

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

**MANITOWOC COUNTY**

Requesting a Sec.111.70(4)(b), Stats., Declaratory Ruling  
Involving a Dispute Between the Petitioner and

**MANITOWOC COUNTY HIGHWAY DEPARTMENT EMPLOYEES, LOCAL 986;  
MANITOWOC COUNTY SUPPORTIVE SERVICES EMPLOYEES, LOCAL 986-A;  
MANITOWOC COUNTY HUMAN SERVICES  
PROFESSIONAL EMPLOYEES, LOCAL 986-A;**

and

**MANITOWOC COUNTY SHERIFF DEPARTMENT EMPLOYEES,  
AFSCME, AFL-CIO**

Case 443  
No. 71387  
DR(M)-722

**Decision No. 33890**

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**Appearances:**

**Steven J. Rollins**, Corporation Counsel, 1010 South Eighth Street, Manitowoc, Wisconsin 54220, appearing on behalf of Manitowoc County.

**Mark DeLorme**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 824 York Street, #2, Manitowoc, Wisconsin 54220, appearing on behalf of the AFSCME Locals.

**ORDER DISMISSING PETITION FOR DECLARATORY RULING**

On July 18, 2011, four local unions affiliated with AFSCME, Council 40 and representing employees of Manitowoc County filed a complaint with the Wisconsin Employment Relations Commission asserting that Manitowoc County had committed prohibited practices within the meaning of Secs. 111.70(3)(a) 1, 4 and 5, Stats., allegedly by

No. 33890

“reneging on its agreement to fund the employee Health Savings Account deductible . . . .”  
The parties thereafter engaged in unsuccessful efforts to resolve the matter voluntarily.

On January 20, 2012, the County filed a petition for declaratory ruling with the Commission pursuant to Sec. 111.70(4)(b), Stats., wherein it denied that it had committed any of the alleged prohibited practices and requested a “declaratory ruling finding that the Commission lacks jurisdiction to hear the Unions’ prohibited practices complaint, ... an order dismissing the Unions’ complaint, and such other relief as the Commission deems just.”

The parties thereafter filed written argument-the last of which was received May 11, 2012.

Having considered the matter and being fully advised in the premises, the Commission has concluded that the petition should be dismissed because the matters raised by the County are better suited for litigation and resolution in the context of the pending prohibited practices complaint.

NOW, THEREFORE, it is

**ORDERED**

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/

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James R. Scott, Chairman

Judith Neumann /s/

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Judith Neumann, Commissioner

Rodney G. Pasch /s/

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Rodney G. Pasch, Commissioner

**MANITOWOC COUNTY**

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

As reflected in the preface to our Order, the County's petition for declaratory ruling is the functional equivalent of a motion to dismiss the previously filed prohibited practice complaint.

Section 111.70(4)(b), Stats., does provide that "Whenever a dispute arises between a municipal employer and a union of its employees concerning the duty to bargain on a subject, the dispute shall be resolved by the commission on petition for a declaratory ruling." Although the instant petition does assert the existence of a dispute over the duty to bargain, the allegations in the complaint also encompass an alleged violation of contract. Where, as here, issuance of a declaratory ruling will not resolve the dispute in its entirety, it is appropriate to consolidate the bargaining dispute with the violation of contract allegation in the prohibited practice complaint forum that has jurisdiction over all issues presented. Therefore, we have dismissed the petition for declaratory ruling, but will refer the pleadings and argument filed to the examiner appointed to hear the prohibited practice claims, for her consideration.

Dated at Madison, Wisconsin, this 26<sup>th</sup> day of June, 2012.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

James R. Scott /s/

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James R. Scott, Chairman

Judith Neumann /s/

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Judith Neumann, Commissioner

Rodney G. Pasch /s/

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Rodney G. Pasch, Commissioner