

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
EUGENE K. FRIEDE and CHARLIE WAGNER

Involving Certain Employees of
STATE OF WISCONSIN

Case 774
No. 66460
SE-109

Decision No. 31967

Appearances:

Eugene K. Friede and Charles Wagner, appearing on their own behalf.

David J. Vergeront, Chief Legal Counsel, Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of the State of Wisconsin.

Kurt C. Kobelt, Lawton & Cates, Attorneys at Law, P. O. Box 2965, Madison, Wisconsin 53701-2965, appearing on behalf of Wisconsin State Employees Union.

ORDER DISMISSING PETITION FOR ELECTION

On November 10, 2006, Eugene K. Friede and Charlie Wagner filed a petition with the Wisconsin Employment Relations Commission seeking an election among certain State employees who work at the "Truax Fire Department" who are currently represented by the Wisconsin State Employees Union (WSEU).

By letter dated November 15, 2006, the Commission asked Friede and Wagner to state why the petition should not be dismissed based on the holding and rationale of STATE OF WISCONSIN, DEC. NO. 31336 (WERC, 5/05) in which the Commission dismissed a prior election petition filed by Friede and Wagner because it was: (1) untimely; (2) sought an election in a bargaining unit not created by Sec. 111.825, Stats; and (3) was not accompanied by a showing of interest in a unit created by Sec. 111.825, Stats.

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On November 30, 2006, Friede and Wagner filed a statement opposing dismissal of the petition. Said statement did not address the reasons why Friede and Wagner's petition was dismissed by the Commission in 2005.

On December 4, 2006, WSEU filed a statement supporting dismissal of the petition.

Having reviewed the record and being fully advised in the premises, we conclude this petition should be dismissed for the same reasons set forth in DEC. NO. 31336 to wit: (1) the petition was not filed during October of an even-numbered year as required by Sec. 111.83(6), Stats.; (2) the petition seeks an election in a group of employees that the State Employment Labor Relations Act (SELRA) does not allow to be considered as a bargaining unit; and (3) the petition was not accompanied by a 30% showing of interest in a bargaining unit created by SELRA. Thus, unless and until SELRA is amended to allow the Commission to conduct the election Friede and Wagner seek, they should not file another such election petition.

NOW, THEREFORE, it is

ORDERED¹

The petition for election is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 19th day of December, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

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¹ Upon the issuance of this Order, the accompanying letter of transmittal will contain the names and addresses of the parties to this proceeding and notices to the parties concerning their rehearing and judicial review rights. The contents of that letter are hereby incorporated by reference as a part of this Order.