

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TAYLOR COUNTY (DEPARTMENT OF HUMAN SERVICES)

Appearances:

Mr. Arthur Thexton, Assistant District Attorney, appearing on behalf of the Municipal Employer.

Mr. Daniel Barrington, Representative, appearing on behalf of the Petitioner.

FINDINGS OF FACT, CONCLUSION OF LAW AND  
ORDER DIRECTING EXAMINER TO TAKE FURTHER EVIDENCE

Wisconsin Council of County and Municipal Employees, #40, AFSCME, AFL-CIO having filed a petition on October 10, 1979 with the Wisconsin Employment Relations Commission wherein it requested the Commission to conduct an election pursuant to the provisions of the Municipal Employment Relations Act among certain employes of Taylor County Department of Human Services; and a hearing in the matter having been held on November 6, 1979, at Medford, Wisconsin, before Examiner Duane McCrary; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order directing the Examiner to take further evidence.

## FINDINGS OF FACT

1. That the Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereinafter referred to as the Petitioner, is a labor organization, and has offices at 600 Colan Boulevard, Apartment Number 5, Rice Lake, Wisconsin 54868

2. That Taylor County, hereinafter referred to as the County, is a municipal employer, having its main offices at Medford, Wisconsin.

3. That in its petition initiating the instant proceeding the Petitioner seeks an election among employees employed by the County in the following alleged appropriate unit:

All employees of the Taylor County Human Services Department, professional and non-professional, full-time and part-time, excluding the Director, managerial, supervisory and confidential employees.

4. That the employees of the County Highway Department are represented by the Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO and that all deputy sheriffs employed by the County are represented by Local 446, Teamsters, Chauffeurs, Warehousemen and Helpers. :

5. That there are at least thirteen (13) non professional or para-professional employees and eleven (11) professional employees employed in the County's Human Services Department; that there are an undetermined number of non-professional employees employed elsewhere by

the County whose duties and skills are sufficiently common and whose hours and benefits are identical to those possessed by the non professional and para-professional employees employed at the Human Services Department; that minimal transfer has occurred between non professional employees at the Courthouse and Human Services Department that all County non-professional employees receive comparable wages; that the thirteen (13) non-professional or para-professional employees of the County's Human Services Department work at a separate location from other non-professional County employees and have separate supervision; that in the past the County's Personnel Committee or its predecessor would meet with all non-represented employees as a group for the purpose of establishing their wages, hours and conditions of employment and that that said employees were generally treated as a group for said purpose.

6. That there is insufficient evidence in the existing record on which to base a decision as to the appropriate collective bargaining unit of County professional employees.

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

#### CONCLUSION OF LAW

1. That all regular full-time and regular part-time employees of the Taylor County Courthouse and related departments and the Human Services Department excluding professional, managerial, supervisory, confidential, craft, law enforcement employees, and blue collar Highway Department employees constitute an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d)2.a., of the Municipal Employment Relations Act; and that establishing a unit of all regular full-time and regular part-time non-professional employees of the Taylor County Department of Human Services, with or without the inclusion of the professional employees in said department would result in undue fragmentation within the meaning of section 111.70(4)(d)2.a. Stats.

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

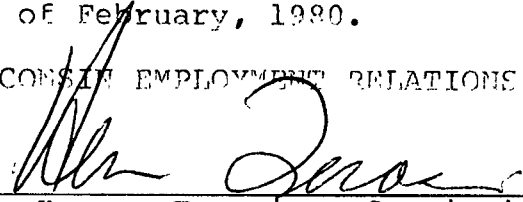
#### ORDER DIRECTING THE EXAMINER TO TAKE FURTHER EVIDENCE


That the Examiner, Duane McCrary, is hereby directed to contact the parties for the purpose of obtaining additional information, and if need be, conduct a hearing to take further evidence with respect to the question of the proper inclusions or exclusions from the unit found appropriate and to enable the Commission to determine the appropriate collective bargaining unit(s) under the Municipal Employment Relations Act for the County's professional employees.

Given under our hands and seal at the City of Madison, Wisconsin, this 19th day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION OF  
LAW AND ORDER DIRECTING EXAMINER TO TAKE FURTHER EVIDENCE

The Union seeks an election among all employees of the County's Department of Human Services, professional and non-professional, full-time and part-time, excluding the Director, managerial, supervisory and confidential employees. The County's position is that all presently non-represented employees, of the County, both professional and non-professional constitutes the appropriate bargaining unit and that said unit would total approximately 57 employees. 1/

The professional employees in question may not be included with the non-professional employees without being given an opportunity to vote on the question of such inclusion as required by Section 111.70(4)(d)2.a, Stats. Thus the question presented here is whether the unit of non-professional employees may properly be limited to employees of the Department of Human Services even though other employees employed in the County's Courthouse and other departments perform similar work.

In determining whether employees constitute an appropriate unit, the Commission must consider Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act, which provides as follows:

The Commission shall determine the appropriate unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such determination, the Commission may decide whether, in a particular case, the employees in same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit.

In applying the above-statutory criteria and establishing appropriate bargaining units, the Commission has considered the following factors. 2/

1. Whether the employees in the unit 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 duties and skills of the other employees.
3. The similarity of wages, hours, and working conditions of the 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 all other employees.

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1/ An issue has arisen with respect to a C.E.P. (Concentrated Employment Program) worker's eligibility to vote in the election, however, we will defer a decision as to this employee's eligibility until a decision is made whether to direct an election among the non-professional bargaining unit.

2/ See Crawford County (16931) 3/79; Madison Joint School District No. 8 (14814-A) 12/76; Kenosha Unified School District No. 1 (13431) 3/75.

5. Whether the employees in the unit sought have a common work place with the employees in said desired unit or whether they share the work place with other employees.
6. Whether the unit sought will result in undue fragmentation of bargaining units.
7. Bargaining history.

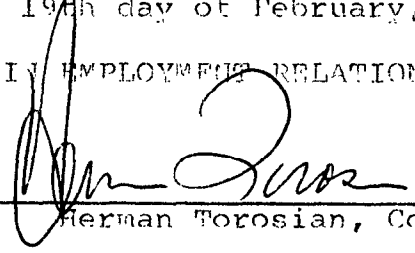
While the non-professional employees work at different locations and have separate supervision, the similarity in wages, hours and working conditions of such employees; the fact that the skills and duties of such employees are sufficiently common; and the fact that there has been some transfer between the two groups, leads the Commission to conclude that there exists a community of interest among all of the County's non-professional employees. Accordingly, the Commission concludes that all regular full-time and regular part-time employees of the Taylor County Courthouse and related departments and the Human Services Department excluding professional, managerial, supervisory, confidential, craft, law enforcement employees and blue collar Highway Department employees constitutes the appropriate collective bargaining unit under the Municipal Employment Relations Act and that establishing a unit of such employees who work in the Department of Human Service would result in undue fragmentation of bargaining units. 3/ However, in view of the Union's indication that it may not desire an election in a bargaining unit other than that stated in the petition, and the absence of a record as to the parties' positions on questions of unit inclusions and exclusions, the Examiner is directed to contact the parties and if possible, obtain a stipulated list of employees in the unit we have determined to be appropriate. Until such time as this list is obtained and all remaining eligibility questions are resolved, the Commission will not direct an election in the above-mentioned bargaining unit to determine the exclusive bargaining representative.

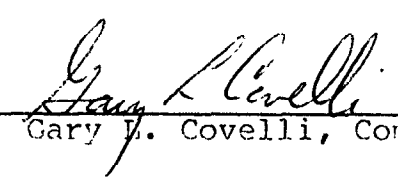
Having determined what unit is appropriate under the Municipal Employment Relations Act for the non-professional employees of the County, the remaining issue to be determined is the appropriate bargaining unit(s) for the professional employees of the County. Accordingly, the Examiner is also directed to obtain the parties' position as to the appropriate professional employee collective bargaining unit(s) and who would appropriately be included and excluded in the proposed unit(s) by name, position and/or title and the rationale for any exclusions from the proposed unit(s). After this information is received, the Commission will review the total record and issue appropriate rulings.

Dated at Madison, Wisconsin this 19th day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Commissioner

  
Gary J. Covelli, Commissioner

3/ Crawford County (16931) 3/79; Dane County 10492-A 3/72