

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

FEDERATION OF PUBLIC EMPLOYEES  
AFT, AFL-CIO, AMERICAN FEDERATION  
OF TEACHERS, AFL-CIO; WISCONSIN  
FEDERATION OF TEACHERS, AFL-CIO;  
and UNITED SUPERVISORS

Requesting a Declaratory Ruling  
Pursuant to Sec. 227.41, Stats.  
Involving Said Petitioners and

STATE OF WISCONSIN

Case 365  
No. 51176 DR(S)-2  
Decision No. 28648

Appearances:

Shneidman, Myers, Dowling & Blumenfield, by Mr. Timothy E. Hawks, P.O. Box 442, Milwaukee, Wisconsin 53201-0442, for the Petitioners.

Mr. David J. Vergeront, Legal Counsel, Department of Employment Relations, P.O. Box 7855, Madison, Wisconsin 53707-7855, for the State.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECLARATORY RULING

On June 13, 1994, the Federation of Public Employees, AFT, AFL-CIO, American Federation of Teachers, AFL-CIO, and Wisconsin Federation of Teachers, AFL-CIO, filed a petition with the Wisconsin Employment Relations Commission pursuant to Sec. 227.41, Stats., seeking a declaratory ruling construing the applicability of Sec. 111.825(5), Stats., to them.

On June 27, 1994, the State of Wisconsin filed a response to the petition urging the Commission not to take jurisdiction over the matter.

On July 18, 1994, Petitioners filed a reply to the State's June 27, 1994, submission arguing that exercising jurisdiction and resolving the issue posed had the potential to save all parties substantial resources.

No. 28648

By letter dated July 26, 1994, the Commission (Commissioner Hempe not participating) advised the parties that it would exercise its jurisdiction over the petition.

Hearing on the petition was held before Examiner Peter G. Davis in Madison, Wisconsin on October 3 and 4, 1994. At the conclusion of the October 4, 1994, hearing, Petitioners moved to amend the petition to add United Supervisors as a petitioner. The State did not object to the motion and the motion was granted.

The parties filed post-hearing briefs, the last of which was received May 15, 1995.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

#### FINDINGS OF FACT

1. United Supervisors is a labor organization which seeks to represent supervisors employed by the State of Wisconsin in the classified service for the purposes of collective bargaining. Part of the United Supervisors' charter states:

United Supervisors shall be affiliated with the Wisconsin Federation of Teachers, American Federation of Teachers, AFL-CIO.

2. Wisconsin State Attorneys Association (WSAA), Local 3628; Wisconsin Science Professionals (WISP), Local 3732; Wisconsin Professional Employees Council (WPEC), Local 4848; Professional Employees in Research, Statistics and Analysis (PERSA), Local 4999; and Wisconsin Professional Health Care Providers (WPHCP) are labor organizations certified by the Wisconsin Employment Relations Commission as the representative of various classified employees of the State of Wisconsin for the purposes of collective bargaining. These labor organizations are all affiliated with the Wisconsin Federation of Teachers (WFT), and the American Federation of Teachers (AFT).

3. The November, 1993 constitution of the Wisconsin Federation of Teachers provides, in pertinent part:

#### **ARTICLE I - NAME**

Section 1 - This organization, affiliated with the American Federation of Teachers in 1933, shall be known as the Wisconsin Federation of Teachers.

## **ARTICLE II - OBJECTIVES**

The purposes of this Federation shall be:

- Section 1 - To foster cooperative action among members of the Wisconsin Federation of Teachers.
- Section 2 - To promote and to assist in the organization of new locals.
- Section 3 - To assist affiliated locals and members of the State Federation in obtaining the rights and services to which they are entitled, in achieving common professional goals and in promoting general welfare of not only WFT members, but also other AFL-CIO union members statewide.

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## **ARTICLE III - MEMBERSHIP**

- Section 1 - All members of the Wisconsin locals of the American Federation of Teachers are members of the Wisconsin Federation of Teachers.
- Section 2 - All Wisconsin locals affiliated with the American Federation of Teachers must affiliate with the Wisconsin Federation of Teachers.

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## **ARTICLE X - AFFILIATIONS**

- Section 1 - This Federation shall affiliate with the American Federation of Teachers and the Wisconsin State AFL-CIO.
- Section 2 - All Wisconsin locals affiliated with the American Federation of Teachers shall maintain affiliation with the Wisconsin Federation of Teachers, the Wisconsin State AFL-CIO, and the local labor bodies where they exist.

4. The August, 1992 constitution of the American Federation of Teachers provides, in pertinent part:

ARTICLE I  
**NAME**

This organization shall be known as the American Federation of Teachers, with divisions known as Public and Private School Teachers, Paraprofessionals and School-Related Personnel, the Federation of Nurses and Health Professionals, the Federation of Higher Education Faculty and Professionals and the Federation of Public Employees.

ARTICLE II  
**OBJECTS**

**Section 1.** To obtain exclusive bargaining rights, including the right to strike, for teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, state and local public employees, health care employees and other workers.

**Section 2.** To bring local and state federations of teachers and other workers into relations of mutual assistance and cooperation.

. . .

ARTICLE III  
**MEMBERSHIP**

. . .

**Section 4.** Any teacher residing outside of the jurisdiction of an established local may be accepted as a member of the nearest local or as a member at large of the state federation. The state federation shall have full jurisdiction in the determination of a procedure for participation by these at-large members in all activities of the state federation.

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## ARTICLE VI CHARTERS

**Section 1.** Ten or more teachers and/or other workers, upon application to the executive council and the payment of \$25.00, may be granted a charter, and such locals shall establish and maintain at least a minimum dues of \$50.00 per year unless, in the opinion of the executive council, special circumstances exist.

**Section 3.** Charters may be granted by the executive council to state federations upon the payment of a charter fee of \$10.00. A state federation shall consist of no fewer than three locals of the American Federation of Teachers, except when fewer than three locals represent jurisdictions embracing 50 percent of the teacher strength in the state. No dues shall be assessed on the state federations by the national organization except for the members at large as provided in the constitution.

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**Section 5.** All locals and state federations shall submit three copies of their constitution and bylaws to the national organization within three months of receiving their charter as of September 1, 1955, whichever is the later date, and they shall similarly submit all subsequent amendments to their constitution and bylaws.

...

### **Section 12.**

#### **A. Jurisdiction of Locals**

The executive council shall have power to allocate and define and, from time to time, redefine and allocate the jurisdictions within which locals may exercise their jurisdiction. In doing so, the executive council shall be guided by the primary purpose of the American Federation of Teachers, which is to organize teachers and other workers into strong, effective unions for the purpose of

achieving and engaging in collective bargaining.

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

CONCLUSIONS OF LAW

1. The Wisconsin Federation of Teachers is not a state federation of national or international labor organizations within the meaning of Sec. 111.825(5), Stats.
2. The American Federation of Teachers is not a national federation of national or international labor organizations within the meaning of Sec. 111.825(5), Stats.
3. By virtue of their affiliation with the Wisconsin Federation of Teachers and American Federation of Teachers, United Supervisors is affiliated within the meaning of Sec. 111.825(5), Stats., with the labor organizations representing employes listed in Finding of Fact 2.

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

DECLARATORY RULING 1/

By virtue of its affiliation with labor organizations representing employes, United Supervisors cannot serve as the representative of supervisors.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of February, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

Herman Torosian /s/  
Herman Torosian, Commissioner

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1/ Pursuant to Sec. 227.48(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. 227.49 and that a petition for judicial review naming the Commission as Respondent,

may be filed by following the procedures set forth in Sec. 227.53, Stats.

(Footnote 1/ continues on the next page.)

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227.49 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.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore 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. 227.49, 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. 227.48. If a rehearing is requested under s. 227.49, 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 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. 77.59(6)(b), 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. 227.57 upon which petitioner contends that the decision should be reversed or modified.

(Footnote 1/ continues on the next page.)



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(Footnote 1/ continues from previous page.)

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(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.

THE STATE OF WISCONSIN

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND DECLARATORY RULING

POSITIONS OF THE PARTIES

Petitioners

Petitioners argue that Sec. 111.825, Stats. allows United Supervisors to seek to represent supervisory State employes while affiliated with Wisconsin Federation of Teachers (WFT) and American Federation of Teachers (AFT). Contrary to the State, Petitioners contend that AFT and WFT are not "labor organizations representing employes" within the meaning of Sec. 111.825(5), Stats.

Petitioners assert that a number of local labor organizations representing State employes are affiliated with the AFT and WFT. In each instance, Petitioners allege it is the local labor organization (not AFT or WFT) that "represents" the employes and is the exclusive bargaining agent. Petitioners argue that the role of the WFT and AFT is to provide service to its local affiliates when they request it.

Petitioners contend that the word "representing" as used in Sec. 111.825, Stats., should be interpreted in a manner consistent with the word's usage elsewhere in the State Employment Labor Relations Act (SELRA) as a reference to the collective bargaining representative. Because neither AFT nor WFT is an exclusive bargaining representative for State employes, Petitioners argue United Supervisors' affiliation with AFT and WFT does not preclude United Supervisors from seeking to represent supervisors.

State

The State initially argues that because supervisors are not generally given the right to organize for collective bargaining purposes, it should be presumed that the Legislature intended that SELRA's exception to the general rule should be strictly construed to avoid the inherent conflicts of interest present when supervisory personnel and the employes they supervise are represented by unions.

The State next questions whether it is appropriate for the Commission to issue a decision in this proceeding, arguing that until United Supervisors actually affiliates with WFT and AFT, the controversy over the meaning of Sec. 111.825(5), Stats., is not ripe.

Should the Commission decide to proceed to issue a declaratory ruling, the State asks that the Commission initially rule that the right to organize is limited to classified employes.

As to the question of whether WFT and/or AFT are labor organizations "whose purpose is to represent employes in collective bargaining with the State", the State argues that the answer is clearly "yes". The State asserts that a review of the AFT and WFT constitutions and by-laws, of Commission Certifications of Representative, and of bargaining agreements covering State employes, all demonstrate that WFT and AFT are employe organizations which have as a purpose and do in fact represent State employes in collective bargaining. Thus, the State argues that unless the relationship between United Supervisors and WFT/AFT is only a "membership" affiliation, Sec. 111.825(5), Stats., prohibits United Supervisors from seeking to represent State supervisors. The State contends it is clear that the affiliation in question is more than a mere "membership" affiliation.

The State contends that an analysis of the legislative history of Sec. 111.825(5), Stats., and a comparison of the resultant language with language in the Municipal Employment Relations Act (MERA) regarding collective bargaining for supervisors both reveal a legislative intent to limit the scope of permissible affiliation to simple membership. Thus, if the affiliation also produces the availability of services such as the negotiation and administration of contracts (as is clearly the case here), the statute prohibits organizations with such affiliations from seeking to represent State supervisors.

In conclusion, the State asks the Commission to look at the substance of the relationship between WFT/AFT and their local affiliates and the clear dependency of the locals on the organizing/bargaining services provided by WFT/AFT. The State argues the substance of the relationship, if not its form, precludes United Supervisors from seeking to represent State supervisors if United Supervisors is affiliated with WFT/AFT.

## DISCUSSION

We proceed to issue this declaratory ruling over the State's "ripeness" objections because we are satisfied the provision of the United Supervisors' charter set forth in Finding of Fact 1 is sufficient to directly pose the "affiliation" issue.

In State of Wisconsin, Dec. No. 15811 (WERC, 9/77), the Commission addressed the issue of affiliation under Sec. 111.81(3)(d), Stats., the immediate predecessor to Sec. 111.825(5), Stats. We stated:

The Petitioner, which organization presently does not represent any state employes for the purposes of collective bargaining, filed a petition requesting that the Commission conduct an election in a state-wide unit of professional-supervisory employes in the employ of the State, pursuant to Section 111.81(3)(d) of the State Employment Labor Relations Act, hereinafter referred to as

SELRA. Such provision provides as follows:

"(d) Although supervisory personnel are not considered employes for purposes of this subchapter, the Commission may consider petitions for a statewide unit of professional supervisory employes and a statewide unit of nonprofessional supervisory employes, but the certified representatives may not be affiliated with labor organizations representing employes assigned to the statutory units set forth in s. 111.81(3)(a). The certified representatives for supervisory personnel may not bargain on any matter other than wages and fringe benefits as defined in s. 111.91(1)."

The State urges two grounds for the dismissal of the petition. Said grounds are set forth in the preface to the Order issued herein. The State contends that the term "affiliated" should be construed in the broadest sense, i.e., "sympathize with or associate with". AFSCME, Council 24, Wisconsin State Employees Union, AFL-CIO and the Wisconsin Federation of Teachers, AFL-CIO, 1/ both of which organizations represent certain state employes for the purposes of collective bargaining, are affiliated with the Wisconsin State AFL-CIO. The State contends that since the Petitioner is also affiliated with the Wisconsin State AFL-CIO, it is necessarily also affiliated with said two labor organizations. Therefore, the State argues that the instant petition must be dismissed since the petitioner, because of its affiliation, is precluded by the pertinent statutory provision from representing any supervisory employes for the purposes of collective bargaining on matters pertaining to wages and fringe benefits. The State further contends that had the legislature intended to bar only those labor organizations which represent non-supervisory employes in any of the statutory units set forth in Section 111.81(3)(a) of the State Employment Labor Relations Act, as argued by the Petitioner, such exclusion could have been set forth in the pertinent subsection.

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1/ Although the State in its evidence and arguments merely noted the fact that the Wisconsin State Employees Union represents state employes for the purposes of collective bargaining and that said organization is affiliated with the

Wisconsin State AFL-CIO, the parties agreed that copies of all the agreements between the State and labor organizations representing state employees should be submitted. Those arguments disclose, as do the Commission's records, that the Wisconsin Federation of Teachers, AFL-CIO represents state employees as well.

The Petitioner argues that the term "affiliated" appearing in the pertinent statutory provisions pertains only to direct affiliation with labor organizations representing state employees for the purposes of collective bargaining and that the statutory provision does not preclude the Petitioner's affiliation with labor federations, i.e., State of Wisconsin AFL-CIO. The Petitioner argues that the legislative purpose in prohibiting affiliations between organizations representing supervisory employees and those representing employees was to avoid conflicts of interest and that such conflicts do not arise simply as a consequence of the Petitioner's affiliation with the Wisconsin State AFL-CIO and the consequence of the similar affiliation of AFSCME, Council 24, Wisconsin State Employees Union, AFL-CIO or the Wisconsin Federation of Teachers, AFL-CIO. The Petitioner further contends that the Legislature, by defining the term "labor organization" as an organization which has as its purpose the representation of state employees, 2/

Discussion:

In 1971 SELRA was amended to permit the Commission to consider petitions for a state-wide unit of professional-supervisory employees and a state-wide unit of non-professional supervisory employees. If an organization were selected to represent the employees in such supervisory units, the State has a duty to bargain only on matters pertaining to wages and fringe benefits. The issue herein is the nature and extent of affiliation permitted by organizations representing state employees and state supervisory

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2/ Section 111.81(9) excluded the Wisconsin State AFL-CIO from its scope inasmuch as the Wisconsin State AFL-CIO does not act as a representative of any state employees for the purposes of collective bargaining. The Petitioner directs the Commission's attention to the fact that it and its international are autonomous of the Wisconsin State AFL-CIO. The

Petitioner compares the prohibition against the affiliation respecting plant guard units under the National Labor Relations Act with Section 111.81(3)(d) of SELRA, and concludes that the proscription in issue herein is less broad than the direct or indirect affiliations found by the National Labor Relations Board to be proscribed by such federal statute. Therefore, the Petitioner concludes that it is not affiliated with any labor organization presently representing state employees within the meaning of Section 111.81(3)(d).

employees. There can be no doubt that the purpose of the proscription against affiliation is intended to avoid conflicts of interest. The question is how far did the legislature intend that the proscription be applied to avoid such conflicts. We conclude that the Legislature intended to avoid the possibility of any conflict of interest arising out of the representation of supervisory employees. Thus, we necessarily conclude that affiliations with any labor organization representing state employees, whether such affiliation be direct or indirect, is proscribed by Section 111.81(3)(d). We believe that a reasonable construction of said provision supports this conclusion. The principal function in statutory construction is to define the legislative intent <sup>3/</sup> as disclosed from the language in relation to scope, history, context, subject matter and the object intended to be accomplished. <sup>4/</sup> Thus, in language analysis words must be given their plain, ordinary and commonly accepted meaning. <sup>5/</sup>

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3/ State ex rel. Mitchell v. Superior Court of Dane County, 109 NW 3d 522 14 Wis. 2d 77 (1961); Dumore Co. V. (sic) Snader, 13 NW 2d 915, 245, Wis. 300 (1944).

4/ Scanlon v. City of Menasha, 14 NW 2d 791, 16 Wis. 2d 437.

5/ Snorck v. Boyle, 118 N.W. 2d 132, 18 Wis. 2d 202 (1962); Torti v. U.S., 249 F.2d 623 (1958); State v. Reslev, 55 N.W.2d 35, 62 Wis. 285 (1958).

Blacks Law Dictionary defines "affiliate" as follows:

"AFFILIATE. Signifies a condition of being united,

being in close connection, allied, or attached as a member or branch. Johanson v. Riverside County Select Groves, 4 Cal. App. 2d 114, 40 P.2d 530, 534.

'Affiliate with' is defined as to receive on friendly terms; to associate with; to be intimate with; to sympathize with; to consort with; and to connect or associate one's self with. Wolck v. Weedin, C.C.A. Wash. 58 F. 2d 928, 930. But 'affiliated' does not bear construction that one of affiliated organizations is in all particulars identical with or covered by parent organization with which it may be said to be affiliated. People v. Horiuchi, 114 Cal. App. 415, 300 P. 457, 460."

Thus, the generally accepted definition would include direct, as well as indirect, association with another. The Legislature, however, did not see fit to limit or restrict this definition through the inclusion of modifiers to said term and, therefore, we must presume it intended the term be used in its broadest sense. We do not agree with Petitioner's reasoning that by not copying verbatim the language of the National Labor Relations Act 6/ the Legislature intended only to proscribe direct affiliations. The term's normal and ordinary meaning includes indirect affiliations as well as direct, and, therefore, absent language to the contrary, it is reasonable to presume that the Legislature intended the generally accepted definition of the term to apply.

The Constitution and By-Laws of both Petitioner and the Wisconsin State Employees Union 7/ explicitly acknowledge their indirect affiliation with each other. Petitioner's Constitution and By-Laws provides:

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6/ Section 9(b)(3) provides:

. . . but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards."



7/ There is no dispute that WSEU is a "labor organization" representing employes in bargaining units delineated in Section 111.81(3)(a), Stats.

"ARTICLE XV

"Affiliations and Delegates

"Section 1. This Union shall be affiliated with the Milwaukee County Labor Council, AFL-CIO, the Wisconsin State AFL-CIO, the Milwaukee Union Label Trades Department and the North Central Education Conference.

The Wisconsin State Employees Union Constitution and By-Laws provides:

"ARTICLE III  
"AFFILIATIONS

"Section 1. This Council shall be affiliated with the AFSCME, AFL-CIO as a State Council of State Employees Local Unions, and with the Wisconsin State AFL-CIO."

Surely, although the affiliation of Petitioner with the Wisconsin State Employees Union or the Wisconsin Federation of Teachers is indirect, it nonetheless falls within the proscription of Section 111.81(3)(d), Stats. We believe the Legislature intended that such indirect affiliations give rise to the possibility of a conflict of interest and, thus, must be proscribed.

To permit supervisors to be represented by a labor organization which is affiliated with an organization which represents rank and file state employes would create a substantial possibility of conflicts of interest, not only in the day-to-day supervision of employes in the performance of their duties, but also in administering collective bargaining agreements covering state employes, including the

processing of grievances. Further, should an organization representing state employees engage in a concerted work stoppage, supervisory employees, who are represented by an affiliated union, would possibly be subject to pressures from the affiliated striking organization to observe picket lines and thus refrain from carrying out their work functions, and also to pressures from the state organization to cooperate with the striking organization under the threat of the imposition of internal organizational sanctions.

Since we have dismissed the petition on the basis of affiliation, do not deem it necessary to determine in this proceeding whether an organization which seeks to represent supervisory employees must accompany their petition for election with a showing of interest.

As reflected in the above-quoted State of Wisconsin decision, our analysis of the affiliation issue focuses on the relationship between the labor organization seeking to represent supervisors (in this case, United Supervisors) and the labor organizations already representing other State employees. Thus, the question before us is not whether the relationship between United Supervisors and WFT/AFT deprives United Supervisors of the ability to seek to represent supervisors. Instead, the question is whether the connection between United Supervisors and other labor organizations produced by their common relationship with WFT and AFT prohibits United Supervisors from seeking to represent supervisory employees.

During the 1985-1986 legislative session, Sec. 111.81(3)(d), Stats. evolved into the present Sec. 111.825(5), Stats., which provides:

**(5)** Although supervisors are not considered employees for purposes of this subchapter, the commission may consider a petition for a statewide collective bargaining unit of professional supervisors or a statewide unit of non-professional supervisors in the classified service, but the representative of supervisors may not be affiliated with any labor organization representing employees. For purposes of this subsection, affiliation does not include membership in a national, state, county or municipal federation of national or international labor organizations. The certified representative of supervisors may not bargain collectively with respect to any matter other than wages and fringe benefits as provided in s. 111.91(1).

Section 111.825(5), Stats., continues the general prohibition against affiliation, but allows affiliations between labor organizations which consist of "membership in a national, state, county or municipal federation of national or international labor organizations."

Thus, the question before us is whether the relationship that United Supervisors and WPEC, WSAA, WISP, PERSA and WPHCP share by virtue of their common WFT/AFT affiliation constitutes "membership in a national, state, county or municipal federation of national or international labor organizations." If the relationship is such a "membership", then it falls within the exception to the prohibition against affiliation. If the relationship is not such a "membership", then the general prohibition against affiliation precludes United Supervisors from seeking to represent supervisory employees.

Put another way, the question is whether WFT and AFT are "national, state, county or municipal federation(s) of national or international labor organizations."

Looking first at WFT, it is apparent that it is a "state. . . federation" not a "national...county or municipal federation". Thus, the issue is one of determining whether WFT is a "state... federation of national or international labor organizations." We conclude it is not. As established by its constitution, WFT is a state federation of local labor organizations, not a state federation of national or international labor organizations. Thus, because the common WFT affiliation it creates a relationship between United Supervisors and WPEC, WSAA, et. al., which is *not* a "membership in a national, state, county or municipal federation of national or international labor organizations", the general prohibition against affiliations in Sec. 111.825(5), Stats., bars United Supervisors from seeking to represent supervisory employees.

For AFT, the question is whether it is a "national. . . federation of national or international labor organizations." We conclude it is not. As established by its constitution, AFT is at least in part a national federation of state federations and local labor organizations. Thus, because their common AFT affiliation creates a relationship between United Supervisors and WPEC, WSAA, et. al., which is *not* a "membership in a national, state, county or municipal federation of national or international labor organizations", the general prohibition against affiliations in Sec. 111.825(5), Stats., bars United Supervisors from seeking to represent supervisory employees.

In closing, we would note that it seems probable that the 1985-1986 legislative action which produced Sec. 111.825(5), Stats., was a response to our 1977 decision interpreting Sec. 111.81(3)(d), Stats., the predecessor to Sec. 111.825(5), Stats. In any event, as noted earlier herein, it is clear that through Sec. 111.825(5), Stats. the Legislature wished to loosen the blanket prohibition against any type of relationship between labor organizations which Sec. 111.81(3)(d), Stats. established. As we understand the scope of the exception created by the Legislature, it is limited to various types of federations of "national or international" labor organizations. Neither WFT nor AFT are federations of "national or international labor organizations". Therefore, United Supervisors' affiliation with WFT and AFT creates a relationship with WPEC, WSAA, et. al., which in turn precludes United Supervisors from seeking to represent supervisory employees.

Dated at Madison, Wisconsin this 7th day of February, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

Herman Torosian /s/  
Herman Torosian, Commissioner