

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**LABOR ASSOCIATION OF WISCONSIN, INC.**  
Involving Certain Employees of  
**WAUKESHA COUNTY (COMMUNICATION CENTER)**

Case 177  
No. 63910  
ME-3993

**Decision No. 31115**

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**Appearances:**

**Thomas Bahr**, Executive Director, Wisconsin Professional Police Association/LEER Division, 9730 West Bluemound Road, Suite 21, Wauwatosa, Wisconsin 53226, appearing on behalf of the Wisconsin Professional Police Association/LEER Division.

**Scott C. Beightol**, Michael, Best & Friedrich, Attorneys at Law, 100 East Wisconsin Avenue, Suite 3300, Milwaukee, Wisconsin 53202-4108, appearing on behalf of Waukesha County.

**Patrick J. Coraggio**, Labor Consultant, Labor Association of Wisconsin, Inc. , N116 W16033 Main Street, Germantown, Wisconsin 53022, appearing on behalf of the Labor Association of Wisconsin, Inc.

**ORDER DISMISSING PETITION FOR ELECTION**

On August 21, 2004, the Labor Association of Wisconsin, Inc. (LAW) filed a petition with the Wisconsin Employment Relations Commission seeking an election to determine whether the Association could become the collective bargaining representative of certain civilian radio dispatchers employed by Waukesha County (County) who are currently represented by the Wisconsin Professional Police Association (WPPA) in a broader collective bargaining unit that also includes civilian correctional officers.

On August 26, 2004, the County filed a motion to dismiss the petition as untimely filed because it was not filed within the 60 day period prior to the August 1, 2004 contractual reopener date contained in the 2002-2004 contract between WPPA and the County.

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On September 13, 2004, LAW filed a response to the motion to dismiss.

On September 27, 2004, the County (with the concurrence of WPPA) filed a reply.

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

**ORDER**

The petition for election is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 13th day of October, 2004.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Commissioner Susan J. M. Bauman did not participate

Waukesha County

**MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION TO DISMISS**

Sections 111.70(2), (4)(d) and (6), Stats., give employees the right to decide whether they wish to bargain collectively through representatives of their own choosing. This statutory right includes the opportunity for employees to decide whether a previously selected representative should continue to so serve or whether the employees wish to select a different representative or return to unrepresented status.

Sections 111.70(4)(d) and (6), Stats., also reflect a statutory interest in the stability of existing collective relationships.

Where, as here, the election petition filed seeks to determine whether an existing representative should be replaced, the Commission balances the interest in stability of collective bargaining relationships and the statutory right to petition for an election by limiting the time frames within which an election petition can be timely filed. When striking that balance, the Commission has traditionally held that where the collective bargaining agreement specifies a deadline by which a party to an existing collective bargaining relationship must notify the other that it wishes to bargain a successor agreement, an election petition must be filed during the 60 day period prior to that contractually established deadline. MUKWONAGO SCHOOLS, DEC. NO. 24600 (WERC, 6/87). This timeliness rule has been applied where, as here, the petition seeks an election in only a portion of the existing unit. WAUKESHA COUNTY, DEC. NO. 30269 (WERC, 1/02).

In the instant circumstance, the County (with the concurrence of WPPA) argues that because the LAW petition was not filed within the 60 day period prior to the August 1, 2004, reopening date established by the 2002-2004 contract between WPPA and the County, the petition is not timely and should be dismissed.

LAW has not presented us with any persuasive basis for concluding that the 60 day rule ought not apply here. 1/ Therefore, we have granted the County motion to dismiss.

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*1/ As noted by the County, LAW's argument focuses on whether a civilian dispatcher unit would be appropriate. By dismissing the petition as untimely, we express no opinion on whether such a unit would be appropriate.*

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Dated at Madison, Wisconsin, this 13th day of October, 2004.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Commissioner Susan J. M. Bauman did not participate.