

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

CRAWFORD COUNTY

Involving Certain Employees of

CRAWFORD COUNTY

Case 12
No. 57291
ME(u/c)-970

Decision No. 17109-D

Appearances:

Mr. Dennis J. Pelock, Crawford County Highway Commissioner, 208 Main Street, P.O. Box 265, Gays Mills, Wisconsin 54631, appearing on behalf of Crawford County.

Mr. Daniel R. Pfeiffer, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 18990 Ibsen Road, Sparta, Wisconsin 54656-3755, appearing on behalf of Crawford County Employees, Local 2769, AFSCME, AFL-CIO and Crawford County Employees, Local 3108, AFSCME, AFL-CIO.

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

On November 16, 2000, Crawford County filed a petition with the Wisconsin Employment Relations Commission to clarify an existing bargaining unit of Crawford County employees by placing the newly created position of Administrative Assistant/Bookkeeper in the unit represented by Crawford County Employees, Local 2769, AFSCME, AFL-CIO. Local 2769 supports the County's petition while Crawford County Employees, Local 3108, AFSCME, AFL-CIO opposes the petition and argues that the new position should be placed in the Courthouse unit that it represents. The parties subsequently agreed to waive hearing and submit the matter for decision upon a stipulation of facts and written arguments. On March 21, 2001, the stipulation, exhibits and arguments were filed, whereupon the record was closed.

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To maximize the ability of the parties we serve to utilize the Internet and computer software to research decisions and arbitration awards issued by the Commission and its staff, footnote text is found in the body of this decision.

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

FINDINGS OF FACT

1. Crawford County, herein the County, is a municipal employer with offices in Prairie du Chien, Wisconsin. The County maintains a separate Highway Department facility in Gays Mills, Wisconsin.

2. Crawford County Employees, Local 2769, AFSCME, AFL-CIO, herein Local 2769, is a labor organization with offices at 18990 Ibsen Road, Sparta, Wisconsin. At all times material, Local 2769 has been the certified exclusive bargaining representative for a unit described in the parties' 2000-2002 collective bargaining agreement as:

. . . all employees of the Crawford County Highway Department, excluding seasonal employees (student summer help), excluding the Highway Clerk and the Assistant Clerk employed in the Crawford County Courthouse, and also excluding the Patrol Superintendent and Highway Commissioner . . .

3. Crawford County Employees, Local 3108, AFSCME, AFL-CIO, herein Local 3108, is a labor organization with offices at 18990 Ibsen Road, Sparta, Wisconsin. At all times material, Local 3108 has been the certified exclusive bargaining representative for a unit described in the parties' 2000-2002 collective bargaining agreement as:

. . . all regular full time, and regular part-time employees of the Crawford County Courthouse and related departments, including Highway Department clericals employed in the Courthouse and professional social workers, excluding managerial, supervisory, confidential, craft, law enforcement employees and blue collar Highway Department employees . . .

4. At the time the bargaining units represented by Local 2769 and Local 3108 were formed in 1979, the Highway Commissioner's Office, and those of the Highway Department clerical employees, were located in the Crawford County Courthouse in Prairie du Chien. In 1994, the Highway Commissioner's Office was moved to Gays Mills, 32 miles away from Prairie du Chien. Prior to 1995, other than the Commissioner, the Highway Department office staff included a non-bargaining unit Office Manager and a part-time Payroll Clerk/Secretary

who was included in the Local 3108 Courthouse unit. In 1995, the Payroll Clerk/Secretary position was eliminated.

5. In 2000, Crawford County created a new position within the Highway Department, Administrative Assistant/Bookkeeper, which has not yet been filled. The employee will work in the Highway Department Office in Gays Mills. At present, wages, benefits and hours of work for the position have not been established. The Administrative Assistant/Bookkeeper will operate under the direct supervision of the Highway Commissioner, who also supervises all the other employees represented by Local 2769. The Commissioner does not supervise any employees represented by Local 3108. The job description for the position includes the following:

. . .

1. Assist the Highway Commissioner with the Wisconsin Department of Transportation (WisDOT) Local Roads Improvement Program Projects. These duties would consist of evaluating, development, administrating, keeping records of project costs, municipalities board proceedings, bidding procedures, and filing for reimbursements from WisDOT for County, City, Town and Village highway projects.
2. Work alongside the Highway Commissioner in project development and implementation on highway and bridge construction projects funded thru the STP-Rural, STP-Urban and STP-Rural Bridge Program. The County Highway Commissioner and Committee work closely with WisDOT and the Federal Highway Administration (FHWA) in shared funding and administering projects not only the County, but also all Municipalities within the County.
3. Be responsible for setting up and also attending meetings when necessary with Municipalities in the County on an annual basis or whenever required or needed.
4. Work with the Commissioner in managing the Paserware and WHISLER Programs for highway condition rating and reporting requirements. Condition reports are obtained and submitted annually for all County, Town and Village roads to the WisDOT. It also consists of recording all road improvements such as reconstruction, reconditioning, resurfacing and seal coating on all segments of roads in the county. These projects are State mandated and must be implemented into the Highway Department by December 15, 2001.
5. Other duties would consist of aiding the Highway Commissioner with his correspondence, the Employee Safety Program, Safety Training required by the

Wisconsin Department of Commerce and OSHA. Also when needed enter data into the computer, help with the bookkeeping and any other related duties the Commissioner or Office Manager may have.

. . .

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

CONCLUSION OF LAW

The position of Highway Department Administrative Assistant/Bookkeeper is appropriately included in the bargaining unit set forth in Finding of Fact 2.

Based on the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

The position of Highway Department Administrative Assistant/Bookkeeper be, and hereby is, included in the bargaining unit set forth in Finding of Fact 2.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of August, 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

Crawford County

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

POSITIONS OF THE PARTIES

The County

The County contends that the position of Administrative Assistant/Bookkeeper is appropriately placed in the Highway Department bargaining unit represented by Local 2769. In support of its position, the County argues that the employee is not under the same supervision as the Courthouse employees in the Local 3108 unit, but is under the supervision of the Highway Commissioner, as are all the employees in the Local 2769 unit. Further, the employee would not be working in the Courthouse in Prairie du Chien, with the other employees in the Local 3108 unit, but would be working in the Highway Department Office in Gays Mills, 32 miles away. At present, the Commissioner bargains only with the Local 2769 unit. If the employee were placed in the Local 3108 unit, he would have to bargain with that unit as well. Further, by placing the position in the Local 2769 unit, members of that unit would be entitled to post for the position, which they could not were it placed in the Local 3108 unit.

The recognition clause contained in Article I of the contract between Crawford County and Local 3108 specifically includes “. . . Highway Department clericals employed in the Courthouse . . .,” whereas the recognition clause contained in Article I of the contract between the County and Local 2769 specifically excludes “. . . the Highway Clerk and the Assistant Clerk employed in the Crawford County Courthouse . . .” There are no Highway Department employees currently located in the Courthouse and the new position would be located in the Highway Department Office. Therefore, the existing contract language supports the position being placed in the Local 2769 unit. For all the foregoing reasons, the Commission should find the Local 2769 unit to be the appropriate bargaining unit for the Administrative Assistant/Bookkeeper.

Local 2769

Local 2769 urges the inclusion of the position of Administrative Assistant/Bookkeeper within its unit. Local 2769 points out that the new position will have supervision and work location in common with all other Highway Department employees. The work of the position is directly related to the work of the Highway Department, rather than that of the other departments located in the Courthouse. Further, members of the Local 2769 unit have demonstrated interest in posting for the new position, which would not be possible were it placed in the Local 3108 unit.

Local 3108

Local 3108 asserts that the Administrative Assistant/Bookkeeper should be placed in the Courthouse unit it represents. Local 3108 cites the recognition clause in its contract with the County, the historical inclusion of Highway Department clericals in its unit, and the duties of the new position as being supportive of inclusion in the Local 3108 unit.

DISCUSSION

In this case, we are asked to determine in which of two existing bargaining units the newly created position of Administrative Assistant/Bookkeeper appropriately belongs. In making this determination, we first consider the contractual language used to describe the scope of the existing bargaining units to see if the language resolves the dispute. 1/

1/ MADISON METROPOLITAN SCHOOL DISTRICT, DEC. NO. 14514-I (WERC, 9/94); WALWORTH COUNTY, DEC. NO. 18271-A, (WERC, 12/90).

The contractual recognition clause for the Local 2769 unit states:

. . . all employees of the Crawford County Highway Department, excluding seasonal employees (student summer help), excluding the Highway Clerk and the Assistant Clerk employed in the Crawford County Courthouse, and also excluding the Patrol Superintendent and Highway Commissioner . . .

The contractual recognition clause for the Local 3108 unit provides:

. . . all regular full time, and regular part-time employees of the Crawford County Courthouse and related departments, including Highway Department clericals employed in the Courthouse and professional social workers, excluding managerial, supervisory, confidential, craft, law enforcement employees and blue collar Highway Department employees . . .

These recognition clauses confirm that Highway Department clericals have historically worked in the Courthouse and been included in the Local 3108 unit. However, because both clauses reflect that this inclusion has been directly and specifically linked to the clericals being located in the Courthouse and because the “Highway Department clericals” – the Administrative

Assistant/Bookkeeper – will not be located in the Courthouse, we conclude that the recognition clauses are inconclusive as to the unit location of the Administrative Assistant/Bookkeeper.

In such circumstances, we turn to an analysis of the following factors we have historically considered when deciding which unit is most appropriate for an employee: 2/

2/ CITY OF REEDSBURG, DEC. NO. 16511-C (WERC, 10/94).

1. Whether the employees in the unit sought share a “community of interest” distinct from that of other employees;
2. The duties and skills of employees in the unit sought as compared with the duties and skills of other employees;
3. The similarity of wages, hours and working conditions of employees in the unit sought as compared to wages, hours and working conditions of other employees;
4. Whether the employees in the unit sought have separate or common supervision with other employees;
5. Whether the employees in the unit sought have a common workplace with the employees in said desired unit or whether they share a workplace with other employees;
6. Whether the unit sought will result in undue fragmentation of bargaining units;
7. Bargaining history.

We have used the phrase “community of interest” as it appears in Factor 1 as a means of assessing whether the employees participate in a shared purpose through their employment. We have also used the phrase “community of interest” as a means of determining whether employees share similar interests, usually – though not necessarily – limited to those interests reflected in Factors 2-5. 3/ This definitional duality is of long-standing, and has received the approval of the Wisconsin Supreme Court. 4/

3/ *WAUKESHA COUNTY TECHNICAL COLLEGE, DEC. NOS. 11706-C, 29564 (WERC, 2/99).*

4/ *ARROWHEAD UNITED TEACHERS V. WERC, 116 WIS.2D 580, 592 (1984). WAUKESHA COUNTY TECHNICAL COLLEGE, SUPRA.*

It should be understood, based upon long-standing Commission precedent, that within the unique factual context of each case, not all criteria deserve the same weight. 5/ Thus, a single criterion or a combination of criteria listed above may be determinative. 6/

5/ *SHAWANO-GRESHAM SCHOOL DISTRICT, DEC. NO. 21265 (WERC, 12/83); GREEN COUNTY, DEC. NO. 21453 (WERC, 2/84); MARINETTE COUNTY, DEC. NO. 26675 (WERC, 11/90).*

6/ *WAUKESHA COUNTY TECHNICAL COLLEGE, SUPRA; common purpose, MADISON METROPOLITAN SCHOOL DISTRICT, DEC. NOS. 20836-A and 21200 (WERC, 11/83); similar interests, MARINETTE SCHOOL DISTRICT, SUPRA; fragmentation, COLUMBUS SCHOOL DISTRICT, DEC. NO. 17259 (WERC, 9/79); bargaining history, LODI JOINT SCHOOL DISTRICT, DEC. NO. 16667 (WERC, 11/78).*

Applying these factors to the facts we have, we conclude that the Administrative Assistant/Bookkeeper is most appropriately included in the Local 2769 Highway Department bargaining unit.

As to Factor 1, to the extent “community of interest” is viewed as the sharing of a common purpose by employees, the Administrative Assistant/Bookkeeper will be an integral part of the Highway Department operation and thus shares the common purpose with other Highway Department employees of working toward fulfillment of the Department’s mission.

As to Factor 2, a review of the job description leads us to conclude that the Administrative Assistant/Bookkeeper’s duties and skills are most comparable to those of the employees in the Local 3108 unit.

As to Factor 3, the wages, hours and working conditions of the position have yet to be established.

As to Factor 4, the Administrative Assistant will share the same supervision as other Local 2769 employees.

As to Factor 5, the Administrative Assistant/Bookkeeper will share a common work place with the Local 2769 employees.

As to Factor 6, placement of the position in either unit will not further fragment bargaining units.

As to Factor 7, clerical Highway Department employees have historically been included in the Local 3108 unit.

Reviewing all of the foregoing, we are persuaded that the common purpose, supervision and workplace factors outweigh the duties and skills and bargaining history factors and cause us to conclude that the Administrative Assistant/Bookkeeper is most appropriately included in the Local 2769 bargaining unit.

Dated at Madison, Wisconsin this 7th day of August, 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

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