

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Request of :

DEPARTMENT OF ADMINISTRATION :  
STATE OF WISCONSIN :

For Declaratory Ruling :  
-----:

S-DR-1  
Decision No. 7826

FINDINGS OF FACT, CONCLUSION OF LAW AND DECLARATORY RULING

On November 21, 1966, the Wisconsin Employment Relations Board received a petition from George C. Kaiser, Commissioner, Department of Administration, State of Wisconsin, requesting the Board to issue a Declaratory Ruling on the following questions:

- "1. Can the various state agencies and the Bureau of Finance, Department of Administration, continue to honor the existing payroll deduction cards, which comply with s. 20.925, after December 31, 1966, and meet the requirements of the law, in view of the language in s. 111.84(1)(f)?
2. If the answer to 1 above is affirmative, can this practice be continued until the employee signs a new authorization card incorporating the provisions of s. 111.84(1)(f)?"

After the filing of said petition, the Wisconsin State Employees Association, an employe organization on whose behalf state employes have executed payroll deduction authorizations for membership dues to said organization, pursuant to s. 20.925, Wisconsin Statutes, by its Counsel, John A. Lawton, Madison, Wisconsin, joined in the request for said Declaratory Ruling; and the parties having waived hearing with respect to the matter; and the Board being fully advised in the premises, pursuant to s. 227.06, Wisconsin Statutes, makes and files the following Findings of Fact, Conclusion of Law and Declaratory Ruling.

FINDINGS OF FACT

1. That Wisconsin State Employees Association, hereinafter referred to as the WSEA, is an organization having as members individuals employed by the State of Wisconsin in its various agencies, and that such organization has as its primary purpose the representation

No. 7826

of its members in collective bargaining with representatives of the various state agencies; and that as of January 1, 1967, the WSEA will seek certification, or voluntary recognition, as the exclusive collective bargaining representative of various employees of the State of Wisconsin employed in various appropriate collective bargaining units.

2. That state employee members of the WSEA have individually executed authorizations for payroll deduction for dues to the WSEA; and that said authorizations are presently in effect and provide as follows:

"I hereby request and authorize the \_\_\_\_\_ as my remitting agent, to deduct from my earnings each month until this authorization is changed or revoked as provided below, a sufficient amount to provide for the monthly payment of the prevailing rate of dues which amount is to be remitted each month for me and on my behalf to the treasurer of:

\_\_\_\_\_  
Name of Organization

It is understood that this authorization shall begin on the first payroll period following this date and that if my net earnings for any pay period is less than the amount of this deduction either because of absence without pay, termination or transfer to another employing unit, no deduction will be made for that pay period and this authorization will then be automatically cancelled. It is further understood that this authorization may be terminated by me upon thirty days written notice.

Date \_\_\_\_\_ Signature \_\_\_\_\_ "

3. That the various agencies of the State of Wisconsin and the Bureau of Finance, Department of Administration, are presently honoring said authorization and are remitting sums so deducted to the WSEA.

4. That since the adoption of Subchapter V of Chapter 111, the State Employment Labor Relations Act, a question has arisen as to whether the form of authorization for dues deduction set forth in para. 2, supra, can be honored on and after January 1, 1967, the effective date of said Subchapter.

5. That since the adoption of the State Employment Labor Relations Act, the WSEA has changed its form of payroll deduction authorization, with respect to the term thereof, to read as follows:

"It is understood that this authorization shall begin on the first payroll period following this date and shall continue for one year from the date hereof, and shall thereafter continue for successive periods of one year unless thirty days prior to the end of any year of its life I give written notice of termination to my employer and said organization."

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

CONCLUSION OF LAW

Payroll authorizations executed by individual state employees, authorizing their state employer to deduct labor organization dues from their earnings, which authorizations provide for their termination at periods of less than one year of their life, are valid and binding within the meaning of s. 111.84(1)(f), Wisconsin Statutes.

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

DECLARATORY RULING

The various state agencies and the Bureau of Finance, Department of Administration, State of Wisconsin, may legally continue to honor, subsequent to December 31, 1966, existing payroll deduction authorizations, terminable at any time within thirty days notice, executed by individual state employees, permitting deductions from their earnings to be paid as dues to the Wisconsin State Employees Association.

Given under our hands and seal at the City of Madison, Wisconsin, this 25th day of November, 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

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MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND DECLARATORY RULING

Pursuant to s. 20.925, various state agencies and the Bureau of Finance, Department of Administration, have been honoring employee payroll deduction authorizations for membership dues paid to the Wisconsin State Employees Association. Said section provides as follows:

"Deductions from state payroll for bond purchases, group insurance, etc. (1) Any state officer or employee may request in writing through the department in which he is employed that a specified part of his salary be deducted and paid by the state to a payee designated in such request for any of the following purposes:
(b) Payment of dues to employee organizations."

The manner in which deductions are made under said section is set forth in s. 20.925(2) as follows:

"The request shall be made to the department in such form and manner and contain such directions and information as shall be prescribed by each department. The request may be withdrawn or the amount paid to the payee may be changed by notifying the department to that effect, but no such withdrawal or change shall affect a payroll certification already prepared."

The existing authorizations for dues remitted to the WSEA provide for revocation thereof upon 30 days written notice, the time lapse between state payroll periods.

The State Employment Labor Relations Act, in s. 111.84(1)(f), provides that it is a prohibited practice:

"to deduct labor organization dues and assessments from a state employee's earnings, unless the state employer has been presented with an individual order therefor,

signed by the state employe personally, and terminable at the end of any year of its life by the state employe giving at least 30 days' written notice of such termination to the state employer and to the representative organization."

Section 111.84(1)(f) permits the deduction of membership dues from state employes' earnings only after the employe has executed a written authorization for same. Absent the written authorization, such deduction would constitute a prohibited practice under the State Employment Labor Relations Law. While it may be argued that s. 111.84(1)(f) requires that dues deduction authorizations can only be revoked on yearly anniversaries of their term, such a limited conclusion would be, in our view, in conflict with s. 20.925. We construe the statute as permitting the revocation of such authorizations not affecting a current payroll, by at least a 30 day notice, and in no event could the period of irrevocability be extended beyond one year periods. We read the statute as a limitation on the irrevocable period of the authorization rather than a requirement that the authorization continue for at least a one year period. To conclude otherwise would create an unnecessary conflict between s. 20.925 and s. 111.84(1)(f).

The payroll deduction authorizations permitting revocation thereof by a 30 day notice at any time except where it conflicts with a prepared payroll, previously executed by members of the WSEA, and presently honored by the various state agencies, are legal and valid in all respects within the meaning of s. 111.84(1)(f), and state agencies may continue to honor said authorization on and after January 1, 1967, the effective date of the State Employment Labor Relations Act, without violating any provision of said act.

Since the enactment of the State Employment Labor Relations Act, the WSEA has obtained payroll deduction forms authorizing dues to be paid to the WSEA, wherein the employes executing same have agreed that the term of said authorization is to be for one year, the period permitted, but not required by the statute. Either form of dues deduction authorization is, and shall, be valid regardless of whether


any state agency enters into a collective bargaining agreement with the WSEA permitting the state agency to deduct dues on authorization by members of the WSEA.

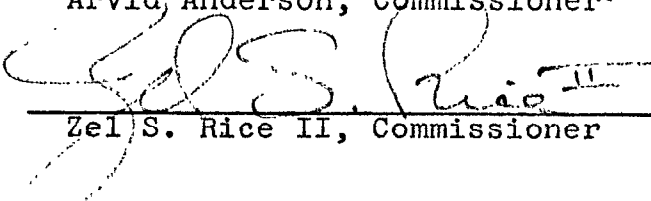
Dated at Madison, Wisconsin, this 25th day of November, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

  
Morris Slavney, Chairman

  
Arvid Anderson, Commissioner

  
Zel S. Rice II, Commissioner