STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY
BRANCH 41

WISCONSIN ASSOCIATION OF
STATE PROSECUTORS,

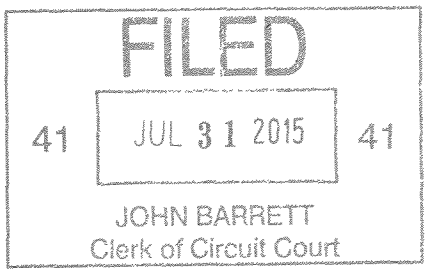
Plaintiff,

v.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION,
JAMES R. SCOTT, and
RODNEY G. PASCH

Defendants.

Case No. 14-CV-9307



SERVICE EMPLOYEES
INTERNATIONAL UNION,
LOCAL 150,

Plaintiff,

v.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION,
JAMES R. SCOTT, and
RODNEY G. PASCH

Defendants,

and

STATE OF WISCONSIN, OFFICE OF
STATE EMPLOYMENT RELATIONS,

Intervenor.

Case No. 14-CV-9658

WISCONSIN ASSOCIATION OF
STATE PROSECUTORS,

Plaintiff,

Case No. 15-CV-0501

v.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION,

Defendant.

SERVICE EMPLOYEES
INTERNATIONAL UNION,
LOCAL 150,

Plaintiff,

Case No. 15-CV-0328

v.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION,

Defendant.

SERVICE EMPLOYEES
INTERNATIONAL UNION,
LOCAL 150,

Plaintiff,

Case No. 15-CV-0329

v.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION,

Defendant,

and

STATE OF WISCONSIN OFFICE OF
STATE EMPLOYMENT RELATIONS,

Intervenor.

DECISION AND ORDER

INTRODUCTION

Plaintiffs Service Employees International Union, Local 150 ("Local 150") and Wisconsin Association of State Prosecutors ("WIASP") seek to enforce provisions of the 2011 Wisconsin Act 10 requiring the Wisconsin Employment Relations Commission ("the Commission") to hold annual recertification elections for unions with existing bargaining units. They also seek to invalidate the administrative regulations promulgated by the Commission in Chapter ERC 70 and 80 which add additional regulatory criteria as a condition of holding such elections. To this end, Plaintiffs seek:

1) A Declaratory Judgment to obtain relief concerning these rules under Wis. Stat. § 227.40(4)(a);
2) Judicial Review of the Commission's decisions to not hold elections under Wis. Stat. §§ 227.52 and 227.53;
3) A Writ of Prohibition to restrain the Commission from enforcing invalid provisions in Chapter ERC 70 and 80 denying the plaintiffs recertification elections under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b.
4) An Order that the Commission grant the plaintiffs annual recertification elections under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b. to be held simultaneously with the December 1, 2015 election without a new showing of interest and without the necessity of filing a Petition.

5) An Order that in the event the plaintiffs win such elections, that their representational status shall be treated as uninterrupted.

For the reasons stated below, this Court finds that the Commission exceeded its statutory authority in promulgating the Chapter ERC 70 and 80 requirement that an existing exclusive representative must file a Petition in order to qualify for a recertification election under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b. and, therefore, this Court:

1) Declares those provisions in Chapter ERC 70 and 80 requiring an existing exclusive representative to file a Petition in order to qualify for a recertification election invalid.
2) Reverses the Commission's decisions denying the plaintiffs recertification elections under Wis. Stats. §§ 111.83(3)(b) and 111.70(4)(d)(3)b.
3) Issues a Writ of Prohibition to restrain the Commission from enforcing invalid provisions in Chapter ERC 70 and 80 denying the plaintiffs recertification elections under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b.
4) Orders that plaintiffs shall be granted recertification elections sought in September, 2014 under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b. to be held simultaneously with the December 1, 2015 election without a new showing of interest and without the necessity of filing a Petition.
5) Orders that in the event the plaintiffs win such elections, that their representational status shall be treated as uninterrupted.

HISTORY

Prior to the passage of Act 10, the State Employment Labor Relations Act ("SELRA") required the filing of an election petition only when there was a change in representational status. SELRA made specific reference to three types of situations – (1) the formation of new bargaining units, (2) where one union was seeking to represent a unit already represented by another union, or (3) where the employer questioned the union's status as bargaining representative. Petitions for election were also discussed where there was an attempt to combine bargaining units. *See* Wis. Stat. § 111.825(4m). Nowhere in SELRA was a petition for election required of an existing representative.[1] Further, under Wis. Stat. § 111.83(3), "[t]he name of any existing representative shall be included on the ballot without the necessity of filing a petition."

To effectuate the filing of such petitions, under Chapter ERC 21, the Commission promulgated rules that "govern[] the general procedure relating to elections under s. 111.83, affecting bargaining units of state employees specified in s. 111.825, bargaining units of supervisors specified in s. 111.825(5), and unit-determination elections under s. 111.83(5), Stats." *See* Chapter ERC 21.1.

Similarly, the Municipal Employment Relations Act ("MERA") contains the requirement that election petitions be filed for questions concerning representation and additionally permits petitions to be filed where the employer has a question about whether the union continued to enjoy majority status. *See* Wis. Stats. §§ 111.70(3)(a)(4), (4)(d)(5). To effectuate the filing of such petitions, under Chapter ERC 11, the Commission promulgated rules that "govern[] the general procedure for filing and processing of a

[1] Likewise, the current version of SELRA, as amended by Act 10, does not require an existing representative to file a petition.

petition to determine a collective bargaining representative or an appropriate bargaining unit of municipal employees under s. 111.70(4)(d), Stats., . . ." *See* Chapter ERC 11.1.

In 2011, the Wisconsin State Legislature enacted Act 10, which amended both the SELRA and the MERA to implement annual recertification requirements for labor organizations. Under SELRA, a new statutory provision, Wis. Stat. § 111.83(3)(b), provides, in relevant part:

> Annually, no later than December 1, the commission shall conduct an election to certify the representative of a collective bargaining unit that contains a general employee. There shall be included on the ballot the names of all labor organizations having an interest in representing the general employees participating in the election. . . . The commission shall certify any representative that receives at least 51 percent of the votes of all of the general employees in the collective bargaining unit. If no representative receives at least 51 percent of the votes of all of the general employees in the collective bargaining unit, at the expiration of the collective bargaining agreement, the commission shall decertify the current representative and the general employees shall be nonrepresented. Notwithstanding s. 111.82, if a representative is decertified under this paragraph, the affected general employees may not be included in a substantially similar collective bargaining unit for 12 months from the date of decertification. . . . The commission shall assess and collect a certification fee for each election conducted under this paragraph. Fees collected under this paragraph shall be credited to the appropriation account under s. 20.425(1)(i).

A similar statutory provision, Wis. Stat. § 111.70(4)(d)(3)b was added to MERA, providing:

> Annually, the commission shall conduct an election to certify the representative of the collective bargaining unit that contains a general municipal employee. The election shall occur no later than December 1 for a collective bargaining unit containing school district employees and no later than May 1 for a collective bargaining unit containing general municipal employees who are not school district employees. The commission shall certify any representative that receives at least 51 percent of the votes of all of the general municipal employees in the collective bargaining unit. If no representative receives at least 51 percent of the votes of all of the general municipal employees in the collective bargaining unit, at the expiration of the collective bargaining agreement, the commission shall decertify the current

> representative and the general municipal employees shall be nonrepresented. Notwithstanding sub. (2), if a representative is decertified under this subd. 3.b., the affected general municipal employees may not be included in a substantially similar collective bargaining unit for 12 months from the date of decertification. The commission shall assess and collect a certification fee for each election conducted under this subd. 3. B. Fees collected under this subd. 3. b. shall be credited to the appropriation account under s. 20.425 (1)(i).

The Commission is a state agency within the definition of Wis. Stat. § 227.01(1) and is composed of Commissioners James Scott and Rodney Pasch. Following the passage of Act 10, the Commission promulgated administrative rules Chapter ERC 80, concerning the conduct of annual recertification elections under SELRA, and Chapter ERC 70, concerning the conduct of elections for municipal, school employees under MERA.

At issue in the instant case is the requirement by these rules that a labor union representing state employees or municipal, school employees annually file a recertification petition by the end of business hours on September 15. Chapters 70.01 and 80.01 state:

> The existing exclusive representative of such employees that wishes to continue said representation, or any other labor organization interested in representing such employees, must file a petition on or before September 15 requesting the commission to conduct a secret ballot election to determine whether a minimum of 51 percent of the bargaining unit employees eligible to vote favor collective bargaining representation by the petitioning labor organization. If no timely petition is filed, the result is the same as if only the existing representative filed a timely petition and the election resulted in decertification of the existing representative.

