

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :

WISCONSIN COUNCIL OF COUNTY AND :
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO :

Involving Certain Employees of :

BROWN COUNTY, employed in the :
Brown County Hospital :

Case III
No. 11284 ME-292
Decision No. 7954

Appearances:

Mr. Walter J. Klopp, Council 40 Representative, Wisconsin
Council of County and Municipal Employees, AFSCME, AFL-CIO,
for the Petitioner.

Mr. Ervin L. Doepke, Corporation Counsel, for the Municipal
Employer.

DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME,
AFL-CIO having petitioned the Wisconsin Employment Relations Board
to conduct an election pursuant to Section 111.70 of the Wisconsin
Statutes, among certain employees of Brown County, employed in the
Brown County Hospital; and a hearing on such petition having been
conducted at Green Bay, Wisconsin, on February 9, 1967, before
Robert M. McCormick, Examiner; and the Board having considered the
evidence and being satisfied that a question has arisen concerning
representation for certain employees of the Municipal Employer named
above;

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 bargain-
ing unit consisting of all regular full time and all regular part
time employees of Brown County employed in the Brown County Hospital,
including licensed practical nurses, certified occupational therapists,
laboratory technician, maintenance employees, barbers, beauticians,

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bus drivers, social worker assistant, aides, orderlies, laundry employees, dietary personnel, volunteer-coordinator, agricultural employees, housekeeping employees and office clerical, but excluding Superintendent, Assistant Superintendent, supervisors, craft employees, registered nurses, social workers, registered-occupational therapist, confidential secretary and all other employees of the Municipal Employer, who were employed by the Municipal Employer on March 16, 1967, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employees desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of conferences and negotiations with Brown County on questions of wages, hours and conditions of employment.



Given under our hands and seal at the City of Madison, Wisconsin, this 16th day of March, 1967.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney
Morris Slavney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the outset of the hearing, Counsel for the Municipal Employer moved to dismiss the petition on the ground that the Petitioner had failed to set forth, either in its petition or at the hearing, the approximate number of employees on whose behalf the petition was filed, a condition the Municipal Employer contends is required by the Board's rules pursuant to ERB 3.02(c), Wisconsin Administrative Code.

In effect, the Municipal Employer is contending that a petitioning labor organization must make a substantial showing of interest in order to raise the question of representation. Pursuant to Section 111.70(4)(d), Wisconsin Statutes, proceedings in representation cases in municipal employment are administered by the Board in "accordance with Sections 111.02(6) and 111.05 of the Wisconsin Employment Peace Act, insofar as applicable."

The Board's rule with respect to petitions for representation elections in private employment is as follows:

"ERB 3.02 Petition...

(c) a description of the bargaining unit claimed to be appropriate; the approximate number of employees constituting such unit, and the approximate number of employees on whose behalf the petition is filed;"

However, the Board has not required a petitioning labor organization to make a showing of substantial interest in order to be entitled to an election.^{1/} The filing of the petition in itself constitutes a

1/ Holy Family Hospital (7119) 4/65; St. Mary's Hospital (6952) 11/64; Kiekhafer Aero Marine Corp. (1364) 6/47.

claim by a petitioner that it represents a majority of the employees.^{2/} These decisions indicate that the Board has liberally construed ERB 3.02, as permitted in ERB 1.05.

The Board's rules governing the conduct of representation elections under Section 111.70(4)(d), ERB 11.01 through ERB 11.11, contain no provision similar to ERB 3.02(c) with respect to a "showing of interest".

Therefore, in municipal employment, the filing of an election petition is sufficient to initiate an election proceeding without any showing as to the extent of its interest among the employees in the collective bargaining unit.


Dated at Madison, Wisconsin, this 16th day of March, 1967.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By



Morris Slavney, Chairman



Arvid Anderson, Commissioner

2/ Avon Manor Nursing Home (6987) 12/64; A. O. Smith Corp. (867) 1/46.