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STATE OF WISCONSIN

CIRCUIT COURT

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

CHIPPEWA COUNTY

LOCAL 2236, AFSCME,
AFL-CIO,

-vs- Petitioner,

JUDGMENT

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION and
CHIPPEWA COUNTY,

Decision No. 24521-A

Respondents.

Case No. 87-CV-305

The Petitioner named above, AFSCME Local 2236, having petitioned the Circuit Court for Chippewa County that it review and set aside the Findings of Fact, Conclusion of Law and Order issued by the Wisconsin Employment Relations Commission on May 28, 1987 in its Case 136 No. 36783 MP-1837, Decision No. 24521, wherein the Commission concluded that the decision of Chippewa County to sell its Health Care Center was not a mandatory subject of collective bargaining within the meaning of Sec. 111.70(1)(a), Wis. Stat., and that the County had not committed prohibited practices in violation of Secs. 111.70(3)(a)1 and 4, Wis. Stat., when it had failed to bargain said decision with AFSCME Local 2236, AFSCME Local 2236 having appeared in this proceeding by its attorneys, LAWTON & CATES, S.C. and Bruce F. Ehlke, the Commission having appeared by the Attorney General of Wisconsin and Assistant Attorney General David C. Rice, and the County by its attorneys, Mulcahy & Wherry, S.C. and Stephen L. Weld and Joel L. Aberg, and the parties having filed briefs in support of their respective positions regarding the petition for review and having appeared before the Court on July 8, 1988, and presented oral argument regarding the same, and the Court, the Honorable Gregory A. Peterson,

Circuit Judge presiding, being fully advised in the premises, having concluded that the Commission's Decision No. 24521, issued on May 28, 1987, was impaired by a material error of law within the meaning of Secs. 227.57(5) and (8), Wis. Stat., because the Commission failed to apply the "primarily related" test in order to determine whether the County's decision was a mandatory subject of bargaining, and that the Commission Decision should be set aside and the case remanded to the Commission for further consideration and action consistent with the Decision announced by the Court on July 8, 1988, now, therefore,

IT IS ORDERED That the Findings of Fact, Conclusion of Law and Order issued by the Wisconsin Employment Relations Commission on May 28, 1987 in its Case 136 No. 36783 MP-1837, Decision No. 24521, shall be, and hereby are, set aside, and said case is remanded to the Commission for further consideration and action consistent with the Decision announced by the Court on July 8, 1988.

Dated: ~~July~~ ^{August} 1, 1988.

BY THE COURT:

/s/ Gregory A. Peterson
GREGORY A. PETERSON
Circuit Judge