

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

-----:  
In the Matter of the Petition of

MILWAUKEE DISTRICT COUNCIL 48,  
AFSCME, AFL-CIO, AND ITS  
APPROPRIATE AFFILIATED LOCALS

Involving Certain Employees of

MILWAUKEE COUNTY  
-----:

Case XII  
No. 10610 ME-222  
Decision No. 7467-A

Appearances:

Mr. John C. Zinos, Director, for the Petitioner.

Mr. Robert G. Polasek, Assistant Corporation Counsel; and Mr. Anthony P. Romano, Chief Examiner, Milwaukee County Civil Service Commission, for the Municipal Employer.

Mr. Frank H. Ranney, Secretary-Treasurer, for the Intervenor.

DIRECTION OF ELECTION

Milwaukee District Council 48, AFSCME, AFL-CIO, and its appropriate affiliated Locals having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among Laborer-Equipment Operators employed by Milwaukee County; and hearings on such petition having been conducted at Milwaukee, Wisconsin, before Kenneth R. Loebel, Examiner, on January 13, 1966, and before Morris Slavney, Chairman, Arvid Anderson, Commissioner and Zel S. Rice II, Commissioner, on February 17, 1966, at which hearings Local 200, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and Local 139, International Union of Operating Engineers, AFL-CIO<sup>1/</sup> were permitted to intervene; and the Board having considered the evidence and arguments of the parties, and being satisfied that a question has arisen concerning representation for certain employees of Milwaukee County;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the

---

<sup>1/</sup> Local 139 withdrew its intervention before the completion of the hearings in this matter.

direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this Directive among all employes of Milwaukee County in its various departments classified as regular Laborer-Equipment Operators, excluding all other employes, supervisors and department heads, who were employed by Milwaukee County on January 8, 1966, 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 such employes desire to be represented by Milwaukee District Council 48, AFSCME, AFL-CIO, and its appropriate affiliated Locals, or by Local 200, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or by neither of said labor organizations, for the purpose of conferences and negotiations with Milwaukee County on questions concerning wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 29th day of April, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

-----:	
In the Matter of the Petition of	:
MILWAUKEE DISTRICT COUNCIL 48,	:
AFSCME, AFL-CIO, AND ITS	:
APPROPRIATE AFFILIATED LOCALS	:
Involving Certain Employees of	:
MILWAUKEE COUNTY	:
-----:	:

	Case XII
	No. 10610 ME-222
	Decision No. 7467-A

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Petitioner and the Municipal Employer, contrary to the Intervenor, contend that the appropriate collective bargaining unit covering the employees which the Petitioner and Intervenor claim to represent in this proceeding is comprised of all regular Laborer-Equipment Operators employed by the Municipal Employer. The employees so classified are presently assigned to the Highway Division of the Department of Public Works, the Park Service Department of the Park Commission, the Airport Department and the Institution Grounds and Maintenance Department. It is the Intervenor's position that the Laborer-Equipment Operators in each of the four named subdivisions constitute four separate appropriate units.

Laborer-Equipment Operators engage in manual labor and operate certain equipment in the maintenance of roadways and grounds in Milwaukee County including at the airport, at county institutions and in parks. The work done by these employees involves substantially the same skills and equipment irrespective of department assignment. Further, the base hourly rate of all of these employees is computed on a uniform scale which assigns rates according to the operation performed.

The evidence adduced at the hearings also disclosed certain disparities and distinctions in the terms and conditions of employment of the Laborer-Equipment Operators.

They are subject to the hierarchy of supervision existing in the department to which they are assigned and the equipment that they use is assigned to each department. There is normally no

interchange of such equipment among the departments. Similarly, ordinarily, there is no interchange of these employees among the departments, except for snow emergencies. However, all Laborer-Equipment Operators, once they have satisfied civil service requirements previous to initial hiring are qualified for assignment to any department. Once assigned to a department they may, upon application and with permission, transfer to another department. Such a transfer places them at the bottom of the seniority roll in the new department. To be assigned initially or by transfer to the Highway Division, an employee must have a chauffeur's license.

An important distinction between employees in the Park Commission and the Institution Grounds and Maintenance Department and employees in the Highway Division and the Airport Department is that the former groups are compensated on an annual work year basis while the latter groups work on a 40-hour week, 8-hour day basis. The work year system is responsive to the seasonal nature of working in parks and institutional grounds. It contemplates 2080 hours of work at the base rates with overtime rates paid only for hours in excess of 2080. The other employees receive overtime rates for hours in excess of 8 per day and 40 per week. Of course, on the annual system, employees working less than 8 hours per day or 40 hours per week do not experience a corresponding reduction of pay as would the others.

By statute, during snow emergencies, employees from other departments may be temporarily transferred to the Highway Division. In such cases they are paid as Highway Division employees without respect to their regular assignment.

Excepting the matter of the annual work year system, the benefits, terms and conditions of employment enjoyed by all of the Laborer-Equipment Operators are substantially identical.

The same parties during a hearing in an earlier representation case (Milwaukee County, Decision No. 7135-F) involving inter alia employees in the same departments as are presently under discussion, stipulated that employees classified Laborer-Equipment Operators constituted a craft group. The Board, accepting the stipulation, excluded these employees, pursuant to Section 111.70(4)(d), from the units in which elections were directed. These units were, except for craft and other exclusions, coextensive with the Municipal

Employer's departments. Thus, now the Intervenor urges the Board to continue to find departmental units appropriate for one of the crafts excluded in the earlier case.

The Board has permitted certain nurses employed by the City of Milwaukee to establish themselves a unit separate and apart from nurses employed in a City hospital.<sup>1/</sup> Although all the employees were nurses, the Board permitted a separate unit vote due to the fact that the Public Health nurses exercised skills distinct and separate from the skills of the nurses employed in the hospital.

In a case closely analogous to the instant proceeding, "heavy equipment operators" employed by the City of Milwaukee in the Bureau of Street and Sewer Maintenance, the Harbor Commission and the Bureau of Municipal Equipment were all included in a single craft unit.<sup>2/</sup> The Board refused to establish separate craft units in the three departments on the basis that to do so "would constitute a fragmentation of collective bargaining units not contemplated in the public employee-employer labor relations statute . . . and would create units based on the extent of organization rather than on the statutory criteria."

While herein the craft employees assigned to the various departments are subject to the peculiar conditions of their departments, the homogeneity of the craft outweighs the distinctions in their conditions, and therefore, the Board concludes that all labor equipment operators in the employ of the County of Milwaukee are included in a single appropriate unit.

Dated at the City of Madison, Wisconsin, this 29th day of April, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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

1/ City of Milwaukee, Decision No. 6252-C, 2/63.

2/ City of Milwaukee, Decision No. 7432, 1/66.