Chapter ERC 70.03(2) and ERC 80.03(2) state:

> A petition requiring a showing of interest is not filed until both the petition and the showing of interest have been received by the commission at its Madison office during normal business hours.

Pursuant to Chapters ERC 70.03(7), the Commission's rule states:

> Time for filing; consequences of failure to timely file notice.

(a) Time for filing. To be timely, a petition must be filed on or before September 15.

(b) Consequences of the failure to timely file. If no timely petition is filed by any labor organization, then the following consequences shall apply:

1. If no collective bargaining agreement is in effect, the existing representative shall no longer be entitled to exclusive representative status for purposes of collective bargaining as of September 15. If a collective bargaining agreement is in effect, the existing representative shall no longer be entitled to exclusive representative status for purposes of collective bargaining as of the expiration of the agreement.

2. The employees in the bargaining unit shall not be included in a substantially similar collective bargaining unit for a minimum of one year following the applicable date in subd. 1.

Pursuant to Chapters ERC 80.03 (7), the Commission's rule states:

Time for filing; consequences of failure to timely file notice.

(a) Time for filing. To be timely, a petition must be filed on or before September 15.

(b) Consequences of the failure to timely file. If no timely petition is filed by any labor organization, then the following consequences shall apply:

1. The existing representative shall no longer be entitled to exclusive representative status for purposes of collective bargaining as of September 15.

2. The employees in the bargaining unit shall not be included in a substantially similar collective bargaining unit for a minimum of one year following the applicable date in subd. 1.

WIASP is a labor organization, as defined by Wis. Stat. § 111.81(12), representing a bargaining unit consisting of all assistant district attorneys in the State of Wisconsin as set forth in Wis. Stat. § 111.825(2)(d). Local 150 is the exclusive collective bargaining agent for Building Helpers and Food Service Workers employed by Milwaukee Public Schools and Custodians employed by the St. Francis School District.

On September 15, 2014, WIASP filed its petition for certification with the Commission at 5:37 PM. That same day, Local 150 filed two petitions at 5:25 and 5:27 PM, concerning employees at the Milwaukee Public Schools and St. Francis School District. Chapter ERC 10.06(1) provides "the commission's normal business hours at all work locations are 7:45 AM to 4:30 PM, Monday through Friday, excluding legal holidays." Neither WIASP nor Local 150 submitted their filing fees until the following date, September 16, 2014.

On September 16, 2014, the Commission notified Plaintiffs that their petitions were untimely because they were not filed before the close of business hours on September 15, 2014, and because their filing fees had not been received on that date. On October 14, 2014, the Commission advised both Plaintiffs that because of this untimely filing, their election petitions would not be processed and therefore, no recertification elections would be held.

In response, on November 11, 2014, WIASP filed an action for a Declaratory Judgment and Writ of Prohibition seeking to invalidate the provision in Chapter ERC 80 requiring an existing exclusive representative to file an election Petition and seeking relief in the form of a recertification election. Two days later, on November 13, 2014, Local 150 filed a similar lawsuit concerning Chapter ERC 70.

On November 14, 2014, the Commission issued formal decisions with respect to the petitions of WIASP and Local 150. In regards to WIASP's petition, the Commission stated:

> Section 111.83 elections provide the mechanism by which unions that currently represent State employees for the purposes of collective bargaining can seek to retain that status. A union that currently so represents employees can choose to relinquish that status by electing not to seek such an election. In that statutory context, it cannot reasonably be argued that the § 111.83 use of the word "shall" and the absence of a statutory reference to a "petition" means that unions interested in retaining their status as the bargaining representative cannot be required to express

> that interest (by filing a petition) within the timeframe (in this instance September 15) that allows for the orderly conduct of the "no later than December 1" election. Therefore, particularly in light of our § 111.934 obligation to adopt rules that regulate elections, we conclude that requiring a timely petition to be filed as prerequisite to our conducting a certification election is not at odds with the language of § 111.83, Stats. Therefore, we have dismissed the petition.

