

Chapter ERC 18

DECLARATORY RULINGS

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Note: Chapter ERB 18 was renumbered chapter ERC 18 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468.
 Note: See s. 111.70 (4) (b), Stats.

ERC 18.01 Scope. This chapter governs the general procedure relating to declaratory rulings issued pursuant to s. 111.70 (4) (b), Stats.

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

ERC 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

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)

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) **A 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.

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

ERC 18.03 Statement in response to petition. (1) **WHO SHALL FILE.** The party other than the petitioner shall, within 7 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.

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

ERC 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 s. 111.70, Stats.

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

ERC 18.05 Stipulation for declaratory ruling. (1) **STIPULATION.** 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

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

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 employees 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.

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

ERC 18.06 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, 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.

(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.

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

ERC 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.

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

ERC 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 or she deems such filing warranted by the nature of the proceeding and the particular issues therein.

History: Cr. Register, June, 1972, No. 198, eff. 7-1-72; correction made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

ERC 18.09 Findings of fact, conclusions of law and declaratory ruling. (1) ISSUANCE. Within 15 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.

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

ERC 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 s. 111.70 (3) (a) 4. or (b) 3., 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.

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