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In the Matter of the Petition of	:	
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MANITOWOC COUNTY HIGHWAY	:	
DEPARTMENT EMPLOYEES	:	
LOCAL 986, AFSCME, AFL-CIO	:	
	:	
Involving Certain Employees of	:	Case CLIV
	:	No. 32499 ME-2302
	:	Decision No. 21886
MANITOWOC COUNTY	:	
(HIGHWAY DEPARTMENT)	:	
	:	

4. That on November 22, 1983, the Union filed a petition requesting the Wisconsin Employment Relations Commission to clarify the unit, set forth in Finding of Fact 3, claiming, contrary to the County, that the position of Systems Analyst/Programmer should be included in said unit; and that the parties stipulated that the sole issue is whether said position is a managerial position.

5. That in the spring of 1983, Highway Commissioner William Schramm and County Comptroller Harold Blumer recommended to the County Board that a position be created to automate and computerize the financial functions of the Highway Department; that in May, 1983 the County Board established the position of Systems Analyst/Programmer for the purpose of programming the Highway Department's records, including its financial functions, inventory control and purchasing, onto a computer; that the position was filled in August, 1983, and the initial employee was so employed until December 16, 1983; that on January 23, 1984, a new incumbent began employment in the position; that the job description for said position states in relevant part as follows:

Major Responsibilities:

1. Develops, writes, and maintains natural and artificial language computer programs;
2. Stores, locates and retrieves specific documents, data, and information;
3. Runs new programs to test adequacy of same;
4. Works with user groups and individuals to develop new computer systems and upgrade current operating systems;
5. Designs and develops computer file storage and retrieval systems;
6. Assists in departmental planning and long-range development;
7. Performs other duties as assigned;

and that the position's responsibilities include training other members of the County's staff to use the computer system.

6. That, while the Systems Analyst/Programmer reports directly to Highway Commissioner Schramm, the position is also supervised by the Data Processing Manager with respect to the computerization of Highway Department records described above; that in developing the computer program, the Systems Analyst/Programmer will generally make recommendations regarding same to the Data Processing Manager or Highway Commissioner who, in turn, will generally decide whether to implement same, however, the Highway Commissioner will occasionally make recommendations to the Highway Committee of the County Board, if he determines it to be necessary; that the Systems Analyst/Programmer also will make recommendations regarding the purchase of equipment to Schramm who, in turn, will make recommendations pertaining to same to the Highway Committee of the County Board, if he deems it necessary; that the Systems Analyst/Programmer does not formulate a budget; that it is expected the Systems Analyst/Programmer may recommend policies to Schramm with regard to the computerization of the Highway Department's records, such as the operation of the Highway Department's stock room; that the Systems Analyst/Programmer is expected to attend Highway Department management meetings to inform and make suggestions to Highway Department managers with regard to the computer system; that the Systems Analyst/Programmer currently is paid from the Highway Department's budget and is expected to work for approximately two years in the Highway Department; and that at the end of such time the incumbent is expected to transfer to another department of the County to computerize the records of that department.

7. That the occupant of the Systems Analyst/Programmer position does not possess or exercise managerial authority in sufficient combination and degree to be deemed a managerial employee.

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

CONCLUSION OF LAW

That the occupant of the position of Systems Analyst/Programmer is not a managerial employee and therefore is a "municipal employee" within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act.

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

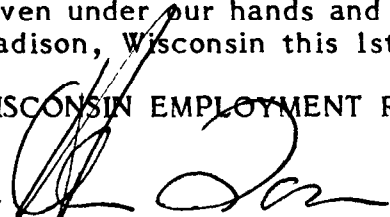
ORDER CLARIFYING BARGAINING UNIT 1/

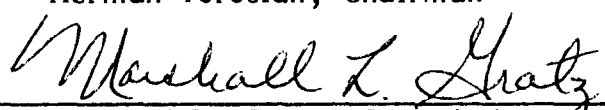
That the bargaining unit set forth above includes the position of Systems Analyst/Programmer.

Given under our hands and seal at the City of
Madison, Wisconsin this 1st day of August, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Danae Davis Gordon, Commissioner

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- 1/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after

(Footnote 1 continued on Page 4)

(Footnote 1 continued)

the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.20 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

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

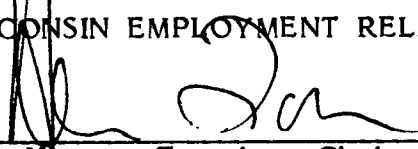
The Commission has determined that managerial status is established by an employee's participation in the formulation, determination, and implementation of management policy, or the possession of effective authority to commit the employer's resources. 2/ We find that the Systems Analyst/Programmer's duties and responsibilities are not sufficiently aligned with the County so as to be considered a managerial employee. The record reflects that the County Board decided to computerize the Highway Department's financial data and other records and that the position in question will simply be used to carry out that task by programming the information onto a computer, and by instructing other members of the Highway Department's staff on using the system. With regard to any related policy development, the Systems Analyst/Programmer must first make recommendations to the Data Processing Manager or Highway Commissioner, who generally then decide whether to implement same, although the Highway Commissioner will occasionally make recommendations to the County Board, if he feels the need. While the incumbent may recommend the purchase of certain types of equipment, based on his technical expertise, the effective authority to authorize the purchase lies with the Highway Commissioner. In addition, the incumbent is not effectively involved with the formulation of a budget. His role is limited to attendance at committee meetings during which he will occasionally make suggestions essentially in an information-bearing capacity.

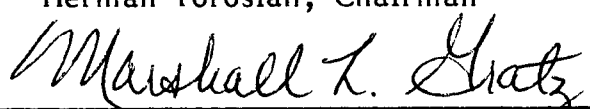
As the incumbent does not participate to a significant degree in the formulation, determination, and implementation of management policy or possess effective authority to commit the employer's resources, we find the above-described unit includes the Systems Analyst/Programmer.

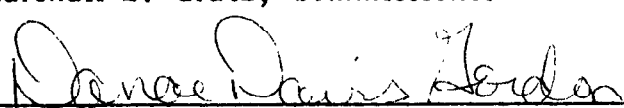
Dated at Madison, Wisconsin this 1st day of August, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Danae Davis Gordon, Commissioner

2/ Shawano County (Maple Lane Health Care Facility), Dec. No. 20996-A (WERC, 1/84), and Village of Brown Deer (Dept. of Public Safety), Dec. No. 19342 (WERC, 7/82).