

## Chapter ERC 26

### REFERENDA CONCERNING STATE SECTOR FAIR-SHARE AND MAINTENANCE OF MEMBERSHIP AGREEMENTS

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**ERC 26.01 Scope.** This chapter governs the general procedure relating to referenda under s. 111.85, Stats., concerning fair-share and maintenance of membership agreements affecting bargaining units of state employees specified in s. 111.825, Stats., or bargaining units of supervisors specified in s. 111.825 (5), Stats.

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

**ERC 26.02 Petition for referendum. (1) WHO MAY FILE.** A petition to authorize or determine the continuation of a fair-share or maintenance of membership agreement for a bargaining unit may be filed by the employer or by the exclusive representative of the bargaining unit involved or by anyone acting on behalf of either party.

**(2) TIME FOR FILING. (a) Concerning authorization.** A petition to authorize a fair-share or maintenance of membership agreement for a bargaining unit may be filed at any time after an exclusive representative of the bargaining unit involved has been certified.

**(b) Concerning continuation.** A petition to determine the continuation of a fair-share or maintenance of membership agreement may be filed at any time following the implementation of the fair-share or maintenance of membership agreement involved.

**(3) FORM, NUMBER OF COPIES, AND FILING.** 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 in interest 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 and the showing of interest in support of the petition required by s. ERC 26.03 have 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 2 copies of the petition shall be included. The showing of interest in support of the petition required by s. ERC 26.03, shall be transmitted to the commission in paper form by physical delivery or mail.

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

**(a)** The name and address of the 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 involved, 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 collective bargaining unit involved, and the approximate number of personnel in the unit.

**(d)** A description of the fair-share or maintenance of membership agreement involved.

**(e)** The date of execution, the effective date, and the expiration date of the collective bargaining agreement, if any, containing a fair-share or maintenance of membership agreement affecting the bargaining unit involved.

**(f)** A statement to the effect that at least 30% of the personnel in the collective bargaining unit involved support the authorization or discontinuation of a fair-share or maintenance of membership agreement requested in the petition.

**(g)** The name and address of the petitioner, and the name, address and phone number of the petitioner's 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.

**ERC 26.03 Showing of interest in support of petition.** The petition shall be supported by a showing of interest in writing, containing the printed names and signatures of at least 30% of the personnel in the bargaining unit involved, the dates on which the signatures were executed, and a statement that the personnel signing support the authorization or discontinuation of a fair-share or maintenance of membership agreement requested in the petition.

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

**ERC 26.04 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 26.05 Commission pre-hearing action on petition.** Practice and procedure for commission pre-hearing action in referendum proceedings shall be as set forth in s. ERC 15.07.

**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 26.06 Motions.** Practice and procedure regarding motions in referendum 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 26.07 Hearings.** Practice and procedure regarding hearings in referendum proceedings shall be as set forth in s. ERC 15.09, except that the statutory reference in s. ERC 15.09 shall be to s. 111.85, Stats.

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

**ERC 26.08 Direction of referendum or other dispositional order.** Practice and procedure regarding a commis-

sion direction of election or other dispositional order in referendum proceedings shall be as set forth in s. ERC 15.10.

**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 26.09 Referendum.** Practice and procedure regarding conduct of a referendum shall be as set forth in s. ERC 15.11.

**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 26.10 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 under s. ERC 26.11, the commission shall issue to the parties a certification of the results of the referendum.

(2) **EFFECT OF CERTIFICATION.** (a) *Favoring neither fair-share nor maintenance of membership.* Where the certification of the results of a referendum indicates that the required number of personnel has not authorized the implementation of, or the continuation of, either a fair-share or maintenance of membership agreement, no fair-share or maintenance of membership agreement shall be implemented and any existing fair-share or maintenance of membership agreement shall be terminated at the termination of the collective bargaining agreement, or 1 year from the date of the certification of result of the referendum, whichever is earlier.

(b) *Favoring maintenance of membership but not fair-share.* Where the certification of the results of a referendum indicates that the required number of personnel has authorized the implementation of, or the continuation of, the maintenance of membership agreement but has not authorized the implementation of, or the continuation of a fair-share agreement, no fair-share agreement shall be implemented. The maintenance of membership agreement in effect, if any, shall be continued in effect, or the maintenance of membership agreement shall take effect 60 days

after the date of the certification or on an earlier date agreed upon between the employer and the exclusive representative involved.

(c) *Favoring fair-share.* Where the certification of the results of a referendum indicates that the required number of personnel has authorized the implementation of, or the continuation of a fair-share agreement, the fair-share agreement in effect, if any, shall be continued in effect, or the fair-share agreement shall take effect 60 days after the date of the certification or on an earlier date agreed upon between the employer and the exclusive representative involved.

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

**ERC 26.11 Objections to referendum.** Practice and procedure for filing objections to the conduct of a referendum shall be as set forth in s. ERC 15.13.

**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 26.12 Commission action on challenges or objections.** Practice and procedure for commission action on challenges or objections in referendum proceedings shall be as set forth in s. ERC 15.14.

**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 26.13 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 for filing and processing of a petition for rehearing in a referendum 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; CR 10-019: am. Register June 2010 No. 654, eff. 7-1-10.