

Chapter ERC 25

FACT FINDING IN DISPUTES INVOLVING STATE EMPLOYERS AND STATE EMPLOYEES

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Note: Chapter ERB 25 was renumbered chapter ERC 25 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468.

Note: See s. 111.88, Stats.

ERC 25.01 Scope. This chapter governs the general procedure relating to fact finding in state employment pursuant to s. 111.88, Stats.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67.

ERC 25.02 Petition for fact finding. (1) WHO MAY FILE; WHERE TO FILE; FORM, NUMBER OF COPIES, SERVICE ON OTHER PARTY. A petition for fact finding may be filed by a labor organization, which either has been certified by the commission as the representative of the employees of a state employer in a collective bargaining unit, or which has been recognized by a state employer as the representative of its employees in a collective bargaining unit, or by a state employer, or anyone acting on its behalf. The petition shall be prepared on a form furnished by the commission, the original being signed and sworn to before any person authorized to administer oaths or acknowledgments. Five additional copies thereof, together with the original shall be filed with the commission. The party filing the petition shall, at the same time, cause a copy of said petition to be served on the other party or its representative, by registered or certified mail.

(2) CONTENTS. The petition shall include the following:

(a) The name, address and affiliation of the labor organization involved, and its principal representative.

(b) The name, address and principal representative of the state employer involved.

(c) A description of the certified or recognized collective bargaining unit involved, as well as the approximate number of employees in such unit.

(d) A statement setting forth that after a reasonable period of negotiation the parties are deadlocked, and also setting forth the nature of the matters in dispute.

(e) Any other relevant facts.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. (1), Register, March 1971, No. 183, eff. 4-1-71.

ERC 25.03 Withdrawal of petition. A petition may be withdrawn only with the consent of the commission under such conditions as the commission may establish to effectuate the policies of subch. V of ch. 111, Stats.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.04 Commission investigation. (1) SCOPE. After a petition has been filed, the commission shall make an investigation to determine whether or not the parties are deadlocked after a reasonable period of negotiation.

(2) NATURE, WHO SHALL CONDUCT. In such investigation the commission may assign a commission agent to conduct an informal investigation to assist the commission in making its deter-

mination; or the commission may conduct a formal hearing for that purpose; or it may utilize both procedures.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. (1) and (2), Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.05 Informal investigation. (1) DUTY OF COMMISSION AGENT. It shall be the duty of the commission agent conducting the informal investigation to ascertain facts essential to the investigation by interviewing the parties, their representatives, or other parties or persons having knowledge of the matter and by the examination of any documents, correspondence and any other like material pertaining to the matter. The commission agent shall not retain in his or her possession the original of any documents, correspondence or any other like material, which might be presented as evidence in a formal commission hearing. Upon completion of the investigation the commission agent shall report the findings to the commission, either orally or in writing as the commission may direct.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

ERC 25.06 Consolidation of proceedings. Whenever the commission deems it necessary, in order to effectuate the purposes of subch. V of ch. 111, Stats., or to avoid unnecessary costs, delay, or multiplicity of proceedings, the commission may consolidate fact finding proceedings.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.07 Notice of hearing. (1) WHEN ISSUED; CONTENTS. If it should appear to the commission that a hearing is warranted, the commission shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the state, on a date and at such time therein fixed.

(2) AMENDMENT OR WITHDRAWAL. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the commission or commission agent conducting the hearing.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.08 Hearings. (1) SCOPE AND NATURE. The commission hearing in fact finding cases shall be limited to pertinent matters necessary to establish the facts to determine whether, after a reasonable period of negotiation, the parties are deadlocked; and such hearing shall be public.

(2) WHO SHALL CONDUCT. The hearing may be conducted by the full commission, or any member or members thereof, or any member of its staff, or any individual designated by the commission, all acting on behalf of the commission. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.09 Certification of results of investigation.

(1) WHEN ISSUED. After consideration of either the report of the commission agent conducting the informal investigation, or the record adduced in the hearing, or both, the commission shall issue a certification of the results of said investigation with respect to the question as to whether or not a fact finding should be initiated.

(2) CONTENTS. Said certification shall contain findings of fact and conclusions with regard to the investigation, either initiating fact finding or dismissing the petition and/or either action, consistent with the purposes of subch. V of ch. 111, Stats., which the commission may deem appropriate.

(3) APPOINTMENT OF FACT FINDER. If the certification requires that fact finding be initiated, the selection of the fact finder or panel of fact finders (hereinafter referred to as fact finder) shall immediately be made by the commission and the fact finder so appointed shall be designated in the certification.

(4) SERVICE ON THE PARTIES; RECORD. A copy of the commission's certification shall be immediately served upon the parties, and, if a fact finder is designated, upon the fact finder selected. The commission shall also therewith submit to the fact finder a copy of any written informal investigation report, and a copy of the record before the commission in the matter.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.10 Hearing before the fact finder. (1) NOTICE OF HEARING. Following the receipt of notification of an appointment as fact finder, the fact finder shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the state at a date and at such time as therein fixed.

(2) AMENDMENT OR WITHDRAWAL. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the fact finder.

(3) SCOPE AND NATURE OF HEARING. The hearing shall be public, shall concern pertinent matters necessary for the fact finder to determine the facts in the dispute and which, in the opinion of the fact finder, assist him or her in reaching a recommendation for the solution of the dispute.

(4) RESCHEDULING HEARING. Upon his or her own motion, or upon proper cause shown by any of the parties, the fact finder may prior to the opening of the hearing reschedule the date of such hearing.

(5) TRANSCRIPTS. Unless waived by the parties and consented to by the fact finder, hearings shall be stenographically reported and transcribed. Such transcripts shall be the sole official transcript. Costs involved for the original of such transcript shall be

borne equally by the parties. Copies of the transcript shall be available to the parties and to the public at rates set by s. 814.69, Stats.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; corrections made under s. 13.93 (2m) (b) 5. and 7., Stats., Register, December, 1994, No. 468.

ERC 25.11 Fact finding report. (1) ISSUANCE. After the close of the hearing the fact finder shall prepare and make a fact finding report.

(2) CONTENTS. Such report shall contain: a) a statement of findings of fact and conclusions, upon all material issues presented on the record; (b) recommendations for the solution of the dispute; and (c) a memorandum stating the reasons and basis for such findings, conclusions and recommended solutions.

(3) SERVICE. Upon the completion of this report the fact finder shall cause copies of same to be served on the parties, as well as the commission.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. (3), Register, March, 1971, No. 183, eff. 4-1-71.

ERC 25.12 Compensation of fact finder. The fact finder designated by the commission to conduct the fact finding proceeding shall be entitled to a per diem compensation for days spent in hearing and preparation and issuance of a report not to exceed \$150 per day. The fact finder shall also be compensated for ordinary expenses incurred for travel, meals and room allowance, and other necessary expenses incurred in the proceeding.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, March, 1971, No. 183, eff. 4-1-71; correction made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

ERC 25.13 Notification of acceptance or rejection of recommendations of the fact finder. (1) WHO SHALL NOTIFY; WHO SHALL BE NOTIFIED.

Each party involved in fact finding shall notify, in writing, the remaining parties and the commission of its acceptance or rejection in whole or in part, of the fact finder's recommendations.

(2) SERVICE. Such notification shall be served within 30 days of the receipt of the fact finder's recommendations or within such time period as is mutually agreed upon by the parties.

(3) CONTENTS. The notification shall contain the following:

(a) The identity of the proceeding.

(b) The identity of the fact finder.

(c) The date upon which the recommendations were issued.

(d) A clear and concise statement as to the acceptance or rejection, in whole or in part, of each and every recommendation of the fact finder.

History: Cr. Register, December, 1966, No. 132, eff. 1-1-67; am. (1) Register, March, 1971, No. 183, eff. 4-1-71.