

of Crime Investigator 1, 2 and 3, Special Agent and Deputy Fire Marshall, could have affected and have been determinative of, the final results of the election; and that on April 3, 1975, the Commission ordered that hearing in the matter be conducted on April 18, 1975, to take evidence with respect to the remaining challenged ballots; that hearing was held on said date; that, however, prior to any formal action by the Commission, all parties in interest agreed 2/ with the suggestion of the Commission, contained in a letter to all parties in interest, dated May 14, 1975, that the remaining challenged ballots be opened and counted separately, with the understanding that if the ballots that were to be incorporated in the overall tally of ballots would result in a rejection of AFSCME, Council 24 as the bargaining representative, the Commission would issue its certification of results of the election without including the results of the challenged ballots and with the further understanding that if the incorporation of the tally of the challenged ballots would result in the selection of AFSCME, Council 24 as the bargaining representative, the Commission would withhold such informal incorporation until such time as the Commission determined the unit placement of the employees in such classifications; and that thereafter, in writing, representatives of all parties in interest agreed to such suggested procedure; and that on June 9, 1975, the remaining challenged ballots were opened; and following the tally thereof the observers of the parties agreed that a revised tally of ballots should be prepared, incorporating the results as reflected by the incorporation of the challenged ballots; and that the final tally of the election involved herein, as signed by the Commission's agent and observers of AFSCME, Council 24 and the State Employer, was as follows:

1. Total number claimed eligible to vote	1956
2. Total ballots cast	1588
3. Total ballots challenged	2
4. Total ballots void	8 ^{a/}
5. Total valid ballots counted	1577 ^{b/}
6. Ballots cast for American Federation of State, County and Municipal Employees, Council 24	786
7. Ballots cast against American Federation of State, County and Municipal Employees, Council 24	790

That on June 12, 1975, AFSCME, Council 24, by its Counsel, timely filed objections to the conduct of the election, wherein it alleged, in material part, that the tally of ballots was numerically inconsistent, and further that during the months of December 1974 through February 1975, which included, in part, the time span in which the eligibles in the unit involved herein were voting by mail, the organization referred to as the State Engineering Association "distributed, or through its agents caused to be distributed, a Petition soliciting the signatures of all Real Estate Agents 1, 2, 3, 4, and 5, as indicative of their affirmative desire to have that organization represent them . . ."; that AFSCME, Council 24 claimed that such action by the State Engineering Association "destroyed the ability of all of those eligible Real Estate Agents to vote freely and to exercise their free choice during the election . . ."; and that AFSCME, Council 24 in said objection requested

2/ Including Locals 55 and 538, AFSCME.

a/ The actual number of void ballots totaled 7.

b/ The valid ballots counted should have been reflected as a total of 1576. Two ballots could not be accounted for. The numerical discrepancy and/or the unaccounted for ballots would not affect the results of the election.

the Commission not to issue any certification of the results of the election and that another "election be conducted at such time and under such circumstances as the Commission deems appropriate"; and the Commission being fully advised in the premises and being satisfied that the objections to the conduct of the election are without merit, and further being satisfied that the results of the election be certified;

NOW, THEREFORE, it is

ORDERED

That the objections to the conduct of the election filed by AFSCME, Council 24 and its Affiliated Locals, be, and the same hereby are, dismissed; and, therefore, the Commission issues the following

CERTIFICATION

IT IS HEREBY CERTIFIED that a majority of the eligible employees of the State of Wisconsin, who voted at said election in the collective bargaining unit consisting of all classified employees in the employ of the State of Wisconsin engaged in the profession of Fiscal and Staff Services, excluding limited term employees, confidential employees, supervisory employees, managerial employees, and all other employees, failed to choose American Federation of State, County and Municipal Employees, Council 24 and its Affiliated Locals to represent them 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 14th day of July, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner

STATE OF WISCONSIN - DEPARTMENT OF ADMINISTRATION (PROFESSIONAL - FISCAL AND STAFF SERVICES), XVII and XXV, Decision Nos. 13292-B and 13293-B

MEMORANDUM ACCOMPANYING
ORDER DISMISSING OBJECTIONS TO ELECTION AND
CERTIFICATION OF RESULTS OF ELECTION

The facts relating to the incorporation of the challenged ballots in the final tally of ballots has been set forth in the preface to the Commission's Order and Certification. The observer for AFSCME, Council 24 executed the tally which was numerically inconsistent. Even if the numerical discrepancy could be resolved, such resolution would have no effect on the results of the election.

The ballots of the Real Estate Agents were challenged as a result of the fact that at the time the ballots were opened there was in process before the Commission a petition filed by the State Engineering Association contending that the Real Estate Agents should be included in the professional unit consisting of engineers. On March 11, 1975, after a hearing conducted by it, the Commission dismissed the petition of the State Engineering Association, finding that the individuals occupying the Real Estate Agents classifications were not engaged in the profession of engineering. Thereupon, pursuant to the agreement of the parties, and on March 21, 1975, the challenged ballots cast by the Real Estate Agents were opened and incorporated into a revised tally of ballots.

It should be noted that following the filing of the petition by the State Engineering Association, AFSCME, Council 24 filed a motion requesting the Commission to dismiss the State Engineering Association petition on the basis that (1) said petition was untimely filed; (2) that it was not supported by any 30 percent showing of interest; and (3) the unit was inappropriate.

The State Engineering Association, when it filed its petition, submitted a showing of interest in support of the petition, wherein those executing said showing of interest authorized the State Engineering Association as their exclusive representative for the purposes of collective bargaining.

The fact that a "rival" labor organization, during an election proceeding, although not on the ballot, seeks to elicit employes to execute a showing of interest to support a separate election petition does not constitute conduct which interferes with the free choice of the employes who vote in the election. To adopt the argument of AFSCME, Council 24 would preclude an organization from intervening in an election proceeding in a case where a showing of interest is required to support a motion for intervention. There is no contention in the objections that the activity of the State Engineering Association was accompanied by any threats or acts of coercion. Therefore, we conclude that the objections, on their face, are without merit and are dismissed, and we are, therefore, certifying the results of the election.

Dated at Madison, Wisconsin, this 14th day of July, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner