

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 In the Matter of the Petition of :
 WISCONSIN COUNCIL OF COUNTY AND MUNICIPAL :
 EMPLOYEES, AFSCME, AFL-CIO :
 Involving Employes of :
 TAYLOR COUNTY, WISCONSIN, HIGHWAY :
 DEPARTMENT :

Case II
 No. 11572 ME-314
 Decision No. 8178

Appearances:

Mr. John O. Olson, District Attorney, and Mr. Gordon Hamrick, Highway Commissioner, for the Municipal Employer.
Mr. Robert J. Oberbeck, Executive Director, and Mr. Eugene Doyle, Business Agent, for the Petitioner.

DIRECTION OF ELECTION

The above named Petitioner having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employes of the above named Municipal Employer; and a hearing on such petition having been conducted at Medford, Wisconsin, on July 27, 1967, by Edward B. Krinsky, Examiner; and during the course of the hearing the parties having stipulated to the unit appropriate for collective bargaining; and the Board having considered the evidence and being satisfied that a question has arisen concerning representation for certain employes of the Municipal Employer named above;

NOW, THEREFORE, it is

DIRECTED

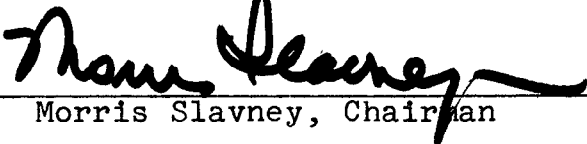
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all employes of the Highway Department, excluding the Highway Commissioner, supervisory personnel and confidential clerical employes and temporary


employees, who were employed by the Municipal Employer on July 15, 1967,^{1/} except such employes 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 employes desire to be represented by Wisconsin Council of County and Municipal Employees 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.

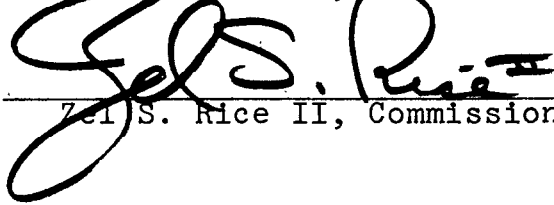
Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of September, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Arvid Anderson, Commissioner


J. S. Rice II, Commissioner

^{1/} The eligibility date was stipulated to by the parties at the hearing.

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

In its petition the Union claimed the appropriate collective bargaining unit to consist of "all employes of the Taylor County Highway Department excluding the Highway Commissioner, supervisory personnel and confidential clerical employes". During the course of the hearing the parties stipulated to the description of the unit and agreed to enlarge the unit description in the petition to also exclude "temporary employes". During the course of the hearing an issue arose as to whether probationary employes should be eligible to vote in the election to be directed by the Commission. The Employer opposes their eligibility, contending that they are temporary employes. The Union contends that the probationary employes are eligible to vote.


In the present case, probationary employes remain in the employ of the Employer, barring unusual circumstances, for a period of one year, the length of the probationary period. They perform the same duties as do regular employes, within the limits of their ability, and are on the regular payroll. While there is a minimum rate established for probationary employes, when a probationary employe performs work in a classification occupied by a regular employe, the probationary employe receives the rate for that classification. Although probationary employes do not receive the same fringe benefits, i.e. holidays, sick leave, vacation, accorded to regular employes, the time spent in the probationary year does figure into the calculation of vacation benefits if they become regular employes of the Employer.


Employees who have a substantial and sufficient interest in the conditions of their employment and who otherwise fall within the inclusions of the collective bargaining unit are eligible to participate in the election to determine their bargaining representative. We have previously determined in decisions involving employees in private employment that probationary employees are eligible to participate in an election where they have a reasonable expectancy to remain in employment and become a regular employe.^{2/} Our determination to permit probationary employees to vote in elections is not based on the similarity of the conditions of their existing employment with those of regular employes, but primarily on the reasonable expectancy of permanent employment. Generally probationary employes do not enjoy employment benefits enjoyed by regular employes.

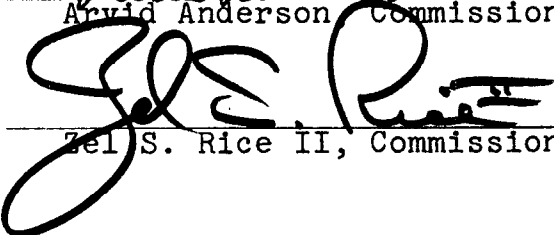
The probationary period herein is an extended one compared to the normal probationary period in private employment. The probationary period herein in itself establishes a period wherein the probationary employes have a substantial interest in the conditions of their employment. Furthermore, while there is no guarantee of becoming permanently employed, it has not been shown that the two employes who are presently on probation do not have a reasonable expectation of achieving regular employe status. We see no reason for departing from the criteria established under the Wisconsin Employment Peace Act in determining eligibility under Section 111.70 and we hereby adopt the same rule in municipal employment cases. The probationary employes therefore are eligible to participate in the election, however, our determination herein does not alter the probationary period established by the Municipal Employer.

Dated at Madison, Wisconsin, this 7th day of September, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner

^{2/} St. Francis Hospital, Dec. No. 4340, 8/56.
Badger Die Casting, Dec. No. 6536, 11/63.