

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

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AFSCME LOCAL 2223, AFL-CIO :

:

Involving Certain Employes of : Case 20

: No. 50061 ME-678

: Decision No. 10445-G

EAU CLAIRE COUNTY :

:

Appearances:

Mr. Steve Day, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P. O. Box 1937, Eau Claire, Wisconsin 54702-1937, appearing on behalf of AFSCME Local 2223, AFL-CIO.

Mr. Keith R. Zehms, Corporation Counsel, Eau Claire County, Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, Wisconsin 54703-5495, appearing on behalf of Eau Claire County.

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

AFSCME Local 2223, AFL-CIO, filed two petitions on November 4, 1993, with the Wisconsin Employment Relations Commission. Said petitions requested the Commission to clarify a bargaining unit of municipal employes of Eau Claire County by including the positions of Deputy County Clerk and Administrative Assistant/Office Manager in a bargaining unit composed of "all regular full-time and regular part-time employes employed by Eau Claire County in the Courthouse clerical unit, but excluding supervisory, managerial, confidential and professional employes." Hearing on said petitions was conducted before James W. Engmann, an examiner on the Commission's staff, on February 2, 1994, in Eau Claire, Wisconsin. Said hearing was transcribed, a copy of which was received on March 10, 1994. The parties filed briefs, the last of which was received April 18, 1994. The parties waived the filing of reply briefs. The Commission, being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. AFSCME Local 2223, AFL-CIO, hereinafter referred to as the Union, is a labor organization with an office mailing address of P.O. Box 1937, Eau Claire, Wisconsin 54702-1937.
2. Eau Claire County, hereinafter referred to as the County, is a municipal employer with offices at 721 Oxford Avenue, Eau Claire, Wisconsin 54701.
3. The Union is the certified 1/ bargaining representative of "all regular full-time and regular part-time employes employed by Eau Claire County in the Courthouse clerical unit, but excluding supervisory, managerial, confidential and professional employes."
4. On November 4, 1993, the Union filed two petitions to clarify a bargaining unit requesting that the positions of Office Manager and Deputy

1/ Eau Claire County, Dec. No. 10445-E (WERC, 6/86).

County Clerk be included in the bargaining unit described in Finding of Fact 3; the County opposes said inclusion, alleging that the positions are supervisory.

5. The Personnel Director for Eau Claire County is Marvin Niese. The Eau Claire County Treasurer is Larry Lokken and the Office Manager in the Treasurer's Office is Kay Onarheim. The Eau Claire County Clerk is Joanne Lester and the Deputy Clerk is Janet Kay Loomis.

6. The position description for the Office Manager reads in part as follows:

GENERAL DESCRIPTION

Position performs responsible administrative and supervisory work to assist the County Treasurer in administering the activities of the office of County Treasurer, to supervise the staff and day-to-day operations, and to act as department head in the absence of the County Treasurer.

SUPERVISION/DIRECTION RECEIVED

Position receives general guidance and direction from the County Treasurer.

SUPERVISION/DIRECTION EXERCISED

Position provides direct supervision to the County Treasurer support staff.

TYPICAL DUTIES (Illustrative only)

Supervises support staff: assigns duties to staff on an ongoing basis to provide adequate coverage for Department responsibilities; identifies and analyzes human resources problems and recommends or implements solutions; participates in and/or makes effective recommendations on hiring, retention, discipline, performance evaluations, and other personnel matters as

delegated; coordinates staff training and cross training; participates in developing content for position descriptions and resolving recruitment issues.

Assists the County Treasurer to ensure that the office provides efficient and courteous service to the public; directs maintenance of accurate, up-to-date, and readily accessible records; participates in regular meetings to communicate concerns; analyzes and reviews procedures and work flow and makes recommendations on improving efficiency and effectiveness; works with data processing staff to create computer system changes as needed to improve maintenance of efficient and accurate records; evaluates office supply needs, requisitioning supplies and ordering printed forms as necessary to maintain an adequate inventory; coordinates office services provided to other departments and the public; assists in administration, maintenance, and amendment of policy; in the absence of the County Treasurer, assumes the duties, responsibilities, and authority of that office.

Coordinates activities between the Department and Municipal Treasurers and Clerks: communicates regularly during the year; prepares and conducts training sessions regarding State-mandated changes for Municipal Treasurers and clerks; provides direct link during the December through February tax collection period; directly works with daily bank transfers between the County and Cities of Eau Claire and Altoona during contracted collection periods; assists in balancing and preparing the February settlements.

Assists in both daily and monthly balancing of accounts; in the absence of the County Treasurer does the daily balancing, prepares the daily bank deposits, and provides for the Administrative Coordinator the amount of monies available for investment.

Signs and disburses all County checks; is responsible for maintaining records of all check and magnetic numbers to alleviate problems with missing checks for audit control; assists auditors in all County monetary transactions and records of monies received from taxpayers and other County Departments.

Assists in developing and preparing departmental budgets and monitors budgeted expenses on an ongoing basis; approves and processes bills for payment; recommends appropriate controls of cash flow; implements generally accepted accounting principles; oversees and accounts for all monies received by department; participates in long-range planning for staff and technology needs.

Maintains current knowledge of applicable laws and regulations: ensures that staff and affected departments are notified of changes; directs implementation of appropriate policy and procedural changes.

Develops professional knowledge and skills: participates in

in-service sessions and attends seminars or other training opportunities.

Performs other related duties as required or assigned.

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KNOWLEDGE, SKILLS, AND ABILITIES

Knowledge of modern office concepts and practices including ability to analyze work operations and make recommendations on improving efficiency and effectiveness.

Knowledge of basic managerial and supervisory techniques, practices, and principles with ability to supervise, motivate, train, and evaluate employees effectively.

Knowledge of standard accounting principles and practices.

Knowledge of and ability to interpret federal, state, and county laws, rules, and ordinances pertaining to the responsibilities of office of the County Treasurer.

Ability to effectively present information in written and oral form including the ability to develop and write clear, understandable reports, policies, and procedures.

Ability to establish and maintain effective working relationships with other employees, intergovernmental agencies, officials, news media, and the general public.

REQUIRED QUALIFICATIONS

Associate Degree in a relevant field with course work in administrative and supervisory practices and principles PLUS two (2) years supervisory experience in an office setting

Five (5) years office ^{OR} experience with two (2) years administrative and supervisory experience in an office setting.

Experience or training in electronic information management technology, including knowledge of personal computer use with a variety of software.

Experience or training in basic accounting principles and practices.

Ability to maintain confidentiality on all aspects of work.

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7. In addition to the Treasurer and Office Manager, three permanent bargaining unit employees work in the Treasurer's Office. The three permanent positions are the Account Clerk, Terminal Operator and Deputy County Treasurer.

When permanent vacancies occur, the collective bargaining agreement allows for current bargaining unit members to post for said positions. The Personnel Department determines if the employees who have posted for the position have the minimum qualifications for the job. The Personnel Department then creates a list of those employees who do have the minimum qualifications and forwards said list to the Treasurer's Office. The employees are listed in order of seniority.

After an interview with the Office Manager and meeting the Treasurer, the most senior qualified employee is awarded the position under the collective bargaining agreement. After a qualified employee is awarded a position, the collective bargaining agreement allows the County to return the employee to their former position. On two occasions, the Office Manager determined that an employee who had posted into a position in the Treasurer's Office should be returned to the employee's previous position. In both cases, she informed the Treasurer of her decision and he concurred. In both cases, she informed the employee of the decision.

8. In addition to the three permanent bargaining unit employees, from six to ten limited term non-bargaining unit employees work in the Treasurer's Office. To fill a limited term position and to fill those permanent positions for which no qualified employees posted, the Office Manager receives applications from the Personnel Department. She reviews the applications, looking for criteria that would be beneficial to the job. She chooses three or four candidates to interview, and makes a recommendation to the Treasurer after the interviews. The Treasurer meets briefly with the candidate recommended by the Office Manager. He has delegated hiring authority to the Office Manager and has hired every candidate recommended by her.

9. The Treasurer does not get involved in the day-to-day personnel problems in the office. He has delegated the responsibility for personnel problems to the Office Manager. While the Office Manager has not exercised the authority to otherwise discipline bargaining unit employees, she has the authority to reprimand or suspend employees, said authority being delegated to her by the Treasurer. Authority to discharge permanent employees remains with the Treasurer, although her recommendation would be given substantial weight. In one case, she terminated a limited term employee and communicated that decision to the employee. The Office Manager fills out the written evaluations of the permanent employees once a year. Both she and the Treasurer sign the employee evaluations. Previously, the Treasurer evaluated the Office Manager and the three permanent employees. The limited term employees are not formally evaluated.

10. The Treasurer does not get involved in the day-to-day operations of the Office, so the Office Manager is responsible for assigning work on a daily basis to both permanent and limited term employees. Although the permanent employees usually operate with minimal supervision, she constantly directs the

workloads of the limited term employees. She has complete authority to change direction of the work flow. In regard to the limited term employes, the Office Manager determines what days and hours each one will work. During tax collection season, she may have one limited term employe work initially. As the workload increases, she calls in additional limited term employes. When the workload starts to decrease, she reduces the work force accordingly. The Office Manager approves or denies time-off and leave of absence requests. She reviews and approves time sheets. She assigns overtime and is responsible to review the budget to ensure there is money to pay for overtime. The 1993 budget has \$4500 of permanent employe overtime and \$2000 for limited term employe overtime.

11. Previously, the Office Manager was a Terminal Operator covered by the collective bargaining agreement. Her rate of pay in 1993 was \$8.52. When Onarheim was appointed Office Manager, her rate of pay was increased to \$11.62. The salary difference between the Office Manager's previous position of Terminal Operator and her current position reflects the supervisory responsibilities of the new position. The Account Clerk, the remaining Terminal Operator and the Deputy Treasurer are paid between \$8.03 and \$8.52 an hour. The limited term employes receive \$7.00 an hour. The Office Manager works a forty hour week and receives overtime pay. She determines when she needs to work overtime and informs the Treasurer of her decision.

12. The primary responsibility of the Office Manager is to get the work done efficiently, quickly and accurately. She is responsible for training both permanent and limited term employes. She decides whether to send employes to school and classes. She performs the duties of Treasurer and signs reports as necessary in his absence. She also does the daily balancing with the bank and getting the figures ready for investment purposes when the Treasurer is gone. Other than that, her job does not change. She spends twenty-five to thirty percent of her time directing and assigning work, evaluating employes and their work, and meeting with employes formally or informally regarding work issues and personnel problems. Much of the supervision involves work assignments.

13. The position description of the Deputy County Clerk reads in part as follows:

GENERAL DESCRIPTION

Positions performs responsible administrative and supervisory work to assist the County Clerk in administering the activities of the office of the County

Clerk, to supervise the staff and day-to-day operations, and to act as department head in the absence of the County Clerk.

SUPERVISION/DIRECTION RECEIVED

Position receives general supervision from the County Clerk.

SUPERVISION/DIRECTION EXERCISED

Position provides direct supervision to the County Clerk support staff.

TYPICAL DUTIES (Illustrative only)

Supervises support staff: assigns duties to staff on an ongoing basis to provide adequate coverage for Department responsibilities; identifies and analyzes human resources problems and recommends or implements solutions; participates in and/or makes effective recommendations on hiring, retention, discipline, performance evaluations, and other personnel matters as delegated; coordinates staff training and cross training; participates in developing content for position descriptions and resolving recruitment issues

Assists the County Clerk to ensure that the office provides efficient and courteous service to the public: directs maintenance of accurate, up-to-date, and readily accessible records; participates in regular meetings to communicate concerns; analyzes and reviews procedures and work flow and makes recommendations on improving efficiency and effectiveness; works with data processing staff to create computer system changes as needed to improve maintenance of efficient and accurate records; evaluates office supply needs, requisitioning supplies and ordering printed forms as necessary to maintain an adequate inventory; coordinates office services provided to other departments and the public; assists in administration, maintenance, and amendment of policy; in the absence of the County Clerk, assumes the duties, responsibilities, and authority of that office.

Responsible for the Tax Deed process including ensuring that the following duties are performed on an accurate and timely basis; abstracting tax delinquent parcels, certified notices, and all required publications; maintains inventory of all County-owned parcels; conducts sales of and accounting for all such parcels.

Ensures that all support staff are trained to assist with the election process; ensures that sufficient elections supplies are obtained and distributed; participates and schedules staff to provide election night and follow-up coverage of election responsibilities.

Assists in developing and preparing departmental budgets and monitors budgeted expenses on an ongoing basis; approves and processes bills for payment; recommends appropriate controls of cash flow; implements generally accepted accounting principles; oversees and accounts for all monies received by department; participates in long-range planning for staff and technology needs.

Maintains current knowledge of applicable laws and regulations; ensures that staff and affected departments are notified of changes; directs implementation of appropriate policy and procedural changes.

Develops professional knowledge and skills: participates in in-service sessions and attends seminars or other training opportunities.

Performs other related duties as required or assigned.

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KNOWLEDGE, SKILLS, AND ABILITIES

Knowledge of modern office concepts and practices including ability to analyze work operations and make recommendations on improving efficiency and effectiveness.

Knowledge of basic managerial and supervisory techniques, practices, and principles with ability to supervise, motivate, train, and evaluate employees effectively.

Knowledge of standard accounting principles and practices.

Knowledge of and ability to interpret federal, state, and county laws, rules, and ordinances pertaining to the responsibilities of office of the County Clerk.

Ability to effectively present information in written and oral form including the ability to develop and write clear, understandable reports, policies, and procedures.

Ability to establish and maintain effective working relationships with other employees, intergovernmental agencies, officials, news media, and the general public.

REQUIRED QUALIFICATIONS

Associate Degree in a relevant field with course work in administrative and supervisory practices and principles PLUS two years supervisory experience in an office setting

OR

Five (5) years office experience with two (2) years administrative and supervisory experience in an office setting.

Experience or training in electronic information management technology, including knowledge of personal computer use with a variety of software.

Experience or training in basic accounting principles and practices.

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14. When the Tax Deed Clerk resigned in June, 1993, the County eliminated that position and created the position of Deputy County Clerk. The position was filled on December 13, 1993, six weeks prior to hearing in this matter. The Deputy Clerk's primary responsibility is day-to-day supervision of the staff, including hiring and disciplining of employes, assigning work to the staff and maintaining deadlines. When an employe needs to be hired, the Deputy Clerk will be involved in the interview process and would make an effective recommendation to the County Clerk. The Deputy Clerk has the authority to recommend whether an employe who posts into a position remains or is returned to their former position. While the Deputy Clerk has not disciplined an employe in her six weeks on the job, she has the authority to issue oral and written reprimands and can effectively recommend suspensions and discharges to the County Clerk. The Deputy Clerk receives the first step grievance under the collective bargaining agreement.

15. The Deputy Clerk supervises four employes. The three full-time positions are Clerk Typist I, Account Clerk and County Board/Elections. The half time position is a Clerk-Typist 1. The Deputy Clerk has sole responsibility to direct and assign the work force. The Deputy Clerk is required to make decisions regarding work assignments three or four times a day. The Deputy Clerk reviews and approves employe time sheets and is responsible for making overtime assignments. The Deputy Clerk grants or denies employe requests for vacations, compensatory time and other time off, although she advises the

Clerk when employes are going to be absent. The Deputy Clerk also grants or denies training requests and cross trains employes. She conducts monthly meetings of the staff, without the Clerk present.

16. The Deputy Clerk does not perform the work previously done by the Tax Deed Clerk. The Tax Deed Clerk was paid \$9.22 and hour. The starting salary for the Deputy Clerk was \$11.62 an hour. The intent of the County in creating the position of Deputy County Clerk was to have a supervisor of the other employes in the County Clerk's office. The position was not designed to do tax deed work. While the County Clerk supervises the Deputy Clerk, the County Clerk does not supervise the other employes in the office on a day-to-day basis. The Deputy Clerk is responsible for the operation of the entire office in the absence of the County Clerk. The County Clerk has granted the Deputy Clerk authority and independence in supervising the employes of the Clerk's Office.

17. Kay Onarheim, Office Manager in the County Treasurer's Office, exercises supervisory responsibilities in sufficient combination and degree so as to make her a supervisory employe.

18. Janet Kay Loomis, Deputy Clerk in the County Clerk's Office, exercises supervisory responsibilities in sufficient combination and degree so as to make her a supervisory employe.

Based upon the above Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. The occupant of the position of Office Manager in the County Treasurer's Office is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employe within the meaning of Sec. 111.70(1)(1), Stats.

2. The occupant of the position of Deputy Clerk in the County Clerk's Office is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employe within the meaning of Sec. 111.70(1)(1), Stats.

Based upon the above Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER 2/

1. The position of Office Manager in the County Treasurer's Office, currently held by Kay Onarheim, is excluded from the bargaining unit described in Finding of Fact 3.

2/ (See footnote on Pages 11 and 12.)

2. The position of Deputy Clerk in the County Clerk's Office, currently held by Janet Kay Loomis, is excluded from the bargaining unit described in Finding of Fact 3.

Given under our hands and seal at the City of
Madison, Wisconsin, this 28th day of July,
1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

2/ 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

(footnote continued on Page 12)

2/ (footnote continued from Page 11)

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.

(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.

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(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.

EAU CLAIRE COUNTY

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

POSITIONS OF THE PARTIES

Union

In regard to the Office Manager in the Treasurer's Office, the Union argues that the position of Office Manager does not constitute a supervisory position, that the supervisory duties of the Office Manager are de minimis, that the Office Manager is a working supervisor, that she is extremely competent, that this fact is evident from the significant wage increase the position of Office Manager received in the County's own job study of unit positions, that the Office Manager is still performing the full-time unit work she had before the County changed her to Office Manager the night before the hearing, that this is a small office with no need for the Treasurer and an Office Manager to handle the actual supervisory functions over three permanent positions and the LTE equivalent of one and one half full-time positions, that no positions or hours have been added to this office to take on the Office Manager's unit work, that the County has simply taken over a bargaining unit position without any credible evidence or supervisory need, that the fact remains that the Office Manager is a working supervisor, and that she is appropriately included within the bargaining unit.

In regard to the Deputy County Clerk in the County Clerk's Office, the Union argues that the position of Deputy County Clerk does not constitute a supervisory position, that the Deputy County Clerk's supervisory duties are de minimis, that this is a small office, that very little supervision of employees is required, that what supervision is needed can adequately be handled by the County Clerk with her 13 years of experience, that the Deputy County Clerk is a working supervisor -- a team leader, that the Deputy County Clerk will be doing the unit work of the former full-time Tax Deed Clerk, that the County has taken over a unit position and simply re-labeled it as supervisory, that the Deputy County Clerk is clearly a working supervisor, that the Deputy County Clerk's actual supervisory functions are de minimis, and that said position of Deputy County Clerk should be determined to be non-supervisory and appropriately in the bargaining unit.

County

In regard to the Office Manager position in the County Treasurer's Office, the County argues that said position is supervisory, that the Office Manager has authority to effectively recommend the hiring, retrocession, discipline or discharge of employees, that the Office Manager has authority to direct and assign the work force, that the Office Manager supervises three permanent full-time employees and from six to ten limited term employees, that no other position exercises greater, similar or lesser authority over the same employees, that the substantially increased level of pay for the office manager position is primarily related to the evaluation of that position for her supervision of employees, that the Office Manager position supervises employees and activities but primarily supervises employees, that the Office Manager spends twenty-five to thirty percent of her time supervising employees, that the work she performs is of a different character than the employees, and that the Office Manager exercises one hundred percent independent judgment in the supervision of employees.

In regard to the Deputy Clerk's position in the County Clerk's Office, the County argues that the position is supervisory, that the Deputy County Clerk has the authority to effectively recommend the hiring, retrocession, discipline or discharge of employes, that the Deputy County Clerk is solely responsible for directing and assigning the work force, that the Deputy County Clerk supervises three full-time and one half-time permanent employes, that no other position exercises greater, similar or lesser authority over the same employes, that the pay scale for the Deputy County Clerk position was established to reflect her supervision of the employes in the County Clerk's Office, that the Deputy County Clerk is primarily supervising employes, that the Deputy County Clerk spends a substantial majority of her time supervising employes, and that the Deputy County Clerk exercises total independence in supervision of employes

DISCUSSION

Section 111.70(1)(o)1, Stats., defines the term "supervisor" as follows:

. . . (A)ny individual who has the authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In determining a position's supervisory status under Sec. 111.70(1)(o)1, Stats., the Commission considers the following factors:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employes;
2. The authority to direct and assign the work force;
3. The number of employes supervised, and the number of other persons exercising greater, similar or lesser authority over the same employes;

4. The level of pay, including an evaluation of whether the alleged supervisor is paid for the employe's skills or for the supervision of employes;
5. Whether the alleged supervisor is primarily supervising an activity or is primarily supervising employes;
6. Whether the alleged supervisor is a working supervisor or whether the employe spends a substantial majority of time supervising other employes; and
7. The amount of independent judgment exercised in the supervision of employes.

Not all of the above factors need be present for the Commission to determine a position is supervisory. 3/

In many ways, the positions of Office Manager and Deputy Clerk are analogous for our purposes in this matter. Both the Office Manager and the Deputy Clerk are the highest classifications in an office headed by an elected official, the County Treasurer and County Clerk, respectively. Both officials testified credibly that their workload was such that they had turned over supervision of the remaining employes to the highest classification in the office. In the Treasurer's Office, the Office Manager supervises three permanent and from six to ten limited term employes; in the Clerk's Office, the Deputy Clerk supervises three permanent full-time and one permanent half-time employes.

It is clear from the record that the Office Manager and the Deputy Clerk supervise the employes in their respective offices. They are or will be significantly involved in interviewing and hiring employes to fill vacancies and, in the Office Manager's case, she regularly interviews and hires limited term employes. Both have the authority to effectively recommend that an employe be retroceded and, in the Office Manager's case, she has done so on two occasions. While neither one has had an occasion to discipline a permanent employe, the record satisfies us that both have substantial independent disciplinary authority and can effectively recommend discharge; in the Office Manager's case, she has the authority to terminate limited term employes. Both have or will evaluate the employes in the office. Both would be the recipient of an employe's grievance at the first step.

The record is also clear that the Office Manager and the Deputy Clerk direct and assign the work force in their respective offices. Both assign the actual work of the employes in their respective offices. Both have the authority to assign overtime. Both review and approve time sheets and handle time-off and leave of absence requests. Both are responsible for training and cross-training the employes in their office. In the Deputy Clerk's case, she is holding monthly staff meetings with those she supervises without the presence of the County Clerk.

3/ Somerset School District, Dec. No. 24968-A (WERC, 3/88).

The Personnel Director testified credibly that both positions were created to put a level of supervision into these offices and that the salaries were increased to reflect the supervisory responsibility. The Office Manager, who moved from Terminal Operator with a salary of \$8.52 an hour, is now paid \$11.62 an hour. The Tax Deed Clerk's position was paid \$9.22 an hour while the Deputy Clerk's position, created after elimination of the Tax Deed Clerk's position, is paid \$11.62 an hour. Both the Office Manager and the Deputy Clerk are responsible for the office and act for the elected official in the absence of said official. Both elected officials testified that they had turned over the supervisory duties to these individuals. Nothing in the record rebuts this.

For these reasons, we have found that the occupants of both positions, the Office Manager and the Deputy Clerk, are supervisors and not municipal employes and, therefore, excluded from the bargaining unit.

Dated at Madison, Wisconsin, this 28th day of July, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/

A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner