

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

: :
In the Matter of the Petition of : :
: :
WISCONSIN FEDERATION OF TEACHERS - : :
WISCONSIN FEDERATION OF PROFESSIONAL : :
EMPLOYEES, AFT, LOCAL 3619, AFL-CIO 1/ : : Case XCVII
: : No. 21701 SE-84
Involving Certain Employes of : : Decision No. 15836
: :
DEPARTMENT OF ADMINISTRATION : :
(FISCAL & STAFF SERVICES) : :
: :

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, appearing on behalf of the Petitioner.
Mr. Lionel L. Crowley, Attorney at Law, Bureau of Collective Bargaining, Department of Administration, appearing on behalf of the Employer.
Lawton & Cates, Attorneys at Law, by Mr. Richard V. Graylow, appearing on behalf of the Intervenor.

DIRECTION OF ELECTION

Wisconsin Federation of Teachers - Wisconsin Federation of Professional Employees, AFT, Local 3619, AFL-CIO, hereinafter AFT, having filed a petition with the Wisconsin Employment Relations Commission, herein Commission, requesting that an election be held among all classified employes in the employ of the State of Wisconsin, engaged in the profession of "Fiscal and Staff Services" as set forth in Section 111.81(3)(a)6.a. of the State Employment Labor Relations Act, to determine what, if any, representation said professional employes desire for the purpose of collective bargaining pursuant to the State Employment Labor Relations Act; and AFSCME, Council 24, Wisconsin State Employees Union, AFL-CIO, hereinafter AFSCME, having been permitted to intervene in said matter; and hearing having been held on August 2, 1977, at Madison, Wisconsin before Hearing Examiner Amedeo Greco; and AFSCME and the State of Wisconsin having thereafter filed briefs; and the Commission being fully advised in the premises and being satisfied that a question of representation has arisen among the employes in said unit;

NOW, THEREFORE, it is

DIRECTED

That an election by mail ballot shall 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 Directive, among all eligible classified employes in the employ of the State of Wisconsin engaged in the profession of Fiscal and Staff Services, as set forth in the attached appendix, who were employed on September 23, 1977, excluding limited term employes, confidential employes, supervisory employes, managerial employes, and all other employes, for the purpose of determining whether a majority of the

1/ Petitioner's name was amended at the hearing.

employees who vote in said collective bargaining unit desire to be represented by Wisconsin Federation of Teachers - Wisconsin Federation of Professional Employees, AFT, Local 3619, AFL-CIO, or by AFSCME Council 24, Wisconsin State Employees Union, AFL-CIO 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 23rd day of September, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

APPENDIX A

PROFESSIONAL - FISCAL AND STAFF SERVICES

POSITIONS ELIGIBLE TO VOTE*

Classifications

Accountant Spec. 1	Community Services Tech. 1
Accountant Spec. 2	Community Services Tech. 2
Accountant Spec. 3	
Accountant Spec. 4	Consumer Credit Exam. 1
	Consumer Credit Exam. 2
Accountant 1	Consumer Credit Exam. 3
Accountant 2	Consumer Credit Exam. 4
Accountant 3	
Accountant 4	Coordinator, Insurance Ed.
Accountant 5	
Admin. Asst. 3	Coordinator, Local History
Admin. Asst. 4	
Admin. Asst. 5	Credit Union Exam. 1
	Credit Union Exam. 2
Assessments Sup. 2*	Credit Union Exam. 3
	Credit Union Exam. 4
Audit Spec. 1	
Audit Spec. 2	Crime Investigator 1
Audit Spec. 3	Crime Investigator 2
Audit Spec. 4	Crime Investigator 3
Audit Spec. 5	
	Deputy Fire Marshall
Auditor 1	
Auditor 2	Economic Opp. Spec. 1*
Auditor 3	Economic Opp. Spec. 2*
Auditor 4	Economic Opp. Spec. 3*
Auditor 5	
Auditor 6	Educational Serv. Asst. 1
Auditor 7	Educational Serv. Asst. 2
	Educational Serv. Asst. 3
Bank Exam. 1	Educational Serv. Asst. 4
Bank Exam. 2	
Bank Exam. 3	Educational Serv. Intern
Bank Exam. 4	
Bank Exam. 5	Emergency Government Spec. 1
Bank Exam. 6	Emergency Government Spec. 2
	Emergency Government Spec. 3
Business Enter. Spec. 1	
Business Enter. Spec. 2	Excise Tax Rep. 1
	Excise Tax Rep. 2
Commodity Dist. Spec.	Excise Tax Rep. 3
Community Services Spec. 1	Federal Property Spec. 1
Community Services Spec. 2	Federal Property Spec. 2
Community Services Spec. 3	
	Hospital Admin. Consultant
Insurance Exam. 1	Real Estate Agent 1
Insurance Exam. 2	Real Estate Agent 2
Insurance Exam. 3	Real Estate Agent 3
	Real Estate Agent 4
Local & Regional Planner 1*	Real Estate Agent 5
Local & Regional Planner 2*	

*Ballots cast by employes occupying said classifications will be challenged as per the agreement of the parties.

Mgmt. Info. Spec. 1
Mgmt. Info. Spec. 2
Mgmt. Info. Spec. 3
Mgmt. Info. Spec. 4
Mgmt. Info. Spec. 5
Mgmt. Info. Spec. 6

Management Intern

Planning Analyst 1
Planning Analyst 2
Planning Analyst 3
Planning Analyst 4
Planning Analyst 5*
Planning Analyst 6*

Printing Tech. 1
Printing Tech. 2

Program Coordinator

Program Production Coord.

Program Writer-Producer

Property Assessment Spec. 1
Property Assessment Spec. 2
Property Assessment Spec. 3
Property Assessment Spec. 4
Property Assessment Spec. 5

Property Manager

Public Info. Officer 1
Public Info. Officer 2
Public Info. Officer 3
Public Info. Officer 4

Publications Editor 1
Publications Editor 2
Publications Editor 3
Publications Editor 4

Purchasing Agent 1
Purchasing Agent 2
Purchasing Agent 3

Purchasing Assistant

Safety Coordinator 1
Savings & Loan Exam. 1
Savings & Loan Exam. 2
Savings & Loan Exam. 3
Savings & Loan Exam. 4
Savings & Loan Exam. 5

Securities Exam. 1
Securities Exam. 2
Securities Exam. 3

Social Serv. Collections Coord. 1
Social Serv. Collections Coord. 2

Social Serv. Collections Spec. 1
Social Serv. Collections Spec. 2

Special Agent

Special Tax Agent 1
Special Tax Agent 2

Tax Conferee 1
Tax Conferee 2
Tax Conferee 3
Tax Conferee 4

Tax Representative 1
Tax Representative 2
Tax Representative 3
Tax Representative 4

Taxation Analyst 1

Tourist Promotion Rep. 1
Tourist Promotion Rep. 2

Training Officer 1
Training Officer 2
Training Officer 3

Trust Fund Spec. 1
Trust Fund Spec. 2
Trust Fund Spec. 3

*Ballots cast by employes occupying said classifications will be challenged as per the agreement of the parties.

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The parties herein are in general agreement regarding the composition of the petitioned-for unit, 2/ with the exception of employes classified as Planning Analyst 1, 2, 3, 4; Property Assessment Specialist 1, 2, 3, 4, 5; Taxation Analyst 1; and Tax Representative 1, 2, 3, and 4. As to the latter four classification groups, AFSCME contends that they should be allocated to the Research, Statistics and Analysis bargaining unit, which AFSCME presently represents. The WFT and the State, on the other hand, contend that all four classifications are properly in the Fiscal and Staff Services bargaining unit, which is presently unrepresented.

At the hearing, the WFT pointed out that the Commission conducted a representation election last year among employes in the Fiscal and Staff Services bargaining unit and that at that time AFSCME stipulated that the four disputed classifications were in the Fiscal and Staff Services unit. The WFT therefore argues that AFSCME is bound by that stipulation and that AFSCME is required to demonstrate that intervening events have materially affected the status of the employes in issue.

AFSCME acknowledges that no such intervening events have occurred, but it argues that AFSCME has no special expertise with respect to unit placement issues and that, moreover, the Commission is not bound by the prior stipulation between the same parties herein.

Inasmuch as Section 111.81(3)(b) of the State Employment Labor Relations Act provides that "the commission shall assign eligible employes to the appropriate statutory bargaining units" it is clear that the Commission has the statutory duty to place employes in the appropriate collective bargaining unit. Accordingly, the Commission cannot be bound by prior stipulations entered into by parties when those stipulations may not be supported by record evidence. As a result, the Commission will determine the unit placement of the employes herein on the basis of the record evidence adduced at the instant hearing and it will not defer to the prior stipulations of the parties.

Those unit placement questions will now be considered seriatum.

1. Planning Analyst 1, 2, 3, and 4

The approximately 170 planning analysts in this series are employed in various departments throughout the State service. They provide information, data, and analysis for the primary missions of said agencies. For example, with respect to welfare programs, the planning analysts study means of distributing welfare payments to the proper recipients. The planning analysts also provide services to local and regional planning commissions and to local municipalities. Additionally, other planners are located in the Department of Administration, where they direct the overall planning program of the State to ensure that there is no duplication of effort between the planning function of various agencies.

With respect to employes in other bargaining units, research analysts in the Research, Statistics and Analysis bargaining unit occasionally compile the raw research which is utilized by the planning analysts. The planning

2/ At the hearing the parties stipulated that employes classified as Planning Analyst 5 and 6, Local and Regional Planner 1 and 2, Economic Opportunity Specialist 1 through 3, and Assessment Supervisor 2 should all vote subject to challenge. They also agreed that the Real Estate Agents 1, 2, 3, 4 and 5 should be included in the petitioned-for unit.

analysts, however, unlike research analysts, then analyze that raw data and make specific recommendations for proposed courses of action, as well as supplying rationale in support thereof. Apparently because of these dissimilarities in duties, the planning analysts receive approximately 18 percent higher salary than the research analysts. Moreover, while employees in other bargaining units may also occasionally perform planning functions on a limited basis for their own programs, the planning analysts perform such functions on a full-time basis in support of various program functions throughout the state. 3/

The record also establishes that management information specialists and educational services assistants are in the Fiscal and Staff Services bargaining unit, and that they perform supportive functions which are similar to those functions performed by the planning analysts.

Since the planning analysts primarily perform supportive staff functions, and as those functions are similar to other functions performed by other employees in the Fiscal and Staff Services bargaining unit, the Commission concludes that the Planning Analyst 1, 2, 3, and 4 should be included in the Fiscal and Staff Services bargaining unit.

2. Property Assessment Specialist 1, 2, 3, 4, and 5

The vast majority of the employees in this series, approximately 77 in number, are allocated to the Department of Revenue. They primarily work with tax representatives, auditors, local businesses and manufacturers. The property assessment specialists assess and establish a rate or value of a given property so that the State can thereafter establish a tax base for that property. Since the property assessment specialists themselves do not assess the tax, it is clear that they are providing a staff function to the Department of Revenue or local municipalities which are responsible for assessing such taxes. Furthermore, the property assessment specialists occasionally work with real estate agents and they perform work which is similar to that performed by real estate agents, who the parties have stipulated as being included in the Fiscal and Staff Services unit. Additionally, while the property assessment specialists compile data in the same fashion as do some employees in the Research, Statistics and Analysis bargaining unit, the property assessment specialists, unlike said other employees, make a specific recommendation regarding the value of the property.

Based upon the foregoing, the Commission finds that the Property Assessment Specialists 1, 2, 3, 4, and 5 should be included in the unit, as those employees perform supportive staff functions which are similar to the staff functions performed by other employees in the Fiscal and Staff Services bargaining unit.

3. Taxation Analyst 1

The two employees in this classification are allocated to the Department of Revenue where they serve as the experts in the field of utility taxation and inheritance taxes. They determine what type of data should be gathered in determining the appropriate tax, they then analyze the data, and thereafter develop the tax policies and guidelines which are utilized by the property assessment specialists. Thus, although the taxation analysts perform a research function in compiling such data, their subsequent analysis

3/ Thus, while the class specifications for the planning analyst series cover broad general subject areas, the class specifications for other employees, such as loan analysts, public utility rate analysts, transportation rate analysts, insurance rate and form analysts, and investment analysts, all cover duties which are much more narrowly defined.

of that data entails more than a limited research function. The taxation analysts are more highly specialized and they are in a higher paid classification than are the property assessment specialists. Since the taxation analysts are required to have a knowledge of accounting, bookkeeping and auditing procedures, the taxation analysts typically progress from the auditing series, which the parties stipulated is in the bargaining unit.

As accountants and auditors are in the unit involved herein, the taxation analysts therefore perform some duties which are similar to those duties performed by other members of the bargaining unit. Moreover, the taxation analysts work closely with the property assessment specialists who are also in the unit. Additionally, since the taxation analysts help promulgate tax policies, they are performing a fiscal function. Accordingly, we find that the taxation analysts share a community of interest with the Fiscal and Staff Services unit and that they should be included in that unit.

4. Tax Representative 1, 2, 3, and 4

A majority of the approximately 99 employees in this classification are allocated to the Department of Revenue. They deal with tax information, tax compliance, and they assist businesses in determining what items are taxable and how records should be maintained. These employees are required to know the different tax programs and they must be able to interpret those programs to taxpayers. Additionally, the duties performed by the tax representatives are somewhat similar to those performed by the auditors, who are in the Fiscal and Staff Services unit, in that both classifications perform tax compliance functions.

Since the tax representatives primarily perform various duties associated with tax compliance, and as such taxation constitutes a fiscal function, the Commission finds that these employees should be included in the Fiscal and Staff Services bargaining unit.

Dated at Madison, Wisconsin this 23rd day of September, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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