

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of	:	
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MILWAUKEE DISTRICT COUNCIL 48,	:	
AMERICAN FEDERATION OF STATE, COUNTY	:	
AND MUNICIPAL EMPLOYEES, AFL-CIO	:	
(AND ITS APPROPRIATE LOCALS) and	:	
INTERNATIONAL BROTHERHOOD OF FIREMEN	:	Case XXIV
AND OILERS, LOCAL 125-B, AFL-CIO	:	No. 9466 FF-32
	:	Decision No. 6575B
To Initiate Fact Finding	:	
Between Said Petitioners and	:	
	:	
CITY OF MILWAUKEE, Employed	:	
in the DEPARTMENT OF PUBLIC WORKS	:	
	:	
	:	

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Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. David L. Uelmen and Mr. John C. Zinos, Executive Director, for the Petitioners.

Mr. John J. Fleming, City Attorney by Mr. Harry G. Slater, Deputy City Attorney, for the Municipal Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
CERTIFICATION OF RESULTS OF INVESTIGATION  
AND ORDER APPOINTING FACT FINDING PANEL

Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate Locals) and International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO, having jointly petitioned the Wisconsin Employment Relations Board to initiate fact finding pursuant to Section 111.70 of the Wisconsin Statutes on behalf of certain employes of the City of Milwaukee; and pursuant to notice the Board having commenced hearing on said petition at the City Hall, Milwaukee, Wisconsin on November 26, 1963; and during the course of said hearing representatives of the Petitioners and the Municipal Employer having orally stipulated that they are deadlocked in their negotiations with respect to wages, hours and conditions of employment involving certain employes employed in the Department of Public Works represented by the Petitioners and the representatives of the Petitioners having

withdrawn the allegations contained in the petition to the effect that the Municipal Employer had failed to negotiate in reasonable efforts in a bona fide effort to arrive at a settlement; and further during the course of said hearing, representatives of the Petitioners and the Municipal Employer having orally stipulated to the appointment of a three member fact finding panel to make recommendations to resolve such deadlock; and the Board, having considered said stipulations, and being fully advised in the premises makes and files the following Findings of Fact, Conclusions of Law, Certification and Order Appointing Fact Finding Panel.

#### FINDINGS OF FACT

1. That Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate Locals), hereinafter referred to as District Council 48, and International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO hereinafter referred to as Firemen and Oilers, and jointly referred to as the Petitioners, are labor organizations having their offices at 615 East Michigan Street and 3518 West Fond du Lac Avenue, Milwaukee, Wisconsin respectively.

2. That the City of Milwaukee, hereinafter referred to as the Municipal Employer, is a City located in the State of Wisconsin having its offices at City Hall, Milwaukee, Wisconsin.

3. That on May 6, 1963, after an election conducted by it, the Wisconsin Employment Relations Board certified District Council 48 (and its appropriate Locals) as the exclusive bargaining representative for employes in a collective bargaining unit consisting of all regular employes employed in the various bureaus in the Department of Public Works of the City of Milwaukee, excluding engineers and architects, craft employes receiving prevailing construction and building trade rates, confidential employes, supervisors, and exec-

utives and also excluding natatorium supervisors, firemen (natatoria), natatorium assistants, bridgetenders and boat operators in the Bureau of Bridges and Public Buildings; clerks II - field (who are scalemen), cranemen, furnacemen, incinerator plant maintenance workers, garbage disposal laborers, garbage collection laborers, machinery operators, maintenance mechanics, maintenance mechanic foremen and boiler repairmen employed in Incinerator Plants of the Disposal Division of the Bureau of Garbage Collection and Disposal; and garbage collection laborers employed in the Collection Division of the Bureau of Garbage Collection and Disposal; and machinists, blacksmiths, laborers (Electrical Services), mechanic helpers and city laborers employed in the Machine Shop of Shops and Yard in the Division of Street Services of the Bureau of Traffic Engineering and Electrical Services, for purposes of conferences and negotiations with the Municipal Employer, or its lawfully authorized representatives, on questions of wages, hours and conditions of employment.

4. That on April 16, 1963, following an election conducted by it, the Wisconsin Employment Relations Board certified the Firemen and Oilers as the exclusive bargaining representative for employes in a collective bargaining unit consisting of all regular employes having the classifications of Clerk II - Field (Scaleman), Craneman, Furnaceman, Incinerator Plant Maintenance Worker, Garbage Disposal Laborer, Garbage Collection Laborer (employed six months or more in the Incinerator Plants), Machinery Operator and Maintenance Mechanic employed in the Incinerator Plants of the Disposal Division in the Bureau of Garbage Collection and Disposal in the Department of Public Works of the City of Milwaukee excluding all other employes, confidential employes, supervisors and executives, for the purposes of conferences and negotiations with the Municipal Employer or its lawfully authorized representatives, on questions of wages, hours and conditions of employment.

5. That, at least since following the issuance of the above noted certifications, representatives of the Petitioners and the Municipal Employer met on various occasions and engaged in a number of collective conferences regarding wages, hours and conditions of employment of the employes in the collective bargaining units noted above; and that following said conferences the parties remained deadlocked with respect to their negotiations on hours and working conditions of said employes.

Upon the basis of the above and foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. That a deadlock exists between Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate Locals), and the City of Milwaukee after a reasonable period of negotiations with respect to the wages, hours and working conditions affecting employes represented by Milwaukee District Council 48 (and its appropriate Locals) within the meaning of Section 111.70 (4) (e) of the Wisconsin Statutes.

2. That a deadlock exists between International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO and the City of Milwaukee after a reasonable period of negotiations with respect to wages, hours and working conditions affecting employes represented by International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO within the meaning of Section 111.70 (4) (e) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Board makes the following

CERTIFICATION AND ORDER

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of fact finding as required in Section 111.70 (4) (e) of the Wisconsin Statutes in respect to negotiations between the

City of Milwaukee and Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate Locals) and International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO have been met.

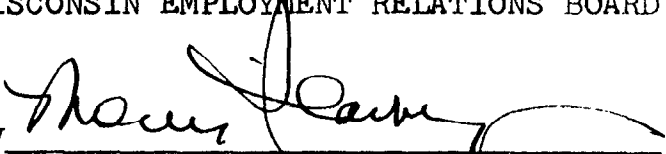
IT IS ORDERED that fact finding be initiated for the purpose of recommending a solution to the disputes existing between the City of Milwaukee and Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate Locals) and International Brotherhood of Firemen and Oilers, Local 125-B, AFL-CIO.

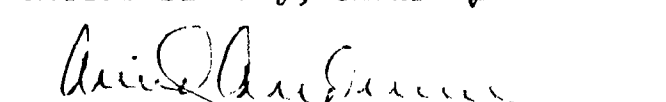
NOW, THEREFORE, the Wisconsin Employment Relations Board does hereby appoint a fact finding panel consisting of Nathan P. Feinsinger, Madison, Wisconsin, as Chairman; Emmert L. Wingert, Madison, Wisconsin and Reynolds C. Seitz, Milwaukee, Wisconsin as members, to proceed forthwith in the matter pursuant to Section 111.70 (4) (g) of the Wisconsin Statutes.

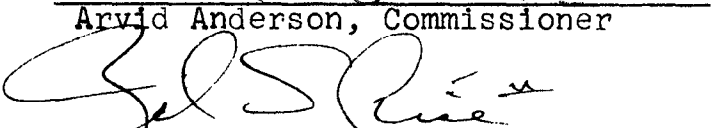
Given under our hands and seal at the City of Madison, Wisconsin this 12th day of December, 1963

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

  
Morris Slavney, Chairman

  
Arvid Anderson, Commissioner

  
Zel S. Rice II, Commissioner

STATE OF WISCONSIN

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MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSIONS OF LAW,  
CERTIFICATION OF RESULTS OF INVESTIGATION  
AND ORDER APPOINTING FACT FINDING PANEL

The material facts and conclusions upon which the Board has certified the instant deadlock to fact finding are contained in the formal order issued herein. However, it is to be noted that three days prior to the filing of its petition for fact finding, District Council 48 commenced a strike among the truck drivers employed in the Bureau of Municipal Equipment of the Department of Public Works and said strike continued up until the time of the Board's hearing in the matter. Officials of District Council 48 claimed that such activity was not a strike but that the employees involved were engaged in regular meetings of their Local Union. Such activity, by whatever name it may have been described, constituted a strike in violation of Section 111.70 (4) (1) of the Wisconsin Statutes.

The Legislature in adopting Section 111.70 authorized fact finding with public recommendations as an aid in the resolution of municipal employer-employee labor disputes, and as a substitute for

the strike weapon utilized in private employment. The Legislature recognized that employment policies in municipal employment should be determined largely as a result of reasonable persuasion and negotiation rather than by the pressures generated as a result of a strike. The fact finding procedure set forth in the statute is designed to give representatives of municipal employes an opportunity to persuade the municipal employer and the public of the merits of their particular requests with reference to the wages, hours and working conditions of municipal employes. As administrators of this statute we do not believe that labor organizations, who ignore these considerations by engaging in a strike, should at the same time be entitled to the benefits of fact finding or other rights granted to them by the statute. The Board as a general policy and in the absence of good cause shown will decline to process any fact finding petition filed by a labor organization which is engaged in a strike.

The Board does not consider that it is the only agency nor does it consider the provisions of Section 111.70 the only basis by which illegal strike activities may be restrained. We recognize that the municipal employer has the primary duty and obligation to avail itself of the powers vested in it, inherently and by statute, to take appropriate steps to terminate an illegal strike against it. In the event the municipal employer fails to take such steps, this Board, if the public interest demands it, will take whatever action is necessary to terminate strike activities by municipal employes. This Board was prepared to take such steps in the immediate case and would have done so had District Council 48 not agreed, before the formal hearing began, to terminate the strike.


We wish to emphasize that good labor relations in municipal employment will best be served when both municipal employers and municipal labor organizations recognize their responsibilities and


obligations under Section 111.70 to confer and negotiate in good faith on questions of wages, hours and conditions of employment and to reach a mutually satisfactory agreement thereon without having to resort to any activity which is prohibited by statute or to fact finding.

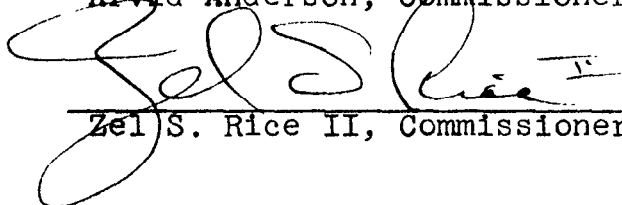
The recommendations of the fact finder or a fact finding panel are intended to assist the parties in reaching a settlement of their dispute through collective bargaining. If the fact finding procedure is regarded as an end in itself it will deter collective bargaining rather than assist it.<sup>1/</sup>

Dated at Madison, Wisconsin this 12th day of December, 1963.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By   
Morris Slavney, Chairman

  
Arvid Anderson, Commissioner

  
Zel S. Rice II, Commissioner

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<sup>1/</sup> City of Racine, Decision No. 6242-A, 3/63.