

STATE OF WISCONSIN.

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of

LANGLADE COUNTY EMPLOYEES,  
LOCAL 36, AFSCME, AFL-CIO

Involving Employees of

LANGLADE COUNTY, WISCONSIN Employed  
in the COUNTY HIGHWAY DEPARTMENT  
AND COURTHOUSE

Case I  
No. 9564 ME-133  
Decision No. 6716

Appearances:

MR. ROBERT E. JEFFREY, Representative, for the Petitioner.  
MR. ARTHUR J. DISTEL, District Attorney, for the Municipal Employer.

DIRECTION OF ELECTION

The above named Petitioner having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the above named Municipal Employer; and a hearing on such petition having been conducted at Antigo, Wisconsin, on March 23, 1964, by Arvid Anderson, Commissioner, and the Board having considered the evidence and being satisfied that questions have arisen concerning representation for certain employees of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all regular full time employees of Langlade County, Wisconsin employed in the County Highway Department, Courthouse, and Forestry Department, excluding elected officials, the Highway Commissioner, Patrol Superintendent, employees of the County Teachers College, confidential clerical personnel and supervisory

employees who were employed by said Municipal Employer on April 22, 1964, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining whether or not a majority of such employees desire to be represented by Langlade County Employees, Local 36, AFSCME, AFL-CIO for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours, and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 22nd day of April, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

Zel S. Rice II  
Zel S. Rice II, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the hearing, questions arose as to the eligibility of certain foremen employed by the Highway Department to vote in the representation election. The Highway Department Employment varies from approximately 65 - 84 persons during the course of the year. In addition to the full time supervisory responsibilities performed by the Highway Commissioner and Patrol Superintendent, the Highway Department also employs four (4) full time foremen and three (3) part time foremen. The full time foremen receive from 5 - 10¢ an hour more than the employees whom they supervise. In the case of Gordon Juetten, Gravel Foreman, he received an additional hour's pay for each day, because he works during the noon hour oiling the trucks and because he spends time in the evening or after regular hours maintaining time records of the employees who work under him. Juetten supervises a crushing crew and on occasions operates the Grader and Snow Plow. Juetten reports directly to the Patrol Superintendent or the Highway Commissioner. In the course of his duties, he makes recommendations regarding the performance of the men under him. While Juetten testified that he has no authority to hire or fire or to effectively recommend same, the testimony of the Highway Commissioner indicates that he has taken personnel actions based upon the reports and recommendations made to

him by Juetten.

Wyman Scott supervises an oiling crew consisting of approximately fourteen (14) employees. Harvey Teipner supervises the shop on behalf of the Employer. The number of persons whom he supervises varies from as little as three (3) in the summer to more than twenty-four (24) in the winter time. Donald Strobel is a Construction Foreman and supervises from 6 - 10 employees. All of the above employees perform work as well as supervise other employees. In addition to the Foremen named above, the Municipal Employer employs three (3) Foremen who are full time employees but spend only a portion of their time in the exercise of supervisory duties. It is the Petitioner's position that the Foremen are working supervisors and should be included in the bargaining unit. The Municipal Employer contends that the Foreman should be excluded. The Board is satisfied that because of the number of persons in the Highway Department and the relatively few number of supervisors as compared to the number of persons in the department that the four (4) Foremen named above should be excluded from the bargaining unit. If we were to make our determination solely on the basis of the 5¢ an hour differential in pay and the amount of work actually performed by the supervisors in question, we could not exclude these employees from a bargaining unit, because of the slight differential in pay and the work performed. However, it is apparent that because of the number of persons in the department working in widespread locations that the foremen mentioned above do, in fact, perform supervisory duties with respect to the direction of work and the evaluation of the job performance of the employees on behalf of the Municipal Employer. We are satisfied that the part time foremen should be excluded from the unit on the grounds that they are working supervisors.

The Municipal Employer also seeks to exclude from the collective bargaining unit the deputy's to elected officials. Specifically,

the Municipal Employer would exclude the Deputy Clerk of Circuit Court, Deputy County Clerk, Deputy Register of Deeds, and the Deputy County Treasurer. The Municipal Employer pointed out that these employees are appointed by the elected officials and that their employment is subject to ratification by the County Board. There are no other employees in the four (4) departments. We, therefore, see no basis for excluding the deputy's of the elected officials and have included them in the bargaining unit.

The Municipal Employer has raised the question as to whether or not the Juvenile Supervisor should be included in the bargaining unit. The Juvenile Supervisor is appointed by the County Judge and does have certain police powers for the purposes of carrying out his duties. However, we do not consider that such persons come under the exclusion of Police Officers within the meaning of Section 111.70 (1) (b) and we have therefore included the Juvenile Supervisor in the collective bargaining unit. We have also excluded the Forest Administrator on the ground that he is a supervisory employee.

Lastly, the Municipal Employer raises the question of whether or not the Court Reporter of the County Judge should be included in the collective bargaining unit for the reason that her salary is paid largely by the State and that her employment is subject to the discretion of the County Judge. On the basis of Sections 20.930 (1) (a), 66.89 and 253.02 (6) (a) of the Wisconsin Statutes, we have concluded that County Court Reporters should be considered as state employees and therefore excluded from the coverage of Section 111.70.

Dated at Madison, Wisconsin, this 22nd day of April, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

*Thomas Slavney*  
Morris Slavney, Chairman

*Arvid Anderson*  
Arvid Anderson, Commissioner

*Earl S. Rice II*  
Earl S. Rice II, Commissioner