

ERB 15 to 18

Filed May 16, 1972
1:30 P.M.

STATE OF WISCONSIN)
) SS
WISCONSIN EMPLOYMENT RELATIONS COMMISSION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Morris Slavney, Chairman of the Wisconsin Employment Relations Commission, and custodian of the official records of said Commission, do hereby certify that the annexed rules and regulations, relating to Subchapter IV of Chapter 111, Wis. Stats., were duly approved and adopted by this Commission on May 5, 1972.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Commission in the City of Madison, this 5th day of May A.D., 1972.


Morris Slavney, Chairman



State of Wisconsin \ WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MORRIS SLAVNEY, CHAIRMAN
ZEL S. RICE II, COMMISSIONER
JOS. B. KERKMAN, COMMISSIONER
ROOM 906
30 WEST MIFFLIN STREET
MADISON, WISCONSIN 53703

(608) 266-1381

ORDER OF THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION
ADOPTING RULES

Pursuant to authority vested in the Wisconsin Employment Relations Commission by Section 111.71(1) of the Wisconsin Statutes, the Wisconsin Employment Relations Commission hereby adopts rules as follow:

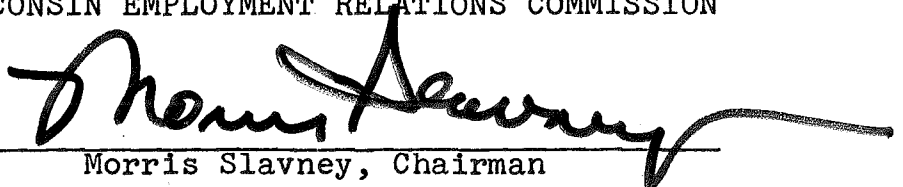
Chapters ERB 15 through 18 of the Wisconsin Administrative Code are adopted to read as attached.

The rules contained herein shall take effect on June 1, 1972, as provided in Section 227.026(1) of the Wisconsin Statutes.

Given under my hand and seal at the City of Madison, Wisconsin, this 5th day of May, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman

EMPLOYMENT RELATIONS COMMISSION

Chapter ERB 15

REFERENDA WITH RESPECT TO FAIR-SHARE AGREEMENTS
PURSUANT TO SECTION 111.70(1)(h) and (2), WIS. STATS.

ERB 15.01	Scope	ERB 15.07	Notice of Hearing
ERB 15.02	Stipulation for referendum seeking authorization to implement fair-share agreement	ERB 15.08	Hearing
		ERB 15.09	Commission action
		ERB 15.10	Referenda
ERB 15.03	Stipulation for Referendum to determine the continuation of a fair-share agreement	ERB 15.11	Certification of results of referendum
		ERB 15.12	Objections to referendum
ERB 15.04	Petition for referendum		
ERB 15.05	Showing of interest in support of petition	ERB 15.13	Hearing on challenges or objections
ERB 15.06	Withdrawal of petition		

EMPLOYMENT RELATIONS COMMISSION

ERB 15.01 SCOPE. This chapter governs the general procedure relating to referenda with respect to fair-share agreements, pursuant to section 111.70(1)(h) and (2), Wis. Stats.

ERB 15.02 STIPULATION FOR REFERENDUM SEEKING AUTHORIZATION TO IMPLEMENT FAIR-SHARE AGREEMENT. (1) Who may file. When a municipal employer and the labor organization representing employees of said municipal employer in an appropriate collective bargaining unit, in their negotiations with respect to the inclusion of a fair-share agreement in their collective bargaining agreement, jointly desire to determine whether the employees in said collective bargaining unit favor the implementation of a fair-share agreement, said municipal employer and said labor organization, or anyone lawfully authorized to act on their behalf, may file a stipulation for a referendum for said purpose.

(2) Time for filing. A stipulation for an initial referendum seeking authorization to implement a fair-share agreement shall be entertained by the commission, provided said stipulation is filed any time prior to the proposed implementation of the fair-share agreement involved.

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

(4) Contents. The stipulation shall include the following:

(a) The names and addresses of the parties on whose behalf the referendum is stipulated.

(b) A request that the commission conduct a referendum to determine whether the employees in the collective bargaining unit involved favor the implementation of the fair-share agreement.

(c) A description of the collective bargaining unit involved, and the approximate number of employees in said unit.

(d) A description of the fair-share agreement involved.

(e) A statement by the municipal employer that it agrees, should the required number of employees vote in favor of implementing the fair-share agreement, that it will incorporate the fair-share agreement in the collective bargaining agreement covering the employees in the bargaining unit involved, and a statement by the labor organization that it agrees, should the required number of employees not vote in favor of the implementation of the fair-share agreement, to withdraw

its request in negotiations that a fair-share agreement be included in the collective bargaining agreement covering the employes in the bargaining unit involved.

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

(g) Suggested days of the week, time and place for the conduct of the referendum.

(5) Questions arising in connection with the conduct of or the results of the referendum shall be processed in accordance with the procedures following a referendum directed as a result of a hearing conducted after the filing of a petition for a referendum.

ERB 15.03 STIPULATION FOR REFERENDUM TO DETERMINE THE CONTINUATION OF A FAIR-SHARE AGREEMENT. (1) Who may file. A stipulation for a referendum to determine the continuation of a fair-share agreement may be filed by the labor organization and the municipal employer who are parties to the fair-share agreement, or anyone lawfully authorized to act on their behalf, either to initiate a referendum proceeding or subsequent to the filing of a petition and prior to a direction of referendum based on a hearing on such petition.

(2) Time for filing. A stipulation for an initial referendum to determine the continuation of a fair-share agreement shall be entertained by the commission, provided said stipulation is filed at any time following the implementation of the fair-share agreement involved.

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

(4) Contents. The stipulation shall include the following:

(a) The names and addresses of the parties on whose behalf the referendum is stipulated.

(b) An agreement that a hearing will be waived and a request that the commission conduct a referendum to determine the continuation of a fair-share agreement.

(c) A description of the collective bargaining unit involved, and the approximate number of employes in said unit.

(d) A description of the fair-share agreement involved.

(e) The date of execution, the effective date, the re-opening date if any, and the expiration date of the collective bargaining agreement containing the fair-share agreement covering the unit involved.

(f) The date on which the most recent referendum, if any, was conducted, and the result thereof.

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

(h) Suggested days of the week, time and place for the conduct of the referendum.

(5) Questions arising in connection with the conduct of or the results of the referendum shall be processed in accordance with the procedures following a referendum directed as a result of a hearing conducted after the filing of a petition for a referendum.

ERB 15.04 PETITION FOR REFERENDUM. (1) Who may file. A petition to determine the continuation of a fair-share agreement may be filed by a municipal employer or by a labor organization, or by anyone acting on their behalf.

(2) Time for filing. A petition for an initial referendum to determine the continuation of a fair-share agreement shall be entertained by the commission, provided said petition is filed at any time following the implementation of the fair-share agreement involved.

(3) Form, number of copies. 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. The original and 5 copies shall be filed with the commission.

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

(a) The name and address of the municipal employer who is a party to the fair-share agreement involved, and the name and telephone number of its principal representative.

(b) The name and address of the labor organization who is a party to the fair-share agreement involved, and the name and telephone number of its principal representative.

(c) A description of the collective bargaining unit involved, and the approximate number of employes in said unit.

(d) A description of the fair-share agreement involved.

(e) The date of execution, the effective date, the re-opening date, if any, and the expiration date of the collective bargaining agreement containing the fair-share agreement involved.

(f) The date on which the most recent referendum, if any, was conducted, and the result thereof.

(g) A statement to the effect that at least thirty per cent of the employes in the collective bargaining unit involved desire a referendum to determine whether the fair-share agreement shall continue.

(h) The name and address of the petitioner, whether it be the municipal employer or the labor organization who are the parties to the fair-share agreement involved, or whether it be a labor organization not a party to said fair-share agreement, and the name and telephone number of the petitioner's principal representative.

ERB 15.05 SHOWING OF INTEREST IN SUPPORT OF PETITION. (1) Form. The original of the petition must be accompanied by a showing of interest in writing, containing the signatures of at least thirty per cent of the employes in the collective bargaining unit involved, and the dates on which such signatures were executed, and further containing a statement to the effect that the employes affixing their signatures oppose the continuance of the fair-share agreement involved.

(2) Furnishing of employe list by employer. If it appears to the commission that the showing of interest is sufficient, on its face, to warrant the processing of the petition, the municipal employer involved shall, within such period of time as established by the commission, furnish in writing to the commission a list containing the names of the employes, in alphabetical order, employed in the collective bargaining unit involved. Such period of time for furnishing a list of employes may be extended by the commission for good cause shown.

(3) Determination of showing of interest. The commission shall administratively determine the sufficiency of the showing of interest upon the receipt from the employer of the names of the employes in the bargaining unit. Such determination shall not be subject to review, and, in said regard, parties other than the petitioner shall not be entitled to a copy, or any examination of, the showing of interest. If a labor organization files a petition, the failure of the employer to furnish the commission the names of the employes involved, within the time limits set by the commission, shall result in a determination by the commission that the showing of interest is sufficient to warrant the further processing of the petition. If the petition is filed by the employer and the employer fails to furnish the commission the names of the employes involved, within the time set by the commission, the petition shall be deemed insufficient and shall be dismissed.

ERB 15.06 WITHDRAWAL OF PETITION. Any petition may be withdrawn with the consent of the commission under such conditions as the commission may impose to effectuate the policies of Section 111.70, Wis. Stats.

ERB 15.07 NOTICE OF HEARING. (1) When issued: Contents. Following the filing of a petition, if it appears to the commission that further proceedings are warranted, the commission shall issue and serve upon each of the parties and upon any known labor organizations 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 7 days after the service of such notice. A copy of the petition shall be served with such notice of hearing upon the parties other than the petitioner.

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

ERB 15.08 HEARING. (1) Who shall conduct. Hearings may be conducted by the commission, or any member or members thereof, or any member of its staff or other individual designated by the commission. 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 referendum case. Matters relating to the determination of bargaining representatives or appropriate bargaining units or allegations of prohibited practices may not be litigated therein.

ERB 15.09 COMMISSION ACTION. (1) Following hearing. In a referendum proceeding initiated by a petition, after the close of the hearing the commission 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 referendum proceeding and to direct a referendum, dismiss the petition, or make disposition of the matter.

(2) Following stipulation. In a referendum proceeding initiated by a stipulation, the commission may proceed forthwith and direct a referendum.

ERB 15.10 REFERENDA. (1) Who shall conduct: Extension of time for: method. All referenda shall be conducted under the supervision of the commission, which may extend the time within which any such referendum shall be held. All referenda shall be by secret ballot.

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

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

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

ERB 15.11 CERTIFICATION OF RESULTS OF REFERENDUM. (1) When issued. If challenged ballots are insufficient in number to affect the results, and no timely objections are filed as provided below, the commission shall forthwith issue to the parties a certification of the results of the referendum.

(2) Effect of certification.

(a) Where the certification of the result of a referendum indicates that the required number of employes have not authorized the implementation of, or the continuation of, the fair-share agreement, said fair-share agreement shall not be implemented, or shall be immediately terminated, as the case may be.

(b) Where the certification of the result of a referendum indicates that the required number of employes have authorized the implementation of, or the continuation of, the fair-share agreement, said fair-share agreement shall become effective, or continue to remain in effect, as the case may be.

(c) Except for good cause shown, over and above the required showing of interest, the commission will not process a petition for a subsequent referendum, unless such petition is filed within the sixty day period immediately preceding the date on which either party to the collective bargaining agreement may notify the other party of its desire to re-open or terminate said collective bargaining agreement, provided that the result of the previous referendum has not been certified within six months preceding the commencement of said sixty day period.

(d) Should the municipal employer and the collective bargaining representative enter into a fair-share agreement at any time following the certification of the result of a referendum, wherein the required number of employes did not support the implementation of, or the continuation of a previous fair-share agreement, as the case may be, then a petition for a referendum to determine the continuation of such fair-share agreement shall be considered as a petition for an initial referendum.

ERB 15.12 OBJECTIONS TO REFERENDUM. (1) Filing , Form, Copies. Within 5 days after the tally of ballots has been furnished, any party may file with the commission objections to the conduct of the referendum or conduct affecting the results of the referendum. Such objections shall be in writing and shall contain a brief statement of facts upon which the objections are based. An original and 5 copies of such objections shall be signed and filed with the commission, 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.

ERB 15.13 HEARING ON CHALLENGES OR OBJECTIONS. If challenges, which affect the result of the referendum, or objections raise issues which cannot be resolved without a hearing, the commission may issue and serve a notice of hearing on said issues.

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

(2) Commission action. After the close of the hearing the commission 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 commission directs that challenged ballots be opened and counted, said ballots shall be opened and counted, and the commission shall issue a revised tally and shall forthwith issue a certification of referendum.

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

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

EMPLOYMENT RELATIONS COMMISSION

Chapter ERB 16

ARBITRATION OF LABOR DISPUTES PURSUANT
TO SECTION 111.70(4)(c)2, WIS. STATS.

ERB 16.01	Scope	ERB 16.05	Arbitrators, who may act
ERB 16.02	Policy	ERB 16.06	Proceedings before the arbitrator
ERB 16.03	Request to initiate arbitration	ERB 16.07	Award and report
ERB 16.04	Commission action		

EMPLOYMENT RELATIONS COMMISSION

ERB 16.01 SCOPE. This chapter governs the general procedure relating to arbitration proceedings and the designation of arbitrators, pursuant to Section 111.70(4)(c)2, Wis. Stats.

ERB 16.02 POLICY. The policy of the state being primarily to promote the prompt, peaceful and just settlement of labor disputes arising from the interpretation or application of a collective bargaining agreement affecting terms and conditions of municipal employment, the commission may act or name arbitrators for the final determination of such disputes where the parties have agreed in writing that the commission may so do.

ERB 16.03 REQUEST TO INITIATE ARBITRATION. (1) Form, Filing. A request that the commission initiate arbitration shall be in writing and signed by the party or parties filing the request. If not a joint request, the party filing same, at the same time, shall cause a copy thereof to be sent to the other party.

(2) Contents. (a) If a joint request, it shall contain a general statement of the nature of the grievance or issues in dispute, or if a request only by one of the parties, a statement as to the alleged issue or issues in dispute.

(b) A copy of the collective bargaining agreement in effect.

(c) A request that the commission either act as an arbitration board; or appoint either one of its commissioners or staff members, or an individual not in the employ of the commission, as the sole arbitrator, or as chairman of an arbitration board; or furnish the parties with a panel of individuals not in the employ of the commission, for their consideration in the selection of an arbitrator or board of arbitration.

(d) The names, addresses and phone numbers of the principal representatives of the parties involved.

(e) Suggested dates, time and place for the conduct of the hearing, if the commission is requested to appoint one of its members or staff members as the arbitrator.

ERB 16.04 COMMISSION ACTION. (1) Upon request of one party. If the request to initiate arbitration is filed by only one party, the commission shall immediately contact the other party to the dispute with regard to the arbitration request. If the latter party opposes the right of the initiating party to proceed to arbitration, the commission shall so advise the initiating party and thereupon shall not act further on the request.

(2) Appointment of arbitrator. If arbitration has been jointly initiated or acquiesced in, the commission shall, as requested or agreed, either appoint the arbitrator or arbitrators, or submit to the parties a panel of individuals for their consideration in the selection of an arbitrator or board of arbitration.

ERB 16.05 ARBITRATORS, WHO MAY ACT. (1) Commission and staff. The full commission may act as a board of arbitration or it may, by order, appoint one of its members or staff members to act as an arbitrator in a particular dispute. When so acting, neither any member of the commission nor any member of the staff shall receive any compensation from the parties in the performance of such function.

(2) Others. The commission shall appoint only competent, impartial and disinterested persons to act as arbitrators or to be included in a panel of arbitrators. Such persons, when acting as arbitrators, shall be compensated by the parties for fees and expenses.

ERB 16.06 PROCEEDINGS BEFORE THE ARBITRATOR. Proceedings before the arbitrator shall be as provided in ss. 298.06, 298.07 and 298.08, Wis. Stats., where applicable.

ERB 16.07 AWARD AND REPORT. Any arbitrator appointed by the commission or selected by the parties from a panel designated by the commission shall, after he has submitted his award to the parties, file a copy thereof with the commission, as well as a report reflecting a breakdown of his fees and expenses, if any.

EMPLOYMENT RELATIONS COMMISSION

Chapter ERB 17

ELECTIONS TO DETERMINE BARGAINING REPRESENTATIVE
FOR SUPERVISORY LAW ENFORCEMENT OR SUPERVISORY
FIRE-FIGHTER PERSONNEL PURSUANT TO
SECTION 111.70(3)(d), WIS. STATS.

ERB 17.01	Scope	ERB 17.07	Commission action
ERB 17.02	Petition for election	ERB 17.08	Elections
ERB 17.03	Withdrawal of petition	ERB 17.09	Certification of results of election
ERB 17.04	Stipulation for election	ERB 17.10	Objections to election
ERB 17.05	Notice of hearing	ERB 17.11	Hearing on challenges or objections
ERB 17.06	Hearings		

EMPLOYMENT RELATIONS COMMISSION

ERB 17.01 SCOPE. This chapter governs the general procedure relating to elections to determine a collective bargaining representative for supervisory law enforcement or supervisory firefighter personnel, and for a determination of said unit when such question arises, pursuant to section 111.70(3)(d), Wis. Stats. The determination as to the levels of law enforcement and firefighter supervisors to be included in bargaining units, as set forth in section 111.70(3)(d), Wis. Stats., will be determined on a case-to-case basis, because of a variance of the duties and responsibilities assigned to supervisory officers in law enforcement and firefighting services in the various municipalities throughout the state. Since section 111.70(1)(b), Wis. Stats., specifically excludes confidential, managerial and executive employes, as well as supervisors, from the term "municipal employe", supervisors who perform confidential, managerial or executive duties shall be excluded from units of supervisory law enforcement or firefighter personnel. Supervisors employed in law enforcement departments, who have no power of arrest, and supervisors employed in fire departments, who are not actively engaged in firefighting, are not considered as law enforcement or firefighter supervisors.

ERB 17.02 PETITION FOR ELECTION. (1) Who may file. A petition to determine a collective bargaining representative or an appropriate collective bargaining unit involving supervisory law enforcement or supervisory firefighting personnel of a municipal employer may be filed by an individual law enforcement or firefighting supervisor, or by a labor organization acting on their behalf, or by the 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 commission, and the original and 5 copies thereof shall be signed and filed with the commission.

(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 description of the claimed appropriate supervisory collective bargaining unit, specifying inclusions and exclusions, as well as the approximate number of supervisors in the unit.

(d) The names and addresses of any known labor organizations who claim to represent any of the supervisory law enforcement or supervisory firefighter personnel in the claimed appropriate collective bargaining unit.

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

(f) Any other relevant facts.

ERB 17.03 WITHDRAWAL OF PETITION. Any petition may be withdrawn with the consent of the commission under such conditions as the commission may impose to effectuate the policies of section 111.70, Wis. Stats.

ERB 17.04 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 their 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 commission and the original and 5 copies thereof shall be signed by the parties and filed with the commission.

(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 commission conduct an election to determine the collective bargaining representative pursuant to section 111.70(3)(d), Wis. Stats.

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

(d) A complete list of supervisory law enforcement or supervisory firefighter personnel 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.

(4) Questions arising in connection with the conduct of or results of the election shall be processed in accordance with the procedures following an election directed as a result of a hearing.

ERB 17.05 NOTICE OF HEARING. (1) When issued; contents. Following the filing of a petition, if it appears to the commission that further proceedings are warranted, the commission shall issue and serve upon each of the parties and upon any known labor organizations claiming to represent any supervisory law enforcement or supervisory firefighter personnel 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 7 days after the service of such notice. A copy of the petition shall be served with such notice of hearing upon the parties other than the petitioner.

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

ERB 17.06 HEARINGS. (1) Who shall conduct. Hearings may be conducted by the commission, or any member or members thereof, or any member of its staff or other individual designated by the commission. 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.

ERB 17.07 COMMISSION ACTION. (1) Following hearing. In an election proceeding initiated by a petition, after the close of the hearing the commission 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 to whether a question of representation exists, and to direct an election, dismiss the petition, or make other disposition of the matter.

(2) Following stipulation. In an election proceeding initiated by a stipulation, the commission may proceed forthwith and direct an election.

ERB 17.08 ELECTIONS. (1) Who shall conduct; extension of time for; method. All elections shall be conducted under the supervision of the commission, 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 commission may prescribe.

(3) Challenge of voters. Any observer or commission 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 commission 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 commission may conduct a run-off election as prescribed in section 111.70(4)(d)4, Wis. Stats.

(b) Eligibility. The commission may in its direction of run-off election, in its discretion, maintain the same eligibility date or establish a new eligibility date.

ERB 17.09 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 commission shall forthwith issue to the parties a certification of the results of the election.

ERB 17.10 OBJECTIONS TO ELECTION. (1) Filing; form; copies. Within 5 days after the tally of ballots has been furnished, any party may file with the commission 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 5 copies of such objections shall be signed and filed with the commission, 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.

ERB 17.11 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 commission 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) Commission action. After the close of the hearing, the commission 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 commission directs that challenged ballots be opened and counted, said ballots shall be opened and counted, and the commission shall issue a revised tally and shall forthwith issue a certification of election.

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

EMPLOYMENT RELATIONS COMMISSION

Chapter ERB 18

DECLARATORY RULINGS PURSUANT TO
SECTION 111.70(4)(b), WIS. STATS.

ERB 18.01	Scope	ERB 18.07	Hearings
ERB 18.02	Petition	ERB 18.08	Filing of briefs and proposed findings
ERB 18.03	Statement in response to petition	ERB 18.09	Findings of fact, conclusions of law and declaratory ruling
ERB 18.04	Withdrawal of petition	ERB 18.10	Application for declaratory ruling on prohibited practice proceedings
ERB 18.05	Stipulation for declaratory ruling		
ERB 18.06	Notice of hearing		

EMPLOYMENT RELATIONS COMMISSION

ERB 18.01 SCOPE. This chapter governs the general procedure relating to declaratory rulings issued pursuant to section 111.70(4)(b), Wis. Stats.

ERB 18.02 PETITION. (1) Who may file. A petition for the determination of a dispute concerning the duty to bargain on any subject may be filed by a municipal employer or by a labor organization which has been certified or recognized as the exclusive collective bargaining representative of municipal employes.

(2) Form, number of copies, filing and service. The petition shall be in writing and its caption shall be as follows:

"STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of           :
                                              :
(NAME OF PETITIONER)                       :
                                              :
Requesting a Declaratory Ruling            :
Pursuant to Section 111.70(4)(b)           :
Wis. Stats., Involving a Dispute           :
Between Said Petitioner and                :
                                              :
(NAME OF OTHER PARTY)                       :
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The original of the petition shall be signed and sworn to before any person authorized to administer oaths or acknowledgments. The original and 5 copies of the petition shall be filed with the commission. The party filing the petition shall, at the same time, cause a copy thereof to be served on the other party, or its designated representative, by registered or certified mail.

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

(a) The name and address of the municipal employer involved, and the name and telephone number of its principal representative.

(b) The name and address of the labor organization involved, and the name and telephone number of its principal representative.

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

(d) A clear and concise statement of the subject or subjects over which a dispute has arisen concerning the duty to bargain.

(e) A clear and concise statement of the position of the petitioner as to whether or not the parties are under a duty to bargain on the subject or subjects set forth in the petition.

(4) Statement in support of petition. The petitioner shall attach to the original and each copy of the petition a clear and concise statement of the facts and arguments relied upon by the petitioner in support of the position taken by the petitioner.

ERB 18.03 STATEMENT IN RESPONSE TO PETITION. (1) Who shall file. The party other than the petitioner shall, within seven days of the receipt of the petition, or at such time as extended by the commission upon a written request, file with the commission a statement in response to the petition.

(2) Form, number of copies, filing and service. The statement in response shall be in writing and shall include the caption of the case. The original and 5 copies thereof shall be filed with the commission, the original being signed and sworn to before any person authorized to administer oaths or acknowledgments. The party filing the statement in response shall at the same time serve a copy thereof on the petitioner by registered or certified mail.

(3) Contents. The statement in response shall include the following:

(a) A clear and concise statement of the position taken by such party as to whether the parties are under a duty to bargain on the subject or subjects set forth in the petition.

(b) A clear and concise statement of the facts and arguments relied upon by such party in support of its position with respect to the matter involved.

(c) Corrections, as may be deemed necessary, to the names, addresses, telephone numbers, affiliations and representatives set forth in the petition, or to the description of the collective bargaining unit involved, or the number of employes in such unit.

ERB 18.04 WITHDRAWAL OF PETITION. Any petition filed under this chapter may be withdrawn with the consent of the commission, under such conditions as the commission may impose to effectuate the policies of section 111.70, Wis. Stats.

ERB 18.05 STIPULATION FOR DECLARATORY RULING. (1) Where a municipal employer and a labor organization representing employes of such municipal employer in an appropriate collective bargaining unit are in dispute concerning the duty to bargain on any subject, said parties may file a stipulation for a declaratory ruling with regard to such dispute.

(2) Form, number of copies and filing. The stipulation for a declaratory ruling shall be in writing and shall be captioned as follows:

"STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Stipulation      :
between                                :
                                         :
(NAME OF MUNICIPAL EMPLOYER)           :
                                         :
                and                     :
                                         :
(NAME OF LABOR ORGANIZATION)           :
                                         :
Requesting a Declaratory Ruling        :
Pursuant to Section 111.70 (4) (b),    :
Wis. Stats., Involving a Dispute      :
Between the Parties                    :
                                         :
- - - - -"

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The original, which shall be signed by the parties, and 5 copies thereof shall be filed with the commission.

(3) Contents. Such stipulation shall include the following:

(a) The caption in the form noted above.

(b) The name, address and telephone number of the municipal employer involved and of its principal representative.

(c) The name, address, telephone number and affiliation, if any, of the labor organization involved and of its principal representative.

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

(e) A clear and concise statement of the subject or subjects over which a dispute has arisen concerning the duty to bargain.

(f) A complete statement of the agreed facts constituting the basis upon which the commission is to make its determination in the matter.

(g) A clear and concise statement of the position taken by each party as to whether the parties are under a duty to bargain on the subject or subjects set forth in the stipulation.

(h) A statement setting forth that the parties agree to waive a hearing in the matter.

(4) Statements in support of position. Each party to the stipulation shall attach to the stipulation or within an agreed period of time set forth in the stipulation file with the commission an original and 5 copies of a detailed statement of its arguments relied upon in support of its position in the matter, and shall, at the same time serve a copy thereof on the other party.

ERB 18.06 NOTICE OF HEARING (1) When issue; contents. Following the filing of a petition, if it appears to the commission that further proceedings are warranted, the commission shall issue and serve upon each of the parties, 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 days after the service of such notice.

(2) Inclusion of additional parties. The commission may, upon the written motion of any interested labor organization, municipal employer, or any association thereof, make such labor organization, municipal employer, or association a party in the matter. The party filing such a motion shall file an original and 5 copies of said motion with the commission setting forth in its motion its desire to become a party and the basis therefor. At the same time it shall serve copies of said motion upon the original parties to the proceeding, by certified or registered mail. Should the commission determine to grant such motion, the commission shall issue an order granting such motion and therein may set forth the scope of the intervenor's participation in the proceeding. Such order shall be served on all parties to the proceeding.

ERB 18.07 HEARINGS. (1) Who shall conduct. Hearings may be conducted by the commission, or any member or members thereof, or any member of its staff or other individual designated by the commission. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

(2) Scope of hearing. The hearing shall be limited by the commission or hearing officer conducting the hearing, to the litigation of and oral arguments on genuine issues of fact or law raised by the parties and remaining for disposition concerning the duty to bargain on the subjects enumerated in the petition.

ERB 18.08 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 commission or hearing officer conducting the hearing, who may direct the filing of briefs when he deems such filing warranted by the nature of the proceeding and the particular issues therein.

ERB 18.09 FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECLARATORY RULING. (1) Issuance. Within fifteen days after submission of the case, the commission shall make and file its findings of fact, conclusions of law and declaratory ruling. The date on which a hearing is closed, the date on which the last brief is received, or the date on which the last document necessary to the decision of the case is received, whichever is later, shall be regarded as the date of the submission of the case.

(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 declaratory ruling shall state the determination as to the duty to bargain on the subject or subjects submitted.

ERB 18.10 APPLICATION OF DECLARATORY RULING ON PROHIBITED PRACTICE PROCEEDINGS. The findings of fact, conclusions of law and declaratory ruling shall bind all of the parties on all facts and issues found and determined in the declaratory ruling. In the event any party to the declaratory ruling proceeding is involved in a prohibited practice proceeding pending or commenced after the issuance of the declaratory ruling, wherein the complaint alleges that one of the parties involved has refused to bargain in good faith within the meaning of section 111.70(3)(a)4 or section 111.70(3)(b)3, Wis. Stats., and such allegation includes the matter or matters determined in the declaratory ruling, the parties shall be bound by the findings of fact, conclusions of law and declaratory ruling issued by the commission in the declaratory ruling proceeding, and neither party shall be entitled to relitigate those matters determined in the declaratory ruling.