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CITY OF MILWAUKEE,		:	
	Petitioner,	:	WERC Decision No. 9429
		:	
vs.		:	MEMORANDUM DECISION
		:	
WISCONSIN EMPLOYMENT RELATIONS		:	
COMMISSION,		:	
		:	
	Respondent.	:	
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This is an appeal by the City of Milwaukee, for review under Chapter 227, Stats., of a declaratory ruling of the Wisconsin Employment Relations Commission (hereinafter called the Commission). The Commission's ruling declared that the Policemen's Protective Association of Milwaukee, Wisconsin, (hereinafter called the union) may petition the City of Milwaukee for changes or improvements in those rules and regulations of the Police Department which bear upon wages, hours and/or working conditions of Police Patrolmen and Sergeants in the employ of the Police Department of the City of Milwaukee.

The petition was precipitated by the City's refusal to negotiate with respect to these rules and regulations on the ground that they were beyond the control of the City. In support of this position the City relies upon its charter ordinance 29.22 (Section 23, Chapter 586, Laws of 1911), which confers upon the Chief of Police the power to regulate the police department and prescribe rules for the government of its members. It argues that should the City agree with the association as to any specific changes in these rules and regulations it would have no way of insuring compliance without the Chief being a party to the contract. In essence, they urge that sec. 111.70(4)(j), Wis. Stats., should be strictly interpreted so as to exclude the City Police Chief's powers to regulate his department from the statute which requires municipal employers to negotiate on matters affecting wages, hours and conditions of employment.

The respondents, on the other hand, contend that because sec. 111.70(4)(j), Wis. Stats., providing for collective bargaining upon the subject of wages, hours and working conditions of the policemen, was enacted subsequent to sec. 62.13, Stats., and sec. 23, Ch. 586, Laws of 1911, it must be presumed that the legislature acted with full knowledge of any conflict and they should be harmonized by construction to maintain the statutory scheme provided for municipal employer-employee peace and require negotiation in this case.

In Durkin v. Board of Police and Fire Comm., 48 Wis. 2d 112, this court had rendered a decision on the relationship between a City Police and Fire Commission and its authority under sec. 62.13, Stats., and the authority of the City Council under sec. 111.70(4)(i), Stats., to include an amnesty clause in a collective bargaining agreement with firemen. This court concluded that sec. 111.70(4)(i) did authorize a municipality to agree to such an amnesty clause in a collective bargaining agreement and thereby abrogate the right of the Commission to proceed with any disciplinary action against a fireman. The Supreme Court in Durkin declined to make a decision on whether the Board was bound by the contract between the City and the union.

In the instant case, the court is of the opinion that the municipal employer, under sec. 111.70, Stats., must negotiate on those rules and regulations of the City Police Department which affect wages, hours and working conditions of Police Patrolmen and Sergeants. While it is true that the City Police Chief controls the same, the City is obliged to confer with the union regarding them. To hold otherwise would deny the right of police officers to attempt to negotiate changes affecting their wages, hours and working conditions which the legislature gave them. The City should not be heard to say that the negotiators cannot confer on behalf of its Chief of Police or that the Chief, himself, or his representative could not sit in on such conferences. It would frustrate the intent of the legislature to remove the situation in question from the requirements of sec. 111.70, Stats., as urged by the City.

The Wisconsin Employment Relations Commission acted within the authority granted to it under sec. 227.06, Stats., and properly concluded that the Police Department rules in question are a proper subject for collective bargaining under sec. 111.70(4)(j) and sec. 111.70(4)(e) through (g) of the Wisconsin Statutes. The declaratory ruling to that effect is hereby affirmed. Counsel may prepare an appropriate judgment for the court's signature.

Dated: February 16, 1971.

BY THE COURT:

/s/ William C. Sachtjen

William C. Sachtjen, Judge