

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 JAMES SOMERS, *
 *
 Appellant, *
 *
 v. *
 *
 DEPARTMENT OF HEALTH AND *
 SOCIAL SERVICES, *
 *
 Respondent. *
 *
 Case No. 79-127-PC *
 *
 * * * * *

INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission on the following jurisdictional objection (see conference Report dated June 18, 1979):

"3. The Personnel Commission does not have jurisdiction under Article IV, Section 10, inasmuch that the contract specifies the right to hearing before the Personnel Board at its discretion and the transition provisions of Chapter 196, Laws of 1977, do not provide that this discretionary jurisdiction be transferred to the Personnel Commission."

In a declaratory ruling dated August 24, 1976, in Case No. 75-206, the Personnel Board held that jurisdiction over this matter was based on §§16.05(1)(h) and 111.91(3), Stats. (1975). The latter subsection provided in part:

"The employer may bargain and reach agreement with a union ... to provide for an impartial hearing officer to hear appeals ... [which] shall be reviewed by the personnel Board...."

In Chapter 196, Laws of 1977, §16.05(1)(h) was renumbered to §230.45(1)(h), see §122, Chapter 196, while §111.91(3) was amended so that it now reads "reviewed by the personnel commission under §230.45(1)(f)," See §93, Chapter 196. In the opinion of the Commission it is not significant that the contract, which is for a term of approximately

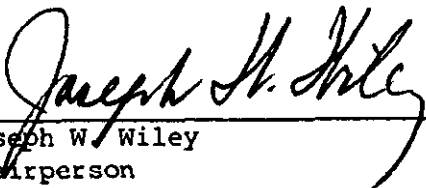
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two years, and which was negotiated before the passage of Chapter 196,
refers in Article IV §10, to the Personnel Board.

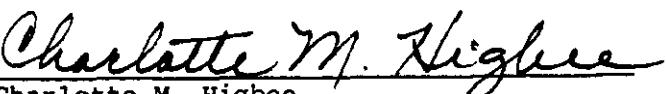
ORDER

The respondent's objection to subject-matter jurisdiction set
forth above is overruled.

Dated: August 30, 1979. STATE PERSONNEL COMMISSION



Joseph W. Wiley
Chairperson



Charlotte M. Higbee
Commissioner

AJT:jmg

8/27/79