

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

CHIPPEWA COUNTY

Involving Certain Employees of

CHIPPEWA COUNTY

Case 18
No. 54252
ME(u/c)-845

Decision No. 10497-E

Appearances

Weld, Riley, Prenz & Ricci, S.C., by **Attorney Victoria L. Seltun**, 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of Chippewa County

Mr. Michael J. Burke, Executive Director, Northwest United Educators, 16 West John Street, Rice Lake, Wisconsin 54868, appearing on behalf of the Chippewa County Courthouse and Clerical Employees' Union.

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

On July 28, 2000, Chippewa County filed two petitions with the Wisconsin Employment Relations Commission to clarify an existing bargaining unit of Chippewa County employees represented by Northwest United Educators by excluding the positions of Account Technician – Human Services and Forest and Parks Maintenance Technician III. On August 10, 2000, Chippewa County filed an additional petition seeking to exclude the position of Solid Waste (Recycling) Program Assistant.

Dec. No. 10497-E

The petitions were consolidated for hearing and John R. Emery, a member of the Commission's staff, conducted a hearing on December 11, 2000, in Chippewa Falls, Wisconsin. The County contends that the incumbents in the Account Technician - Human Services and the Solid Waste (Recycling) Program Assistant positions are managerial employees and that the Forest and Parks Maintenance Technician III is a supervisor. Northwest United Educators contends that the employees should be included in the bargaining unit. The briefs of the parties were filed by January 18, 2001, whereupon the record was closed.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. Chippewa County, herein the County, is a municipal employer with offices at 17 North Bridge Street, Chippewa Falls, Wisconsin.

2. Northwest United Educators, herein the Union, is a labor organization with offices at 16 West John Street, Rice Lake, Wisconsin 54868.

3. At all times material, the Union has been the certified exclusive bargaining representative for a unit of County employees described in Dec. No. 10497-D (WERC, 1/00) as:

All regular full time and regular part-time employees of Chippewa County, excluding professional, administrative, managerial, supervisory, confidential, temporary and part-time employees working less than 976 hours per year and employees in other bargaining units

4. The incumbent in the Account Technician position is Ardys Wigdahl. She has an Associate Degree in Accounting, has been employed by the County for 19 years and has held the Account Technician position since 1994. Her position is supervised by the Office Manager, who is, in turn, supervised by the Director of Human Services. The Department of Human Services also includes six Program Supervisors, who are non-bargaining unit employees and a number of other employees who are in the bargaining unit. Her job description, most recently updated in 1996, outlines the functions of her position as follows:

. . . .

Definition: This is an accounting position under the general direction of the department head of Department of Human Services and direct supervision of the Office Manager.

Position Functions: (Illustrative Only)

1. Prepares and posts vouchers to appropriate program areas in ledger within the cycle required.
2. Prepare a variety of expense and revenue reports for Department of Human Services.
3. Prepares the voucher report and monthly financial report for the Department of Human Services Board.
4. Maintains a complete double entry set of books for the entire Department of Human Services.
5. Prepares the monthly and biannual state reports for all Department of Human Services.
6. Verifies records and balances with the County Auditor's Office to insure figures are correct.
7. Maintains subsidiary ledgers on all board operated programs, and responsible to establish new ledgers as programs are added.
8. Receipts, records and makes up deposits for incoming monies. Reconciles bank statements monthly.
9. Prepares checks and keeps records for clients for whom we are payee. This includes monitoring the different due dates for each client to ensure timely payments.
10. Maintains a computerized bookkeeping system, and works closely with Computer Systems Coordinator and Office Manager on continual project updates.
11. Reconciles monthly with the Guidance Clinic receipts per the auditors' recommendation.
12. Maintain bank statement and reconciliation of trust accounts for auditors.

The listing of all functions is not to be considered an exhaustive list of all duties which may be performed.