(WERC Dec. No. 35445)

The Commission's decisions with respect to Local 150's two petitions are identical and state in relevant part:

> Section 111.40(4)(d)3.b elections provide the mechanism by which unions that currently represent State employees for the purposes of collective bargaining can seek to retain that status. A union that currently so represents employees can choose to relinquish that status by electing not to seek such an election. In that statutory context, it cannot reasonably be argued that the § 111.70(4)(d)3.b use of the word "shall" and the absence of a statutory reference to a "petition" means that unions interested in retaining their status as the bargaining representative cannot be required to express that interest (by filing a petition) within the timeframe (in this instance September 15) that allows for the orderly conduct of the "no later than December 1" election. Therefore, particularly in light of our § 111.71 obligation to adopt rules that regulate elections, we conclude that requiring a timely petition to be filed as prerequisite to our conducting a certification election is not at odds with the language of § 111.70(4)(d)3.b, Stats. Therefore, we have dismissed the petition.

(WERC Dec. No. 35447 (Milwaukee Public Schools); WERC Dec. No. 35446 (St. Francis School District)).

The unions' requests for a rehearing pursuant to Wis. Stats. § 227.49 were denied. On January 15, 2015, WIASP and Local 150 filed petitions for Judicial Review of the Commission's decisions. On February 25, 2015, this Court entered an order consolidating the two Declaratory Judgment actions and three Judicial Review proceedings into this single action. On March 18, 2015, the plaintiffs filed a motion for summary judgment

seeking its requested Declaratory Judgment, Writ of Prohibition and Orders setting aside the Commissions decisions dismissing the plaintiffs' petitions for recertification elections.

STANDARD OF REVIEW

Pursuant to Wis. Stats. §§ 111.71(1) and 111.94(1), the Commission is authorized to adopt reasonable rules relating to the exercise of its powers, and proper rules to regulate the conduct of all elections. However, this Court must declare a rule invalid if it exceeds the statutory authority of the agency. Wis. Stat. § 227.40(4)(a) ("In any proceeding pursuant to this section for judicial review of a rule, the court shall declare the rule invalid if it finds that it . . . exceeds the statutory authority of the agency . . . .") In "exceeds statutory authority" cases under Wis. Stat. § 227.40, courts apply a *de novo* standard of review. *Wis. Citizens Concerned for Cranes and Doves v. Wis. Dept. of Natural Resources*, 2004 WI 40, ¶ 13, 270 Wis. 2d 318, 677 N.W.2d 612. Therefore, this Court "will not defer to an agency's interpretation on questions concerning the scope of an agency's power." *Id.*

To determine whether an administrative agency exceeded the scope of its authority in promulgating a rule, a court "must examine the enabling statute to ascertain whether the statute grants express or implied authorization for the rule." *Id* at ¶ 14. An administrative agency is created by the legislature and thus has only those powers that are expressly conferred or necessarily implied by the statutes under which it operates. *See id.* Reasonable doubts pertaining to an agency's implied powers are resolved against it, as "an agency charged with administering a law may not substitute its own policy for that of a legislature." *DeBeck v. Wis. Dept. of Natural Resources*, 172 Wis. 2d 382, 388, 493 N.W.2d 234 (Ct. App. 1992). Ultimately, when a statute and a rule conflict, the statute prevails. *See id.*

ANALYSIS

Plaintiffs argue that, pursuant to changes included in Act 10, the legislature included a specific statutory mandate to the Commission stating that the Commission "annually . . . shall conduct an election to certify the representatives of a collective bargaining unit . . . ." *See* Wis. Stats. §§ 111.70(4)(d)(3)b, 111.83(3)(b). Plaintiffs further contend that the Commission's rule requiring the filing of an election petition as a condition of having an annual recertification election is contrary to the plain language of the statute. For the reasons below, this Court agrees.

In their brief, the Plaintiffs claim the legislature's use of the word "shall" demonstrates that the act of holding a recertification election by the Commission is mandatory, not directory. There is a presumption that the word "shall" is mandatory when it appears in a statute. *Scanlon v. Menasha*, 16 Wis. 2d 437, 443 (1962). However, the word "shall" "can be construed as directory if necessary to carry out the legislature's clear intent." *Karow v. Milwaukee County Civil Service Com.*, 82 Wis. 2d 565, 571 (1978). To decide whether the statute's use of "shall" is mandatory or directory, the court considers "the objectives sought to be accomplished by the statute, the statute's history, the consequences that would flow from alternative interpretations, and whether a penalty is imposed by its violation." *Mews v. Wis. Dept. of Commerce*, 269 Wis. 2d 641, 652(Ct. App. 2004). Further, "where the language is clear and unambiguous, a mandatory construction is more likely." *Midwest Mutual Ins. Co. v. Nicolazzi*, 138 Wis. 2d 192, 198 (Ct. App. 1987).

Plaintiffs argue that the objective of the annual recertification elections under SELRA and MERA is to give employees greater choice in selecting bargaining representatives and greater opportunity to be heard about whether they desired continued representation. The Defendants concede as much in their reply brief. This agreed upon objective of the statute is by no means compromised by a mandatory construction of "shall." Rather it is the Defendants' interpretation of "shall" as merely directory that undermines the statute's objective by making recertification elections contingent on the filing of a petition. As demonstrated by the facts of the instant case, this additional step decreases employees' opportunity to be heard by taking away the election entirely when a deadline is missed. When the purpose of a statute is to facilitate choice, an interpretation which renders the reverse true by creating additional obstacles cannot stand. Finally, in light of the objective and the serious consequence of the Defendants' interpretation, the absence of a statutory penalty is not sufficient evidence to overcome the presumption that "shall" is mandatory.

This interpretation is consistent with a holding by the Supreme Court in *State ex rel. Castaneda v. Welch*. 303 Wis. 2d 570 (2007). The Court reviewed a Milwaukee Fire and Police Board rule requiring a complainant to appear at conciliation before a trial date would be set. Failure to do so resulted in dismissal of the complaint. The Court found that this rule contravened the statutory language of Wis. Stat. § 62.50(19), which stated the Board "shall set a date for the trial and investigation of the charges." *Id.* at 607. In declaring the agency exceeded its authority, the Court reasoned that the statute did not mandate a complainant participate in conciliation and thus, conciliation "must be voluntary under the statute, not mandatory." *Id.*

Similar to the rule examined in *Welch*, Chapter ERC 70 and 80 require a non-statutorily mandated action before the agency will act. Applying the Court's reasoning in *Welch* to the instant case, the Commission cannot mandate the filing of an election petition in the absence of statutory language requiring such a filing. This reasoning is bolstered where, as here in SELRA and MERA, the legislature did include such a mandate in other sections of the same statute. *See* Wis. Stat. §§ 111. 83(3)(b) ("Wherever a question arises concerning the representation of employees in a collective bargaining unit the commission shall determine the representative thereof by taking a secret ballot of the employees . . . There shall be included on any ballot for the election of representatives the names of all labor organizations having an interest in representing employees participating in the election as indicated in petitions filed with the commission."), 111.70(3)(a)(4) ("Where the employer has a good faith doubt as to whether a labor organization claiming support of a majority of its employees in an appropriate bargaining unit does in fact have that support, it may file with the commission a petition requesting an election to that claim.") and 111.70(4)(d)(5) ("Questions as to representation may be raised by petition of the municipal employer or any representative thereof."). Courts "must presume that a legislature says in a statute what it means and means in a statute what it says there." *State ex rel. Kalal v. Circuit Court for Dane* County, 2004 WI 58, ¶ 39, 271 Wis. 2d 633, 681 N.W. 110 (2004) (quoting *Connecticut Nat'l Bank v.* Germain, 503 U.S. 249, 253-54, 117 L. Ed. 2d 391, 112 S. Ct. 1146 (1992)). Further, applying the statutory canon of *expressio unius est exclusion alterius* leads to the conclusion that "the legislature's failure to specifically confer [a] power is evidence of the legislature's intent not to permit the exercise of the power." *Groh v. Groh*, 110 Wis. 2d 117, 125 (1983). If the statute intended the holding of a

recertification election to be contingent on the filing of an election petition, the legislature would have included the requirement in the statute, using the same language it used elsewhere. However, it did not, and therefore, Chapter ERC 70 and 80's requirement of the filing of an election petition contravenes the unambiguous statutory language that "the commission shall conduct an election to certify the representative of a collective bargaining unit." Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b.

Defendants attempt to overcome the mandatory nature of the statute by emphasizing that, in SELRA and MERA, the legislature directed that only labor organizations *having an interest* in representing general employees may be included on the ballot in annual certification elections. *See* Wis. Stat. §§ 111.70(4)(d)(3)c ("Any ballot used in a representation proceeding . . . shall include the names of all persons having an interest in representing or the results") and 111.83(3)(b) ("There shall be included on the ballot the names of all labor organizations having an interest in representing the general employees participating in the election"). Defendants contend that without requiring the filing of an election petition, the Commission would have no way of knowing whether the incumbent labor organization maintains an interest in representing the general employees. They claim further that holding elections without requiring the filing of a petition would lead to the absurd result of holding an election without any names on the ballot. This Court finds this argument unpersuasive and without merit. Defendants misinterpret "having an interest" as "demonstrating an interest." A representative chosen by a majority of the employees voting in a collective bargaining unit to be the exclusive representative of all employees has a real, de facto and legal interest in continued representation. By virtue of its representation, it exhibits and displays its interest.

Both SELRA and MERA provide that, after a recertification election, "[i]f no representative receives at least 51 percent of the votes of all of the general employees in the collective bargaining unit, at the expiration of the collective bargaining agreement, the commission shall decertify the current representative and the general employees shall be nonrepresented." Wis. Stats. §§ 111.83(3)b and 111.70(4)(d)(3)b. Therefore, according to the statute, an incumbent labor organization remains the representative of the bargaining unit until it is decertified by the commission. Any time before the decertification, it remains the "exclusive representative of all employees in [a collective bargaining] unit for the purposes of collective bargaining." Wis. Stats. §§ 111.83(1) and 111.70(4)(d)(1). Clearly, it cannot be said that the current representative lacks "an interest in representing" employees. Wis. Stats. §§ 111.83(3)(b) and 111.70(4)(d)(3)c.

In sum, the Court finds that both SELRA and MERA require the Commission to conduct recertification elections on an annual basis. When the Commission enacted ERC 70 and 80, it imposed a condition precedent to its statutorily-required duty. By requiring existing exclusive representatives to file a Petition as a condition precedent to these recertification elections, it imposed a requirement that is in direct conflict with Wis. Stat. §§111.83(3)(b) and 111.70(4)(d)(3)b. The Commission had neither the express nor necessarily implied power to do so. Those provisions in Chapter ERC 70 and 80, which require existing exclusive representatives to file a Petition in order to qualify for a recertification election, conflict with the legislative mandate of Wis. Stat. §§111.83(3)(b) and 111.70(4)(d)(3)b. The Court finds that the Commission exceeded its statutory authority in enacting these particular provisions, and as a result these provisions are invalid.

CONCLUSION

Therefore, based upon a thorough review of the record, and for the reasons set forth above:

THIS COURT ISSUES A DECLARATORY JUDGMENT that Wisconsin Employment Relations Commission exceeded its statutory authority in promulgating the Chapter ERC 70 and 80 requirement that an existing exclusive representative must file a Petition in order to qualify for a recertification election under Wis. Stat. §§ 111.83(3)(b) and 111.70(4)(d)(3)b.

THIS COURT ISSUES A DECLARATORY JUDGMENT under Wis. Stat. § 227.40(4)(a) that those provisions in Chapter ERC 70 and 80 requiring an existing exclusive representative to file a Petition in order to qualify for a recertification election are invalid.

THIS COURT ORDERS that the decisions of the Wisconsin Employment Relations Commission failing and refusing to hold recertification elections under Wis. Stat. §§ 227.52 and 227.53 are REVERSED.

THIS COURT ISSUES A WRIT OF PROHIBITION to the Wisconsin Employment Relations Commission prohibiting it from enforcing the provisions in Chapter ERC 70 and 80 requiring an existing exclusive representative to file a Petition in order to qualify for a recertification election.

THIS COURT ORDERS that plaintiffs shall be granted recertification elections sought in September, 2014 under Wis. Stats. §§ 111.83(3)(b) and 111.70(4)(d)(3)b. to be held simultaneously with the December 1, 2015 elections without a new showing of interest and without the necessity of filing a Petition.

THIS COURT ORDERS that in the event the plaintiffs win such elections, that their representational status shall be treated as uninterrupted.

THIS IS A FINAL DECISION AND ORDER FOR THE PURPOSES OF APPEAL.

Dated at Milwaukee, Wisconsin, this 31st day of July, 2015.

BY THE COURT:

Hon. John J. DiMotto
Milwaukee Country Circuit Court, Branch 41