

*Goldman*

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	Case LXVII
	:	No. 24689 ME-1683
WISCONSIN COUNCIL OF COUNTY AND	:	
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO	:	Case LXXXI
	:	No. 26021 ME-1825
Involving Certain Employees of	:	
	:	Case LXXXIV
EAU CLAIRE COUNTY	:	No. 26325 ME-1850
	:	
Employed in its	:	Case LXXXV
	:	No. 26326 ME-1851
HEALTH CARE CENTER AND MT. WASHINGTON	:	
HOME, DEPARTMENT OF HUMAN SERVICES,	:	Decision No. 17488-A
COURTHOUSE and HIGHWAY DEPARTMENT	:	
	:	

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Appearances:

Mr. Guido Cecchini, District Representative, 470 Garfield Street,  
Eau Claire, Wisconsin, appearing on behalf of Wisconsin  
Council of County and Municipal Employees, AFSCME, AFL-CIO.  
Mr. Hugh McMillan, Personnel Director, Courthouse, Eau Claire,  
Wisconsin, appearing on behalf of Eau Claire County.

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
ORDER CLARIFYING BARGAINING UNITS AND  
DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having on April 11, 1980, filed a petition requesting the Wisconsin Employment Relations Commission to clarify certain collective bargaining units of employees of Eau Claire County, and further wherein said Labor Organization requested that an election be conducted among Registered Nurses in the employ of the County to determine whether said employees desired to be represented for the purposes of collective bargaining by said Labor Organization; and hearing having been held in the matter at Eau Claire, Wisconsin on July 8, 1980 before Examiner Stephen Pieroni; and the Commission, having reviewed the record and the briefs of the parties, makes and issues the following

FINDINGS OF FACT

1. That Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, and its Locals 254, 1744 and 2223, hereinafter jointly referred to as AFSCME, is a labor organization having its offices at 470 Garfield Street, Eau Claire, Wisconsin.
2. That Eau Claire County, hereinafter referred to as the County, is a municipal employer having its principal offices at the Courthouse, Eau Claire, Wisconsin.
3. That following elections conducted by the Wisconsin Employment Relations Commission, the Commission certified AFSCME as the exclusive collective bargaining representative of certain employees of the County in the following generally described collective bargaining units:

<u>Date Certified</u>	<u>Bargaining Unit</u>	<u>Case and Decision No.</u>
12/26/62	All employees of the Home for the Aged, <u>1/</u> excluding Superintendent, Assistant Superintendent, supervisors and confidential office employees.	Case I No. 6183
11/14/62	All full time employees of the Highway Department, excluding Highway Commissioner Patrol Superintendents, confidential clerical personnel and supervisory personnel. (Clarified 10/7/69)	Case II No. 6145
8/16/66	All employees of the County Hospital, <u>2/</u> confidential clericals, registered nurses, social workers, farm manager, and food service manager.	Case VIII No. 7649
8/28/70	All professional case workers employed in the Department of Social Services, <u>3/</u> excluding supervisory personnel.	Case XVIII No. 9780
9/15/71	<u>Unit #1.</u> All clerical employees of the County, <u>4/</u> excluding clericals employed in Social Services, and also excluding supervisory and confidential employees.	Case XX No. 10445
9/15/71	<u>Unit #2.</u> All clerical employees of the Department of Social Services, excluding all other employees.	No. 10445
5/19/77	<u>Unit #3.</u> All attorneys, excluding the Corporation Counsel.	No. 10445-B
1/29/80	Licensed Practical Nurses in the employ of Mt. Washington Home and of the Health Care Center, excluding managerial, supervisory and confidential employees (accreted to unit of non-professionals).	Case LXVII No. 17488

4. That there presently exists a collective bargaining agreement in effect between the parties, executed on April 2, 1980, and effective from January 1, 1980 through at least December 31, 1981, containing a provision, among others, setting forth that the County recognizes AFSCME

as the exclusive collective bargaining representative for all regular full-time and regular part-time employees of the County Highway Department, Mt. Washington Home, Eau Claire Area Health Care Center, Department of Human Services, Courthouse and Assistant District Attorneys collective bargaining units, excluding confidential, law enforcement personnel and supervisory employees for the purposes of collective bargaining....;

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- 1/ Now called Mt. Washington Home.
  - 2/ Now called the Health Care Center.
  - 3/ Now called the Department of Human Services.
  - 4/ Now referred to as the Courthouse unit.

and that previously the parties have consolidated the units established in Case I and in Case VIII into one bargaining unit, referred to herein as the "Institutions" unit.

5. That in the instant proceeding AFSCME seeks to accrete various positions occupied by employees of the County (a) to the Courthouse unit, (b) to the unit of non-professionals at the Mt. Washington Home and the Health Care Center, (c) to the Department of Human Services non-professional unit; that AFSCME also seeks an election among Registered Nurses employed at the Mt. Washington Home and at the Health Care Center to determine whether said employees desire to be represented by AFSCME for the purposes of collective bargaining with the County; and that, however, AFSCME seeks to accrete the Registered Nurse employed in the Department of Human Services to the existing unit of professionals employed in the latter department.

6. That during the course of this proceeding the parties agreed that the following positions should be excluded from the Courthouse unit on the basis of their managerial and/or supervisory functions and responsibilities:

Asst. Administrator/Parks and Forests	County Home Economist
Chief Deputy, Register of Deeds	County Planner
County Extension Agent	Deputy Clerk of Courts
County Farm Agent	Office Manager/District Attorney
County 4-H Director	Solid Waste Planner
	Superintendent/Building and Ground
	Administrative Secretary

7. That during the course of this proceeding the parties agreed that the individuals occupying the following positions should be accreted to the Courthouse unit:

Assistant Administrator/Zoning	Land Use Technician/Zoning
Asst. Real Property Director	Legal Secretary/Family Court
Deputy Register of Probate	Microfilm Clerk
Juvenile Court Clerk	Para. Professional Aide/Dist. Att
Juvenile Court Worker	Surveyor

8. That during the course of the proceeding the parties stipulated (a) that the positions of Director of Nursing at both the Health Care Center and at the Mt. Washington Home, as well as the positions of Food Service Supervisor at both of said facilities, should be excluded from any unit of employees employed at said facilities, on the basis of their managerial and/or supervisory functions; (b) that the positions of the Director of Social Services (apparently performing duties at both the Health Care Center and Mt. Washington Home), the Head Bookkeeper (Health Care Center), the Bookkeeper (Mt. Washington Home) and the Administrative Secretary (Mt. Washington Home) should be included in the voluntarily combined unit of Health Care Center and Mt. Washington Home employees, referred to by the parties as the "Institutional" unit.

9. That during the course of the proceeding the parties agreed that the positions of Income Maintenance Supervisor, Social Work Supervisor I, and Administrative Assistant II, all employed in the Department of Human Services, because of their managerial and/or supervisory func-

10. That the parties also agreed that the Youth Camp Director and the Highway Department Office Manager should be excluded from any unit of County employes, but that the Timekeeper, as well as the Clerk, both employed in the Highway Department, should be included in the Highway Department unit.

11. That the parties remain in dispute with respect to the following positions and the number of individuals occupying same:

Data Entry Clerk II (1)	Business Manager (1)
Program Analyst (3)	Office Manager (1)
Register in Probate (1)	Administrative Assistant I (2)
Medical Records Director (1)	(Human Services)
Registered Nurses (25)	

12. That AFSCME seeks the accretion of the positions of Data Entry Clerk II and Program Analyst, in the County's Data Processing Department, both positions in existence since 1975, to the Courthouse clerical unit, while the County contends that the individuals occupying said positions should be excluded from any unit on the claim that they are confidential employes, and that, should the Commission conclude otherwise, then the occupants of such positions should be included in a unit separate and apart from said Courthouse unit; that such data processing positions are not located in the Courthouse, but are some ten blocks away in the Intergovernmental Data Center, where no other County employes are located; that the occupants of the positions involved are supervised by the Director of Data Processing, who in turn reports to the County Administrative Officer, who is located in the Courthouse; that the Data Processing Department services the various County departments in areas involving payroll, personnel, general ledger accounting, budgeting, tax roll records, alimony and support records, etc.; that the Data Entry Clerk II performs general clerical duties and operates computer terminal and keypunches, and the three Program Analysts establish computer programs for the various County Departments; and that while the County intends to utilize Data Processing personnel to provide services in collective bargaining, e.g. costing out proposals, it has not done so to date, since no programs have yet been established for such purposes.

13. That AFSCME seeks to also accrete the position of Register in Probate/Probate Registrar to the Courthouse unit, a position which the County seeks to exclude on the claim that the duties performed by the incumbent thereof, Marjorie Rhodes, are managerial in nature; and that Rhodes carries out the responsibilities of the probate office as defined by Wisconsin Statutes and/or procedural guidelines established by the County Court Judge.

14. That AFSCME seeks to accrete the positions of Medical Records Director and of the Business Manager, both employed at the Health Care Center, as well as the position of Office Manager, employed at the Mt. Washington Home, to the unit of "Institutions" employes, while, on the other hand, the County would exclude said employes from any unit on the claim that the incumbents of said three positions are "supervisors" and, further that the Business Manager at the Health Care Center is also a "professional" employee; that the Medical Records Director, Sandra Endle, is generally responsible for obtaining data and preparing statistical reports relating to medical records of patients; that one full-time Medical Records Clerk and part-time Ward Clerk report to Endle and the latter two employes interview patients in obtaining data to be recorded, file documents, type and prepare monthly statistical reports; that Endle reports to the Assistant Director of County Institutions; that although Endle has the authority to interview and screen applicants for the position of Medical Records

Clerk, she has not done so during the two years in which she has held the position of Medical Records Director, and in any event Endle's recommendations relating to such applicants would require the approval of the Assistant Director; that Endle does not possess the authority to effectively recommend discharge or discipline of employees, nor to independently adjust grievances, however she periodically evaluates the work of the Clerk, however, such evaluations are subject to review by the Assistant Director; and that, however, Endle spends the vast majority of her time in performing record keeping duties, and other clerical type activities.

15. That Jack Bernhagen, the Business Manager of the Health Care Center, who reports to the Assistant Director of the Health Care Center, is generally responsible for the fiscal bookkeeping of the Health Care Center; that three individuals, occupying the positions of Head Bookkeeper, Medical Assistance Clerk, and Account Clerk, all in the existing unit, report to Bernhagen; that Bernhagen spends a vast majority of his time engaging in accounting and bookkeeping activities, however, Bernhagen has always screened applicants for the three positions he supervises and recently, delegated the authority to make the determination concerning the hiring of the current Account Clerk and Medical Assistance Clerk; he has the authority to suspend an employee and has so exercised said authority; and he has authority to evaluate employees to effectively recommend employee action and merit increases.

16. That the Office Manager at the Mt. Washington Home, is generally responsible for the fiscal transaction records and accounting for said facility; that Diane Nelson, the occupant of said position, reports to the Director of County Institutions, who maintains her office at the Home; that a Bookkeeper and two Account Clerks report to Nelson, whose work is routine and does not require daily supervision; that Nelson does not possess the authority to effectively recommend the hiring or discharge of employees, or to make recommendations with respect to other employee action; and that Nelson spends the majority of her time in performing duties relating to the record keeping functions.

17. That Emily Dissmore and Janice Teigen, whom the County, contrary to AFSCME, contends are supervisors, are employed as Administrative Assistants I, Clerical Services of the Department of Human Services, and report to the Administrative Assistant II, Beatrice Emanuel, who is deemed a supervisor by the parties and excluded from the bargaining unit of clerical employees in the Department; that Dissmore "supervises" work assignments of nine clericals, in the Income Maintenance Section, while Teigen makes assignments to four clericals in the Social Services section; that assignments by Dissmore are made twice per week, while Teigen's assignments are made on an irregular basis, since professional Social Workers make most of the assignments to the clericals in the Social Services section; that both Dissmore and Teigen spend the majority of their time performing non-supervisory tasks, and that they spend the minority of their time performing supervisory duties, such as training, work coordination, granting sick and emergency leaves; and that neither of the Administrative Assistants I have the authority to effectively recommend the hiring or termination of employees, and they have no authority to adjust grievances, however, they evaluate the work performance of clericals.

18. That the County employs twenty four Registered Nurses, hereinafter referred to as RNs, at the Institutions, namely the Mt. Washington Home and the Health Care Center, and one RN is employed in the Department of Human Services; that, as noted previously herein, AFSCME contends that the RNs employed at the Institutions constitute an appropriate bargaining unit, and AFSCME desires the Commission to direct an election to determine whether the RNs employed at the Insti-

tutions desire to be included in the non-professional bargaining unit of Institutional employees; that AFSCME would accrete the RN employed in the Department of Human Services to the existing unit of professional employees of the Department of Human Services; that the County contends that all RNs at the Institutions should be excluded from any unit on the claim that they are "supervisors", solely by virtue of their responsibilities as Charge Nurses on various shifts, and that two of the RNs have the classification of Inservice Training Directors, and they also act as Charge Nurses on various shifts.

19. That nine RNs are employed at the Health Care Center, while fourteen RNs are employed at the Mt. Washington Home; that said RNs work on three shifts, and all RNs are under the primary supervision of the Director of Nursing; that when performing duties as the Charge Nurse an RN, in addition to performing regular nursing duties, locates substitutes for absent non-professional employees, who are ill or otherwise absent, makes decisions relating to admission of patients or places them in restraint, reports infractions of work rules by the non-professional employees, grants such employees permission to leave work early due to illness or other emergency as well as evaluates newly hired non-professionals employed in the Institutions; that when acting as Charge Nurse the RN does not receive a higher rate of pay; nor does she have the authority to effectively recommend the hiring or termination of any employees, nor make any recommendation with respect to other employee action; and that RNs, when acting as Charge Nurses, spend a majority of their work time in supervising activities rather than employees.

20. That prior to January, 1980 the County operated its Day Treatment Services Program as part of the Health Care Center; that since the latter month said program has been operated by the Human Services Department; that as a result AFSCME and the County voluntarily agreed to accrete the professional positions, except for the one RN employed in the program, Faye Lindemann, into the Human Services professional employee bargaining unit; and that the change in the Program's location has not resulted in any change in Lindemann's duties, although she now has a different supervisor.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

#### CONCLUSIONS OF LAW

1. That, since the duties and responsibilities of the occupants of the following classifications are predominately managerial and/or supervisory in nature, the occupants thereof, in the employ of Eau Claire County, at the sites noted, are not "municipal employees" within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act, and therefore said positions are excluded from any collective bargaining unit of employees of Eau Claire County:

#### Courthouse

Assistant Administrator/ Parks and Forests	County Home Economist
Chief Register of Deeds	County Planner
County Extension Agent	Deputy Clerk of Courts
County Farm Agent	Office Manager/District Attorney
County 4-H Director	Solid Waste Planner
	Superintendent/Building and Grounds
Administrative Secretary	

## Institutions

### Health Care Center

Director of Nursing  
Food Service Supervisor  
Business Manager

### Mt. Washington Home

Director of Nursing  
Food Service Supervisor

### Human Services Department

Income Maintenance Supervisor  
Social Work Supervisor I  
Administrative Assistant II

### Miscellaneous

Youth Camp Director  
Office Manager/Highway Dept.

2. That the duties of the occupants of the positions of Data Entry Clerk II and Program Analyst in the Data Processing Department do not presently involve confidential matters relating to collective bargaining, and therefore the occupants of such positions are "employees" within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act. 5/

3. That the occupants of the position of Medical Records Director employed at the Health Care Center, as well as the position of Office Manager at the Mt. Washington Home, and two positions of Administrative Assistant I, Department of Human Services, do not possess or perform duties and responsibilities in sufficient combination and degree to warrant the conclusion that said individuals occupy "supervisory" positions within the meaning of Sec. 111.70(1)(o)1 of the Municipal Employment Relations Act; and that therefore the occupants of all such positions are "employees" within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act.

4. That the occupants of the positions of Registered Nurse employed at the Health Care Center and the Mt. Washington Home are not clothed with sufficient duties and responsibilities, when acting as Charge Nurses to constitute said occupants as "supervisors" as defined in Sec. 111.70(1)(o) of the Municipal Employment Relations Act, and therefore said Registered Nurses, as well as the Registered Nurse employed in the Department of Human Services are "professional employees" within the meaning of Sec. 111.70(1)(l) of the Municipal Employment Relations Act.

5. That, since the establishment of a separate collective bargaining unit consisting of employees performing clerical type duties in the Department of Data Processing would result in an undue fragmentation of bargaining units of clerical employees of Eau Claire County, within the meaning of Sec. 111.70(4)(d)2 of the Municipal Employment Relations Act, a unit consisting solely of employees in the Department of Data Processing does not constitute an appropriate collective bargaining unit with the meaning of the Act.

6. That all regular full-time and all regular part-time Registered Nurses in the employ of Eau Claire County at its Health Care Center, Mt. Washington Home, and Department of Human Services, excluding managerial, supervisory, confidential and all other employees, constitute an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d)2 of the Municipal Employment Relations Act.

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5/ See page 11 of the Memorandum setting forth the basis for the Commission's decision to delay the determination as to the "employee" status of the Register in Probate position.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER CLARIFYING COLLECTIVE BARGAINING UNITS

1. IT IS HEREBY ORDERED that the following positions be, and the same hereby are, excluded from all collective bargaining units of employees employed by Eau Claire County:

"Courthouse" Positions

Asst. Administrator/Parks and Forests	County Home Economist
Chief Deputy, Register of Deeds	County Planner
County Extension Agent	Deputy Clerk of Courts
County Farm Agent	Office Manager/District Attorney
County 4-H Director	Solid Waste Planner
	Superintendent/Building and Grounds
	Administrative Secretary

Mt. Washington Home

Director of Nursing  
Food Service Supervisor

Health Care Center

Director of Nursing  
Food Service Supervisor  
Business Manager

Department of Human Services

Income Maintenance Supervisor  
Social Work Supervisor I  
Administrative Assistant II

Miscellaneous

Youth Camp Director  
Highway Dept./Office Manager

2. IT IS FURTHER ORDERED that the following positions are accreted to the appropriate collective bargaining units set forth below:

"Courthouse" Unit

Assistant Administrator/Zoning	Legal Secretary/Family Court
Asst. Real Property Director	Microfilm Clerk
Deputy Register of Probate	Para. Professional Aide/D.A.
Juvenile Court Clerk	Surveyor
Juvenile Court Worker	Data Entry Clerk II
Land Use Technician/Zoning	Program Analyst

Non-Professional "Institutions" Unit

Director of Social Services  
Bookkeeper/Mt. Washington Home  
Head Bookkeeper/Health Care Center  
Administrative Secretary/Mt. Washington Home  
Medical Records Director/Health Care Center  
Office Manager/Mt. Washington Home

Highway Department Unit

Clerk

Timekeeper

Department of Human Services  
Professional Unit

Disability Program Coordinator

Department of Human Services  
Clerical Unit

Work Experience Supervisor  
Fiscal Manager



Department of Human Services  
(Formerly, Department of Social Services)  
Non-professional Unit

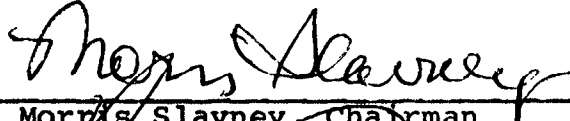
Administrative Assistant I

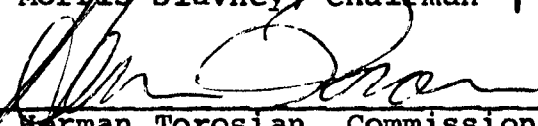
DIRECTION OF ELECTION


IT IS DIRECTED that an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date hereof among all regular full-time and all regular part-time Registered Nurses in the employ of Eau Claire County at its Health Care Center, Mt. Washington Home, and Department of Human Services, excluding managerial, supervisory, confidential and all other employees who were employed on March 20, 1981, except such employees who may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees voting desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of collective bargaining with Eau Claire County, with respect to wages, hours and conditions of employment.

Given under our hands and seal at the  
City of Madison, Wisconsin this 20th  
day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

EAU CLAIRE COUNTY, HIGHWAY DEPT., LXXXV  
EAU CLAIRE COUNTY, HUMAN SERVICES, LXXXI  
EAU CLAIRE COUNTY, COURTHOUSE, LXXXIV  
EAU CLAIRE COUNTY, HEALTH CARE CENTER & MT. WASHINGTON HOME, LXVII  
Decision No. 17488-A

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSIONS OF LAW,  
ORDER CLARIFYING BARGAINING UNITS AND  
DIRECTION OF ELECTION

In this proceeding AFSCME seeks to accrete various positions occupied by employees of the County to existing collective bargaining units represented by it, and AFSCME also seeks an election among Registered Nurses to determine whether the employees occupying such positions desire to be represented by AFSCME for the purposes of collective bargaining, and whether said employees desire to be included in one unit with the non-professional employees employed in the "Institutions" unit.

As indicated in our decision, the parties agreed to exclude various positions from the existing units on the basis that the occupants thereof were performing managerial and/or supervisory responsibilities; and, on the other hand, during the course of the hearing herein, the parties agreed to include various positions to various existing units. However, issues arose with regard to whether certain other positions were occupied by individuals performing alleged confidential, or managerial, or supervisory duties, to such an extent so as to exclude them from an existing unit, or whether they performed professional duties to the extent that they could not be included in an existing non-professional unit. Issues also arose as to whether Data Processing clerical employees, if found not to be confidential employees, should be accreted to the "Courthouse" unit.

The Alleged Confidential Employees

The County contends that the positions of Data Entry Clerk II and that of Program Analyst are confidential positions, and thus excluded from any unit.

Sec. 111.70(1)(b) of the Municipal Employment Relations Act (MERA) defines a "municipal employee" as meaning "any individual employed by a municipal employer other than as an independent contractor, supervisor, or confidential, managerial or executive employee." In order for an employee to be deemed "confidential" the employee involved must be privy to decisions of the employer with respect to personnel and labor relations policies, 6/ and in addition, the time spent by an employee who performs such duties must be more than a "de minimus" amount of time. 7/ Here, the employees occupying the classifications involved have spent no time performing such confidential functions, and therefore, on that basis alone, cannot be deemed confidential employees.

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6/ Manitowoc County (8152-A) 5/79

7/ Montello School District (17829) 5/80

### The Register in Probate/Probate Registrar

AFSCME desires to include the Register in Probate/Probate Registrar in the existing clerical Courthouse unit, while the County would exclude the position from any unit, on the claim that the position is managerial. The Commission is presently considering two cases <sup>8/</sup> wherein it must initially determine whether individuals occupying the position of Register in Probate/Probate Registrar are employees of the County involved, or whether their relationship to the County Court is such that it precludes a conclusion that they are, in fact, employed by the County. Therefore, at this time, we shall not rule on the status of the incumbent occupying such position in Eau Claire County, but we shall do so at such time as we have concluded our deliberations on the issue in the other involved cases.

### The Claimed Supervisory Positions

AFSCME seeks to accrete the positions of the Medical Records Director and that of the Business Manager, both employed at the Health Care Center, and that of the Office Manager, employed at the Mt. Washington Home, to the non-professional "Institutions" unit. <sup>9/</sup> The County contends that the positions are supervisory, and should be excluded from any unit of County employees. The County also maintains that the two Administrative Assistant I's, employed in the Department of Human Services, are likewise supervisors, and should therefore be excluded from the non-professional unit of employees in said Department. AFSCME would include said positions in such unit, claiming that they are not supervisors.

The term "supervisor" is defined in Sec. 111.70(1)(o)1 of MERA as follows:

As to other than municipal and county firefighters, any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The Commission, in determining whether the statutory criteria are present in sufficient combination and degree in order to warrant a conclusion that the position in question is supervisory, considers the following factors: <sup>10/</sup>

1. The authority to recommend effectively the hiring, promotion, transfer, discipline, or discharge of employees;
2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority of the same employees;

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<sup>8/</sup> Manitowoc County, VI; and Sauk County, XIII

<sup>9/</sup> The alleged "supervisory" issue involving Registered Nurses is discussed subsequently herein.

<sup>10/</sup> City of Milwaukee (6960) 12/64; Grant County (10147) 10/80

4. The level of pay, including an evaluation of whether the supervisor is paid for his skills or for his supervision of employes;
5. Whether the supervisor is primarily supervising an activity or primarily supervising employes;
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employes;
7. The amount of independent judgment and discretion exercised in the supervision of employes.

On the basis of the duties and responsibilities of the incumbents of the positions in issue, as reflected in the Findings of Fact, we have concluded that the Business Manager at the Health Care Center is a supervisor, but that the remaining positions are not supervisory in nature and that therefore they are accreted to the appropriate units involved. Since we have concluded that Bernhagen, the Business Manager is a supervisor, it is unnecessary to determine whether he is a professional, as claimed by the County.

#### The Registered Nurses

The County employs RNs at the Health Care Center and Mt. Washington Home, which facilities constitute the "Institutions". It also employs a single RN in the Department of Human Services. The County, contrary to AFSCME, contends that the RNs at the Health Care Center and Mt. Washington Home are supervisors because of their "Charge Nurse" assignments. AFSCME would include all RNs at the Institutions in one professional unit, and it requests that said professionals be given an election to also determine whether they desire to be included in a single unit with the non-professional "Institution" employees. AFSCME would accrete the RN in the Department of Human Services to the professional Social Worker unit.


The evidence does not support any finding that the RNs at the "Institutions", in carrying out their "Charge Nurse" duties, are supervisory employes, except those whom the parties have agreed are supervisors, e.g. Director of Nursing. All otherwise non-supervisory RNs, including the RN employed in the Department of Human Services, are engaged in the same profession, and therefore properly belong in a single bargaining unit. Since not all of the eligible RNs are employed in the "Institutions" we do not deem it appropriate to permit the RN professional unit to determine whether the RNs desire to be included in the same unit with the non-professionals employed in the "Institutions".

Dated at Madison, Wisconsin this 20th day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BY

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner