

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petitions of

Various Labor Organizations

Involving Employes of the

County of Milwaukee  
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:  
: Case I No. 8600 ME-10

: Case II No. 8613 ME-15

: Case IV No. 8645 ME-27

: Case IX No. 8750 ME-51

: Case XI No. 9588 ME-136

: Decision No. 7135  
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DIRECTION OF ELECTIONS

Various labor organizations having petitioned the Wisconsin Employment Relations Board to conduct elections, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employes of the County of Milwaukee, and hearings on said petitions having been conducted by the Board on various dates at Milwaukee and Madison, Wisconsin, and during the course of said hearings the Board having permitted certain additional labor organizations to intervene in the matter; and the Board, having considered the petitions and the evidence and arguments of the various parties and their representatives, being satisfied that questions have arisen concerning the appropriate collective bargaining units and concerning the representation of certain employes of the County of Milwaukee;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within one hundred and twenty (120) days from the date of this directive in the following separate voting groups:

VOTING GROUP NO. 1

All regular full time and regular part time employes of the County of Milwaukee employed in the Building and Grounds Division of the Department of Public Works, excluding craft employes, professional employes, confidential employes, supervisors, department heads, and exempt positions, who were employed by the County of Milwaukee in active employment on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purposes of determining (1) whether a majority of employes eligible to vote desire that the eligible employes in the Building and Grounds Division of the Department of Public Works constitute a collective bargaining unit separate and apart from any other collective bargaining unit of employes of the County of Milwaukee, and (2) whether a majority of the eligible employes voting desire to be represented by Building Service Employees International Union, Local 17, AFL-CIO or by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO, or by neither of such organizations, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment. If the required number of employes fail to vote in favor of establishing a separate unit, then the eligible employes will be included in the general county wide unit (Voting Group No. 7) and their ballots will be included in the results of the balloting in the general county wide unit.

VOTING GROUP NO. 2

All regular full time and regular part time employes of the County of Milwaukee employed in the Park Commission, excluding craft employes, professional employes, confidential employes, supervisors, department heads, and exempt positions, who were employed by the County of Milwaukee in active employment on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining (1) whether a majority of employes eligible to vote desire that the eligible employes in the Park Commission constitute a collective bargaining unit separate and apart from any other collective bargaining unit of employes of the County of Milwaukee, and (2) whether a majority of the eligible employes voting desire to be represented by Building Service Employees International Union Local 17, AFL-CIO or by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO, or by neither of such organizations, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment. If the required number of employes fail to vote in favor of establishing a separate unit, then the eligible employes will be included in the general county wide unit (Voting Group No. 7) and their ballots will be included in the results of the balloting in the general county wide unit.

VOTING GROUP NO. 3

All regular full time and regular part time employes of the County of Milwaukee employed in the Grounds Maintenance Department, excluding craft employes, professional employes, confidential employes, supervisors, department heads, and exempt positions, who were employed by the County of Milwaukee in active employment on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purposes of determining (1) whether a majority of employes eligible to vote desire that the eligible employes in the Grounds Maintenance Department constitute a collective bargaining unit separate and apart from any other collective bargaining unit of employes of the County of Milwaukee, and (2) whether a majority of the eligible employes voting desire to be represented by Building Service Employees International Union, Local 17, AFL-CIO or by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO or by neither of such organizations, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment. If the required number of employes fail to vote in favor of establishing a separate unit, then the eligible employes will be included in the general county wide unit (Voting Group No. 7) and their ballots will be included in the results of the balloting in the general county wide unit.

VOTING GROUP NO. 4

All regular full time and regular part time employes of the County of Milwaukee employed in the "Plant Operation Group" (Title Codes 300 through 321), excluding craft employes, professional employes, confidential employes, supervisors, department heads and exempt positions, who were employed by the County of Milwaukee on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining (1) whether a majority of employes eligible to vote desire that the eligible employes in the "Plant Operation Group" constitute a collective bargaining agreement separate and apart from any other collective bargaining unit of employes of the County of Milwaukee, and (2) whether a majority of the eligible employes voting desire to be represented by International Union of Operating Engineers, Local 311, AFL-CIO, or by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO, or by neither of said organizations, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment. If the required number of employes fail to vote in favor of establishing a separate unit then the eligible employes will be included in the general county wide unit (Voting Group No. 7) and their ballots will be included in the results of the balloting in the general county wide unit.

VOTING GROUP NO. 5

All regular full time and regular part time employes occupying firefighter classifications (Title Codes 642 through 648), excluding other craft employes, professional employes, confidential employes, supervisors, department heads and exempt positions, who were employed by the County of Milwaukee on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of the eligible employes voting desire to be represented by Local 1072, International Association of Fire Fighters, AFL-CIO, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment.

VOTING GROUP NO. 6

All regular full time and regular part time registered nurses in the employ of the County of Milwaukee in its various departments, excluding confidential employes, supervisors, department heads, exempt positions and all other employes, who were employed by the County of Milwaukee in active employment on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of the eligible employes voting desire to be represented by Wisconsin Nurses Association, Inc. and Milwaukee District Nurses Association, a constituent, or by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO, or by neither of said organizations, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment.

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petitions of	:	Case I No. 8600 ME-10
Various Labor Organizations	:	Case II No. 9613 ME-15
Involving Employes of the	:	Case IV No. 8645 ME-27
County of Milwaukee	:	Case IX No. 8750 ME-51
	:	Case XI No. 9588 ME-136
	:	Decision No. 7135

DIRECTION OF ELECTION

VOTING GROUP NO. 7

All regular full time and regular part time employes of the County of Milwaukee, excluding craft employes, including fire group employes, professional employes (including registered nurses), confidential employes, supervisors, department heads and exempt positions, and also conditionally excluding <sup>1/</sup>the employes eligible to vote in the following voting groups:

- Voting Group No. 1 - Building and Grounds Division of the Department of Public Works
- Voting Group No. 2 - Park Commission
- Voting Group No. 3 - Grounds Maintenance Department
- Voting Group No. 4 - "Plant Operation Group".

The employes in Voting Group No. 7 shall be eligible to vote if they are employed on May 1, 1965, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of the eligible employes voting desire to be represented by Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO, for the purposes of conferences and negotiations with the County of Milwaukee on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 3rd day of May, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

G. S. Rice II  
G. S. Rice II, Commissioner

1/ On the conditions heretofore set forth.



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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

VOTING GROUPS NOS. 1, 2 and 3

On April 25, 1962<sup>2/</sup> Building Service Employees International Union, Local 17 filed a petition requesting an election among all park employes, other than supervisors and craft employes, as well as custodial employes in Buildings and Grounds Department employed in the Court House and Safety Building. On June 28, 1962 said labor organization amended its position by filing two separate petitions, wherein it requested elections in two separate units, (1) all park employes, excluding supervisors and craft employes, and (2) all employes in the Department of Buildings and Grounds at the Court House and Safety Building, excluding supervisors and craft employes. Also on October 24, 1963<sup>3/</sup> said labor organization filed an additional petition requesting an election in a unit consisting of all institutional employes, excluding craft, administrative and confidential employes.

During the course of the hearings on the various petitions, said labor organization changed its position and indicated that it desired elections among eligible employes in three separate units as follows:

- (1) Buildings and Grounds Division of the Department of Public Works
- (2) Park Commission
- (3) Grounds Maintenance Department

Milwaukee District Council 48 (and its affiliated Locals), American Federation of State, County and Municipal Employees, AFL-CIO claims to represent the eligible employes in said three Departments, however, the latter organization would include said employes in the overall county wide collective bargaining unit.<sup>4/</sup>

<sup>2/</sup> Case IV, No. 8645, ME-27

<sup>3/</sup> Case X No. 9412, ME-126

<sup>4/</sup> Case I No. 8600, ME-10

If the employes involved constitute a single department, division or plant, the Board is of the opinion that the legislative intent will be served if such employes determine for themselves whether they desire to constitute an appropriate unit. The Board therefore must determine whether the group of employes set out as being an appropriate collective bargaining unit does, in fact, constitute a single division, department or plant and if the employes involved do constitute such a single division, department or plant, said employes are given the opportunity to determine for themselves whether they desire to establish a separate unit.<sup>5/</sup>

The Building and Grounds Division of the Department of Public Works, the Park Commission, and the Grounds Maintenance Department are either separate divisions or departments of the County of Milwaukee. Therefore, all the eligible employes in each of said divisions or departments are given the opportunity to determine for themselves whether they desire to constitute collective bargaining units separate and apart from the overall county wide unit. For the establishment of a separate unit the statute requires that a majority of those employes eligible to vote must vote in favor of establishing the separate unit. If the required number of eligible employes fail to vote in favor of establishing a separate unit then the employes in the division or department involved remain in the overall county wide unit. The eligible employes in the Buildings and Grounds Division of the Department of Public Works, in the Park Commission and in the Grounds Maintenance Department will separately vote on two ballots to determine, (1) their choice on the appropriate unit, and (2) their choice as to bargaining representative if any.

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<sup>5/</sup> Sections 111.70 (4) (d), 111.02 (6), 111.05; Dodge County Hospital, Dec. No. 6067, 7/62, City of Milwaukee, Dec. No. 6253-B, 4/63

VOTING GROUP NO. 4

On April 4, 1962 International Union of Operating Engineers, Local 311, AFL-CIO filed a petition with the Board requesting an election among all non-supervisory "power plant" employes in the employ of the County of Milwaukee.<sup>6/</sup> The following employe classifications are employed at the Central Power Plant:

11	Clerk Typist III	319	Power Plant Mechanic
272.7	Steam-fitter Welder	320	Power Plant Engineer
300	Power Plant Helper	321	Power Plant Maintenance
301	Power Plant Helper		Engineer
	Foreman	366	Power Plant Superintendent
318	Power Plant Operator	366.5	Power Plant Instrument
			Engineer

During the course of the hearings herein, said labor organization indicated that it also sought to represent employes holding the classifications of operating engineer and fireman in various other departments of the County of Milwaukee. Such employe classifications are employed in the following departments:

<u>302 Fireman</u>	<u>305.5 Operating Engineer I</u>
House of Correction	(Children's Home)
Department of Public Welfare	Children's Home
Dispensary-Emergency Unit	
Airport Department	<u>307 Operating Engineer II</u>
	Department of Public Welfare
<u>302.5 Fireman</u>	Airport Department
(Children's Home)	
Children's Home	<u>307.5 Operating Engineer II</u>
	(Children's Home)
<u>305 Operating Engineer</u>	Children's Home
Dispensary-Emergency Unit	
<u>308 Operating and Maintenance Engineer</u>	
House of Correction	

Said labor organization desires a single collective bargaining unit consisting of "power plant" employes, operating engineers and firemen.

6/ Case II No. 8613 ME-15

Said employees, however, are not employed in a single division or department of the County of Milwaukee, nor does the Board consider them "craft" employees within the meaning of Section 111.70 (4)(d) as to constitute a single appropriate collective bargaining unit. However, the County of Milwaukee, in its schematic list of classification titles, has established a "Plant Operation Group" which includes the above noted employe classifications with the exception of the Clerk Typist III, Steam-fitter Welder, Power Plant Instrument Engineer and Power Plant Superintendent and which group also includes the following employe classifications employed in the Department of Air Pollution Control:

310	Air Pollution Inspector	314	Heating Plant Smoke Inspector
311	Motive Power Smoke Inspector	315	Incineration Refuse Burning Inspector
312	Marine Smoke Inspector		
313	Power Plant Smoke Inspector	317	Plan Examiner.

We conclude that as the result of the establishment by the County of Milwaukee of the "Plant Operation Group", there exists such a division of employes engaged in related functions so as to constitute a separate division within the meaning of Section 111.05 (2) and 111.70 (a)(d) and thus permit the eligible employes in said group to determine for themselves whether they desire to constitute a single appropriate collective bargaining unit. Operating Engineers Local 311, AFL-CIO cannot pick and choose the employes it desires to represent in said group. It would have excluded all the otherwise eligible employes employed in the Department of Air Pollution Control. The Statutes do not permit such exclusions. The employe classifications to be considered by the Board to be eligible to vote in the instant voting group are classifications 300 through 321. As we have noted heretofore, in order to establish a separate unit, a majority of those employes eligible to vote must vote in favor of establishing said separate unit. If the required number of eligible employes in the "Plant Operation Group" fail to vote in favor of establishing a separate unit, then the eligible employes therein will remain in the overall county wide unit. Therefore, the eligible employes in the "Plant Operation Group" will vote on two ballots to determine (1) their choice of the appropriate unit, and (2) their choice as to a bargaining representative, if any.

VOTING GROUP NO. 5

On June 27, 1962<sup>7/</sup> Local 1072, International Association of Firefighters, AFL-CIO filed a petition with the Board requesting an election among all firefighters in the employ of the County of Milwaukee, excluding officers, supervisors, executives and craft employes. Firefighting personnel are employed in the Institutions Fire and Police Department and Airport Department. The duties and skills performed by such personnel are of such a specialized nature that we consider firefighters to come within the meaning of the term "craft" as contained in Section 111.70 of the Wisconsin Statutes, and therefore all eligible firefighting personnel shall constitute a single appropriate collective bargaining unit. The eligible employes will be given the opportunity to express their choice as to their collective bargaining representative, if any.

VOTING GROUP NO. 6

On March 5, 1964 the Wisconsin Nurses Association, Inc. and Milwaukee District Nurses Association, a constituent filed a petition with the Board requesting an election among all non-supervisory registered nurses in the employ of County of Milwaukee.<sup>8/</sup> During the course of the hearing, Milwaukee District Council 48 (and its appropriate Locals), American Federation of State, County and Municipal Employees, AFL-CIO claimed an interest in also representing said employes. Professional nurses employed in municipal employment are considered by the Board to be "craft" employes within the meaning of Section 111.70 of the Wisconsin Statutes, and therefore said employes constitute a collective bargaining unit separate and apart from other employes of the County of Milwaukee,<sup>9/</sup> and the eligible employes therein will be given the opportunity to express their choice as to their bargaining representative, if any.

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<sup>8/</sup> Case XI, No. 9588, ME-136

<sup>9/</sup> Outagamie County Hospital, Dec. No. 6076, 8/62;  
City of Milwaukee, Dec. No. 6252, 2/64

VOTING GROUP NO. 7

Milwaukee County District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO, on April 2, 1965, filed a petition with the Board requesting an election among all employes of the County of Milwaukee excluding registered nurses, craft employes and supervisory employes, and employes of the Coroner's Office, Sheriff's Department, Civil Service Commission, District Attorney and Law Library.<sup>10/</sup> Said labor organization would exclude all employes of the above named departments primarily on the basis that they are engaged in a function confidential to the function of the Municipal Employer as it relates to matters affecting the employment relations of all County employes.

The positions in the Coroner's office are both exempt positions, and therefore the employes therein will not be included in the overall unit. While a majority of the employes in the Sheriff's Department perform police-like duties and therefore would be exempt from the term "employee" under Section 111.70, there are various other employes in the Sheriff's Department who do not perform police duties and therefore they cannot be excluded from the overall unit if otherwise eligible. We are satisfied that the employes in the Civil Service Commission and in the Corporation Counsel perform such duties which are confidential to the employer-employee relationship and therefore all the employes in those two departments will be excluded from the eligibles in the county wide unit. There are a number of non-professional employes employed in the office of the District Attorney and we are not convinced that the office of the District Attorney handles matters which generally pertain to the confidential employer-employee relationship. The non-professional employes in the office of the District Attorney, if otherwise eligible, shall be included in the county wide unit. Likewise, we see no reason to exclude the otherwise eligible employes in the Law Library. Employes therein, if otherwise eligible, will also be included in the county wide unit.


COMMENTS WITH RESPECT TO THE DETERMINATION  
OF CLASSIFICATIONS ELIGIBLE TO PARTICIPATE  
IN THE VARIOUS ELECTIONS


Since the commencement of the proceedings herein, the Board has made every effort to obtain an agreement from the interested parties on the positions eligible to participate in the various elections and it has, on occasions, made various suggestions in an attempt to establish a procedure to expedite the determination on eligibles. The efforts and suggestions by the Board have not resulted in any substantial reduction of the issues involving the matter of eligibility.

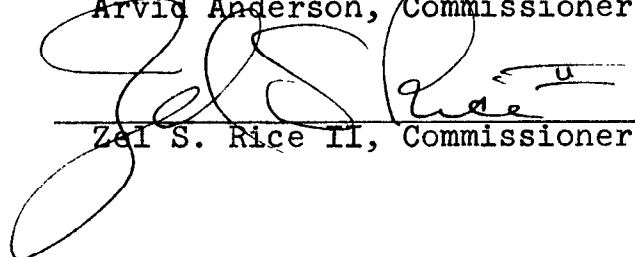
The Board has reviewed the record and the positions of the parties with respect to the issue on eligibles and it concludes, because of the exceptionally large number of positions which are in issue, that it has no alternative but to conduct further hearing for the purpose of taking evidence with regard to the positions in question. Within the next thirty days, the Board will attempt to furnish the parties a series of tabulations by schematic grouping reflecting the positions which are in issue, as well as the positions which the parties have apparently agreed are eligible, as well as those they have agreed are not eligible, to participate in the various elections. At the time of the submission of said tabulation, the Board will also set hearing in the matter to take such evidence. The hearing will continue on a consecutive day to day basis in order that the Board may make its determinations in sufficient time so that the County of Milwaukee can prepare and furnish the Board with the eligibility lists prior to the conduct of the elections.

Dated at Madison, Wisconsin, this 3rd day of May, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By   
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Morris Slavney, Chairman

  
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Arvid Anderson, Commissioner

  
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Zai S. Rice II, Commissioner