

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :  
WISCONSIN COUNCIL OF COUNTY :  
& MUNICIPAL EMPLOYEES #40, :  
AFSCME, AFL-CIO :  
Involving Certain Employees of :  
CLARK COUNTY :  
- - - - -

Case XIX  
No. 29323 ME-2090  
Decision No. 19744

Appearances:

Mulcahy & Wherry, S.C., Attorneys at Law, by Stephen L. Weld, 21-1/2 South Barstow, P.O. Box 1030, Eau Claire, Wisconsin 54702, appearing on behalf of the County.  
Daniel J. Barrington, District Representative, Wisconsin Council #40, AFSCME, AFL-CIO, 4115 Briarwood Avenue, Wausau, Wisconsin 54401, appearing on behalf of the Union.

FINDINGS OF FACT, CONCLUSION OF LAW  
AND DIRECTION OF ELECTIONS

Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO having filed a petition on February 17, 1982 requesting the Wisconsin Employment Relations Commission to conduct an election among certain employees of Clark County to determine whether said employees desire to be represented by said Petitioner for the purpose of collective bargaining; and hearing in the matter having been conducted on April 29, 1982 at Neillsville, Wisconsin before Pamela G. Bloch, Examiner; and the Commission having considered the evidence and arguments of the parties, and being fully advised in the premises, hereby makes and issues the following

FINDINGS OF FACT

1. That Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization and has its offices at 4115 Briarwood Avenue, Wausau, Wisconsin 54401.
2. That Clark County, hereinafter referred to as the County, is a municipal employer and has its offices at Clark County Courthouse, Neillsville, Wisconsin 54456.
3. That in this proceeding the Union requests the Commission to conduct elections among, otherwise eligible, professional and non-professional employees of the County employed in its Courthouse, for the purpose of determining whether said professional employees desire to be included in a single collective bargaining unit with said non-professional employees, and whether said employees in either a combined professional and non-professional employee unit, or in two units separately consisting of said professional and non-professional employees, desire to be represented by the Union for the purposes of collective bargaining with the County on wages, hours and conditions of employment.
4. That at the present time there exists four separate and distinct appropriate collective bargaining units of County employees in the following generally described units, represented by the labor organizations noted:
  - a. Law Enforcement - Clark County Law Enforcement Assn.
  - b. Highway Department - Local 546, AFSCME, AFL-CIO
  - c. Non-Professional Unified Services - Local 546-B, AFSCME, AFL-CIO
  - d. Department of Social Services - Local 546-A, AFSCME, AFL-CIO

5. That the County also maintains and operates a Health Care Center at Owen, Wisconsin, some thirty miles from Neillsville, the location of the Courthouse; that at said Center the County employs approximately 250 non-professional and professional employees in professions and in some classifications identical to those County employees employed in the Courthouse, including Social Workers and Nurses; and that none of the parties contend that said employees should be included in any of the voting groups herein.

6. That the Union and the County have stipulated that the incumbents of the following positions in Courthouse office and departments are managerial (m), supervisory (s), or confidential (c) employees, and therefore excluded from any bargaining unit involved herein, as are three positions occupied by employees of the State (S), who are also employed in the Courthouse; that all of said positions, unless otherwise noted (by figure in parenthesis), have but one occupant.

AGING  
Aging Director (m)  
Center Coordinator (2)(m)  
Center Manager (3)(m)

NURSING SERVICE  
County Nurse (m)  
Pub. Health Nurse Supervisor (s)

BUILDING MAINTENANCE  
Maintenance Engineer (m)

PLANNING & ZONING  
Zoning Administrator (m)

CHILD SUPPORT & INV. AGENCY  
Child Support Director (m)

REGISTER OF DEEDS  
Register of Deeds (m)

CLERK OF CIRCUIT COURT  
Clerk of Courts (m)

REGISTER IN PROBATE  
Register in Probate/Probate  
Registrar (m)

COUNTY CLERK  
County Clerk (m)  
Deputy County Clerk (c)

SOIL CONSERVATION  
Soil Conservationist (m)

COUNTY TREASURER  
County Treasurer (m)

UW EXTENSION  
Agricultural Agent & Extension  
Office Chairperson (m)  
Extension Home Economist (S)  
Farm Management Agent (S)  
4-H Agent (S)

DISTRICT ATTORNEY  
District Attorney (m)  
Asst. District Attorney (c)

EMERGENCY GOVERNMENT  
Emergency Gov. Director (m)

UNIFIED SERVICES  
ADS Director (m)  
Director (m)  
Disability Coordinator (m)  
Program Manager (2)(m)  
Secretary to Director (c)

FORESTRY & PARKS  
F & P Administrator (m)  
Supervisor (2)(m)

HIGHWAY DEPARTMENT  
Secretary (c)

VETERANS SERVICE  
Veterans Service Officer (m)

MANPOWER OFFICE  
Job Coach/Job Developer (m)

WEATHERIZATION  
Interim Director (m)

7. That the Union and County also stipulated that all regular full-time and regular part-time non-professional and professional Courthouse employees in the employ of the County, excluding Law Enforcement employees, Highway Department employees, non-professional Unified Services employees, Department of Social Services employees, Health Care Center employees, as well as elected officials, managerial, supervisory and confidential employees, may, as permitted by law, constitute a single appropriate collective bargaining unit, and that should said Courthouse professional employees elect not to be included in the same bargaining unit with Courthouse non-professional employees, then said professional and said non-professional employees constitute two separate and distinct appropriate collective bargaining units.

