

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
ST. CROIX COUNTY COURTHOUSE :
EMPLOYEES, LOCAL 576-B : Case 3
Involving Certain Employes of : No. 43546 ME-394
ST. CROIX COUNTY : Decision No. 8932-G
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Appearances:

Ms. Margaret McCloskey, Staff Representative, AFSCME, Council 40,
1203 Knollwood Court, Altoona, Wisconsin 54720, on behalf of the
Union.
Weld, Riley, Prenn & Ricci, Attorneys at Law, by Mr. James M. Ward,
715 S. Barstow, Suite 111, P.O. Box 1030, Eau Claire, Wisconsin
54702-1030, on behalf of the County.

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER CLARIFYING BARGAINING UNIT

On January 26, 1990, St. Croix County Courthouse Employees Local 576-B, herein Union, petitioned the Wisconsin Employment Relations Commission requesting the Commission to clarify a bargaining unit of municipal employes of St. Croix County, herein County, by including the positions of Computer Programmer and User Support Specialist II. Hearing was subsequently held on July 16, 1990, in Hudson, Wisconsin, before Examiner Amedeo Greco, a member of the Commission's staff. The parties subsequently filed briefs which were received by October 11, 1990.

Being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. St. Croix County Courthouse Employees Local 576-B, herein the Union, is a labor organization and has a mailing address of 1203 Knollwood Court, Altoona, Wisconsin 54726.

2. St. Croix County, herein the County, is a municipal employer and has its main offices at the St. Croix County Courthouse, Hudson, Wisconsin.

3. The Union is the exclusive collective bargaining representative of certain employes employed by the County who primarily work in the St. Croix County Courthouse in Hudson, Wisconsin.

4. The Union and County are privy to a collective bargaining agreement providing in Article I, entitled "Recognition", that:

SECTION 1. The County hereby recognizes the Union as the exclusive bargaining agent for all full-time regular Courthouse employees of St. Croix County, including the St. Croix County Communications Center telecommunicators and the St. Croix County Sheriff's Department jail clerks, excluding elected officials, Sheriff's Deputy Secretary and supervisory employees,

for the purpose of bargaining collectively in good faith on all matters pertaining to wages, hours and working conditions of employment. The Employer further recognizes that all employees in the bargaining unit have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful concerted activities for purposes of collective bargaining of other mutual aid for protection.

. . .

5. The Union filed the instant petition on January 26, 1990, requesting that the positions of Computer Programmer and User Support Specialist II which were established in 1990 be included in the collective bargaining unit. The County opposes their inclusion, claiming that they are professional employees and that it would be inappropriate to include them within the nonprofessional courthouse bargaining unit.

6. The User Support Specialist II job description provides:

USER SUPPORT SPECIALIST
(Public Safety)

GENERAL STATEMENT OF DUTIES: Performs a variety of technical work in the Data Processing Department including, but not limited to, technical support to users, troubleshooting and correcting hardware and software problems, training, programming, operating the public safety computer and its peripherals, and developing documentation. This person will be primarily assigned to the Public Safety system and will serve as system manager for that computer.

DISTINGUISHING FEATURES OF THE POSITION: This employee is responsible for providing technical support to law enforcement, central communications, and other public safety computer users. This requires a thorough understanding of computer principles, and the ability to make critical decisions calmly, accurately, and in a timely manner. These decisions can be very important to the day to day operation of the various public safety departments.

This employee will also provide technical support to non public safety computer users as assigned by DP Manager. Makes recommendations to the DP Manager regarding suitability of software and hardware for public safety system. Also provides recommendations to the DP Manager regarding telecommunication issues.

EXAMPLES OF WORK: (Illustrative only)

Resolves user problems with applications, procedures, software and hardware. Installs and tests new software for public safety users, determining compatibility and suitability of software choices by departments. Makes recommendations to departments and DP Manager regarding

software and hardware selection. In conjunction with department supervisors, determines needs for developing public safety computer applications. Works with department supervisors to resolve problems and make suggestions to streamline manual procedures of the department to better take advantage of automation. Troubleshoots equipment and software. Performs preventative maintenance on equipment. Arranges for and/or performs repairs on computer equipment where applicable. Trains public safety and other computer users. Alters application software to best to (sic) improve efficiency of operation. Works with software vendors to modify and enhance software. Performs complicated searches of data at user request. Writes computer programs from specifications provided by DP Manager and Public Safety Users; Develops and maintains user and system documentation; Assists in supporting non public safety computer users; provide recommendations regarding telecommunication issues as directed by DP Manager; Perform other work as required.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: A thorough knowledge of principles and practices of both micro-computer and medium sized computer operations; ability to think logically and handle critical decisions; ability to communicate both orally and in writing; ability to work independently and to learn technical procedures with minimal help; the ability to follow written and oral procedures; and the ability to work with a wide variety of people.

ACCEPTABLE EXPERIENCE AND TRAINING: Two years responsible experience in data processing including experience using microcomputers. Background in law enforcement preferred. Experience providing technical support and training to computer users. Working knowledge of microcomputers, MSDOS, and word processing. Experience with Pick operating system and databases preferred. Experience troubleshooting equipment and software problems, and performing routine repairs. Experience in telecommunication issues preferred. Education to include completion of standard high school curriculum supplemented by post secondary coursework in data processing and/or public safety, voc-tech or college degree preferred; or any combination of experience and training which provides the required knowledge, skills, and abilities.

7. Joel M. Roswell is the incumbent and performs the duties of the User Support Specialist II position. Prior to taking said position, he was a supervisor of data processing at a private company. He has an Associate Degree in Data Processing from Chippewa Valley Technical College; he is experienced in using different computers such as IBM, HP Vectra, Theos, PC, DOS, 21 COMP Ultra-Se 64; and he is very knowledgeable about various computer languages such as BASIC, COBOL, and RPG II. He helps computer users when they have a problem; teaches them how to use certain software; sets up computers and peripherals; and hooks up the terminals to the main system. In addition, he has arranged with the telephone company to have lines installed; he has installed necessary components; and he has set up the system so that it can accommodate additional users. He spends about half his time developing software programs. At the

time of his hire, the County interviewed at least one applicant who did not have a college or post secondary degree.

8. The Programmer job description provides:

GENERAL STATEMENT OF DUTIES: Performs technical work in the Data Processing Department including, programming, providing technical support to computer users, operating the main computer and its peripherals, documentation, and other technical projects as assigned by the DP Manager.

DISTINGUISHING FEATURES OF THE POSITION: This employee is responsible for programming and providing technical support to system and micro-computer users, assigned system manager functions, and for the timely and accurate running of batch programs run by the Data Processing department for other departments. Involved with this is the knowledge and efficient use of the main computer, its peripherals and micro-computers.

EXAMPLES OF WORK: (Illustrative only)

Resolves user problems with applications, procedures, software and hardware.

Modifies existing programs as directed by DP Manager in conjunction with user departments.

Writes computer programs from specifications provided by DP Manager and users.

Tests computer programs.

Develops computer room run time procedures for new programs.

Provides training to main and micro computer users.

Schedules main computer batch jobs.

Coordinates major batch job projects such as property tax statement and roll printing.

Trains and provides guidance to computer operator.

Performs routine data base maintenance to ensure application efficiency.

Runs payroll, accounting, and support checks, W2's, tax statements, rolls, and other batch jobs.

Performs system backup, restores damaged files.

Develops and maintains job streams, UDC's etc.

Monitors computer operation to detect hardware and software errors.

Tests and cleans tapes.

Develops and maintains user and system documentation.

Analyzes need for automation in county departments as assigned by DP Manager.

Performs system reload and updates operating system.

Troubleshoots hardware, software, and data communication errors.

Recommends software changes and enhancements to DP Manager.

Perform other work as required.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: A thorough knowledge of principles and practices of medium sized computer operations; knowledge of internal functions of a data processing center; ability to think logically and handle critical decisions; ability to communicate both orally and in writing; ability to work independently and to learn technical procedures with minimal help; the ability to follow written and oral procedures; and the ability to work with a variety of people.

ACCEPTABLE EXPERIENCE AND TRAINING: Two years responsible experience in data processing including programming (COBOL), computer and peripheral operation, preferably on an HP 3000. Considerable experience providing technical support to users. Working knowledge of microcomputers using word processing software. Education to include completion of a standard high school curriculum, supplemented by post-secondary courses in data processing, and/or programming; or any equivalent combination of experience and training (i.e. voc-tech certificate in data processing, B.S. in Computer Science) which provides the required knowledge, skills and abilities.

9. Annette W. Langman is the incumbent in the Programmer position and performs the duties listed in her job description. She has a BS in Computer Science from the University of Wisconsin River Falls and prior to taking said position, she was a Computer Operator, a bargaining unit position. She spends approximately 85-90 percent of her time developing computer software programs. She is experienced in using VAX, IBM PC, and Apple II computers and has worked on PASCAL, LISP, C Assembly, and Basic software.

10. Langman and Roswell report directly to Data Processing Manager Bruce Callem who has overall responsibility for the County's data processing operations. When different problems arise, both Langman and Roswell consult Callem who provides guidance as to what should be done. In addition to Langman and Roswell, Callem supervises the Assistant Data Processing Manager and the one Computer Operator who is in the bargaining unit. He is unable to provide much technical supervision over Roswell's work because Roswell has had more experience than he in certain areas.

11. The work of the occupants of the positions of Computer Programmer and User Support Specialist II is predominantly intellectual and varied in character, involves the consistent exercise of discretion and judgment in its performance, has results which cannot be standardized in relation to a given period of time, but does not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education.

Upon the basis of the above Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. The occupant of the position of Computer Programmer is not a professional employe the meaning of Sec. 111.70(1)(L), Stats.

2. The occupant of the position of User Support Specialist II is not a professional employe within the meaning of Sec. 111.70(1)(L), Stats.

Upon the basis of the above Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT 1/

The positions of Computer Programmer and User Support Specialist II shall be, and hereby are, included in the bargaining unit set forth in Finding of Fact 4.

Given under our hands and seal at the City of
Madison, Wisconsin this 4th day of September,
1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Herman Torosian, Commissioner

William K. Strycker, Commissioner

I concur:

A. Henry Hempe, Chairperson

(See Footnote 1/ on page 8)

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- 1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

Footnote 1/ continued on Page 9

(Footnote 1/ continued)

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

ST CROIX COUNTY

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER CLARIFYING BARGAINING UNIT

THE POSITION OF THE PARTIES

Union

In support of its contention that the User Support Specialist and Programmer positions should be included in the bargaining unit, the Union primarily maintains that the educational requirements, character of the work, levels of supervision, community of interest, and the history of how the positions came into existence all establish that the work herein is technical, rather than professional, in nature. While acknowledging that some of the work "calls for some of the judgment and discretion of professional work", the Union nevertheless claims that "the work is not predominately" professional in nature because both positions also call for "some of the routine or manual work of a clerical position," such as recordkeeping, operating office equipment, using a computer, and assisting others -- tasks which it maintains can be achieved by on-the-job experience and training. Alternatively, the Union states that it still wishes to represent the employees if the Commission finds that they are professionals.

County

The County asserts that the two positions are professional in nature under the statutory criteria and hence should be excluded from the bargaining unit pursuant to City of Cudahy, Dec. No. 19507 (WERC 3/82). It also contends that "The two positions are on par with one another" and that if one is a professional so is the other.

DISCUSSION

The resolution of these issues turns upon application of Sec. 111.70(1)(L) Stats. which defines the term "professional employe" in pertinent part as follows:

1. Any employe engaged in work:
 - a. Predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;
 - b. Involving the consistent exercise of discretion and judgment in its performance;
 - c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
 - d. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in

the performance of routine mental,
manual or physical process

. . . .

All of the above factors must be present for an employee to be professional.

On balance, we are satisfied that the User Support Specialist and the Programmer both perform work which is "predominately intellectual and varied in character", and which involves "the consistent exercise of discretion and judgment in its performance." Roswell, the User Support Specialist, spends over 50% of his time programming with the balance of time devoted to the other aspects of his position description. Langman, the Programmer, spends 85 to 90% of her time programming with the balance of her time distributed among the other elements of her position description. Further, Roswell and Langman exercise considerable discretion and judgment in fashioning software programs and in resolving user problems, which are brought to their attention on a day-to-day basis. Such discretion and judgment are needed because of the number of potential solutions to the various problems they encounter.

While we feel this conclusion is supported by the record, we acknowledge that both job descriptions identify some duties which are not "predominantly intellectual and varied." The User Support Specialist performs preventive maintenance on equipment, repairs computer equipment, hooks up components and troubleshoots equipment. The Programmer performs duties that are closely associated with computer operators' responsibilities. These include: scheduling computer batch jobs, coordinating major batch jobs, running a specific batch jobs and testing and cleaning tapes. However, after considering the total scope of these positions and the amount of time spent on "predominantly intellectual" activities, we have concluded that their work is "predominately intellectual and varied in character."

Similarly, the high ratio of managers to employees raise questions as to the amount of discretion exercised. This is a relatively small department, which consists of the two positions in question, one Computer Operator, a Data Processing Manager and an Assistant Data Processing Manager. However, unlike the employees involved in Waukesha County, Dec. No. 26020-A (WERC, 9/89) 2/ the testimony regarding the positions' responsibilities and an analysis of departmental operations establishes that the work performed by Roswell and Langman does involve the "consistent exercise of discretion and judgment."

Turning to the ultimate nature of the work produced by Roswell and Langman, the record establishes that there can be significant variances in how long they will work on a given task. The record thus establishes that their work has too many variables to be standardized over a fixed time period. Therefore, the requirement of Sec. 111.70(1)(L)1.c., Stats. is also satisfied by the work of these two employees.

Lastly, we turn to the question of whether the work of the two positions requires knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education.

2/ In Waukesha County we concluded that the evidence did not support a finding that senior computer systems specialists possessed sufficient discretion and judgment in the performance of their work in part because of the existence of higher level supervision.

In Brown County, Dec. No. 11983-C (WERC, 1/91) we recently addressed this question when considering the work of an Analyst/Programmer II position which was described in pertinent job description provisions as follows:

Analyzes system requirements; designs and creates computer programs of moderate to complex nature; maintains existing computer software and makes changes as required by users.

Examples of Duties

Assists department heads and principle representatives in the evaluation of current manual and computerized operations; develops general and specific data flow in regard to user requests and limitations; formulates data base requirements based on users data retention needs; designs layouts for all file specifications, screen formats, reports, and special form requirements; determines reasonable time estimates of major projects and their smaller components after analysis of complexity; completes operational tests on developed software and monitors for necessary modifications in design specifications; trains user department personnel on program function and related hardware; investigates impact of modifications and adjustments on existing systems and software; performs adjustments to developed software as required by user departments; performs telephone support functions and addresses hardware/software questions or malfunctions; attends workshops and training courses, keeps abreast of new technology to improve system and program operation.

In our Brown County Finding of Fact 11, we further described the actual duties of the Analyst Programmer II position as follows:

. . . that since approximately 1987, the duties of the D.P. Manager, A.D.P. Manager and the A.P. II's have shifted and changed; that in this regard, the D.P. Manager and A.D.P. Manager no longer currently make the day-to-day decisions regarding user problems, although the D.P. Manager continues to consult directly with other department heads and County officials regarding their needs prior to assigning a project to an A.P. II; that formerly, the A.D.P. Manager had consulted with the users and then designed the entire system/application, down to designing flow charts, print charts, and how the screens would look after on-going consultation with the user and then the A.P. I's and II's simply took the designs/plans of the A.D.P. Manager and coded them into the computer; that the A.D.P. Manager presently no longer consults with users, no longer designs systems/applications down to screen presentations but that the A.P. II's now perform all of this work; that although the A.D.P. Manager was formerly and continues to be the County's computer security code officer, the A.D.P. Manager now does only a limited amount of system testing and other system/application design and development, and the A.P. II's have taken over the majority of this work as well; that in the past three

years, the D.P. Manager's duties have expanded in the areas of overall project management, budgetary considerations and on-going D.P. accountability for computer functions to such an extent that the D.P. Manager no longer does any programming and he is not otherwise involved in the day-to-day business of directly providing D.P. services, except through his assisting on the Help Desk;

The work of the Analyst/Programmer II in Brown County is strikingly similar to work of the two positions before us as described in Findings of Fact 6-9 herein. In Brown County, we concluded that the knowledge needed to perform such work is customarily acquired through experience or a combination of experience and technical training. We reach the same conclusion here.

We are satisfied that it is experience and/or technical training which customarily provides the User Support Specialist with the knowledge needed to develop computer programs, resolve user problems, perform preventive maintenance, repair, and troubleshoot equipment, prepare equipment for use, install and test software, and determine software compatibility. It is experience and/or technical training which customarily provides the Programmer

with the knowledge to write and modify programs, provide training to computer users, test and clean tapes, and to schedule, coordinate and run batch jobs.

Our conclusion is supported by the absence of any County requirement that either the User Support Specialist or the Programmer possess more than a high school degree and technical training. While we acknowledge that the educational backgrounds of both incumbents exceed the County's educational requirements, the critical question before us is whether the knowledge required to perform the duties fits the definition contained in Sec. 111.70(1)(L)1.d., Stats. We are satisfied that the absence in the job description of an educational requirement which meets the test of Sec. 111.70(1)(L)1.d., Stats., accurately reflects the reality that experience and/or technical training continue to customarily provide the knowledge needed to perform the duties of the positions before us.

While our conclusion in this regard is consistent with that recently reached in Brown County, and Waukesha County, we acknowledge that in City of Cudahy, Dec. No. 19507 (WERC, 3/82) the Commission found a Data Processing Analyst position to be professional. However, the duties of the Cudahy position included accounting and budgetary responsibilities as well as overall control of the City's data processing function. To that extent, the work involved in Cudahy and thus the knowledge required to perform said work, is distinguishable from that herein.

In summary, while the criteria established by Sec. 111.70(1)(L)1.a., b., and c., Stats. have been met, the criterion of 1.d. has not been satisfied.

Therefore, the positions are not professional.

Dated at Madison, Wisconsin this 4th day of September, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Herman Torosian, Commissioner

William K. Strycker, Commissioner

CONCURRING OPINION OF CHAIRMAN HEMPE

My colleagues find - and I agree - that the User Support Specialist and the Programmer each perform work which is "predominately intellectual and varied in character" and which involves "the consistent exercise of discretion and judgment in its performance."

My colleagues go on to conclude that the knowledge needed to perform the responsibilities of these positions is customarily acquired through experience or a combination of experience and technical training. With the hope we do not do a disservice to an obviously emergent profession whose members are capable of performing sophisticated, complex tasks in computer programming and analysis, on balance, I am inclined to agree with this conclusion, as well.

My concurrence is based solely on the experience and education the Employer deems appropriate for the positions in question. While each incumbent herein has acquired professional knowledge by completing prolonged courses of specialized intellectual instruction and study in institutions of higher learning, 3/ it seems clear enough that merely a high school diploma, some post-secondary course-work, and two years of responsible experience also fulfill the Employer's experience and education requirements for each position.

Under this circumstance, the result we reach herein is as inevitable as that reached in Brown County 4/ in which the Employer had a similar experience and education requirement for an analogous position.

My colleagues distinguish the instant case from City of Cudahy 5/ on the basis that the Cudahy employe, a data processing analyst who was found by the Commission to be a professional, had a position description which included accounting and budgeting responsibilities. I do not disagree with this rationale, even though the additional responsibilities of the Cudahy employe fell far short of entitling her position to an exclusion from the bargaining unit based on managerial status. 6/ It is the same rationale we found helpful

3/ One incumbent has a bachelor's degree in computer science; the other, an associate degree in data processing.

4/ Decision No. 11983-C (WERC, 1/91).

5/ Dec. No. 19507 (WERC, 3/82).

6/ City of Cudahy, supra, Finding of Fact 8, at page 3.

as we distinguished City of Cudahy from Brown County. 7/ Whether this suggests the de facto emergence of another hybrid status, that of professional/managerial, 8/ need not be determined in this case.

7/ Dec. No. 11983-C (WERC, 1/91) at page 10.

8/ Cf. City of Mauston, Dec. No. 21424-B (McLaughlin, 10/86) in which a disputed position was found to be "supervisory/managerial."

In my view, however, there is an additional basis for distinguishing City of Cudahy from the instant matter. In Cudahy, the Employer clearly preferred that the data processing analyst have a college degree, the attainment of which was to include two or more years of modern accounting theory and practice. 9/ There is, of course, no such preference for any prolonged course of specialized intellectual instruction with respect to either the User Support Specialist or Programmer position which was expressed by St. Croix County management. From this seems to flow fairly the inference that St. Croix County management does not perceive either position as requiring the knowledge and expertise gained through prolonged, specialized intellectual instruction, even though it appears that is the manner in which the persons who were ultimately hired to fill the two positions initially obtained their knowledge. 10/ Put another way, although the County hired two persons whose qualifications arguably entitle them to a personal professional status, the experience and education required by the County for the two positions to which these persons were hired, on their face, do not require professional qualifications within the meaning of Sec. 111.70(1)(L)d.

As a Commission, we attempt to maintain a scrupulous disinterest in the content of employer-developed position descriptions. Consistent with this neutrality, we will not second-guess experience and education requirements, assuming: 1) there is a reasonable relationship between such requirements and the position description; and 2) the position description is reasonably reflective of actual position tasks. Our restraint is based on our sense that employing units normally know their own employment needs far better than we do.

In my view, the result the Commission reaches today, the result the Commission reached in Brown County, and the result the Commission reached in City of Cudahy each demonstrate this restraint.

Dated at Madison, Wisconsin this 4th day of September, 1991.

By

A. Henry Hempe, Chairperson

9/ City of Cudahy, supra, Finding of Fact 8, at page 3.

10/ A similar observation would appear to apply with equal force in Brown County, supra.