

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

STATE OF WISCONSIN

Case LXIII  
No. 19082 SE-72  
Decision No. 13824

The eight Trust Fund Representatives in the employ of the State of Wisconsin, who are included in the state-wide bargaining unit consisting of technical employees, having affixed their signatures to a petition filed with the Wisconsin Employment Relations Commission on April 1, 1975, wherein said individual employees requested that:

- (a) Trust Fund Representatives be established as a separate collective bargaining unit;
- (b) a new election be conducted;
- (c) Trust Fund Representatives be removed from the technical unit;
- (d) Trust Fund Representatives be placed in "The General Non-Represented, Executive and Management Schedule Unit",
- (e) the Commission review their position and class descriptions, and their duties; and
- (f) Trust Fund Representatives be compared to the classification of tax representatives, which classification has been included in the fiscal and staff services state-wide unit.

That upon receipt of a copy of such petition AFSCME, Council 24, AFL-CIO having opposed same on the basis that the petition was not timely filed, and further that the unit desired was inappropriate; and, the Department of Administration of the State of Wisconsin having also received a copy of said petition, having moved that the petition be dismissed on the basis that a petition for a new election must be accompanied by a 30 percent showing of interest of the employees in the technical unit, and further that the State Employer or employee organizations are the only proper parties for filing such a petition; and the Commission having reviewed the petition and the position of the parties and being satisfied that the petition should be dismissed;

NOW, THEREFORE, it is

ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal at the  
City of Madison, Wisconsin this 22nd  
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

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

The eight individual employees who occupied the classification of Trust Fund Representative affixed their signatures to the petition filed herein, wherein they requested various action by the Commission. We shall deal with each request separately.

1. Request for a Separate Bargaining Unit:

We assume that in said request the Petitioners desire the Commission to establish a unit consisting of only Trust Fund Representatives. We have recently issued a decision wherein, in effect, the Commission stated that it would not create additional units or modify existing units unless it can be established that the State Employer and the Legislature established new state functions or program responsibilities, or made significant changes in the provisions of the State Employment Labor Relations Act, not considered by the Legislature at the time of the enactment of the State Employment Labor Relations Act. 1/

The classification of Trust Fund Representative has been in existence since prior to July 1, 1974, the date after which the Commission may establish additional or modified units pursuant to the criteria noted above. Therefore, assuming, arguendo, that the duties of the Trust Fund Representatives were entirely distinct and separate from any of the duties performed by any other State employees, the Commission will not establish the Trust Fund Representatives as a separate bargaining unit, even assuming that the Commission would entertain and process such a petition when it is filed by individual employees.

2. Request for New Election:

The State Employment Labor Relations Act, in Section 111.83(5), sets forth that where there presently exists an agreement between the labor organization and the State Employer an election can only be held if a petition therefore is supported by at least 30 percent of the employees who desire to change the existing representative or to reject any representation. AFSCME, Council 24, AFL-CIO presently represents the employees in the technical unit. The request that a new election be conducted among employees in the technical unit must be supported by a showing of interest of 30 percent of the employees in the unit. The petition was only supported by eight employees. The number of employees in the technical unit amounts to approximately 4,700.

3. The Request to be Withdrawn from the Technical Unit and be Placed in the Fiscal and Staff Services Unit:

The Commission will not process a petition filed by individual employees contesting their placement in a particular statutorily created bargaining unit. Such a petition must be filed by either a labor organization or the State Employer. 2/

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1/ State of Wisconsin (Dept. of Administration), XLVIII and LXI, Dec. Nos. 13785 and 13786, 7/75.  
2/ City of Green Bay (12682) 5/74.

For the reasons cited above, the Commission determines it unnecessary to conduct a hearing in the matter, and, therefore, we are dismissing the petition filed herein.

Dated at Madison, Wisconsin this 22nd 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