



Wisconsin Employment Relations Commission

WISCONSIN SCHOOL ATTORNEYS ASSOCIATION

October 15, 2015

WERC UPDATE

By Peter G. Davis-Chief Legal Counsel **

I. Agency Update

Commissioners (2/3's time) and Staff(all full-time)

Chairman James Scott-confirmed for a term expiring March 1, 2021.
Phone #= 608 243-2431

Commissioner Rodney Pasch-confirmed for a term expiring March 2017.
Phone #= 608 243-2430

Commissioner James Daley- confirmed for a term expiring March 1, 2019.
Phone #=608 243-2432

Five attorneys (4 in Madison and 1 out-state (Millot)) and two support staff.

Peter Davis	608 243-2421
Bill Houlihan	608 243-2422-retiring 1/1/2016
Raleigh Jones	608 243-2426
Lauri Millot	715 362-0370
Karl Hanson	608 243-2436-started 7/12/15

Dawn Clark (Paralegal)	608 243-2434
Carol Lynch (Office Manager)	608 243-2427

Retirements-Stuart Levitan effective 5/1/15

**** The speaker's remarks do not necessarily reflect the views of the WERC.**

II. Current Caseload Mix (7/1/14-6/30/15 cases received excluding election petitions)

126 State Employee Civil Service Appeals (mainly discipline)
121 "Traditional" Labor Relations Cases

49 Grievance Arbitration (23 private sector/26 public sector)
42 Mediation type (29 MIA, 1 private sector)
19 Unfair Labor Practice (15 MERA., 3 SELRA, 1 WEPA)
6 Independent Hearing Officer
5 Declaratory Ruling

III. Annual School District Employee Certification Elections

Permanent Administrative Rules (ERC 70) as to school district certification elections took effect July 1, 2014.

During pendency of appeal of a 7/31/15 Milwaukee County Circuit Court decision (Judge John DiMotto Case No. 2014CV9307) ruling that WERC was obligated to conduct annual certification elections even if no election petition was filed (plaintiffs filed one day late with WERC=bad facts make bad law), WERC advised all unions/employers that a petition need not be filed but that filing fees still needed to be timely received and that WERC still needed to receive the information contained on the petition form.

School district employee elections set for Noon November 4 thru Noon November 24

By phone and online 24/7-conducted with the assistance of the American Arbitration Association

Voter eligibility linked to individual's employment on date the petition was filed=employees hired between that date and date of the election are not eligible absent mutual agreement BUT anyone either union or employer asserts is eligible will be allowed to vote (subject to challenge with status resolved after election if needed).

Objections to election dismissed because alleged misconduct, if proven, would not be sufficient to impact the outcome of the election. **Racine Schools**, Dec. No. 35149-A (WERC, 3/15)

Pending unit clarification petition will not delay the election. **State of Wisconsin**, Dec. No.34481-A (WERC, 7/14).

Pending prohibited practice complaint will not delay the election. **State of Wisconsin**, Dec. No.34481-A (WERC, 7/14).

Union must file for and win a certification election to remain the collective bargaining representative even where it won a "regular" election to obtain certified status only months before. **State of Wisconsin**, Dec. No.34481-A (WERC, 7/14).

Employer refusal to provide home addresses of employees was not improper. **State of Wisconsin**, Dec. No.34481-A (WERC, 7/14), **State of Wisconsin**, Dec. No. 31271-B (WERC, 8/06).

Employer blocking union emails to voters could impact election. **State of Wisconsin**, Dec.No. 34481-A (WERC, 7/14)

Employee who leaves the bargaining unit between eligibility date and date of election is not eligible. **Elmbrook Schools**, Dec. No. 34304-A (WERC, 3/14).

Employee failure to vote due to difficulty with phone voting procedure is not a basis for conducting a new election. **Herman Schools**, Dec. No. 34318-A (WERC, 4/14).

Employees forgetting to vote is not a basis for conducting a new election. **Town of Woodruff**, Dec. No. 34944-A (WERC, 5/14).

Employer total failure to post election information is a basis for conducting a new election. **Town of Manitowish Waters**

Failure to provide requested affidavits is valid basis for concluding election objections had been abandoned. **State of Wisconsin**, Dec. No. 34479-A (WERC, 5/14)

Substantial errors in the voter eligibility list (primarily omission of many eligible voters) is a basis for conducting new election. **Milwaukee Schools, Dec. No. 34373-A (WERC, 5/14)**

IV. Base Wage Issues

No administrative rules planned. No Commission level litigation pending (but a Moraine Park VTAE matter is pending before Examiner Houlihan (with final authority)

CPI# for contracts commencing 7/1/15 is 1.62%-see Attachment A for calculation method.

CPI# dropping fast=.58% for contracts commencing 2/1/16

Right to exceed CPI# as to non-base wage compensation.

V. Lawful Concerted Activity . . . For Mutual Aid or Protection.

No post-Act 10 Commission decisions re this Sec. 111.70(2), Stats. right that is enforced thru Sec. 111.70(3)(a) 1, Stats. prohibited practice complaint.

Relevance of “strike” definition (see Sec. 111.70 (1)(nm), Stats.) as to “lawful”

Do provisions in employee handbook restrict or chill exercise of such rights.

Does the internet use policy restrict or chill exercise of such rights.

VI. WERC Decisions

City of Beloit, Dec. No. 35784 (WERC, 9/15)

WERC declines to exercise declaratory ruling jurisdiction over substantive arbitrability dispute-particularly because the bargaining agreement specifically provided that the arbitrator should first hear and decide such matters.

VII. Little Known (??)Matters

1. The length of “initial” collective bargaining agreements is unregulated (see Sec. 111.70 (4) (cm) 8m. Stats) and presumably a mandatory subject of bargaining.
2. Because certification elections provide an annual opportunity for union representation to end or change, unlikely that employee decertification or rival union “raid” election petitions will be processed. But see Sec. 111.70 (3)(a)4, Stats. as to employer filed “good faith doubt” petitions.



"A"

State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • Mail Stop 624A • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718
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Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

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FEB 23 2015

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

February 19, 2015

The Honorable Chairperson James R. Scott
Wisconsin Employment Relations Commission
1457 East Washington Avenue
Madison, WI 53703-3047

✓ The Honorable Commissioner Rodney G. Pasch
Wisconsin Employment Relations Commission
1457 East Washington Avenue
Madison, WI 53703-3047

Dear Chairperson Scott and Commissioner Pasch:

State law (Sec. 73.03(68), Wis. Stats.) requires the Department of Revenue, at the request of the Wisconsin Employment Relations Commission, to determine the average annual percentage change in the U.S. Consumer Price Index for all urban consumers (CPI-U), for the 12 months immediately preceding the request from Wisconsin Employment Relations Commission.

The Department determines that the CPI-U percentage change is 1.62 percent for the 12 months ending December 31, 2014. Calculation of the CPI-U for those 12 months is shown in the table below. If you have any questions about our calculation, please contact me.

Sincerely,


Richard G. Chandler
Secretary of Revenue

RGC: ec

cc: John Koskinen

Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average, All Items, Not Seasonally Adjusted 1982-84=100		
Source: Bureau of Labor Statistics, U.S. Department of Labor		
	2012-13	2013-14
December	230.280	233.916
January	232.166	234.781
February	232.773	236.293
March	232.531	237.072
April	232.945	237.900
May	233.504	238.343
June	233.596	238.250
July	233.877	237.852
August	234.149	238.031
September	233.546	237.433
October	233.069	236.151
November	233.049	234.812
Average	232.957	236.736
% Change		1.62