

Chapter ERC 17

CLARIFICATION OF MUNICIPAL SECTOR BARGAINING UNITS

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Note: Chapter ERB 17 was renumbered chapter ERC 17 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468. Chapter ERC 17 as it existed on June 30, 2006, was repealed and a new chapter ERC 17 was created, Register June 2006 No. 606, effective July 1, 2006.

ERC 17.01 Scope. This chapter governs the general procedure relating to clarification of municipal sector bargaining units under the Municipal Employment Relations Act to determine whether one or more positions are properly included in or excluded from an existing collective bargaining unit of municipal employees or from an existing unit of supervisory law enforcement or supervisory fire fighter personnel of a municipal employer

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 17.02 Petition for unit clarification. (1) WHO MAY FILE. A petition to determine whether one or more positions shall be included in or excluded from an existing collective bargaining unit may be filed by the exclusive representative of the bargaining unit or by the municipal employer or by an authorized representative of one of those parties.

(2) FORM, NUMBER OF COPIES, FILING AND SERVICE. The petition shall be in writing on a form provided by the commission, or a facsimile of the commission's form, and shall include the signature or a facsimile of the signature of the party or representative filing the petition. A petition is not filed unless it contains the required signature or signature facsimile and unless and until the petition has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The petition shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the petition is filed in paper form, a total of two copies of the petition shall be included. The party filing the petition shall, at the same time, serve a copy on the other party, or its designated representative, as set forth in s. ERC 10.07.

(3) CONTENTS. The petition shall include all of the following:

(a) The name and address of the municipal employer, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(b) The name and address of the exclusive representative of the bargaining unit, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(c) A description of the existing collective bargaining unit, specifying existing inclusions and exclusions, the approximate number of personnel in the unit, whether the exclusive representative is voluntarily recognized or certified, and, if certified, the decision number of the commission certification involved.

(d) A statement identifying the positions and number of employees in the positions requested to be included in, or excluded from, the existing bargaining unit and the reason for the proposed inclusion or exclusion of each position.

(e) The name, address, phone number and affiliation, if any, of the petitioner and of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; **CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.**

ERC 17.03 Withdrawal of petition. Any petition may be withdrawn at any time prior to the issuance of a final order based on it, by motion granted by the commission. A motion to withdraw shall be granted unless withdrawal would result in an injustice to any party.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 17.04 Commission pre-hearing action on petition. (1) CONCILIATION. If the commission determines that further proceedings are warranted, the commission may cause an effort to reach informal settlement of all or part of a unit clarification petition to be undertaken by a commission designee. A conciliator so designated shall attempt through mediation to assist the parties in reaching an informal agreement resolving some or all of the issues that might otherwise require a hearing. The pendency of conciliation shall not preclude the scheduling or conduct of a hearing if scheduling is specifically requested by any party prior to the conclusion of conciliation. If the conciliator concludes that further conciliation efforts are unlikely to produce a settlement, the processing of the case shall proceed, including the scheduling of a hearing, if appropriate.

(2) NOTICE OF HEARING. (a) When issued. Following the filing of a petition and following conciliation, if further proceedings are warranted, the commission or assigned examiner shall schedule a date and time for the hearing and serve all parties and their representatives with a notice of hearing.

(b) Contents. The notice of hearing shall include all of the following:

1. A statement of the time, place, and nature of the hearing, including a statement that the unit clarification proceeding is a class 1 proceeding as defined in s. 227.01 (3) (a) to (c), Stats. Unless the parties have agreed otherwise or unless the commission or examiner finds that unusual circumstances require otherwise, the hearing shall be held not less than 10 days after the notice of hearing is served. The hearing may be rescheduled in the manner prescribed in s. ERC 18.06 (2) (d).

2. A statement of the legal authority and jurisdiction under which the hearing is to be held.

3. A statement that the purpose of the hearing is to determine whether the existing bargaining unit described in the petition shall be clarified to include or exclude positions referenced in the petition.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 17.05 Motions. Practice and procedure for motions in unit clarification proceedings shall be as set forth in s. ERC 18.06.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; **CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.**

ERC 17.06 Hearings. Hearings shall be open to the public and limited to the litigation of and oral argument on issues of fact or law regarding whether the existing unit described in the petition shall be clarified to include or exclude the positions referenced in the petition. The commission or examiner conducting the hearing shall inquire fully into all matters in issue, to obtain a full and complete record upon which the duties of the commission under the

Municipal Employment Relations Act may be properly performed. Practice and procedure for hearings in unit clarification proceedings shall otherwise be as set forth in s. ERC 18.08.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06; **CR 10-019: am.** Register June 2010 No. 654, eff. 7-1-10.

ERC 17.07 Order clarifying bargaining unit or other dispositional order. Issuance; contents; publication. As soon as possible after submission of the case, the commission shall, in writing, either clarify the bargaining unit or dismiss the petition, or make other orders regarding the disposition of the petition. In cases where the commission is resolving issues of fact or law, the commission's order shall be accompanied by its findings of fact

and conclusions of law, and may be made available to the public through the commission website and in other commission publications.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

ERC 17.08 Petition for rehearing. Any person aggrieved by a final order of the commission may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. Practice and procedure regarding filing and processing of a petition for rehearing in a unit clarification proceeding shall be as set forth in s. ERC 18.11.

History: CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.