5. In 2000, the County promulgated a list of additional duties for the Account Technician position, as follows:

ACCOUNT TECHNICIAN • HUMAN SERVICES

Added Management Duties/Responsibilities

1. Upon request of the independent auditor, verifies amount of money spent for a particular contract provider. Performs fiscal component of DHS's review of contract providers' annual audit reports. Makes recommendations for improving the contract process.
2. Collaborates with other administrative staff to prepare annual budget; analyzes multiple funding sources to maximize use of Federal, State, and County revenue.
3. Monitors budget expenditures and revenue collection, as well as, providing relevant feedback to other administrative staff.
4. Coordinates with Contract Manager and Human Services Director to review and analyze State contracts; interprets the fiscal portions of State policies on allowable costs, audit guidelines, and accounting procedures; drafts fiscal policy for the department; advises administrative staff regarding availability and requirements for capturing maximum funding; institutes and monitors record keeping to ensure compliance with requirements.
5. Participates as part of the executive management team providing internal DHS leadership. In the absence of the Director, or as assigned, exercises delegated responsibilities and authority of that position with reference to daily operations and makes independent decisions as required.
6. Participates in and monitors the maintenance of reporting and recording systems, including application of electronic information systems, to ensure that accurate records are kept in accordance with legally mandated record management practices and procedures.
7. Participates in regional and Statewide fiscal meetings to contribute to the development of State policy and to receive updated fiscal information for internal DHS applications.
8. Acts as liaison between DHS and County Treasurer, Auditor, and County Clerk.

9. Supervises fiscal staff activities. Assigns and reviews tasks. Participates in employee selection and discipline. Prepares fiscal staff performance evaluations. Recommends fiscal staffing levels.
10. Manages computerized fiscal system, designing upgrades to keep pace with evolving DHS needs.

Estimate annual salary and benefits - \$3,893.76

12/00

6. Wigdahl functions as the focal employee for the Human Services Department's accounting and bookkeeping operations. She receives the annual budgets from each of the Department's program heads and assembles them into a departmental budget, which then is forwarded to the Director for approval. She assists the Director and the Program Supervisors in identifying external funding sources and using targeted funds in order to maximize available revenues. She also works with the County Treasurer to reconcile the disparate accounting systems used by the Human Services Department and the Treasurer's Office. It is ultimately anticipated that Wigdahl will operate as a fiscal manager for the Human Services department

She does not have authority to alter, approve or reject the budgets of the Program Supervisors, to add or delete line items or to reallocate funds. She does not presently formulate or determine policy for the County, nor is she involved in grant writing. In the absence of the Director, the management of the Human Services Department is delegated to one of a group of three Department Supervisors.

Wigdahl does not participate to a sufficient degree in the formulation, determination and implementation of management policy or possess sufficient authority to commit the County's resources to be a managerial employee.

7. The Forest and Parks Department consists of six full-time employees: an Administrator, an Assistant Administrator, a County Forester, one Technician III and two Technician IIs. In addition, the Department employs six part-time seasonal workers, five who work at the various parks and one who works in the Department shop. The County also contracts with the State for a crew of Wisconsin Conservation Corps workers, who assist the Department staff on conservation projects. The Administrator, Assistant Administrator and County Forester are excluded from the bargaining. All but one of the seasonal workers are excluded from the bargaining unit because they do not meet the required 976 work hours per year specified in the collective bargaining agreement for unit inclusion.

The incumbent in the Forest and Parks Technician III position is Michael Schoonhovor. Schoonhovor has been employed by the County Forest and Parks Department for 21 years. He was elevated to the position of Technician III in 1989. The current job description for the Technician III position describes the duties of the position as follows:

...

Major:

1. Supervises on a day to day basis and acts as foreman for all staff stationed out of the Forest and Parks Maintenance Shop. Identifies and schedules work to be done and assigns staff accordingly, subject to approval of the Forest & Parks Administrator or Assist. Administrator. Performs evaluations of staff assigned to the Shop Area. Lists and reports maintenance and or repair needs within the department on forest and park facilities, including buildings, roads, and other structural improvements.
2. Does a variety of on site work as directed, including both hand work and operation and use of heavy equipment associated with the development, maintenance and repair of County roads, forest trails, recreational trails, boat landings and game habitat structures, etc.
3. Performs major maintenance repairs to structures and facilities in the county parks as well as development of new facilities, including construction of smaller wood frame buildings and small concrete flat work projects. Assists park caretakers in the opening and closing of the parks and minor maintenance activities to include painting, placement of signs, picnic tables, swimming buoys, etc.,. And their removal.
4. Perform minor to intermediate repairs and service work and or diagnoses equipment repair needs, on Forest and Parks Department equipment, machinery, i.e. Chain saws, hand tools, tractor, dump truck, etc.
5. Perform forestry related duties such as timber stand improvement, tree planting, scaling of wood for timber sales, etc.
6. Construct signs, and steel gates, and to do repairs on existing ones for use in the County Parks, forest roads and trails, snowmobile trails, etc., do placement of same.
7. Cuts and supplies firewood to the parks and delivers other supplies to parks as needed.
8. Maintains the Forest and Parks shop area as Cornell and its contents therein.
9. Acts as a working foreman over other seasonal and temporary personnel when available.
9. [Sic] Does maintenance and cleanup of tax deed lands and repair or demolition of structures, as directed.

10. Performs other duties as directed by the Forest & Parks Administrator or Assistant Administrator associated with the operation, development and maintenance of the county forests and parks.

Minor:

1. Does limited enforcement of county parks and forest ordinances as legally allowed.
2. Checks firewood permits.
3. Works on constructing fences as necessary between County and private land.

...

In 2000, Schoonhovor, under the direction of the Department Administrator, prepared a comprehensive list of his job duties, as follows:

...

- * SUPERVISE TWO FULL TIME, ONE SEASONAL EMPLOYEE
- * PROVIDE SUPERVISION FOR FIVE PARK EMPLOYEES
- * PROVIDE SUPERVISION FOR WCC CREW (AVERAGE FIVE TO SIX MEMBERS)
- * TRAIN EMPLOYEES IN EQUIPMENT OPERATION AND SAFETY
- * TRAIN EMPLOYEES IN EQUIPMENT MAINTENANCE
- * ASSIGN JOB DUTIES ON A DAILY BASIS
- * COORDINATE WORK AND NEEDED EQUIPMENT ON PROJECTS
- * MAINTAIN EQUIPMENT AND SHOP RECORDS
- * PERFORM ANNUAL EVALUATIONS ON EMPLOYEES STATIONED AT THE FOREST AND PARKS SHOP
- * ASSIST IN HIRING FULL TIME AND SEASONAL EMPLOYEES
- * COORDINATE THE USE OR RENTAL OF EQUIPMENT OUTSIDE OF THE DEPARTMENT
- * PURCHASE SUPPLIES AND EQUIPMENT FOR THE DEPARTMENT
- * COORDINATE AND WORK WITH PRIVATE CONTRACTORS ON DEPARTMENT PROJECTS
- * HAUL EQUIPMENT AND SUPPLIES TO COUNTY PARKS
- * PERFORM EMERGENCY REPAIRS AFTER HOURS AND WEEKENDS
- * INFORM THE FOREST AND PARKS ADMINISTRATOR OF NEEDED REPAIRS AND WORK TO BE DONE IN THE DEPARTMENT
- * INFORM THE FOREST AND PARKS ADMINISTRATOR OF EMPLOYEE REQUESTS FOR VACATIONS

- * INFORM THE FOREST AND PARKS ADMINSTRATOR OF EMPLOYEE SICK LEAVE
- * CHECK FIREWOOD PERMITS

- * OPERATE HEAVY EQUIPMENT, FOREST AND PARKS AND RENTED (BACKHOES, ROADGRADERS, ENDLOADERS, TRACTORS AND TRUCKS
- * CONSTRUCT SIGNS, PAINTED AND ROUTED
- * PERFORM MAINTENANCE ON DEPARTMENT EQUIPMENT (CHAINSaws, TRUCKS, MOWERS, SNOWMOBILES, ATVS, ENDLOADER AND TRACTOR
- * WELDING FOR REPAIRS OF EQUIPMENT AND FABRICATION OF GATES
- * PERFORM BUILDING MAINTENANCE (REPAIRS, ELECTRICAL AND STRUCTUAL)
- * PERFORM BUILDING CONSTRUCTION
- * PERFORM GROUNDS MAINTENANCE AND DEVELOPMENT
- * MAINTAIN COUNTY FOREST ROADS AND TRAILS (GRADING, REPAIRS, CULVERT-INSTALLATION)
- * PERFORM TIMERSTAND IMPROVEMENT (SHEARING, PRUNING, THINNING, RELEASE, PLANTING)
- * PROVIDE FIREWOOD AND SUPPLIES TO COUNTY PARKS
- * MAINTAIN AND ORGANIZE TOOLS AND EQUIPMENT AT THE CORNELL SHOP AND THE COUNTY PARKS

8. The Administrator and Assistant Administrator have offices in the Courthouse in Chippewa Falls. Schoonhovor, the Technician IIs and one of the seasonal employees are headquartered at the Forest and Parks shop located in Cornell. The remaining seasonal employees work at the County parks. Due to proximity, Schoonhovor is responsible for the day-to-day supervision of the other Department employees. This includes determining what tasks need to be done each day, assigning workers to do them and overseeing the work to see that it is done properly. He communicates with the Administrator or Assistant Administrator on an as needed basis, but primarily operates independently. Depending on the time of year, he spends 50%-80% of his time performing supervisory functions.

He participates in the interview process in hiring new employees and makes effective hiring recommendations to the Administrator. Schoonhovor has been told by the County that he has independent disciplinary authority and he has issued a written reprimand and a suspension after obtaining approval from the Administrator. He significantly participates in annual performance evaluation of the other Department employees, grants requests for sick leave, personal leave and vacation and has authority to assign overtime.

Schoonhovor has supervisory responsibilities in sufficient combination and degree to be a supervisor.

9. Prior to September, 1999, the County's solid waste management program was a stand-alone unit consisting of a Solid Waste Coordinator and a part-time secretary. The Coordinator was a managerial employee and was not a member of the bargaining unit. In September, 1999, the solid waste program was merged into the Land Conservation Department. The Land Conservation Department consists of eight employees, only two of whom (including the employee at issue here) are in the bargaining unit. At the time of the merger, the Coordinator resigned and the position was redesigned and designated as Solid Waste Program Assistant. Renee Yohnk has been the incumbent in the Solid Waste Program Assistant position since its inception in September, 1999. The Program also has a part-time recycling assistant position, which is subordinate to the Program Assistant.

Yohnk has been a County employee since 1992. She was a part-time secretary in the Human Services Department from 1992-94 and a part-time secretary in the Solid Waste program from 1994-99. The Program Assistant position is a three-quarter time position and is subordinate to the Director of the Land Conservation Department and the Watershed Manager.

The job description for the Solid Waste Program Assistant, revised in June 2000, set forth the duties of the position, as follows:

DRAFT 3

Chippewa County
Position Description

Name:	Renee Yohnk	Department:	Land Conservation
Position Title:	Solid Waste Program Assistant	Pay Grade:	
Date:	June 2000	Reports To:	Watershed Manager

Purpose of Position

This position is responsible for ~~assisting the contracted Solid Waste Coordinator in~~ the implementation of solid waste management and recycling programs, and the enforcement of related ordinances.

Essential Duties and Responsibilities

State/Municipal Recycling Program:

~~Serve as liaison for municipal recycling program. Assists the SW Coordinator in administering~~ Administer and prepare the Responsible Unit Recycling grant for local municipalities. ~~Assists the SW Coordinator in researching funding sources and writing grant applications.~~ Meet with member municipalities as needed to collect fiscal and program activity information to compile related reports. ~~Calculate and distribute payments from recycling grant. Assists in preparing and types~~ Organize, tabulate and finalize the previous years data for Financial Report and Annual Report.

County Recycling Collection Programs:

Evaluate and assess needs for county recycling collections.

- | | | |
|----|---------------------------------------|-------------------|
| A. | Household Hazardous Waste Clean Sweep | (2 per year) |
| B. | Computer Collections | (2 per year) |
| C. | Appliance Collection | (2 per year) |
| D. | Waste Tire Program | (2 sites/10 days) |

Arrange county recycling collection sites. Develop contracts for services. Prepare ads, news releases, brochures and flyers for recycling collections. ~~Assists in organizing solid waste and recycling public education and special events.~~ Staff and coordinate collection sites; direct contracted employees and volunteers. Sign and maintain all necessary manifests. Receipt monies, create invoices and track payments. Compile collection information and prepare reports for the Land Conservation Committee and state. Prepare DNR Hazardous Waste Report.

City of Chippewa Falls Subcontract:

Administer city of Chippewa Falls subcontract for the city's recycling program. Develop Request for Proposals for contractor bids. Monitor contract requirements with contractor for curbside pick-up. Answer inquiries from city residents regarding routes, bins and missed pick-ups. Attend and participate in Committee #4 meetings, provide reports and information as needed. Assist with the preparation of reports, grant applications and projects. Maintain city address database. Maintain city brochure; distribute to new residents. Assist city with development of a solid waste/recycling budget, review fiscal reports with Committee #4. Prepare documentation for reimbursement of costs. Maintain grant documentation file.

Administrative:

~~Assists the SW Coordinator in developing annual Solid Waste Work Plan and budget in consultation with the LLC.~~ Estimate expenses and revenue; develop draft budget. Monitor revenues and expenses; prepare bills. ~~Attends~~ Prepares reports and participates in Land Conservation Committee meetings. Prepares Annual Report. Maintain business files, reports, brochures.

Information/Education:

Provide technical assistance, information and education to residents regarding methods of reducing solid waste, recyclables and hazardous wastes. Maintain and distribute county-wide brochure. Maintain communications with County Supervisors, news media and general public. ~~Assist the SW~~

~~Coordinator in advising local officials regarding solid waste programs and county policy.~~

~~Prepares/obtains Update~~ program related materials, brochures and displays.

~~Types, edits, sends out a monthly newsletter for Solid Waste. Maintains mailing list/labels for newsletter.~~

Performs other duties and responsibilities as assigned by the County Conservationist.

Enforcement:

Receives and logs public complaints, responds to public complaints regarding solid waste/recycling concerns. Gathers evidence and related documentation for legal action. Refer complaints for additional investigation to the appropriate agency.

Other:

Performs general duties such as: answering inquiries from general public for the Solid Waste/Recycling Program and Land Conservation Department, ~~helps prepare~~ preparing activity reports and correspondence.

~~May make necessary arrangements for the Solid Waste Management Committee Meetings and other Advisory Committee meetings. This includes preparing and posting notices of the meeting, making room arrangements, taking minutes, etc.~~

~~Provides typing, word processing, filing and clerical services to the Sw Coordinator as needed.~~

...

10. Yohnk's immediate supervisor is the Watershed Manager, Jane Tetzloff-Jensen. Yohnk's duties include establishing recycling and solid waste programs for the County and overseeing the recycling contract with the City of Chippewa Falls. She advises municipalities in setting up waste collection and recycling programs and also organizes programs for county-wide collection and disposal of tires, computers and hazardous waste. She develops the annual budget for the Solid Waste Recycling Program, which is then forwarded to the Land Conservation Committee for review and approval. In 2000, the annual budget for the program was \$369,856.00. Once the budget is approved, Yohnk has authority to reallocate and spend the budgeted monies as she determines necessary. She is also responsible for determining what recycling and collection programs the County needs, developing plans for implementation and presenting the programs to the Land Conservation Committee for approval. She negotiates contracts with private vendors for the provision of collection and recycling services to the County. She identifies potential sources of revenue and writes grant applications in order to obtain them.

Yohnk does participate to a sufficient degree in the formulation, determination and implementation of management policy and possesses sufficient authority to commit the County's resources to be a managerial employee.

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

CONCLUSIONS OF LAW

1. Ardys Wigdahl is not a managerial employee within the meaning of Sec. 111.70(1)(i), Stats., and, therefore, is a municipal employee within the meaning of Sec. 111. 70(1)(i), Stats.

2. Michael Schoonhovor is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and, therefore, is not a municipal employee within the meaning of Sec. 111. 70(1)(i), Stats.

3. Renee Yohnk is a managerial employee within the meaning of Sec. 111.70(1)(i), Stats., and, therefore, is not a municipal employee within the meaning of Sec. 111. 70(1)(i), Stats.

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

ORDER CLARIFYING BARGAINING UNIT

1. The Account Technician shall continue to be included in the bargaining unit referenced in Finding of Fact 3.

2. The Forest and Parks Technician III and Solid Waste Program Assistant are hereby excluded from the bargaining unit referenced in Finding of Fact 3.

Given under our hands and seal at the City of Madison, Wisconsin this 13th day of June, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

CHIPPEWA COUNTY

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

POSITIONS OF THE PARTIES

The County

The County maintains that the Account Technician and Solid Waste Program Assistant are managerial employees and that the Forest and Parks Maintenance Technician III is a supervisory employee.

The Account Technician is a managerial employee due to her pivotal role in the fiscal management of the Human Services Department. She identifies external funding sources for Department programs, reviews and assembles the individual budgets of the Department programs for presentation to the Director, recaptures revenue on behalf of the Department and has authority to make fiscal decisions in the absence of the Director.

The Forest and Parks Maintenance Technician III is a supervisor due to his role in overseeing and directing the activities of the other Forest and Parks employees. He directs the daily work of the other full-time Maintenance Technicians, as well as seasonal employees and contract workers from the Wisconsin Conservation Corps. He has participated in the hiring and evaluation of employees and has issued discipline. He has discretion to approve sick leave and vacation requests and provides training for the other employees. He spends 50% - 80% of his time in a supervisory capacity, depending upon the season of the year and provides hands on supervision over the other employees in a way that the Administrator and Assistant Administrator cannot because they are located in Chippewa Falls and the Forest and Parks shop is in Cornell.

The Solid Waste Program Assistant is a managerial employee due to the fact that she has the entire responsibility for the County's Solid Waste Recycling Program. Even though the program has been incorporated into the Land Conservation Department, the Program Assistant is still functionally autonomous and on a day-to-day basis operates independently of the Department Director and Watershed Manager, who are her supervisors.

The Union

The Union contends that with respect to the two alleged managerial employees, the managerial exclusion does not properly apply. It is the Union's position that in County government only those employees who develop the County budget and/or who can allocate and commit funds from the County budget should be considered managerial. Those whose fiscal

responsibilities are only on a departmental level do not qualify. Further, with respect to the Forest and Parks Maintenance Technician III, the Union argues that, inasmuch as there are already two non-union supervisors in the department, the addition of a third would be surplusage, considering the size of the department and that an advancement to a higher pay grade would be a more appropriate means of recognizing the employee's additional supervisory responsibilities.

DISCUSSION

With respect to managerial employees, we said in MENOMINEE COUNTY, DEC. No. 26983-B (WERC, 4/95):

Managerial employees are excluded from the definition of municipal employees pursuant to Sec. 111.70(1)(i), Stats. The Commission has developed a definition of managerial status through case law in the absence of a statutory definition of a "managerial" employee. In determining whether a position is managerial, the Commission considers the degree to which the incumbent of the position actually participates in the formulation, determination and implementation of management policy or possesses the authority to commit the employer's resources. See, e.g., Milwaukee VTAE, Dec. No. 8736-B (WERC, 6/79); Northwood School District, Dec. No. 20022 (WERC, 10/82); Marinette County (Pineview Health Care Center), Dec. No. 26154-B (WERC, 3/92), and cases cited therein. The necessary level of managerial responsibility must be "at a relatively high level." As we stated in Marinette County (Pineview Health Care Center), Dec. No. 26154-B (WERC, 3/92):

To confer managerial status, an individual's authority to commit resources must involve allocation of resources in a manner which significantly affects the nature and direction of the employer's operations. Authority to significantly affect the nature and direction of the municipal employer's operations includes, *inter alia*, authority to determine the following: the kind and level of services to be provided; the kind and number of employees to be utilized in providing services; the kind and number of capital improvements to be made; and the systems by which the services will be provided, including the use of outside contractors. (Footnotes omitted).

Supervisory employees are defined by statute. Section 111.70(1)(o)1, Stats., defines a supervisor as:

. . . any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, 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.

Under that statute, the Commission considers the following factors in determining if the occupant of a position is a supervisor:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;
2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees;
4. The level of pay, including an evaluation of whether the supervisor is paid for his skills or for his supervision of employees;
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees;
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; and
7. The amount of independent judgment exercised in the supervision of employees.

MILWAUKEE PUBLIC SCHOOLS, DEC. No. 6595-C (WERC, 5/96).

Not all of the above-quoted factors need to reflect supervisory status. Our task is to determine whether the factors support supervisory status in sufficient combination and degree to warrant finding an employee to be a supervisor. CITY OF TWO RIVERS (POLICE DEPT.), Dec. No. 21959-A (WERC, 2/91).

ACCOUNT TECHNICIAN

The County contends that the Account Technician, Ardys Wigdahl, plays a significant role in the development and implementation of fiscal policy and also exercises significant fiscal and budgetary authority within the Human Services Department and is, therefore, a managerial employee.

Wigdahl's duties include working with supervisors within the Department to maximize use of external funding sources in order to obtain as much non-County revenue as possible. This involves reviewing each of the grants which the County receives and allocating the funds to specific programs in order to get the maximum benefit from each funding source. She does not search for grants, or do the grant writing, nor is she involved in program development.

Her involvement in the budget process consists of collecting the individual program budgets from the supervisors and assembling them into the Department's annual budget. The supervisors are told by the Director how much money they will have each year and then allocate those funds to programs for which they have responsibility. The budgets are forwarded to Wigdahl, who checks them for accuracy and advises the supervisors on maximizing available external funding sources. She then compiles the individual budget into a comprehensive Department budget and forwards it on to the Director. She does not have authority to approve or reject individual program budgets, or change line items, nor does she make budget recommendations.

Her other duties include reviewing audit reports from outside vendors with whom the County contracts, recapturing amounts overpaid by the County to other agencies and entities, implementing policy established by the County Treasurer or outside auditors for reporting revenues and trust account activity, implementing fiscal policies mandated by the State and working with the County Treasurer, Auditor, and County Clerk to reconcile their bookkeeping and accounting records.

She is expected to ultimately fill the role of fiscal manager for the Human Services Department, as she is the only staff member with an accounting background. This will entail her acting as the central clearinghouse for all financial and budgetary aspects of the Department's operations, although ultimate authority will continue to vest in the Director. In the Director's absence, management of the Department will fall to one of three of the Department's supervisors, not to the Account Technician.

In support of its position, The County cites RUSK COUNTY (MEMORIAL HOSPITAL), DEC. NO. 14713-D (WERC, 9/86), wherein we held a credit manager to be a managerial employee. In that case, the credit manager had independent authority to make decisions regarding the employer's accounts receivable, including negotiating terms for repayment and determining whether and upon what terms to compromise, forgive, or refer accounts for collection. Her exercise of discretion as to a large part of the employer's income led us to conclude that she had a significant policy-making role and was, as such, a managerial employee.

Wigdahl does not have the same level of independent authority as the Rusk County credit manager. While she plays an important part in the fiscal management of the Department, her decisions and recommendation as to the Department's fiscal management are subject to too much oversight to establish managerial status. Thus, we conclude she does not participate to a sufficient degree in the formulation, determination and implementation of management policy or the allocation of County resources to be a managerial employee.

FOREST AND PARKS MAINTENANCE TECHNICIAN III

The County contends that the authority exercised by the Forest and Parks Maintenance Technician III, Michael Schoonhovor, qualifies him a supervisory employee. The County contends that Schoonhovor's position is analogous to the position of Parks Supervisor, which we held to be supervisory in JACKSON COUNTY, DEC. NO. 17828-A. The Union, while not directly taking issue with Schoonhovor's authority, argues that the exclusion of his position would create an imbalance in the ratio between bargaining unit and non-bargaining unit positions.

Schoonhovor has over time acquired increasing supervisory responsibility over the other employees in the Forest and Parks Department. Because the Department management has offices in Chippewa Falls, but the employees work out of the Forest and Parks shop in Cornell, Schoonhovor has day-to-day responsibility for making job assignments for the other Department employees and monitoring their work. He spends 50%-80% of his time performing supervisory duties, depending on the time of year, and exercises independent judgment when doing so.

Since Schoonhovor became a Technician III, the County has hired only one other full-time employee in the Forest and Parks Department. On that occasion, Schoonhovor participated in the interview process and the candidate he recommended was hired. On two occasions, he has successfully recommended discipline for subordinate employees - in one case a written reprimand for personal use of County property and in the other case a one-day suspension for improper treatment of County property and insubordination. He has been told by the Assistant Administrator that he has independent authority to issue discipline, but to date he hasn't exercised it.

Schoonhovor has responsibility for granting vacation and sick leave requests for the other employees and assigning overtime, as well as performing annual evaluations on the individual employees.

While we are mindful of the Union's concerns regarding the ratio between bargaining unit and non-bargaining unit employees, the overriding consideration is whether Schoonhovor's authority and job responsibilities are sufficient to establish that he is a supervisor. Based upon the evidence presented, we conclude that his authority and responsibilities make Schoonhovor a supervisor.

SOLID WASTE PROGRAM ASSISTANT

The County contends that the Solid Waste Program Assistant, Renee Yohnk, plays a significant role in the development and implementation of policy and programs and also exercises significant fiscal and budgetary authority over Chippewa County's recycling program

and is, therefore, a managerial employee. The Union argues that the County is seeking to create an inordinate number of non-bargaining unit positions and that managerial status should be reserved to only those employees who have authority to commit the County's resources, or who can allocate funds from the County's general budget, rather than merely departmental budgets.

Yohnk is not, technically, a department head. Rather, she is on the staff of the Land Conservation Department and, in fact, has two superiors within her department. Nevertheless, as regards the County's Solid Waste Recycling Program she is virtually autonomous.

She spends 75% of her time developing and implementing policies and programs for the recycling program. She assesses the perceived recycling needs of the communities with which the County contracts, develops programs designed to address those needs and follows the programs through to completion, including contracting with private vendors for the provision of necessary services. She is the only employee in the Land Conservation Department who performs these duties and only seeks input from her superiors on matters that will ultimately come before the Land Conservation Committee.

The recycling program had a 2000 budget of \$369,856.00, which Yohnk developed and forwarded to the Land Conservation Committee for approval, in the same fashion as the other Land Conservation Department program budgets. Upon approval of the budget, Yohnk has autonomy to allocate the funds to different programs in her discretion. She also is responsible for identifying and applying for various grants, which comprise the large majority of the program's budgeted funds. Notwithstanding the number of non-bargaining unit employees in the Land Conservation Department, we are persuaded that the combination of Yohnk's program and budgetary authority qualifies her as a managerial employee.

Dated at Madison, Wisconsin this 13th day of June, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner