

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
SHOREWOOD SCHOOL BOARD :
Requesting a Declaratory Ruling : Case 27
Pursuant to Section 111.70(4)(b), : No. 34019 DR(M)-357
Wis. Stats., Involving a Dispute : Decision No. 22622
Between Said Petitioner and :
SHOREWOOD EDUCATION ASSOCIATION :

ORDER DENYING MOTION TO STRIKE REVISED PROPOSALS

The Shorewood School Board having, on October 29, 1984, filed a petition with the Wisconsin Employment Relations Commission seeking a declaratory ruling pursuant to Sec. 111.70(4)(b), Stats., regarding the Board's duty to bargain with the Shorewood Education Association over certain matters; and the Association having filed its Statement in response to said Petition on February 21, 1985, following the receipt of several extensions from the Commission due to the illness of one of the parties' principal representatives and the scope and complexity of the issues; and the Association's Statement having consisted inter alia of revisions of proposals which were challenged by the Board as permissive; and hearing having been scheduled for March 28, 1985, and having been postponed to allow the parties to pursue settlement; and settlement efforts having failed and hearing having been rescheduled for May 14 and 15, 1985; and the Commission, by letter from its General Counsel dated March 29, 1985, having advised the parties of two alternative procedures by which the Board would be required to specify which, if any, of the revised Association proposals the Board desired to challenge as non-mandatory subjects of bargaining; and the Commission having advised the parties, by letter dated March 29, that unless either party objected it would proceed in the matter as follows:

. . . Mr. Rynecki would identify, by letter dated no later than April 22, 1985, which portions of the Association's revised final offer he wishes to challenge as non-mandatory and specify why he believes said proposals are permissive or prohibited."

and neither party having objected to proceeding in that manner; and the Board, by its Attorney Steven B. Rynecki, having affirmatively agreed, in writing, to proceed in that manner, by letter dated April 8; and the Board, by letter dated April 25 from Mr. Rynecki, having subsequently filed the letter referenced in the quotation above; and said letter having included a Motion to Strike from the declaratory ruling process certain of the Association's revised proposals as to which the Board did not take a position regarding the proposals' mandatory status; and the Commission having considered the Motion and being satisfied that it should be denied;

NOW, THEREFORE, it is

ORDERED

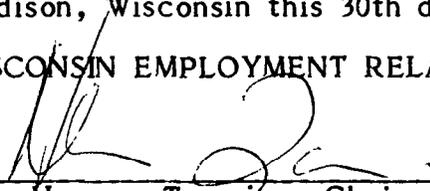
1. That the above-noted Motion to Strike Revised Proposals is denied.

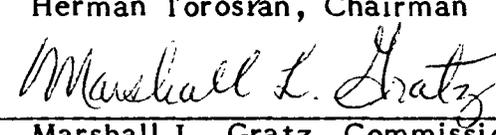
2. That as to all proposals referred to in said Motion, the Shorewood School Board shall notify the Commission and the Shorewood Education Association in written form received by both the Commission and the Association on or before May 6, 1985, as to which of said proposals, if any, it wishes to challenge as non-mandatory and why. Absent a timely challenge, said proposals will be deemed to be mandatory subjects of bargaining unless the District can show good cause for any delay in the submission of its objections.

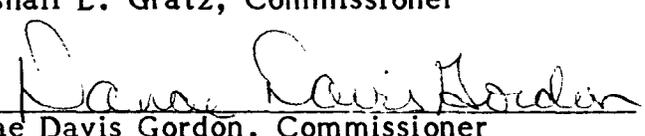
Given under our hands and seal at the City of
Madison, Wisconsin this 30th day of April, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Danae Davis Gordon, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO STRIKE REVISED PROPOSALS

The Commission's March 29, 1985 letter specified two available procedures for receiving the Board's challenges to revised proposals submitted by the Association on February 21, 1985. One of the procedures was the conventional approach set forth in ERB 31.11(b) under which the Board would submit written objections to the Association's February 21 final offer and then file a petition for declaratory ruling as to the objected-to proposals. Failure to timely file such an objection or petition would have constituted a waiver of the Board's right to challenge the revised proposals in a Sec. 111.70(4) declaratory ruling proceeding. See, Sec. 111.70(4)(cm)6.a., Stats., and ERB 31.12(3).

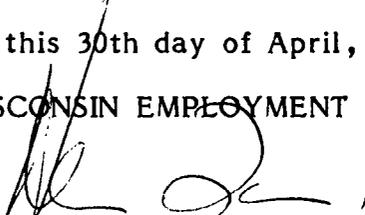
The other procedure, which the parties selected, is an informal version of the ERB 31.11(b) process which allows for the refinement of the parties' dispute to occur in a more flexible context. However, this second procedure, like the first, clearly contemplated both that the Board would state whether and why it claimed that any or all the revised proposals contained in the Association's February 21 final offer were non-mandatory and that all of the disputes so specified would be heard during the May 14 and 15 hearing.

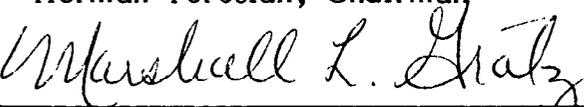
Given these requirements of the agreed-upon procedure, the Board's Motion must be denied. The Board is given until May 6, 1985, to comply with the procedure and should be prepared for a hearing on all proposals as to which it has objected, on May 14 and 15. 1/

Dated at Madison, Wisconsin this 30th day of April, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Marshall L. Gratz, Commissioner


Danae Davis Gordon, Commissioner

1/ Our decision herein does not, of course, deprive the parties of an opportunity to bargain further following the resolution of the declaratory ruling proceeding. See, ERB 31.12(4).