Union:

The individual occupying the position of Accounting Specialist is not a supervisory, confidential, nor professional employe. Careful review of the evidence reveals that the individual in question is a lead worker and not a supervisor. Any supervisory responsibilities are limited to supervising an activity, rather than an employe. The Accounting Specialist spends a vast majority of her work time performing non-supervisory work. The work performed by the Accounting Specialist does not involve the use of independent judgment.

BACKGROUND:

The County seeks to exclude the position of Accounting Specialist in the County's Department of Administration from the collective bargaining unit represented by the Union on the basis that the individual occupying this

position is a supervisory, confidential and/or professional employe. The Union denies that the employe occupying the position of Accounting Specialist is a supervisory, confidential or professional employe and maintains that the employe occupying this position is appropriately included in the bargaining unit represented by the Union.

DISCUSSION:

Section 111.70(1)(0)1, Stats., defines the term "supervisor" as follows:

... Any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, or lay off, recall, promote, discharge, assign, reward or discipline other employes, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In determining supervisory status, the Commission gives consideration to the following factors:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employes;
2. The authority to direct and assign the work force;
3. The number of employes supervised, and the number of other persons exercising greater, similar or less authority over the same employes;
4. The level of pay, including an evaluation of whether the supervisor is paid for his or her skills or for his or her supervision of employes;
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employes;
6. Whether the supervisor is a working supervisor or whether he or she spends a substantial majority of his or her time supervising employes; and
7. The amount of independent judgment exercised in the supervision of employes. 2/

Not all of the above factors need be present for a position to be found supervisory. Rather, in each case, the inquiry is whether the factors are present in sufficient combination and degree to warrant the conclusion that the employe occupying the position is supervisory.

At the time of hearing, the position of Accounting Specialist in the County's Department of Business Administration was occupied by Cathey LaHaye. LaHaye assumed the position at the time the position was created in September, 1989. Since assuming this position, LaHaye interviewed applicants for the Department's Bookkeeper II position and determined which applicant to hire. It is true that a member of the Personnel Department was present at the interview. It was LaHaye, however, and not any employe of the Personnel Department, who made the decision to offer the Bookkeeper II position to Collene Stevens. LaHaye also hired two temporary employes in the Fall of 1989.

The Business Administration Department Head, Jerry Glad, did not participate in the interview process. Glad accepted LaHaye's decision to offer the Bookkeeper II position to Collene Stevens despite the fact that he had reservations concerning LaHaye's decision. We are satisfied that LaHaye has effective authority to recommend hiring of County employes and has exercised this authority.

While LaHaye has never had an occasion to discipline Stevens, she has been advised that she has such authority and such authority is recognized in LaHaye's position description. LaHaye does not need approval from any other County employe to issue verbal or written warnings and could recommend suspension or discharge. However, prior to imposing discipline, she would consult with the County Personnel Department to ensure that she complied with applicable labor contract provisions and/or County personnel policies. We are satisfied that LaHaye has authority to discipline and/or effectively recommend the discipline of employes.

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2/ Portage County, Dec. No. 6478-D (WERC, 1/90); Town of Conover, Dec. No. 24371-A (WERC, 7/87).

LaHaye trained Stevens in her duties as Bookkeeper II and, upon completion of Stevens' trial period, evaluated Stevens' work performance. While Glad reviewed and signed the evaluation, LaHaye had the authority to determine whether or not Stevens had satisfactorily completed her trial period. We are satisfied that LaHaye has authority to effectively recommend the promotion of employees.

At the time of hearing, LaHaye had a wage rate of \$9.07 per hour and Stevens had a wage rate of \$7.88 per hour. Although many of Stevens' work duties are performed on a routine basis and require little or no direction from LaHaye, LaHaye has authority to assign additional work to Stevens as LaHaye deems necessary and has exercised this authority. LaHaye has the responsibility to ensure that an employe is present in the Business Administration Office during the office's normal business hours. LaHaye has authority to authorize overtime for Stevens and has exercised this authority. While Glad also has authority to authorize overtime for Stevens, he has not exercised this authority. LaHaye has authority to approve Steven's requests for time off and has exercised this authority. While Glad also has authority to approve Stevens' requests for time off, he would not exercise this authority unless LaHaye were absent from the office. Prior to approving Stevens' requests for time off, LaHaye may check with Glad to determine whether he was contemplating any special projects. Although LaHaye has never had the occasion to deny any of Steven's requests for time off, she would do so if Stevens were needed at the office. If Stevens were to file a grievance, LaHaye would provide the County's first step response to the grievance. If LaHaye were absent from work and it was necessary to file a workers' compensation claim, then Stevens would file the claim. Otherwise, Stevens does not perform any of LaHaye's job duties. LaHaye does not perform any of Stevens' normal work duties unless Stevens is absent and there is a deadline which must be met.

Contrary to the argument of the Union, LaHaye is not functioning as a lead worker. We are satisfied that LaHaye has authority to direct and assign the Department's Bookkeeper II and that LaHaye is primarily supervising the Bookkeeper rather than the Bookkeeper's work activity. We are further satisfied that LaHaye utilizes independent judgment in supervising the Bookkeeper II.

At the time of hearing, LaHaye was training Stevens and estimated that she devoted between 10 and 25 per cent of her work time to supervising Stevens. It may be true that, upon completion of Stevens' training, LaHaye's supervisory responsibilities will not occupy a significant portion of LaHaye's work time. However, to the extent that Stevens requires supervision, it is LaHaye, and not any other County employe, who will provide this supervision. We are persuaded that LaHaye exercises the indicia of supervisory status in sufficient combination and degree to warrant the finding that she is a supervisory employe. Accordingly, we have excluded the Accounting Specialist position from the collective bargaining unit represented by the Union.

Having concluded that the position of Accounting Specialist in the County's Department of Business Administration is appropriately excluded from the collective bargaining unit represented by the Union on the basis that the employe occupying the position is a supervisory employe, we need not address the additional questions of whether she could also be excluded from the bargaining unit on the basis that she is a confidential and/or professional employe.

Dated at Madison, Wisconsin this 14th day of February, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/  
A. Henry Hempe, Chairman

Herman Torosian /s/  
Herman Torosian, Commissioner

William K. Strycker /s/  
William K. Strycker, Commissioner