

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Stipulation of
SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1
and
MILWAUKEE ATHLETIC CLUB

For a Referendum Authorizing Implementation of
“Fair-Share Agreement” Between Said Parties

Case 20
No. 61794
R-5901

Decision No. 30560

Appearances:

Michael, Best & Friedrich, by **Attorney Robert Mulcahy**, 100 East Wisconsin Avenue, Suite 3300, Milwaukee, Wisconsin 53202-4108, appearing on behalf of Milwaukee Athletic Club.

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by **Attorney Matt Robbins**, 1555 North Rivercenter Drive, Suite 202, P.O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of Local 1, Service Employees International Union.

ORDER

On November 11, 2002, the Milwaukee Athletic Club and Local 1, Service Employees International Union filed a Stipulation for Referendum with the Wisconsin Employment Relations Commission asking the Commission to conduct a mail ballot referendum for the following purpose as identified in Article 3.02 of the parties’ 2002-2005 contract:

3.02 Fair Share. This paragraph shall become effective and binding following a referendum conducted by the Wisconsin Employment Relations Commission (“WERC”) among all regular full-time and regular part-time employees to determine whether a fair share provision shall be implemented

Dec. No. 30560

during the term of this Agreement. This referendum shall be conducted by the Wisconsin Employment Relations Commission by joint request. Such referendum shall be held not later than July 30, 2002 or as soon thereafter as administratively feasible with the WERC. At least 50% plus one of the regular full-time and regular part-time employees in the bargaining unit voting in the referendum must approve the implementation of a Fair Share provision. If approved, the Fair Share provision shall be effective on the first payroll period following receipt of the required information on the amount of dues to be deducted and deduction authorization forms from the Union by the Club.

If the referendum is approved, it shall be a condition of employment that all regular full-time and part-time employees of the Club covered by this Agreement who do not authorize dues deduction pursuant to paragraph 3.01 Dues Authorization above, contribute their proportionate fair share cost of collective bargaining and contract administration during the term of this Agreement.

. . .

The parties subsequently asked the Commission to determine the appropriate language for the ballot and instructions voters would receive. The parties filed written position statements -- the last of which was received February 11, 2003.

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

ORDER

The ballot and instructions shall read as stated in Appendix A attached to this Order.

Given under our hands and seal at the City of Madison, Wisconsin, this 26th day of February, 2003.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe, Commissioner

Paul A. Hahn, Commissioner

Milwaukee Athletic Club

MEMORANDUM ACCOMPANYING ORDER

The parties disagree as to the language that should be used on the ballot and instructions voters will receive.

Local 1 contends that the ballot and instructions should contain the standard language the Commission would utilize if it were conducting a fair share referendum. That language reads:

STATE OF WISCONSIN
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OFFICIAL REFERENDUM BALLOT
Involving certain employees of

@

Do you favor the implementation of a "fair-share agreement" between your Employer and the Union, which is your present collective Bargaining representative?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES
☐

NO
☐

DO NOT SIGN THIS BALLOT

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TO: CERTAIN EMPLOYEES OF MILWAUKEE ATHLETIC CLUB,
MILWAUKEE, WISCONSIN

NOTICE OF REFERENDUM:

Pursuant to its Direction, the Wisconsin Employment Relations Commission is conducting a referendum by secret ballot among certain employees of the above Employer.

Your name is listed as one of the employees eligible to vote.

THE PURPOSE OF THE REFERENDUM is to determine whether a majority of the voting employees support a fair share agreement.

The vote is being conducted by Mail Ballot.

INSTRUCTIONS TO VOTERS:

We are enclosing an official REFERENDUM BALLOT (@) upon which you may indicate your desire regarding the choice listed thereon. This ballot must be marked secretly by you and we request that you show it to no other person either before or after you have marked same. Any written remarks on the ballot may void your ballot.

We are also enclosing for your convenience a stamped, addressed envelope and a smaller plain envelope. You will place your marked ballot in the small plain envelope, seal it and place same in the envelope addressed to the Commission which also contains your name in the upper left corner. Your name on this envelope is necessary in order to determine that only eligible employees cast ballots, and in no way destroys the secrecy of your ballot. Prior to the count of the ballots, the plain sealed envelopes are removed from the envelopes containing the names and are thoroughly mixed before any ballots are removed from the blank envelopes and counted.

If you desire to vote, please do so promptly. Ballots will be opened and counted in the Commission's offices in Madison, Wisconsin, on @, commencing at @. Ballots must be received in the Commission's offices prior to the count to be valid.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION
P.O. BOX 7870
MADISON, WI 56707-7870

The Milwaukee Athletic Club asserts the Commission's standard language may be confusing and proposes that the ballot read as follows:

"Do you agree to mandatory payment of union dues to SEIU, Local 1, as a condition of continued employment to work at the Milwaukee Athletic Club?"

and that the following language should be added to the third paragraph of the standard instructions:

“If a majority of the employees voting vote yes, payment of union dues will be a condition of continued employment at the Milwaukee Athletic Club.”

We have considered the matter and conclude that our standard ballot language and instructions are clear and that it is appropriate for the parties to use our standard ballot and instructions in their contractual referendum. We have so ordered.

Dated at Madison, Wisconsin, this 26th day of February, 2003.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

APPENDIX A

STATE OF WISCONSIN
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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APPENDIX A

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