

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matters of the Petitions of	:	
STATE ASSOCIATION OF CAREER EMPLOYEES	:	Case XXI
and AMERICAN FEDERATION OF STATE,	:	No. 15845 SE-56
COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL	:	Decision No. 11328-B
24 AND ITS AFFILIATED LOCALS	:	
	:	Case XXVI
Involving Professional - Science	:	No. 16009 SE-61
Employes in the Employ of	:	Decision No. 11329-B
	:	
STATE OF WISCONSIN	:	

ORDER DISMISSING OBJECTIONS TO ELECTION
AND DIRECTION OF RUN-OFF ELECTION

Pursuant to an Amended Direction of Election issued by it, the Wisconsin Employment Relations Commission conducted an election, by mail ballot, among all classified employes in the employ of the State of Wisconsin engaged in the profession of Science, excluding limited term employes, confidential employes, supervisory employes, managerial employes, and all other employes, for the purpose of determining whether a majority of the employes voting in said collective bargaining unit desire to be represented by State Association of Career Employees, or by American Federation of State, County and Municipal Employees, Council 24 and its Affiliated Locals, or by the Wisconsin State Foresters Association, or by none of said organizations, for the purpose of collective bargaining with the State of Wisconsin on questions of wages, hours and conditions of employment; and that mail ballots cast by the employes in said unit were counted in the Commission's Office on March 2, 1973, and the results thereof were as follows:

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| 1. Total number claimed eligible to vote | 705 |
| 2. Total ballots cast | 540 |
| 3. Total ballots challenged | 36 |
| 4. Total ballots void | 3 |
| 5. Total ballots blank | 2 |
| 6. Total valid ballots counted | 499 |
| 7. Ballots cast for State Association of Career
Employees (SACE) | 162 |
| 8. Ballots cast for AFSCME, Council 24, Wisconsin
State Employees Union (WSEU) | 53 |
| 9. Ballots cast for Wisconsin State Foresters
Association (WSFA) | 134 |
| 10. Ballots cast for none | 150 |

That the 36 ballots challenged were challenged by the Wisconsin State Foresters Association on the basis that the employes casting same were not listed on the original list of eligible employes furnished by the State to the Commission; that, however, prior to the conduct of the mail ballot a supplemental list was furnished by the State, and said 36 employes were included on such supplemental list and timely received mail ballots; that prior to any further action by the Commission, and on March 12, 1973, Wisconsin State Foresters Association objected to the conduct of the election contending that the election should be set aside for the reason (1) that the Wisconsin State Foresters Association did not receive the supplemental list of eligible employes; (2) that prior to the balloting the State, in a letter sent to employes with respect to the conduct of the balloting, neglected to list the Wisconsin State Foresters Association as an organization to be included on the ballot; and (3) that on January 29, 1973, following the Amended Direction of Election issued by the Commission, the Department of Natural Resources notified certain employes, who were members of the Foresters unit, that by reason of their membership in the original Foresters unit they were not eligible for a lateral transfer vacancy within the Department of Natural Resources; and on March 19 and 20, 1973, the State of Wisconsin and the State Association of Career Employees having, in writing, opposed the objections filed by the Wisconsin State Foresters Association, and on March 20, 1973, State Association of Career Employees having requested that the Commission conduct a run-off election; and the Commission having reviewed the results of the election, the basis for the challenges and the objection to the election, and being satisfied (1) that the objection to the election be dismissed; (2) that the challenged ballots not be opened since they would not affect the preliminary results of the election; and (3) that a run-off election be conducted among the employes in the unit involved, pursuant to Section 111.70(4)(d)4. of the Municipal Employment Relations Act, and that American Federation of State, County and Municipal Employees, Council 24 and its Affiliated Locals be dropped from the ballot since it received the least number of votes cast in the election;

NOW, THEREFORE, it is

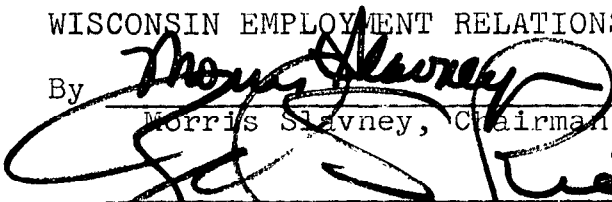
ORDERED

That the objection to the conduct of the election be, and the same hereby is, dismissed, and that a run-off election, by mail ballot, be conducted under the direction of the Wisconsin Employment Relations Commission, pursuant to Section 111.83 of the State Employment Labor Relations Act, within sixty (60) days from the date of this Order, among all classified employes in the employ of the State of Wisconsin engaged in the profession of Science, who were employed on October 28, 1972, excluding limited term employes, confidential employes, supervisory employes, managerial employes, and all other employes, for the purpose of determining whether a majority of the employes voting in said collective bargaining unit desire to be represented by State Association of Career Employees, or by the Wisconsin State Foresters Association, or by neither of said organizations, for the purpose of collective bargaining with the State of Wisconsin on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin, this 21st
day of March, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DISMISSING OBJECTIONS TO ELECTION
AND DIRECTION OF RUN-OFF ELECTION

As noted in the preface to the Commission's Order issued herein, the Commission conducted a mail ballot in the unit involved, the results of which were not conclusive inasmuch as none of the three labor organizations or the "no" choice received a majority of the ballots cast. Thirty-six ballots were challenged by the Wisconsin State Foresters Association on the basis that they were not on the original eligibility list furnished to the Commission. However, the names of the employees challenged were included in a supplemental list furnished to the Commission prior to the election, and said employees properly received their mail ballot, as well as the notice pertaining to the election. The Commission does not deem it necessary to open the challenged ballots for the reason that the challenges would not affect the results. For example, assuming that all 36 employees voted for State Association of Career Employees, which received the most number of votes cast, State Association of Career Employees would then have received 198 votes, which number would not constitute a majority of the ballots cast. In addition, assuming the 36 employees voted for the choice receiving the least number of votes, namely, American Federation of State, County and Municipal Employees, Council 24 and its Affiliated Locals, the latter organization would have received a total of 99 votes, thus not changing their position in the number of votes received by said organizations.

We find that the objection filed by the Wisconsin State Foresters Association is not sufficient to warrant the sustaining thereof. The eligibility list was rectified, and the employees who were omitted from the original list received their ballots and had an opportunity to vote. Furthermore, the neglect of the State to list the Wisconsin State Foresters Association as one of the Union's involved in the election in its letter of January 18, 1973, sent to all science unit employees did not have a material bearing on the outcome of the election since all employees in the unit received individual notices of the election wherein the Wisconsin State Foresters Association, as well as the other choices on the ballot, were noted. The significant number of ballots cast for the Wisconsin State Foresters Association indicates that the employees had ample knowledge of the fact that said organization was on the ballot.

Furthermore, with respect to the objection regarding the letter to certain employees in the Department of Natural Resources to the effect that they were not eligible for a lateral transfer vacancy within the Department, it is to be noted that the letter specifically set forth the reason therefor as follows:

"This is to inform you that we have reviewed your transfer request indicating your interest in the 'Natural Resources Specialist 2 or 1 - Park Superintendent' vacancy at Merrill.

This position is under the Professional and Related Bargaining Unit. Because the duties of this position were significantly and substantially changed, a formal lateral transfer announcement was required.

Since the position is in a bargaining unit which is currently covered by an agreement, employes who are in that bargaining unit shall be given preference in accord with that agreement. Your position is in the Foresters Bargaining Unit.

Therefore, your transfer request will not be considered until lateral transfer requests filed by employes in the Professional and Related Bargaining Unit have been considered."

We see no discrimination or any type of interference with the rights of the employes in the unit as a result of the statements contained in said letter.

Section 111.70(4)(d)4. provides as follows:

"4. Whenever the result of an election conducted pursuant to subd. 3 is inconclusive, the commission, on request of any party to the proceeding, may conduct a runoff election. Any such request must be made within 30 days from the date of certification. In a runoff election the commission may drop from the ballot the name of the candidate or choice receiving the least number of votes."

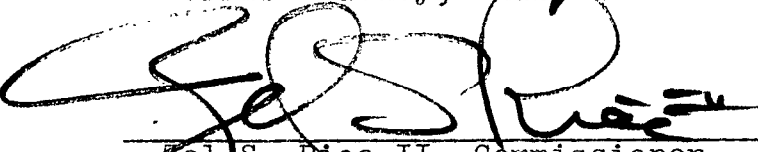
As a result, since the results of the original election were inconclusive, since the State Association of Career Employees has requested a run-off election, and since American Federation of State, County and Municipal Employees, Council 24 and its Affiliated Locals received the least number of votes cast, we are dropping that organization from the ballot in the run-off election.

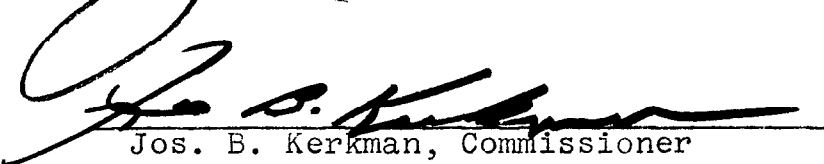
Dated at Madison, Wisconsin, this 21st day of March, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner