

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.**

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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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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 discretion of run-off election, in its discretion, maintain the same eligibility date or establish a new eligibility date.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.

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.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72.