

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

**TAYLOR COUNTY**

Requesting a Declaratory Ruling Pursuant to Section 227.41,  
Wis. Stats., Involving a Dispute Between Said Petitioner and

**GENERAL TEAMSTERS LOCAL 662**  
**and**  
**WISCONSIN PROFESSIONAL POLICE ASSOCIATION/  
LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION**

Case 89  
No. 59342  
DR(M)-619

**Decision No. 30448**

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**Appearances:**

Prentice & Phillips, by **Attorney John Prentice**, Suite 405, 1110 North Old World Third Street, Milwaukee, Wisconsin 53203-1117, appearing on behalf of Taylor County.

**Attorney Gordon E. McQuillen**, Director of Legal Services, Wisconsin Professional Police Association/LEER Division, 340 Coyier Lane, Madison, Wisconsin 53713, appearing on behalf of Wisconsin Professional Police Association/LEER Division.

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by **Attorney Andrea F. Hoechen**, 1555 North Rivercenter Drive, Suite 202, P. O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of Teamsters Union Local 662.

**ORDER DISMISSING PETITION FOR DECLARATORY RULING**

On November 3, 2000, Taylor County filed a petition with the Wisconsin Employment Relations Commission seeking a declaratory ruling pursuant to Sec. 227.41, Stats., that it is not obligated to arbitrate two grievances filed under a 1999-2000 collective bargaining agreement between the County and General Teamsters Local 662 because the contractual provisions at issue in said grievances violate the rights of the Taylor County Sheriff under the Wisconsin Constitution.

Dec. No. 30448

On November 20, 2000, Local 662 filed a response to the petition asserting that the County is obligated to arbitrate the grievances in question.

The parties then filed written argument and attempted to stipulate to the factual record which would be used by the Commission. During that process, Wisconsin Professional Police Association/Law Enforcement Employee Relations Division (WPPA) became the collective bargaining representative of the employees in question and on April 10, 2002, WPPA filed a motion to dismiss the petition or to defer the dispute to the pending grievance arbitration proceedings. The parties thereafter filed written argument, the last of which was received May 30, 2002.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

**ORDER**

The petition for declaratory ruling is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 27th day of August, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Steven R. Sorenson /s/

Steven R. Sorenson, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

**MEMORANDUM ACCOMPANYING ORDER DISMISSING  
PETITION FOR DECLARATORY RULING**

Section 227.41(1), Stats, provides in pertinent part:

(1) Any agency may, on petition by any interested person, issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforced by it. . . .

As reflected by the statutory use of the word “may,” it is clear that issuance of a declaratory ruling under Sec. 227.41, Stats., is discretionary. We have exercised that discretion by declining to issue declaratory rulings which (1) would not provide guidance to parties around Wisconsin on matters of general applicability and/or (2) would denigrate other procedures available to the parties for resolution of the dispute. SEE GREEN LAKE COUNTY, DEC. NO. 22820 (WERC, 8/85); CITY OF MILWAUKEE, DEC. NO. 27111 (WERC, 12/91); UW HOSPITAL AND CLINICS AUTHORITY, DEC. NO. 29889 (WERC, 5/00).

Here, among other matters, WPPA argues that we ought not exercise our discretionary jurisdiction because the issue of the interplay between the contract and the Sheriff’s constitutional rights can be resolved by the grievance arbitrator and, if necessary, in motion to vacate proceedings before the courts under Sec. 788.10, Stats. In addition, we note that if the County refuses to arbitrate the grievances, our prohibited practice proceedings under Sec. 111.70(3)(a) 5, Stats., 1/ will allow for litigation of these same issues.

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*1/ Section 111.70(3)(a) 5, Stats. provides in pertinent part:*

*(a) It is a prohibited practice for a municipal employer individually or in concert with others:*

. . .

*5. To violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours and conditions of employment affecting municipal employees, including an agreement to arbitrate questions arising as to the meaning or application of the terms of a collective bargaining agreement. . . .*

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Given the foregoing, it is clear that exercise of our discretionary Sec. 227.41, Stats., jurisdiction will denigrate other procedures available to the parties for resolution of the dispute. In addition, because the issue to be resolved will turn in part on facts and contract language specific to these parties, a declaratory ruling in this matter would not provide state-wide guidance. Therefore, we conclude that we will not exercise our discretionary jurisdiction over the petition and have ordered the petition dismissed.

Dated at Madison, Wisconsin, this 27th day of August, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Steven R. Sorenson /s/  
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Steven R. Sorenson, Chairperson

A. Henry Hempe /s/  
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A. Henry Hempe, Commissioner

Paul A. Hahn /s/  
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Paul A. Hahn, Commissioner

