

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN ASSOCIATION OF PROFESSIONAL CORRECTIONAL OFFICERS
Involving Certain Employees of
**STATE OF WISCONSIN – DEPARTMENT OF EMPLOYMENT RELATIONS
(SECURITY AND PUBLIC SAFETY)**

Case 469
No. 56907
SE-104

Decision No. 29754

Appearances:

Attorney Sally A. Stix, 122 West Washington Avenue, Suite 740, Madison, Wisconsin 53703, appearing on behalf of Wisconsin Association of Professional Correctional Officers.

Lawton & Cates, S.C., by **Attorney P. Scott Hassett**, Ten East Doty Street, Suite 400, P.O. Box 2965, Madison, Wisconsin 53701-2965, appearing on behalf of Wisconsin State Employees Union, District Council 24, AFSCME.

Attorney David J. Vergeront, Chief Legal Counsel, Department of Employment Relations, 345 West Washington Avenue, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of State of Wisconsin, Department of Employment Relations.

ORDER DISMISSING PETITION FOR ELECTION

On October 30, 1998, the Wisconsin Association of Professional Correctional Officers (WAPCO) filed a petition with the Wisconsin Employment Relations Commission seeking an election to determine whether the employees of the State of Wisconsin in the Security and public safety bargaining unit wished to be represented by WAPCO, or to continue to be represented by WSEU District Council 24, AFSCME, or not to be represented for the purposes of collective bargaining. The petition was accompanied by a number of authorization cards.

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Section 111.83(6), Stats., requires that the WAPCO petition be supported by “proof that at least 30% of the employees in the bargaining unit desire a change or discontinuance of existing representation.”

On November 2, 1998, the State provided the Commission with a list of the names of employees in the Security and public safety bargaining unit.

By letter dated November 6, 1998, the Commission provided WAPCO and WSEU with a copy of the employee list provided by the State and advised WAPCO that the number of authorization cards which accompanied the petition did not constitute at least 30% of the employees in the Security and public safety unit.

Thereafter, WAPCO asserted that the employee list provided by the State was inaccurate and that in light of certain “obfuscatory actions” taken by the State, an accurate employee list cannot be developed. WAPCO asks that a +/- 2% margin be applied to the 30% standard; asserts that it filed 1,325 authorization cards which would meet the statutory standard on a +/- 2% basis; and urges that the Commission should proceed to conduct an election.

The State contends that it provided an accurate employee list; that it did not engage in any inappropriate conduct; and that the 30% standard is applicable and was not met by WAPCO. The State asks that the petition be dismissed.

WSEU echoes the position of the State; asserts that some of the employees who signed authorization cards were misinformed or did so under duress; argues that WAPCO failed to meet the 30% standard no matter which employee list is used; and asks that the petition be dismissed.

The parties waived hearing and agreed that documents submitted by WAPCO and the State should become part of the record in this matter.

We have carefully considered this matter. Based on the evidence and argument presented we make several determinations: (1) the employee list provided on November 2, 1998 accurately reflects that there were 4,461 employees in the Security and public safety unit; (2) we have no statutory authority to depart from the 30% standard established in Sec. 111.83(6), Stats.; (3) that 30% of 4,461 is 1,338.3 (rounded up to 1,339); (4) WAPCO asserts it filed 1,325 cards signed by employees in the Security and public safety unit; and (5) 1,325 is less than 1,339.

Thus, as reflected in our letter to the parties dated November 6, 1998, we conclude that WAPCO has not filed the statutorily requisite 30% showing of interest.

NOW, THEREFORE, it is

ORDERED

The petition for election is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 19th day of October, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner