

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

LOCAL 1365, WISCONSIN COUNCIL OF COUNTY  
AND MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO

Involving Employes of

WAUKESHA COUNTY  
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:  
: Case IX  
: No. 11978 ME-365  
: Decision No. 8548  
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Appearances:

Mr. Walter J. Klopp, Council #40 Representative, for the  
Petitioning Union.

Mr. Willis J. Zick, Waukesha County Corporation Counsel,  
Mr. Keith G. Cash, Personnel Director, and Mr. E. Vernon  
Metcalf, Chairman, Personnel Committee, for the Employer.

DIRECTION OF ELECTION

Local 1365, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission on February 23, 1968, to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employes of Waukesha County; and a hearing on such petition having been conducted at Waukesha, Wisconsin on March 22, 1968 before Robert B. Moberly, Hearing Officer; and the Commission having considered the petition, the evidence and arguments of Counsel, and being satisfied that questions have arisen concerning the appropriate collective bargaining unit and concerning representation for certain employes of Waukesha County;

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 among all regular full-time and regular part-time employes of Waukesha County, employed as clerical, maintenance and custodial employes in the Waukesha County Courthouse and in the University of Wisconsin, Waukesha facility,


No. 8548

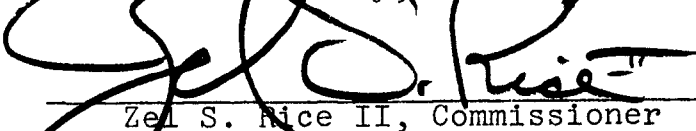
excluding elected county officials, professional, craft, confidential and supervisory employes and all other employes, who were employed by the Employer on March 22, 1968, except such employes as may prior to the election quit their employment or be discharged for cause, for the purposes of determining whether or not a majority of such employes desire to be represented for the purposes of collective bargaining by Local 1365, Wisconsin Council of County and Municipal Employess, AFSCME, AFL-CIO.

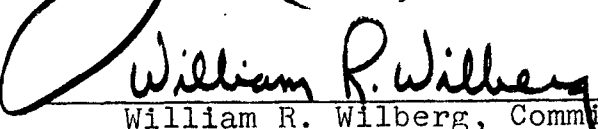
Given under our hands and seal at the  
City of Madison, Wisconsin, this 15th  
day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
William R. Wilberg, Commissioner

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division does not mean that the division constitutes a separate bargaining unit; rather, such a finding requires merely that said employees be given the opportunity by secret ballot to decide for themselves whether they desire to constitute a separate bargaining unit.<sup>1/</sup>

This Commission has set forth the legislative intent of the statutory provision permitting a "division" to constitute a separate bargaining unit as follows:

"The aim of the legislature, we feel, was to enable employees having similar problems and working under similar conditions which problems and conditions differed from other employees of the employer, to bargain collectively as a separate collective bargaining unit. There must, however, be something more than an arbitrary division - either an actual physical separation of some difference in working conditions that will divide the employees into natural groups." <sup>2/</sup>

Neither the past practices of the parties nor the functions and interests of the clerical employees would justify a finding that the clerical employees constitute a separate division. The evidence, for example, points to the fact that in the past the Municipal Employer has not dealt with the clericals in a separate manner but rather has considered them to be a part of the overall employee group. The Union introduced into evidence the Waukesha County Employees Handbook for April, 1965, which contained employment rules, regulations, procedures and policies with respect to wages, hours and working conditions of employees then employed by Waukesha County. This handbook makes no distinction between clerical employees and other employees with respect to treatment of or conferences with the employees, or with respect to benefits conferred upon said employees. Hence, this is unlike the situation where an employer has previously recognized clerical personnel as a separate department within its own organizational structure.<sup>3/</sup>

In addition, there is no evidence indicating that clerical employees work in a common separate location or under common separate supervision. Rather, it is admitted that clerical employees are distributed throughout the separate county offices and departments, and that their classification cuts completely across departmental

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<sup>1/</sup> Dodge County, Decision No. 6067, 7/62; Normington Laundry, Decision No. 3864, 12/54.

<sup>2/</sup> Gimbels Bros., Decision No. 251, 4/41.

<sup>3/</sup> See e.g., Superior Memorial Hospital, Decision No. 7791, 1/66.

lines. It appears from the list of eligible employees submitted to the Commission by the Municipal Employer, and approved by the Petitioner, that clerical employees are employed in the following offices and departments of Waukesha County: County Clerk's Office, Mental Health, Health, County Treasurer, Welfare, Extension, County Courts I, II and III, Juvenile Court, Office of the County Chairman, Register of Deeds, Park and Planning, Office of the District Attorney, Reproduction, Coroner, Clerk of Courts, Sheriff's Office, Veterans Service, Special Education, County Museum, and Highway Department.

The fact that clerical employees are distributed throughout so many offices and departments weighs against the County's contention that clerical employees constitute a separate division. Two important factors found in other cases where a separate division or department exists, the factors of common location and common supervision of the employees believed to constitute a division, are absent in the instant case.

Based on the above discussion, we conclude that the clerical employees of Waukesha County within this proposed unit have no special interests or differences in working conditions which would justify classifying said employees as a "division" entitled to a separate unit vote.<sup>4/</sup>

Dated at Madison, Wisconsin, this 15th day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slivney  
Morris Slivney, Chairman  
Zel S. Rice II  
Zel S. Rice II, Commissioner  
William R. Wilberg  
William R. Wilberg, Commissioner

<sup>4/</sup> For a decision holding that clerical employees did not constitute a separate division or department in circumstances not unlike those of the instant case, see St. Nicholas Hospital, Dec. No. 8339, 2/68.