

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

SCHOOL DISTRICT OF HOLMEN

Requesting a Sec. 227.41(1), Stats., Declaratory Ruling
As to a Matter Affecting Employees Represented by

**HOLMEN SCHOOL DISTRICT DRIVERS ASSOCIATION,
CRUE, WEAC, NEA**

Case 48
No. 71564
DR(M)-724

Decision No. 33889

Appearances:

James M. Ward, Weld, Riley, Prenn & Ricci SC 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin, 54702-1030, appearing on behalf of the School District of Holmen.

Randall G. Garczynski, Legal Counsel, Wisconsin Education Association Council, 33 Nob Hill Road, P.O. Box 8003, Madison, Wisconsin, 53708-8003, appearing on behalf of the Holmen School District Drivers Association.

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On March 19, 2012, the School District of Holmen filed a petition with the Wisconsin Employment Relations Commission seeking a declaratory ruling pursuant to Sec. 227.41(2), Stats. regarding the impact of 2011 Wisconsin Act 10 on a wage and benefits reopener contained in a pre-Act 10 2010-2013 collective bargaining agreement between the District and the Holmen School District Drivers Association, CRUE, WEAC, NEA.

The District and the Association thereafter filed written argument-the last of which was received June 4, 2012.

No. 33889

Having considered the matter and being fully advised in the premises, the Commission has concluded that it will not exercise its discretionary jurisdiction over the petition. Therefore, 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 26th day of June, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner

SCHOOL DISTRICT OF HOLMEN

**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, we are not persuaded that the issues raised by the District have sufficient general applicability to parties around Wisconsin to warrant exercise of our jurisdiction. Therefore, we have dismissed the petition.

Dated at Madison, Wisconsin, this 26th day of June, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner