



ERB 10 to 14

WISCONSIN EMPLOYMENT RELATIONS BOARD

COMMISSIONERS

MORRIS SLAVNEY, CHAIRMAN
JOHN E. FITZGIBBON
ARVID ANDERSON

WALTER KWAPIL, SECRETARY

700 STATE OFFICE BUILDING

MADISON 2, WISCONSIN

June 11, 1962

ALPINE 6-4411

EXT. 381 382 383

Mr. James Burke
321 NE State Capitol
Madison, Wisconsin

Dear Mr. Burke:

Pursuant to Section 227.023, we are transmitting herewith certified copy of the Rules adopted by this agency for the administration of Section 111.70 of the Wisconsin Statutes.

We are also enclosing copy of the Order adopting same.

Very truly yours,

WISCONSIN EMPLOYMENT RELATIONS BOARD

Morris Slavney
Morris Slavney, Chairman

Enc.

Filed June 13, 1962
8 am


STATE OF WISCONSIN)
WISCONSIN EMPLOYMENT RELATIONS BOARD) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Morris Slavney, Chairman of the Wisconsin Employment Relations Board, and custodian of the official records of said Board do hereby certify that the annexed rules and regulations relating to Section 111.70 Wisconsin Statutes, were duly approved and adopted by the Board on June 11, 1962.

I further certify that said copy has been compared by me with the original on file in this Board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the department
at the Capitol, in the city of
Madison, this 11th day of June
A.D. 1962.



Morris Slavney /s/

Morris Slavney, Chairman

ORDER
OF THE WISCONSIN EMPLOYMENT RELATIONS BOARD
ADOPTING RULES

Pursuant to the authority vested in the Wisconsin Employment Relations Board by Sections 111.09 and 227.08, the Wisconsin Employment Relations Board hereby adopts procedural rules for the administration of Section 111.70 of the Wisconsin Statutes. Sections ERB 10.01 through 14.12 of the Wisconsin Administrative Code are adopted to read as set forth in the attached Rules.

The Rules contained herein shall take effect on August 1, 1962, pursuant to the authority granted by Section 227.026 (1).

Given under our hands and seal at the City of Madison, Wisconsin, this 11th day of June, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

J. E. Fitzgibbon /s/
J. E. Fitzgibbon, Commissioner

Arvid Anderson /s/
Arvid Anderson, Commissioner

WISCONSIN EMPLOYMENT RELATIONS BOARD

RULES OF PROCEDURE IN THE
ADMINISTRATION OF SUBCHAPTER IV
OF CHAPTER 111 OF THE WISCONSIN STATUTES

Chapter ERB 10

GENERAL PROVISIONS

ERB 10.01	Purpose and construction	ERB 10.11	Motions and statements in opposition
ERB 10.02	Policy	ERB 10.12	Particular motions
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ERB 10.05	Definitions	ERB 10.15	Depositions
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ERB 10.07	Transfer, consolidation and severance of proceedings	ERB 10.17	Duties of individuals conducting hearings
ERB 10.08	Time for filing papers other than letters	ERB 10.18	Powers of individuals conducting hearings
ERB 10.09	Form of documents other than correspondence	ERB 10.19	Close of hearing
ERB 10.10	Service of pleadings and other process, proof of service	ERB 10.20	Waiver of procedures

ERB 10.01 Purpose and construction. These rules govern the conduct of all proceedings involving municipal employment relations before the Wisconsin Employment Relations Board and before fact finders, appointed pursuant to Board action, in municipal employment disputes. These rules shall be liberally construed to effectuate the purposes and provisions of Subchapter IV of Chapter 111 of the Wisconsin Statutes. The Board, or fact finder, as the case may be, may waive any requirements of these rules unless a party shows prejudice thereby.

ERB 10.02 Policy. Nothing in these rules shall be construed to prevent the Board or fact finder, as the case may be, from using its or his best efforts to adjust any dispute arising between employes and employers.

ERB 10.03 Chapters. Each of the chapters sets forth special rules applicable to the type of proceeding described in the caption of the chapter. Chapter 10 sets forth general rules applicable to all types of proceedings in municipal employment relations and should be read in conjunction with the chapter governing the particular proceeding.

ERB 10.04 Resolution of conflicts. In any conflict between a general rule in Chapter 10 and a special rule in another chapter applicable to a particular type of proceeding, the special rule shall govern.

ERB 10.05 Definitions. Words or phrases used herein which are defined in Sec. 111.70(1) have the meaning therein set forth.

ERB 10.06 Initiation of proceedings, method, forms, where to file. A proceeding may be initiated by filing an appropriate document as specified in these rules. Blank forms for initiating proceedings under Sec. 111.70 may be obtained at any office of the Board upon request. The initiating document shall be filed with the Board at its Madison office.

ERB 10.07 Transfer, consolidation and severance of proceedings. Whenever the Board deems it necessary, in order to effectuate the purposes of Sec. 111.70 or to avoid unnecessary costs or delay, it may remove or transfer any proceeding before a single Board member or examiner. Proceedings under several subsections of Sec. 111.70 may be combined or severed.

ERB 10.08 Time for filing papers other than letters.

(1) Computation of time. In computing any period of time prescribed by or allowed by these rules or by order of the Board or individual conducting the proceeding, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday,

in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(2) Additional time after service by mail. Whenever a party has a right or is required to do some act within an initially prescribed period after service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period, provided, however, that such additional time shall not be added if the initial period has been extended, and further provided that a specific date has not been designated upon which the right is to be exercised or the act is to be performed.

(3) Extension of time. The Board, or individual having authority to dispose of the matter, may, by agreement of the affected parties for good cause shown, extend any time limit prescribed or allowed in these rules. Any such motion to extend any time limit shall, except for good cause shown, be received at least three (3) days before the expiration of such time limit.

(4) Completion of filing. Papers required by Sec. 111.70, these rules, or order of the Board, to be filed with the Board or its agent, or with a fact finder, shall be deemed filed upon actual receipt at the place specified for such receipt and must be received before the close of business of the last day of the time allowed for such filing or will not be accepted as timely filed unless good cause be shown warranting waiver, in which case the Board or fact finder, as the case may be, may upon receipt, deem the document filed at the time it was deposited in the United States mail or with a telegraph office.

RRB 10.09 Form of documents other than correspondence.

(1) Title. Documents shall clearly show the title of the proceeding and the docket number.

(2) Where to file. All documents and papers filed prior to hearing shall be filed with the Board at its Madison office. During the course of the hearing, all matters shall be filed with the Board agent conducting the hearing. After the close of the hearing, all matters shall be filed with the Board at its Madison office.

(3) Number of copies; form. Except as otherwise provided in these rules, any document or paper filed with the Board, prior to or after hearing shall be submitted with three copies in addition to the original. All matter filed with the Board shall be printed, typed or otherwise legibly duplicated.

(4) Signature. The original of each document filed shall be signed by an attorney or representative of record for the party, or in case of a party not so represented, by the party himself, or by an officer of the party if it is a corporation or an unincorporated association.

ERB 10.10 Service of pleadings and other process, proof of service.

(1) Method of service. Notices of hearings, decisions, orders, and other process or papers issued by the Board, Board agents, or fact finders, or required to be served thereby, may be served on parties or persons residing or located in the State by registered or certified mail and proof of service established by return post office receipt. In case a party or person is located outside the State, service shall be as provided in Sec. 111.07 (2) (a) of the Wisconsin Employment Peace Act. Service of papers or process by parties or persons and proof thereof may be made in the same manner as provided above.

(2) Completion of service. Service of any paper or process shall be regarded as completed when (a) delivered in person, (b) left at the principal office or place of business of the person served, (c) addressed to the last known address of the person served and deposited in the United States mail, (d) addressed to the last known address of the person served and deposited with a telegraph company, or (e) with regard to persons or parties located outside the State in the manner and at the time as provided in Sec. 111.07 (2) (a) of the Wisconsin Employment Peace Act.

(3) Upon whom served. All papers, except complaints, petitions for election and papers relating to subpoenas, shall be served upon all counsel of record and upon parties not represented by counsel or upon their agents designated by them or by law, and upon the Board, if not filed with it, or upon the fact finder, where appropriate, if not filed with either of them. Service upon such counsel or representative shall constitute service upon the party, but a copy shall also be transmitted to the party.

(4) Statement of service. The party or person serving the papers or process shall immediately submit to the Board or the individual conducting the proceeding a written statement of such service, setting forth the names of the parties or persons served and the date and manner of service. Proof of service shall not be required unless a timely question is raised with respect to proper service. Failure to file a statement of service shall not affect the validity of the service.

ERB 10.11 Motions and statements in opposition.

(1) Presentation. All motions shall be made in writing, except that motions made at a hearing may be stated orally on the record,

and shall briefly state the order, ruling, or action sought and shall set forth with particularity the grounds therefore. Alternate relief may be requested. Any party may by motion request that the Board or individual conducting the proceeding take any action which they are authorized to take by these rules. Any statement opposing a motion shall be promptly filed and shall conform to the same requirements.

(2) Disposition. The Board shall rule upon motions filed with it before or after hearing, except that in fact finding in municipal employment, motions filed after the appointment of the fact finder, before or after hearing, shall be filed with the fact finder. Motions made during a hearing shall be ruled on by the individual conducting the hearing, except motions referred to the Board, either during the hearing or at such time as the entire record is considered. All ruling on motions shall be in writing, or if announced at the hearing, may be stated orally on the record.

(3) Rulings and orders part of the record. All motions, and any rulings or order thereon shall become part of the record.

ERB 10.12 Particular motions.

(1) To reschedule hearing. Motion^s to reschedule hearing shall set forth (a) the grounds for same, (b) alternate dates for rescheduling, (c) the positions of all other parties. Except for good cause shown any motion for rescheduling must be received at least two (2) days before the date set for hearing.

(2) To intervene. Any person desiring to intervene in any proceeding, shall, if prior to hearing, file a motion with the Board. Such motion^s shall state the grounds upon which such person claims an interest. Intervention at the hearing shall be made by oral motion stated on the record. Intervention may be permitted and upon such terms as the Board or the individual conducting the proceeding may deem appropriate.

ERB 10.13 Hearing, transcripts.

(1) Public hearing. All hearings shall be public.

(2) Rescheduling of hearing. Upon its own motion or proper cause shown by any of the parties, the Board, may prior to the opening of the hearing reschedule the date of such hearing.

(3) Rights of parties at hearing. Any party shall have the right to appear by counsel or by any other qualified representative to present his case by oral, documentary, or other evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. Any party shall be entitled, upon request, to a reasonable period for oral argument at an appropriate time during the hearing.

(4) Effect of failure to appear. Any party failing to appear and participate after due notice shall be deemed to have waived the rights set forth in (2) above, to admit the accuracy of the uncontradicted evidence adduced by the parties present, and shall, unless good

cause be shown, be precluded thereafter from introducing any evidence controverting any contentions or allegations. The Board or individual determining the matter may rely on the record as made.

(5) Transcripts, other than in fact finding in municipal employment. Hearings shall be stenographically transcribed by the official reporter of the Board. Such transcripts shall be the sole official transcript. In prohibited practice cases the Board shall furnish one copy of the transcript to each of the parties. In election cases the Board may furnish one copy of the transcript to each of the parties. Copies of transcripts which are furnished to the parties will be furnished at no cost to them.

(6) Corrections of transcript. Corrections of the official transcript may be made only when they involve errors affecting substance and shall be made only in the manner herein provided. Proposed corrections shall be submitted by stipulation or motion. Corrections pursuant to a motion, shall not be ordered except upon notice and opportunity for submission of statements in opposition. When corrections are so ordered the necessary physical corrections shall be made in the official transcript.

ERB 10.14 Hearing subpoenas. Any member of the Board or any individual authorized to take testimony, shall on behalf of the Board, on written application of any party, issue subpoenas, requiring attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents in their possession or under their control. Application for subpoenas may be made ex parte. The subpoena shall show on its face the name and address of the party, at whose request it was issued, and the proceeding involved.

ERB 10.15 Depositions. Upon application and good cause shown, the Board or any individual authorized to take testimony, may order that the testimony of any person, including a party, be taken by deposition in the manner prescribed by and subject to the provisions of Chapter 326 of the Wisconsin Statutes.

ERB 10.16 Evidence.

(1) Examination of witnesses. Witnesses at the hearing shall be examined orally under oath or affirmation.

(2) Rules of evidence. Hearings, so far as is practical, shall be conducted in accordance with the rules of evidence and official notice as provided in Chapter 227.10 of the Wisconsin Statutes.

ERB 10.17 Duties of individuals conducting hearings. It shall be the duty of the individual conducting the hearing to inquire fully into all matters in issue, to obtain a full and complete record upon which the duties of the Board or the fact finder under Sec. 111.70 may be properly discharged.

HRB 10.18 Powers of individuals conducting hearings. Individuals conducting hearing shall have the authority to take the following action, subject to these rules within the Board's power:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the Board, except in fact finding cases, the Board shall issue the subpoenas.
- (3) To rule upon offers of proof, receive relevant evidence, and exclude irrelevant, immaterial, or unduly repetitious evidence;
- (4) To question witnesses.
- (5) To take or cause depositions to be taken and to determine their scope;
- (6) To regulate the time, place and course of the hearing;
- (7) To dispose of procedural requests or other similar matters;
- (8) During the course of the hearing to hold conferences for the settlement, simplification or adjustment of the issues by consent of the parties; and,
- (9) To take any other action necessary under the foregoing or authorized under these Rules.

HRB 10.19 Close of hearing. A hearing shall be deemed closed when the evidence is closed and when any period fixed for filing of briefs, presentation of oral argument, if any, or both has expired. The hearing may be re-opened on good cause shown.

HRB 10.20 Waiver of procedures. The parties to any proceeding may agree to waive any one or more of the procedural steps or decisions which would otherwise precede the issuance a final order or other final disposition issued by the Board or any authorized individual.

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Chapter ERB 11

GENERAL PROCEDURE FOR ELECTIONS TO DETERMINE
BARGAINING REPRESENTATIVES AND APPROPRIATE
COLLECTIVE BARGAINING UNITS PURSUANT TO
SECTION 111.70 OF THE WISCONSIN STATUTES

ERB 11.01	Scope	ERB 11.08	Elections
ERB 11.02	Petition for election	ERB 11.09	Certification of
ERB 11.03	Withdrawal of petition		results of election
ERB 11.04	Stipulation for election	ERB 11.10	Objections to election
ERB 11.05	Notice of hearing	ERB 11.11	Hearing on challenges
ERB 11.06	Hearings		or objections
ERB 11.07	Board action		

ERB 11.01 Scope. This chapter governs the general procedure relating to elections to determine a collective bargaining representative for all employes in a unit appropriate for that purpose, and for a determination of said unit whenever such question arises, pursuant to Sec. 111.70 of the Wisconsin Statutes.

ERB 11.02 Petition for election.

(1) Who may file. A petition to determine a collective bargaining representative or any appropriate collective bargaining unit involving municipal employes may be filed by a labor organization acting on behalf of employes of a municipal employer or by a municipal employer or anyone lawfully authorized to act on its behalf.

(2) Form, number of copies. The petition shall be prepared on a form furnished by the Board, and the original and five (5) copies thereof shall be signed and filed with the Board.

(3) Contents. The petition shall include the following:

(a) The name, address and affiliation, if any, of the petitioner, and the name and telephone number of its principal representative.

(b) The name and address of the municipal employer involved, if the municipal employer is not the petitioner, and the name and telephone number of its principal representative.

(c) A general description of the nature of the employer's municipal function, and the approximate number of its total employes.

(d) A description of the claimed appropriate collective bargaining unit, specifying inclusions and exclusions, as well as the approximate number of employes in the unit, and a statement that the claimed appropriate collective bargaining unit does not include employes engaged in any craft or that the claimed appropriate collective bargaining unit consist of employes of one craft only.

(e) The names and address^m of any known labor organizations who claim to represent any of the employes in the claimed appropriate collective bargaining unit.

(f) A brief statement setting forth the nature of the question that has arisen concerning representation.

(g) Any other relevant facts.

ERB 11.03 Withdrawal of petition. Any petition may be withdrawn with the consent of the Board under such conditions as the Board may impose to effectuate the policies of Sec. 111.70, Wisconsin Statutes.

ERB 11.04 Stipulation for election.

(1) Who may file. A stipulation to determine a collective bargaining representative may be filed by a labor organization and by a municipal employer or anyone lawfully authorized to act on its behalf, either to initiate an election proceeding or subsequent to the filing of a petition and prior to a direction of election based on a hearing on the petition.

(2) Form, number of copies. The stipulation shall be prepared on a form furnished by the Board and the original and five (5) copies thereof shall be signed by the parties and filed with the Board.

(3) Contents.

The stipulation shall include the following:

(a) The name^A and address^A of the parties on whose behalf the election is stipulated.

(b) An agreement that a hearing will be waived and that the Board conduct an election to determine the collective bargaining representative pursuant to Sec. 111.70.

(c) A description of the collective bargaining unit agreed to be appropriate by the parties.

(d) A complete list of employees agreed upon by the parties as being included in the collective bargaining unit and eligible to vote.

(e) Suggested days of the week, time and place for the conduct of the election.

(f) A statement providing that questions arising in connection with the conduct or results of the election shall be processed in accordance with the procedures following an election directed as a result of a hearing.

ERB 11.05 Notice of hearing.

(1) When issued; contents. Following the filing of a petition, if it appears to the Board that further proceedings are warranted, the Board shall issue and serve upon each of the parties and upon any known labor organizations claiming to represent any employees directly affected, a notice of hearing, at a place fixed therein, and, except by agreement of the parties or in unusual circumstances, at a time not less than seven (7) days after the service of such notice. A copy of the petition shall be served with such notice of hearing.

(2) Withdrawal or amendment. Any such notice of hearing may be withdrawn or amended before the close of the hearing by the Board.

ERB 11.06 Hearings.

(1) Who shall conduct. Hearings may be conducted by the Board, or any member or members thereof, or any member of its staff or other individual designated by the Board. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

(2) Scope of hearing. The hearing shall be limited to pertinent matters necessary to determine questions relating to the election case. Allegations of prohibited practices within the meaning

of Sec. 111.70 may not be litigated therein.

ERB 11.07 Board action. After the close of the hearing the Board may proceed either forthwith upon the record or after oral argument or the submission of briefs, or further hearing, as it may deem proper, to determine issues with regard to the appropriate collective bargaining unit, with regard as to whether a question of representation exists, and to direct an election, dismiss the petition, or make other disposition of the matter.

ERB 11.08 Elections.

(1) Who shall conduct; extension of time for; method. All elections shall be conducted under the supervision of the Board, which may extend the time within which any such election shall be held. All elections shall be by secret ballot.

(2) Observers. Any party may be represented by observers, selected in accordance with such limitations as the Board may prescribe.

(3) Challenge of voters. Any observer or Board agent conducting the election may challenge for good cause the eligibility of any person to vote in the election. The ballots of such challenged persons shall be impounded.

(4) Count and tally of ballots. Upon the conclusion of the election, the ballots shall be counted in the presence of and with the assistance of the parties or their observers, and the Board agent conducting the election shall cause to be furnished to the parties a tally of ballots.

(5) Inconclusive elections.

(a) When conducted and procedure. When more than one proposed representative appears on the ballot and the results are inconclusive the Board may conduct a run-off election as prescribed in Sec. 111.05 (3m) of the Wisconsin Employment Peace Act.

(b) Eligibility. The Board may in its Direction of Run-off Election, in its discretion, maintain the same eligibility date or establish a new eligibility date.

ERB 11.09 Certification of results of election. If challenged ballots are insufficient in number to affect the results, and if no run-off election is to be held, and no timely objections are filed as provided below, the Board shall forthwith issue to the parties a certification of the results of the election, either a certification of a collective bargaining unit or a certification of representatives, or both where appropriate.

ERB 11.10 Objections to election.

(1) Filing; form; copies. Within five (5) days after the tally of ballots has been furnished, any party may file with the

Board objections to the conduct of the election or conduct affecting the results of the election. Such objections shall be in writing and shall contain a brief statement of facts upon which the objections are based. An original and five (5) copies of such objections shall be signed and filed with the Board, the original being sworn to.

(2) Service on other parties. The party filing such objections shall at the same time serve a copy upon each of the other parties.

RRS 11.11 Hearing on challenges or objections. If challenges, which affect the results of the election, or objections raise a substantial question which cannot be resolved without a hearing, the Board may issue and serve a notice of hearing on said issues.

(1) Hearing procedure. The rules relating to conduct of hearings on election petitions shall govern hearing on challenges or objections.

(2) Board action. After the close of the hearing the Board may proceed either forthwith, upon the record, or after oral argument or the submission of briefs, as it may deem proper, to determine issues with regard to the challenges or objections, as the case may be, either sustaining or overruling the challenges or objections.

(a) If the Board directs that challenged ballots be opened and counted, the Board shall issue a revised tally and shall forthwith issue a certification of election.

(b) If the Board should sustain the objections it may direct a new election to be held at such time and under such circumstances and conditions it deems appropriate.

(c) If the Board should overrule the objections it shall forthwith issue a certification of the election.

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Chapter ERB 12

GENERAL PROCEDURE FOR THE PREVENTION OF
PROHIBITED PRACTICES PURSUANT
TO SECTION 111.70 OF THE
WISCONSIN STATUTES

ERB 12.01	Scope	ERB 12.07	Interlocutory findings of fact, conclusions of law and order
ERB 12.02	Complaint	ERB 12.08	Setting aside, modifying, changing or reversing findings of fact, conclusions of law and order
ERB 12.03	Answer to complaint	ERB 12.09	Review of findings of fact, conclusions of law and order issued by single board member or examiner
ERB 12.04	Hearings		
ERB 12.05	Filing of briefs and proposed findings		
ERB 12.06	Findings of fact, conclusions of law and order		

ERB 12.01 Scope. This chapter governs the general procedure relating to prohibited practices proscribed by Sec. 111.70 of the Wisconsin Statutes.

ERB 12.02 Complaint.

(1) Who may file; form and jurat; number of copies. A complaint that any municipal employer, its officers or agents, or municipal employees, individually or in concert with others, have engaged in or are engaging in any prohibited practice, as defined in Sec. 111.70(3), may be filed by any party in interest. Such complaint shall be in writing upon a form provided by the Board, or a facsimile thereof; the original being signed and sworn to before any person authorized to administer oaths or acknowledgements. Four additional copies of the complaint shall be filed, together with one additional copy for each named party.

(2) Contents. Such complaint shall contain the following:

(a) The name, address, and affiliation, if any, of the complainant, and of any representative thereof.
(b) The name and address of the respondent or respondents, and any other party named therein.
(c) A clear and concise statement of the facts constituting the alleged prohibited practice or practices including the time and place of occurrence of particular acts and the sections of the Act alleged to have been violated thereby.

(d) A prayer for specific and general relief.

(3) Service; notice of hearing. On the filing of a complaint, the Board shall immediately serve, upon the respondent or respondents and all parties in interest, a copy thereof, and a notice of hearing, at a place therein fixed, by registered or certified mail to such parties at their last known post-office address.

(4) Withdrawal. Any such complaint may be withdrawn at any time prior to the issuance of a final order based thereon, upon motion granted by the Board.

(5) Amendment.

(a) Who may amend. Any complainant may amend the complaint upon motion, prior to the hearing by the Board; during the hearing by the Board if it is conducting the hearing, or by the Board member or examiner authorized by the Board to conduct the hearing; and at any time prior to the issuance of an order based thereon by the Board, or Board member or examiner authorized to issue and make findings and orders.

(b) Conformance to evidence. At the conclusion of the hearing, the complaint, on motion, may be amended as necessary to conform to the evidence as to minor and immaterial variances which might appear in the record.

ERB 12.03 Answer to complaint.

(1) Who shall file; form and jurat; number of copies. The respondent shall, and any other party named in the complaint may, file with the Board the original and four copies of an answer, the original being sworn to, on or before the date designated therefore in the notice of hearing.

(2) Service. Copies of the answer shall be served by the respondent or other parties upon the complainant or other parties who are designated in the notice of hearing as required to be served, on or before the date designated therefore in the notice of hearing.

(3) Motion to make complaint more definite and certain. If a complaint is alleged to be so indefinite as to hamper the respondent or any other party in the preparation of its answer to the complaint such party may, within five (5) days after the service of the complaint, by motion request the Board to order the complainant to file a statement supplying specified information to make the complaint more definite and certain.

(4) Contents. The answer shall contain the following:

(a) A specific admission, denial, or explanation of each allegation of the complaint, or if the filing party is without knowledge thereof, he shall so state to that effect, such statement operating as a denial; admissions or denials may be to all or part of an allegation but shall fairly meet the substance of the allegation.

(b) A specific detailed statement of any affirmative defense.

(c) A clean and concise statement of the facts and matters of law relied upon.

(5) Amendment. The respondent may, for good cause shown, amend his answer at any time prior to the hearing. During the hearing and prior to the issuance of the order, he may amend his answer where the complaint has been amended, within such period of time as may be fixed by the Board, or by the Board member or examiner authorized by the Board to conduct the hearing. Whether or not the complaint has been amended, the answer may, upon motion granted, be amended upon such terms and within such period as may be fixed by the Board, Board member or examiner, as the case may be.

(6) Admissions by failure to answer. Failure to file a timely answer, in the absence of extenuating circumstances recognized by the Board, constitutes an admission of and a waiver by such party of a hearing as to the material facts alleged in the complaint.

(7) Admissions by insufficient answer; by admissions in answer. Failure of a party filing an answer specifically to deny or explain therein a material allegation of the complaint shall constitute an admission of and a waiver by such party of a hearing as to the facts admitted.

ERB 12.04 Hearings.

(1) Scope. Hearings shall be limited by the Board, Board member, or examiner, as the case might be, to the litigation of and oral argument on genuine issues of fact or law raised by the parties and remaining for disposition.

(2) When scheduled. Hearing on a complaint shall be set on a date not less than ten (10) days nor more than forty (40) days after the filing of the complaint and may be rescheduled as provided in these rules.

(3) Before whom held. The hearing may be held by the full Board or any member or members thereof, or examiner acting on behalf of the Board. A single member or examiner appointed by the Board may be authorized by an order of the Board to make Findings of Fact, Conclusions of Law and Order.

ERS 12.05 Filing of briefs and proposed findings. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions or both at such time as fixed by the Board member or examiner conducting the hearing, who may direct the filing of briefs when he deems such filing warranted by the nature of the proceeding or particular issues therein.

ERS 12.06 Findings of Fact, Conclusions of Law and Order.

(1) Issuance. After the close of the hearing, or upon granting a motion for dismissal of a complaint, the Board, or single member or examiner, if authorized to do so, shall make and file Findings of Fact, Conclusions of Law and Order. Following a hearing conducted by a single member or examiner on behalf of the Board, where the single member or examiner has not been authorized to issue Findings of Fact, Conclusions of Law and Order, the single member or examiner, as the case may be, shall prior to the issuance of Findings of Fact, Conclusions of Law and Order by the Board, participate in discussions with the Board where the credibility of a witness or witnesses is a substantial element in the proceeding.

(2) Contents. The Findings of Fact, and Conclusions of Law shall be made upon all material issues of fact and law presented on the record. The Order, which shall state the determination as to the rights of the parties, may dismiss or may sustain the complaint in whole or in part or require the respondent to cease and desist from the prohibited practices found and take such affirmative action as will effectuate the policies of Sec. 111.70.

ERS 12.07 Interlocutory Findings of Fact, Conclusions of Law and Order. The Board may, after the close of the hearing and pending the final determination by it of any controversy, make and issue Interlocutory Findings of Fact, Conclusions of Law and Order, when it deems that such will effectuate the policies of Sec. 111.70, which may be enforced in the same manner as final orders.

ERS 12.08 Setting aside, modifying, changing or reversing Findings of Fact, Conclusions of Law and Order. The Board on its own motion, or

the single member or examiner having authority to issue Findings of Fact, Conclusions of Law and Order, on his own motion, as the case may be, may set aside, modify, change or reverse any Findings of Fact, Conclusions of Law and Order, at any time within twenty (20) days from the date of the issue and mailing thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence, provided, in case of the single member or examiner, no petition for review has been filed with the Board.

ERS 12.09 Review of Findings of Fact, Conclusions of Law and Order issued by single member or examiner.

(1) Right to file, time. Within twenty (20) days from the date that a copy of the Findings of Fact, Conclusions of Law and Order of the single member or examiner was mailed to the last known address of the parties in interest, any party in interest, who is dissatisfied with such Findings of Fact, Conclusions of Law and Order, may file a written petition with the Board, and at the same time cause copies thereof to be served upon the other parties, to review such Findings of Fact, Conclusions of Law or Order. If the Board is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any Findings of Fact, Conclusions of Law or Order, it may extend time another twenty (20) days for filing the petition for review.

(2) Petition for review; basis for and contents of. The petition for review shall briefly state the grounds of dissatisfaction with the Findings of Fact, Conclusions of Law and Order, and such review may be requested on the following grounds:

(a) That any finding of material fact is clearly erroneous as established by the clear and satisfactory preponderance of the evidence and prejudicially affects the rights of the petitioner, designating all relevant portions of the record.

(b) That a substantial question of law or administrative policy is raised by any necessary legal conclusions in such order.

(c) That the conduct of the hearing or the preparation of the Findings of Fact, Conclusions of Law, or Order involved a prejudicial procedural error, specifying in detail the nature thereof and designated portions of the record, if appropriate.

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Chapter ERB 13

GENERAL PROCEDURE FOR MEDIATION
OF LABOR DISPUTES PURSUANT
TO SECTION 111.70 OF THE
WISCONSIN STATUTES

ERB 13.01	Scope	ERB 13.04	Function of mediator
ERB 13.02	Policy	ERB 13.05	Mediation proceedings
ERB 13.03	Who may act as mediator	ERB 13.06	Report to Board

ERB 13.01 Scope. This chapter governs the general procedure relating to the mediation of labor disputes between municipal employes, or their representatives, and municipal employers, or their representatives, pursuant to Sec. 111.70 (4) (b) of the Wisconsin Statutes.

ERB 13.02 Policy. It is the policy of the Board to encourage parties to a labor dispute to settle their differences by themselves or their representatives in collective bargaining. However, if the parties, or their representatives, after sincere efforts toward that result, are unable to resolve their differences, the Board shall, in order to assist in the maintenance of harmony in municipal employment relations in the State, offer to aid the parties in the settlement of their labor dispute through mediation.

ERB 13.03 Who may act as mediator. The Board, or any member or employe thereof designated by the Board, or any other competent, impartial, disinterested person designated by the Board, may act as the mediator in the dispute.

ERB 13.04 Function of mediator. Upon the consent of the parties to mediation, it shall be the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate the settlement of the dispute, but neither the mediator nor the Board shall have any power of compulsion in mediation.

(1) Confidential nature of function. Any information disclosed by the parties to the mediator in the performance of his duties shall not be divulged voluntarily or because of compulsion unless approved by the party involved. All files, records, reports, documents, or other papers received or prepared by the mediator in his confidential capacity shall be classified as confidential and such confidential matter shall not be disclosed to any unauthorized person without the prior consent of the Board. The mediator shall not produce any confidential records of, or testify with regard to, any mediation conducted by him, on behalf of any party to any cause pending in any proceeding before any court, board, including the Wisconsin Employment Relations Board, commission, investigatory body, arbitrator, or fact finder without the written consent of the Board and failing same, the mediator shall respectfully decline, by reason of this rule, to produce or present confidential records or documents of any nature or given testimony with regard thereto.

ERB 13.05 Mediation proceedings.

(1) Nature. The mediator may hold separate or joint meetings with the parties or their representatives and such meetings shall be of an executive, private and non-public nature, except if otherwise mutually agreed to by the parties or their representatives.

(2) Where and when conducted. Mediation meetings shall be conducted at such time and place agreed to by the mediator and the parties or their representatives.

ERB 13.06 Report to Board. The mediator shall, either orally or in writing, report to the Board the progress of his mediation efforts, as well as the terms of the settlement of the dispute, if any, if so requested by the Board.

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Chapter ERB 14

GENERAL PROCEDURE FOR FACT FINDING IN DISPUTES
INVOLVING MUNICIPAL EMPLOYERS AND
MUNICIPAL EMPLOYEES PURSUANT
TO SECTION 111.70 OF THE
WISCONSIN STATUTES

ERB 14.01	Scope	ERB 14.08	Hearings
ERB 14.02	Petition for fact finding	ERB 14.09	Certification of
ERB 14.03	Withdrawal of petition		results of investigation
ERB 14.04	Board investigation	ERB 14.10	Hearing before the
ERB 14.05	Informal investigation		fact finder
ERB 14.06	Consolidation of proceedings	ERB 14.11	Fact finding report
ERB 14.07	Notice of hearing	ERB 14.12	Compensation of fact
			finder

BRB 14.01 Scope. This chapter governs the general procedure relating to fact finding in municipal employment pursuant to Sec. 111.70 of the Wisconsin Statutes.

BRB 14.02 Petition for fact finding.

(1) Who may file; where to file; form and jurat; 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 Board as the representative of the employees of a municipal employer in a collective bargaining unit, or which has been recognized by a municipal employer as the representative of its employees in a collective bargaining unit; or by a representative of a majority of the members of a police or sheriff or county traffic officer department (who may be required to post a bond pursuant to Sec. 111.70 (4) (j)); or by a municipal employer or anyone lawfully authorized to act in its behalf. The petition shall be prepared on a form furnished by the Board, the original being signed and sworn to before any person authorized to administer oaths or acknowledgements. Five (5) additional copies thereof, together with the original, shall be filed with the Board. 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, or where appropriate, the name, address, and principal representative of a majority of the members of the police or sheriff or county traffic officer department involved.

(b) The name, address, and principal representative of the municipal 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 the basis of the petition, either that after a reasonable period of negotiation the parties are deadlocked; or that the party other than the petitioner has failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(e) A statement to the effect that, within the knowledge of the petitioner, said deadlock or failure or refusal to meet and negotiate in good faith in a bona fide effort to arrive at a settlement, does not involve discipline or discharge cases under civil service provisions of a state or local ordinance.

(f) A clear and concise statement of facts constituting said alleged deadlock, or said failure or refusal to meet and negotiate in good faith.

(g) A statement as to whether or not the municipal employer involved has established fact finding procedures, (if so, the petitioner must attach a copy of such fact finding procedures).

(h) Any other relevant facts.

ERB 14.03 Withdrawal of petition. A petition may be withdrawn only with the consent of the Board under such conditions as the Board may establish to effectuate the policies of Sec. 111.70.

ERB 14.04 Board investigation.

(1) Scope. After a petition has been filed, the Board shall make an investigation to determine whether or not the parties are deadlocked after a reasonable period of negotiation or whether or not either party failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement, and whether or not the municipal employer involved has established fact finding procedures substantially in compliance with Sec. 111.70.

(2) Nature, who shall conduct. In such investigation the Board may assign a Board agent to conduct an informal investigation to assist the Board in making its determination; or the Board may conduct a formal hearing for that purpose; or it may utilize both procedures.

ERB 14.05 Informal investigation.

(1) Duty of Board Agent. It shall be the duty of the Board 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 Board agent shall not retain in his possession the original of any documents, correspondence or any other like material, which might be presented as evidence in a formal Board hearing. Upon completion of his investigation the Board agent shall report his findings to the Board, either orally or in writing, as the Board may direct.

ERB 14.06 Consolidation of proceedings. Whenever the Board deems it necessary, in order to effectuate the purposes of Sec. 111.70 or to avoid unnecessary costs, delay, or multiplicity of proceedings, the Board may consolidate fact finding proceedings.

ERB 14.07 Notice of hearing.

(1) When issued; contents. If it should appear to the Board that a hearing is warranted, the Board shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the jurisdiction of the municipal employer involved, 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 Board or Board agent conducting the hearing.

ERB 14.08 Hearings.

(1) Scope and nature. The Board 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; or whether the municipal

employer or labor organization has failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement; and whether or not the municipal employer involved has established fact finding procedures substantially in compliance with Sec. 111.70; and such hearing shall be public.

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

HRB 14.09 Certification of results of investigation.

(1) When issued. After consideration of either the report of the Board agent conducting the informal investigation, or the record adduced in the hearing, or both, the Board 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, and, if fact finding is to be initiated, as to whether the municipal employer involved has established fact finding procedures substantially in compliance with Sec. 111.70.

(2) Contents. Said certification shall contain findings of fact and conclusions with regard to the investigation, either initiating fact finding or dismissing the petition, or such other action, consistent with the purpose of Sec. 111.70, which the Board may deem appropriate.

(3) Appointment of fact finder. If the certification requires that fact finding be initiated and that the Board should appoint the fact finder, the selection of the fact finder shall be made from a panel established by the Board. The Board may immediately appoint the fact finder or it may submit to the parties the names of either three or five persons from the panel. Each party by its authorized representative shall alternately strike one name from such list of persons. The person remaining on the list shall be appointed by the Board as the fact finder.

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

HRB 14.10 Hearing before the fact finder.

(1) Notice of hearing. Following the receipt of notification of his appointment the fact finder shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the jurisdiction of the municipality involved 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, assists him in reaching his recommendation for the solution of the dispute.

(4) Rescheduling hearing. Upon his 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 Sec. 252.20, Wisconsin Statutes.

ERB 14.11 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 his report the fact finder shall cause copies of same to be served on the parties, as well as the Board.

ERB 14.12 Compensation of fact finder. The fact finder designated by the Board to conduct the fact finding proceeding shall be entitled to a per diem compensation for days spent in hearing in a sum not to exceed One Hundred Fifty Dollars (\$150.00) per day and for days spent in preparation and issuance of his report in a sum not to exceed One Hundred Dollars (\$100.00) 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.



July 9-1962

WISCONSIN EMPLOYMENT RELATIONS BOARD

COMMISSIONERS

MORRIS SLAVNEY, CHAIRMAN
JOHN E. FITZGIBBON
ARVID ANDERSON

WALTER KWAPIL, SECRETARY

700 STATE OFFICE BUILDING

MADISON 2, WISCONSIN

ALPINE 6-4411

EXT. 381 382 383

July 5, 1962

Mr. Robert Zimmerman
Secretary of State
112 W. State Capitol
Madison, Wisconsin

Att: Mr. Gaige Roberts

Dear Sir:

In accordance with your instructions to Miss Margaret Gaffney of this department, we are enclosing pages 4, 5, 7, 9, 10, 11, 16, and 17 of the Board's procedural rules for the administration of Section 111.70 of the Wisconsin Statutes. These pages contain corrections and we are requesting that they be substituted for the corresponding pages of the rules which were certified to you on June 11, 1962.

Very truly yours,

WISCONSIN EMPLOYMENT RELATIONS BOARD

Morris Slavney, Chairman

MS:mf

Enc.

cc: Miss Dorothy A. Heil
Revisor of Statutes
321 N.E. State Capitol
Madison, Wisconsin

(4) Signature. The original of each document filed shall be signed by an attorney or representative of record for the party, or in case of a party not so represented, by the party himself, or by an officer of the party if it is a corporation or an unincorporated association.

HRB 10.10 Service of pleadings and other process, proof of service.

(1) Method of service. Notices of hearings, decisions, orders, and other process or papers issued by the Board, Board agents, or fact finders, or required to be served thereby, may be served on parties or persons residing or located in the State by registered or certified mail and proof of service established by return post office receipt. In case a party or person is located outside the State, service shall be as provided in Sec. 111.07 (2) (a). Service of papers or process by parties or persons and proof thereof may be made in the same manner as provided above.

(2) Completion of service. Service of any paper or process shall be regarded as completed when (a) delivered in person, (b) left at the principal office or place of business of the person served, (c) addressed to the last known address of the person served and deposited in the United States mail, (d) addressed to the last known address of the person served and deposited with a telegraph company, or (e) with regard to persons or parties located outside the State in the manner and at the time as provided in Sec. 111.07 (2) (a).

(3) Upon whom served. All papers, except complaints, petitions for election and papers relating to subpoenas, shall be served upon all counsel of record and upon parties not represented by counsel or upon their agents designated by them or by law, and upon the Board, if not filed with it, or upon the fact finder, where appropriate, if not filed with either of them. Service upon such counsel or representative shall constitute service upon the party, but a copy shall also be transmitted to the party.

(4) Statement of service. The party or person serving the papers or process shall immediately submit to the Board or the individual conducting the proceeding a written statement of such service, setting forth the names of the parties or persons served and the date and manner of service. Proof of service shall not be required unless a timely question is raised with respect to proper service. Failure to file a statement of service shall not affect the validity of the service.

HRB 10.11 Motions and statements in opposition.

(1) Presentation. All motions shall be made in writing, except that motions made at a hearing may be stated orally on the record,

and shall briefly state the order, ruling, or action sought and shall set forth with particularity the grounds therefore. Alternate relief may be requested. Any party may by motion request that the Board or individual conducting the proceeding take any action which they are authorized to take by these rules. Any statement opposing a motion shall be promptly filed and shall conform to the same requirements.

(2) Disposition. The Board shall rule upon motions filed with it before or after hearing, except that in fact finding in municipal employment, motions filed after the appointment of the fact finder, before or after hearing shall be filed with the fact finder. Motions made during a hearing shall be ruled on by the individual conducting the hearing, except motions referred to the Board, either during the hearing or at such time as the entire record is considered. All ruling on motions shall be in writing, or if announced at the hearing, may be stated orally on the record.

(3) Rulings and orders part of the record. All motions, and any rulings or order thereon shall become part of the record.

ERB 10.12 Particular motions.

(1) To reschedule hearing. Motion to reschedule hearing shall set forth (a) the grounds for same, (b) alternate dates for rescheduling, (c) the positions of all other parties. Except for good cause shown any motion for rescheduling must be received at least two (2) days before the date set for hearing.

(2) To intervene. Any person desiring to intervene in any proceeding, shall, if prior to hearing, file a motion with the Board. Such motions shall state the grounds upon which such person claims an interest. Intervention at the hearing shall be made by oral motion stated on the record. Intervention may be permitted and upon such terms as the Board or the individual conducting the proceeding may deem appropriate.

ERB 10.13 Hearing, transcripts.

(1) Public hearing. All hearings shall be public.

(2) Rescheduling of hearing. Upon its own motion or proper cause shown by any of the parties, the Board, may prior to the opening of the hearing reschedule the date of such hearing.

(3) Rights of parties at hearing. Any party shall have the right to appear by counsel or by any other qualified representative to present his case by oral, documentary, or other evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. Any party shall be entitled, upon request, to a reasonable period for oral argument at an appropriate time during the hearing.

(4) Effect of failure to appear. Any party failing to appear and participate after due notice shall be deemed to have waived the rights set forth in (2) above, to admit the accuracy of the uncontradicted evidence adduced by the parties present, and shall, unless good

ERB 10.18 Powers of individuals conducting hearings. Individuals conducting hearings shall have the authority to take the following action, subject to these rules within the Board's power:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the Board, except in fact finding cases, the Board shall issue the subpoenas.
- (3) To rule upon offers of proof, receive relevant evidence, and exclude irrelevant, immaterial, or unduly repetitious evidence;
- (4) To question witnesses.
- (5) To take or cause depositions to be taken and to determine their scope;
- (6) To regulate the time, place and course of the hearing;
- (7) To dispose of procedural requests or other similar matters;
- (8) During the course of the hearing to hold conferences for the settlement, simplification or adjustment of the issues by consent of the parties; and,
- (9) To take any other action necessary under the foregoing or authorized under these Rules.

ERB 10.19 Close of hearing. A hearing shall be deemed closed when the evidence is closed and when any period fixed for filing of briefs, presentation of oral argument, if any, or both has expired. The hearing may be re-opened on good cause shown.

ERB 10.20 Waiver of procedures. The parties to any proceeding may agree to waive any one or more of the procedural steps or decisions which would otherwise precede the issuance a final order or other final disposition issued by the Board or any authorized individual.

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ERB 11.01 Scope. This chapter governs the general procedure relating to elections to determine a collective bargaining representative for all employes in a unit appropriate for that purpose, and for a determination of said unit whenever such question arises, pursuant to Sec. 111.70 of the Wisconsin Statutes.

ERB 11.02 Petition for election.

(1) Who may file. A petition to determine a collective bargaining representative or any appropriate collective bargaining unit involving municipal employes may be filed by a labor organization acting on behalf of employes of a municipal employer or by a municipal employer or anyone lawfully authorized to act on its behalf.

(2) Form, number of copies. The petition shall be prepared on a form furnished by the Board, and the original and five (5) copies thereof shall be signed and filed with the Board.

(3) Contents. The petition shall include the following:

(a) The name, address and affiliation, if any, of the petitioner, and the name and telephone number of its principal representative.

(b) The name and address of the municipal employer involved, if the municipal employer is not the petitioner, and the name and telephone number of its principal representative.

(c) A general description of the nature of the employer's municipal function, and the approximate number of its total employes.

(d) A description of the claimed appropriate collective bargaining unit, specifying inclusions and exclusions, as well as the approximate number of employes in the unit, and a statement that the claimed appropriate collective bargaining unit does not include employes engaged in any craft or that the claimed appropriate collective bargaining unit consist of employes of one craft only.

(e) The names and addresses of any known labor organizations who claim to represent any of the employes in the claimed appropriate collective bargaining unit.

(f) A brief statement setting forth the nature of the question that has arisen concerning representation.

(g) Any other relevant facts.

ERB 11.03 Withdrawal of petition. Any petition may be withdrawn with the consent of the Board under such conditions as the Board may impose to effectuate the policies of Sec. 111.70, Wisconsin Statutes.

ERB 11.04 Stipulation for election.

(1) Who may file. A stipulation to determine a collective bargaining representative may be filed by a labor organization and by a municipal employer or anyone lawfully authorized to act on its behalf, either to initiate an election proceeding or subsequent to the filing of a petition and prior to a direction of election based on a hearing on the petition.

(2) Form, number of copies. The stipulation shall be prepared on a form furnished by the Board and the original and five (5) copies thereof shall be signed by the parties and filed with the Board.

(3) Contents.

The stipulation shall include the following:

- (a) The names and addresses of the parties on whose behalf the election is stipulated.
- (b) An agreement that a hearing will be waived and that the Board conduct an election to determine the collective bargaining representative pursuant to Sec. 111.70.
- (c) A description of the collective bargaining unit agreed to be appropriate by the parties.
- (d) A complete list of employees agreed upon by the parties as being included in the collective bargaining unit and eligible to vote.
- (e) Suggested days of the week, time and place for the conduct of the election.
- (f) A statement providing that questions arising in connection with the conduct or results of the election shall be processed in accordance with the procedures following an election directed as a result of a hearing.

ERB 11.05 Notice of hearing.

(1) When issued; contents. Following the filing of a petition, if it appears to the Board that further proceedings are warranted, the Board shall issue and serve upon each of the parties and upon any known labor organizations claiming to represent any employees directly affected, a notice of hearing, at a place fixed therein, and, except by agreement of the parties or in unusual circumstances, at a time not less than seven (7) days after the service of such notice. A copy of the petition shall be served with such notice of hearing.

(2) Withdrawal or amendment. Any such notice of hearing may be withdrawn or amended before the close of the hearing by the Board.

ERB 11.06 Hearings.

(1) Who shall conduct. Hearings may be conducted by the Board, or any member or members thereof, or any member of its staff or other individual designated by the Board. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

(2) Scope of hearing. The hearing shall be limited to pertinent matters necessary to determine questions relating to the election case. Allegations of prohibited practices within the meaning of Sec. 111.70 may not be litigated therein.

ERB 11.07 Board action. After the close of the hearing the Board may proceed either forthwith upon the record or after oral argument or the submission of briefs, or further hearing, as it may deem proper, to determine issues with regard to the appropriate collective bargaining unit, with regard as to whether a question of representation exists, and to direct an election, dismiss the petition, or make other disposition of the matter.

ERB 11.08 Elections.

(1) Who shall conduct; extension of time for; method. All elections shall be conducted under the supervision of the Board, which may extend the time within which any such election shall be held. All elections shall be by secret ballot.

(2) Observers. Any party may be represented by observers, selected in accordance with such limitations as the Board may prescribe.

(3) Challenge of voters. Any observer or Board agent conducting the election may challenge for good cause the eligibility of any person to vote in the election. The ballots of such challenged persons shall be impounded.

(4) Count and tally of ballots. Upon the conclusion of the election, the ballots shall be counted in the presence of and with the assistance of the parties or their observers, and the Board agent conducting the election shall cause to be furnished to the parties a tally of ballots.

(5) Inconclusive elections.

(a) When conducted and procedure. When more than one proposed representative appears on the ballot and the results are inconclusive the Board may conduct a run-off election as prescribed in Sec. 111.05 (3m).

(b) Eligibility. The Board may in its Direction of Run-off Election, in its discretion, maintain the same eligibility date or establish a new eligibility date.

ERB 11.09 Certification of results of election. If challenged ballots are insufficient in number to affect the results, and if no run-off election is to be held, and no timely objections are filed as provided below, the Board shall forthwith issue to the parties a certification of the results of the election, either a certification of a collective bargaining unit or a certification of representatives, or both where appropriate.

ERB 11.10 Objections to election.

(1) Filing; form; copies. Within five (5) days after the tally of ballots has been furnished, any party may file with the

(2) When scheduled. Hearing on a complaint shall be set on a date not less than ten (10) days nor more than forty (40) days after the filing of the complaint and may be rescheduled as provided in these rules.

(3) Before whom held. The hearing may be held by the full Board, or any member or members thereof or examiner acting on behalf of the Board. A single member or examiner appointed by the Board may be authorized by an order of the Board to make Findings of Fact, Conclusions of Law and Order.

ERB 12.05 Filing of briefs and proposed findings. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions or both at such time as fixed by the Board member or examiner conducting the hearing, who may direct the filing of briefs when he deems such filing warranted by the nature of the proceeding or particular issues therein.

ERB 12.06 Findings of Fact, Conclusions of Law and Order.

(1) Issuance. After the close of the hearing, or upon granting a motion for dismissal of a complaint, the Board, or single member or examiner, if authorized to do so, shall make and file Findings of Fact, Conclusions of Law and Order. Following a hearing conducted by a single member or examiner on behalf of the Board, where the single member or examiner has not been authorized to issue Findings of Fact, Conclusions of Law and Order, the single member or examiner, as the case may be, shall prior to the issuance of Findings of Fact, Conclusions of Law and Order by the Board, participate in discussions with the Board where the credibility of a witness or witnesses is a substantial element in the proceeding.

(2) Contents. The Findings of Fact, and Conclusions of Law shall be made upon all material issues of fact and law presented on the record. The Order, which shall state the determination as to the rights of the parties, may dismiss or may sustain the complaint in whole or in part or require the respondent to cease and desist from the prohibited practices found and take such affirmative action as will effectuate the policies of Sec. 111.70.

ERB 12.07 Interlocutory Findings of Fact, Conclusions of Law and Order. The Board may, after the close of the hearing and pending the final determination by it of any controversy, make and issue Interlocutory Findings of Fact, Conclusions of Law and Order, when it deems that such will effectuate the policies of Sec. 111.70, which may be enforced in the same manner as final orders.

ERB 12.08 Setting aside, modifying, changing or reversing Findings of Fact, Conclusions of Law and Order. The Board on its own motion, or

the single member or examiner having authority to issue Findings of Fact, Conclusions of Law and Order, on his own motion, as the case may be, may set aside, modify, change or reverse any Findings of Fact, Conclusions of Law and Order, at any time within twenty (20) days from the date of the issue and mailing thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence, provided, in case of the single member or examiner, no petition for review has been filed with the Board.

ERB 12.09 Review of Findings of Fact, Conclusions of Law and Order issued by single member or examiner.

(1) Right to file, time. Within twenty (20) days from the date that a copy of the Findings of Fact, Conclusions of Law and Order of the single member or examiner was mailed to the last known address of the parties in interest, any party in interest, who is dissatisfied with such Findings of Fact, Conclusions of Law and Order, may file a written petition with the Board, and at the same time cause copies thereof to be served upon the other parties, to review such Findings of Fact, Conclusions of Law and Order. If the Board is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any Findings of Fact, Conclusions of Law and Order, it may extend time another twenty (20) days for filing the petition for review.

(2) Petition for review; basis for and contents of. The petition for review shall briefly state the grounds of dissatisfaction with the Findings of Fact, Conclusions of Law and Order, and such review may be requested on the following grounds:

(a) That any finding of material fact is clearly erroneous as established by the clear and satisfactory preponderance of the evidence and prejudicially affects the rights of the petitioner, designating all relevant portions of the record.

(b) That a substantial question of law or administrative policy is raised by any necessary legal conclusions in such order.

(c) That the conduct of the hearing or the preparation of the Findings of Fact, Conclusions of Law and Order involved a prejudicial procedural error, specifying in detail the nature thereof and designated portions of the record, if appropriate.

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