8. That also during the course of the hearing herein the parties expressed a desire that, should AFSCME be selected as the bargaining representative of the non-professional Courthouse employees in either a single unit with the professionals, or in a unit consisting of only said non-professionals, then the employees in the existing non-professional Unified Services unit, presently represented by the Union, be merged with the appropriate Courthouse employees unit.

9. That also during the hearing the parties agreed to the classifications of the professional and non-professional Courthouse employees eligible to participate in any election or elections directed herein by the Commission. 1/

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

#### CONCLUSION OF LAW

1. That the employees of Clark County included in the following voting groups constitute appropriate collective bargaining units within the meaning of Secs. 111.70(1)(e) and 111.70(4)(d)2.a. of the Municipal Employment Relations Act:

a. All regular full-time and regular part-time non-professional employees in the employ of Clark County, in its Courthouse, excluding sworn Law Enforcement employees, blue collar Highway Department employees, Unified Services non-professional employees, Department of Social Services employees, Health Care Center employees, as well as elected officials, managerial, supervisory and confidential employees.

b. All regular full-time and regular part-time professional employees in the employ of Clark County, in its Courthouse, excluding professional employees employed in the Department of Social Services and in the Health Care Center, as well as elected officials, managerial, supervisory and confidential employees.

c. A combined unit of said non-professional and professional employees of Clark County, should a majority of the eligible professionals vote to be included in a single unit with said non-professional employees.

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

#### DIRECTION OF ELECTIONS

IT IS HEREBY DIRECTED that elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission, within forty-five (45) days from the date hereof, among employees of Clark County employed in the following established Voting Groups, for the purposes stated:

##### Voting Group No. 1

All regular full-time and regular part-time non-professional employees in the employ of Clark County, in its Courthouse, excluding sworn Law Enforcement employees, blue collar Highway Department employees, Unified Services non-professional employees, Department of Social Services employees, Health Care Center employees, as well as elected officials, managerial, supervisory and confidential employees, who were employed on July 14, 1982, except such employees as 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 #40, AFSCME, AFL-CIO, for the purposes of collective bargaining with Clark County on wages, hours and conditions of employment.

##### Voting Group No. 2

All regular full-time and regular part-time professional employees in the employ of Clark County, in its Courthouse, excluding professional employees employed in the Department of Social Services and in the Health Care Center, as well as elected officials, managerial, supervisory and confidential employees, who were employed on July 14, 1982, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining (a) whether a majority of the eligible employees in said Voting Group desire to be

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1/ The classifications, and occupants thereof, eligible to participate in the elections directed herein are set forth in the attached memorandum.

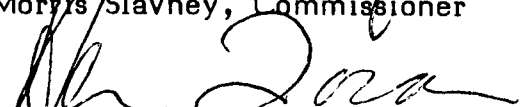
included in a single bargaining unit with the employees of Voting Group No. 1, and (b) whether a majority of such employees voting desire to be represented by Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO for the purposes of collective bargaining with Clark County on wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 14th day of July, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Gary L. Covelli, Chairman

  
Morris Slavney, Commissioner

  
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSION OF LAW  
AND DIRECTION OF ELECTIONS

During the course of the hearing the parties cooperatively stipulated to all possible issues herein, and resolve them, including the positions to be included from the voting groups involved herein, as well as to the positions to be excluded therefrom. The exclusions are set forth in the Findings of Fact. The eligibles in Voting Groups 1 and 2 are as follows:

Voting Group No. 1

DEPARTMENT OF AGING

Accounting II (W. Pope)  
Bus Driver (G. Armburst,  
P. Beilke, U. Blake,  
C. Elmstedt, L. Heidemann)  
Clerk Typist II (L. Zank)  
Outreach (M. Pink)

BUILDING MAINTENANCE

Crew Chief (R. Johnson)  
Custodian (T. Perushek,  
E. Anderson, H. Gilmore  
J. Hendrickson)

CHILD SUPPORT & INV. AGENCY

Asst. Child Support Director/  
Investigator (J. Shield)  
Account Clerk I (L. Chilson)  
Child Support Locator  
(B. Brekke-Bieneck)  
Typist I (J. Shultz)

CLERK OF CIRCUIT COURT

Account Clerk I (S. Walter)  
Dep. Clerk of Courts (J. Lynch)  
Clerk Typist II (D. Staffon)

COUNTY CLERK

Account Clerk I (A. Hanuszczak)  
Accounting Technician (E. Petkovek)  
Clerk Typist II (C. Karl)  
Clerk Typist III (R. Holman)

COUNTY TREASURER

Dep. County Treasurer (A. Tews)  
Tax Lister (F. Spiegel)  
Tax Lister/Addressograph/Operator  
(B. Meihack)

DISTRICT ATTORNEY

Secretary II (B. Stelter)  
Secretary III (R. Rychrovsky)

EMERGENCY GOVERNMENT

Secretary I (L. Rakovec)

FORESTRY AND PARKS

Laborers (D. Briski, L. Lesar,  
H. Heihack, A. Putnam)  
Clerk (D. Podobnik)

HIGHWAY DEPARTMENT

Secretary (A. Wegner) 2/

MANPOWER

Clerk Typist/Job Developer  
(J. Tock)

NURSING SERVICE

Clerk Typist II (J. Smagacz)  
Health Aides (D. Huim, C. Dresch  
D. Slobodnik, H. Papiernak)  
Secretary II (K. Collins)

PLANNING AND ZONING

Secretary I (D. Reynolds)

REGISTER OF DEEDS

Dep. Register of Deeds (S. Ratsch)  
Clerk Typist III (M. Marg)

REGISTER IN PROBATE

Clerk Typist/Part-Time (S. Ruikka)  
Deputy Register (L. Keiser)

SHERIFF

Secretary (I. Johnson,  
B. Henning-Piper) 3/

UNIVERSITY EXTENSION

Secretary (E. Miller, T. Heidige  
K. Emke)

VETERANS SERVICE

Secretary III (D. Heneken)

WEATHERIZATION

Laborer (J. Darling, K. Demert,  
G. Hare, K. Miller, D. Osgood,  
B. Tibbett, T. Tresemer,  
D. Trout, T. Waterman)  
Accounting Clerk (C. Richard)

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- 2/ The parties stipulated that this position, presently included in the Highway Department bargaining unit, would be more appropriate included in the Courthouse unit involved herein.
- 3/ The parties stipulated that these two positions, presently included in the Law Enforcement bargaining unit, would be more appropriately included in the Courthouse unit involved herein.

Voting Group No. 2

JUVENILE INTAKE

Juvenile Intake Worker (C. Huenink)

MANPOWER

Job Counselor/Developer  
(D. Wasserberger)

UNIFIED SERVICES

Social Worker (S. Walter,  
W. Forsythe)

NURSING SERVICES

Public Health Nurse (B. Wegner)  
Home Care Coordinator (J. Wilcox)  
Registered Nurse (K. Johnson,  
B. Maurina, J. Meyer, E. Myre,  
P. Schiferl, D. Schmitt,  
B. Voelker)

When in an election proceeding a request is made to include professional employees in a single unit with non-professional employees, Section 111.70(4)(d) of the Municipal Employment Relations Act requires that the professional employees be given an opportunity to vote to determine whether they desire to be so included. In order to be so included, a majority of eligible professional employees must vote in favor of such inclusion. Therefore, in this proceeding, the professional employees (Voting Group No. 2) will be given two ballots, (a) to determine whether they desire to be included in a single unit with the non-professional employees (Voting Group No. 1) and, (b) whether they desire to be represented by Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO. The unit determination ballot will be a separate colored ballot and the professional employees will be instructed to deposit their unit determination ballots in the ballot box. The professional employees who appear to vote will be instructed to place their representation ballots in a furnished blank envelope and to seal such envelope and deposit same in the ballot box.

The unit determination ballots cast by the professional employees will be initially counted and should a majority of the eligible professional employees vote in favor of being included in a single unit with non-professional employees, the sealed envelopes, containing the ballots of the professionals with respect to representation, will be opened and such ballots will be co-mingled with the representation ballots cast by the non-professional employees, and thereafter the tally will include the representation ballots cast by both professional and non-professional employees.

Should a majority of the professional employees eligible not vote in favor of being combined in a unit with non-professional employees, then the professional employees shall constitute a separate unit, and their representation ballots will not be co-mingled with the representation ballots cast by the non-professional employees, and, as a result, the representation ballots cast by the non-professional employees will be tallied separately to determine separately their choice as to bargaining representative.

If the Union is certified as the bargaining representative of the non-professional employees in either a single professional/non-professional unit or a separate non-professional unit, the Commission will in its certification of the results of said elections order that the existing unit of non-professional Unified Services employees be merged with the unit of non-professional employees involved herein.

Dated at Madison, Wisconsin this 14th day of July, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION