

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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 In the Matter of the Petition of :
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 PIERCE COUNTY :
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 Involving Certain Employes of : Case 4
 : No. 37128 ME-98
 : Decision No. 9616-C
 PIERCE COUNTY :
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Appearances:

Mr. Richard Rettke, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P. O. Box 68, Rice Lake, Wisconsin 54868, appearing on behalf of the Union.
 Mulcahy & Wherry, S.C., Attorneys at Law, 21 South Barstow, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, by Mr. Michael J. Burke, appearing on behalf of the County.

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

Pierce County having, on June 17, 1986, filed a petition requesting the Wisconsin Employment Relations Commission to clarify an existing certified bargaining unit of courthouse employes of Pierce County, which unit is represented by Pierce County Courthouse Employees, Local 556, WCCME, AFSCME, AFL-CIO; and a hearing in the matter having been conducted on August 13, 1986, in Ellsworth, Wisconsin, before Examiner Douglas V. Knudson, a member of the Commission's staff; and a stenographic transcript having been made of the hearing and received on August 19, 1986; and the parties having filed post-hearing briefs, the last of which was received on November 3, 1986; and the Commission, having reviewed the evidence and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That Pierce County, hereinafter the County, is a municipal employer and has its offices at the Pierce County Courthouse, 414 West Main Street, Ellsworth, Wisconsin 54011.
2. That Pierce County Courthouse Employees, Local 556, WCCME, AFSCME, AFL-CIO, hereinafter the Union, is a labor organization with its offices at P.O. Box 68, Rice Lake, Wisconsin 54868.
3. That in Pierce County Dec. No. 9616, (WERC, 5/70), after an election conducted by the Commission, the Union was certified as the exclusive collective bargaining representative of the following bargaining unit:

 All regular full-time and regular part-time courthouse employes employed by Pierce County, but excluding all elected officials, supervisors, professional and confidential employes.
4. That the County, on June 17, 1986, filed a unit clarification petition with the Commission wherein it sought the exclusion of the position of Highway Office Manager-Bookkeeper; and that the County, contrary to the Union, contends that said position is supervisory and managerial in nature and should be excluded from the bargaining unit.

5. That Mary J. Straub has occupied the position of Highway Office Manager-Bookkeeper since November, 1983; that previously Straub worked for the County as a part-time employe from October, 1973 to February, 1976, at which time she became a full-time employe in the position of Highway Bookkeeping Assistant, which position she held until November 1, 1983; that Straub reports to the Highway Department Commissioner who in turn reports to the Highway Committee; that Straub works in a central office with three other employes all of whom are classified as Highway Bookkeeping Assistant; that, Straub has a monthly salary of \$1,592.33; that the maximum salary for the position of Highway Bookkeeping Assistant is \$1,245.43 per month; that, while she has the authority to assign work, Straub does not actually assign work to the Highway Bookkeeping Assistants, since each is familiar with and performs their own respective duties; that Straub has never issued any reprimands or other form of discipline; that Straub did sit in on the interview of an applicant but did not have any voice on whether said applicant should be employed; that Straub did complete a performance evaluation of a probationary employe, but did not make any recommendation concerning whether said employe should be given permanent status; that Straub does not approve vacation or sick leave requests from the Highway Bookkeeping Assistants; that Straub is primarily responsible for supervising the general office and bookkeeping activities of the Highway Department and that her direction of other employes is of a routine nature more akin to the role of an experienced lead worker than to the role of a supervisor; that the difference in her salary and that of Bookkeeping Assistants is attributable to her responsibility in supervising an activity and not for supervising employes; and that Straub, as the Highway Office Manager/Bookkeeper, does not exercise supervisory responsibilities in sufficient combination and degree so as to constitute a supervisory employe.

6. That annually Straub tabulates expenditures both for all accounts in the highway budget for the previous calendar year and for the first eight months of the current calendar year, and then estimates expenditures for the accounts for the remaining four months of the calendar year; that said information is furnished to the Highway Committee and to the County's Finance Committee for their respective use in establishing the Highway Department budget for the succeeding calendar year; that Straub is not involved in the setting of priorities for construction projects within the budget, but rather, such priorities are established by the Highway Committee; that Straub and the Highway Commissioner present the budget established by the Highway Committee to the County's Finance Committee for the purpose of answering questions and explaining calculations; that Straub prepares monthly budget status reports for the Highway Committee, but she does not attend the Highway Committee meetings on a regular basis; that Straub can order office supplies without prior approval within budgeted accounts, but that requests for large expenditures, such as office furniture or equipment, are submitted to the Highway Committee for approval; that in 1986 when the Highway Department needed some computer furniture, a purchase voucher with a quote of approximately one thousand dollars was submitted to the Highway Committee for approval; that the Highway Committee told Straub to get a price from another vendor and then the Highway Commissioner and Straub should select the vendor, which they did; that Straub does not have the authority to transfer funds between accounts; that, in addition to the aforesaid duties, Straub is the sole employe who performs certain functions such as receiving payments by cash or check and maintaining records of such payments, and preparing requisitions to the State of Wisconsin for reimbursement of certain maintenance work; that all of the office employes work on the general ledger and the year-end closing of the books, in addition to maintaining records; that certain functions, such as auditing invoices from suppliers, are performed by the Bookkeeping Assistants; that Straub does not sufficiently participate in the formulation, determination or implementation of management policy nor does she have sufficient authority to commit the employer's resources so as to make her a managerial employe.

CONCLUSION OF LAW

1. That the occupant of the position of Highway Office Manager-Bookkeeper is neither a supervisor nor a managerial employe, and therefore, is a municipal employe within the meaning of Sec. 111.70(1)(i), Stats.

ORDER CLARIFYING BARGAINING UNIT 1/

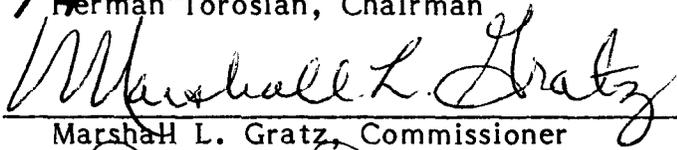
That the position of Highway Office Manager-Bookkeeper shall continue to be included in the collective bargaining unit set forth in Finding of Fact 4 above.

Given under our hands and seal at the City of
Madison, Wisconsin this 5th day of December, 1986.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Dahae Davis Gordon, Commissioner

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- 1/ Pursuant to Sec. 227.11(2), Stats., the Examiner hereby notifies the parties that a petition for rehearing may be filed with the Examiner by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 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.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor 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. 227.12, 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. 227.11. If a rehearing is requested under s. 227.12, 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. 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

(Footnote 1 continued on Page 4.)

(Footnote 1 continued from Page 3.)

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.

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.

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

On a day-to-day basis, the substantial majority of Straub's time is spent in performing accounting functions, similar to those performed by the three assistants with whom she works. The assistants appear to do their jobs with a minimum amount of direction from Straub. Each of the four employes perform certain functions in the accounting area. Straub described the division of duties as being like a pie which is divided into four pieces and when the work is done, then she makes the general ledger final entries. Straub has never issued any reprimands, nor other form of discipline, to an employe. She does not approve vacation or sick leave requests for other employes. Straub has performed an evaluation of a probationary employe, but made no recommendation on the continued employment of that individual. Neither does Straub perform annual evaluations of the employes with whom she works. Straub's role to date in the employment process has consisted of the participation in one interview of an applicant, however, Straub did not vote on whether said applicant should be employed. Although Straub is paid a considerably higher salary than the other accounting employes, such a pay differential appears attributable to her responsibility for the overseeing of the accounting services rather than for her supervisory responsibilities. Based on the foregoing we conclude that Straub's position does not involve supervisory authority in sufficient combination and degree as to warrant her exclusion from the bargaining unit as a supervisor.

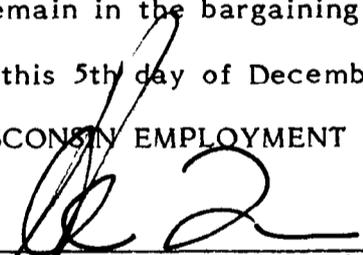
The County also asserts that Straub is a managerial employe. While Straub participates in the preparation of the Highway Department Budget, her input into that process appears to consist primarily of the tabulation of expenditures and the estimation of expenditures for the remaining months of the budget which information is furnished to the Highway Committee and to the Finance Committee for their use in actually determining the budget for the succeeding year. Straub does not have the authority to deviate from the established budget or to transfer funds between accounts within the budget without approval. Although Straub can order office supplies within the budgeted accounts without prior approval, any large expenditures, such as office furniture, are submitted to the Highway Committee for their approval. Thus, we conclude that Straub does not have sufficient authority to commit the employer's resources so as to constitute a managerial employe.

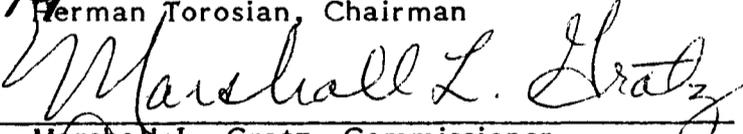
Accordingly, we conclude that the position of Highway Office Manager-Bookkeeper appropriately should remain in the bargaining unit.

Dated at Madison, Wisconsin this 5th day of December, 1986.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Danae Davis Gordon, Commissioner