

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

GENERAL DRIVERS AND HELPERS AND INSIDE  
EMPLOYEES LOCAL 288

Involving Employees of

DOUGLAS COUNTY HIGHWAY DEPARTMENT  
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Case XIII

No. 11755 ME-348

Decision No. 5433

ORDER TO PRODUCE SHOWING OF INTEREST

General Drivers and Helpers and Inside Employees Local 288, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employees of the Douglas County Highway Department, and a hearing on such petition having been conducted at the Douglas County Courthouse, Superior, Wisconsin, on November 9, 1967, by Herman Torosian, Hearing Officer; and during the course of the hearing the Hearing Officer, with no objection by the Petitioner, having permitted Douglas County Highway Employees Local 246, AFSCME, AFL-CIO, to intervene in the proceeding on the basis that it is presently the certified collective bargaining representative of said employees; and the Commission having considered the evidence and being satisfied that General Drivers and Helpers and Inside Employees Local 288 produce and furnish to the Commission a showing of interest for the Commission's consideration as to whether a Direction of Election should be issued;

NOW, THEREFORE, it is


ORDERED

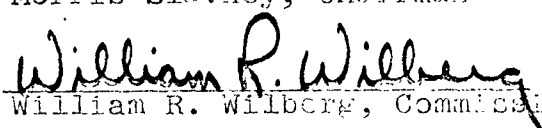
That General Drivers and Helpers and Inside Employees Local 288 produce and furnish to the Commission, within 7 days of the date hereof a showing of interest, either in the form of applications for membership or some form of authorization to seek an election, signed and dated within the last 7 months, by at least 30 percent of the employees in the existing unit.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 6<sup>th</sup>  
day of March, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
William R. Wilberg, Commissioner

No. 0433

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DOUGLAS COUNTY HIGHWAY DEPARTMENT

Case XIII  
No. 11769 ME-348  
Decision No. 6433

On October 27, 1967, General Drivers and Helpers and Inside Employees Local 288, hereinafter referred to as Local 288, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct a representation election involving employees of the Douglas County Highway Department, hereinafter referred to as the Municipal Employer. At the hearing, conducted on November 9, 1967, Douglas County Highway Employees Local 246, AFSCME, AFL-CIO, hereinafter referred to as Local 246, was permitted to intervene in the proceeding on the basis that it is presently the certified collective bargaining representative of said employees.

The parties stipulated to an eligibility list and agreed that the appropriate unit was the same as that described in an earlier election proceeding involving the same Municipal Employer and employees.<sup>1/</sup> The parties also stipulated that the date of the hearing, November 9, 1967, would be the eligibility date for any such election, and that the election should be conducted on either a Thursday or Friday from 7:30 p.m. to 8:15 p.m. at the County Highway Shop and Office, 128 North 21st Street, Superior, Wisconsin. In addition, there was no objection by the Petitioner to Local 246 appearing on the ballot if an election is directed.

At the hearing the representative of Local 246 moved to dismiss the Petition for Election on the grounds that the petition was untimely.

1/ Douglas County Highway Department, Dec. No. 5132, 11/02.

Local 246 has been representing the employees in this unit since 1956. The last election in the unit was on December 19, 1962, and that election also was at the request of the present Petitioner.

At the time of the filing of the instant petition there existed a collective bargaining agreement between the Municipal Employer and Local 246, effective from January 1, 1967, through December 31, 1967. The agreement provided<sup>2/</sup> that either party could initiate bargaining over proposed changes by giving notice of the proposed changes prior to August 15, 1967. On July 17, 1967 Local 246, by letter to the Municipal Employer proposed changes in the terms and conditions of employment for the year 1968. The Municipal Employer transmitted a reply to Local 246 on July 26, 1967, rejecting said proposals. Local 246 responded thereto on August 11, 1967. Representatives of Local 246 and the Municipal Employer met in negotiations on September 10 and October 4, 1967. The Municipal Employer transmitted a counter-proposal to Local 246 which was submitted to Local 246 membership and rejected unanimously on October 27, 1967. On the latter date Local 288 filed the petition initiating the instant proceeding.

On October 30, 1967, Local 246 wrote the Municipal Employer informing it of the rejection of the latter's proposal and requesting another meeting. Apparently because of the pending petition, there have been no further negotiations between the Municipal Employer and Local 246. By its terms the collective bargaining agreement for 1967 expired on December 31, and there is now no collective bargaining agreement in effect.

According to a Douglas County Highway Commissioner, the Highway Department had already submitted its budget to the County Board at the time of the hearing on the petition, November 9, 1967.

Local 246 argues that as a general rule the Commission should not direct an election when a petition for election is filed by another labor organization "during the middle or in the final stages of collective bargaining." A petition filed at this late date, states the Intervenor, disrupts the bargaining procedure by extending bargaining past budget deadlines which must be met by the Municipal Employer, thereby making the bargaining process much more difficult for both parties.

Local 288 contends that the petition was timely filed in light of the fact that there are no existing ordinances relating to the initiation of negotiations or establishing budgetary deadlines.

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<sup>2/</sup> Article XXV, Sec. 4.

In a recent decision involving Wauwatosa Board of Education<sup>3/</sup> the Commission established policies with respect to a showing of interest and time for filing election petitions where there presently exists a recognized or certified representative, as follows:

"Showing of Interest

. . . .

(1) Any election petition filed by a rival labor organization or employees must be accompanied by applications for membership or some form of authorization to seek such election, signed and currently dated, by at least 30 percent of the employees in the existing unit, or in the unit desired by the petitioner.

(2) Where the petition is filed by the employer, the employer at the hearing must demonstrate, by objective considerations, reasonable cause to believe that the incumbent organization has lost its majority status either in the existing unit or in a different claimed appropriate unit.

"Time For Filing Petitions

Where there presently exists a collective bargaining agreement covering the wages, hours and conditions of employment of employees in an appropriate collective bargaining unit, the petition must be filed within the sixty (60) day period prior to the date provided in said agreement for its reopening. Where the conditions of employment are reflected in an ordinance or resolution, the petition must be filed within the sixty (60) day period prior to the date reflected in the resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions of the employees in the unit covered by said resolution or ordinance.

The Commission will continue its present policy of not requiring any showing of interest or time limitations on filing of petitions where there exists no certified or voluntarily recognized collective bargaining representative."

The date provided in the last agreement for the reopening of negotiations was set forth as August 15, 1967. Had Local 246 and the Municipal Employer entered into an agreement for the year 1967, we assume that the date for reopening that agreement would have been August 15, 1968. If we were to apply the recently adopted policy with respect to the timely filing of an election petition, Local 246 could properly file a petition after June 15, 1968. Since that period is less than three and one-half months from the date heard, we are of the opinion that it would not effectuate the policies of Section III.70 to dismiss the petition in accordance with policy expressed in

<sup>3/</sup> Dec. No. 8300-A, 2/28/68.

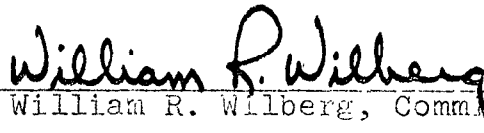
Wauwatosa Board of Education since Local 288 could in the very near future file another petition for an election. However, we see no reason not to require Local 288 to submit a showing of interest to indicate that at least 30 percent of the employees in the existing unit have either applied for membership in Local 288 or have authorized it to seek the election. Upon receipt of same and if the Commission is satisfied that the showing of interest is sufficient, it will direct the election. Unless such showing of interest is received by the Commission within 7 days hereof, it will dismiss the petition.

Dated at Madison, Wisconsin, this 6<sup>th</sup> day of March, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
William R. Wilberg, Commissioner