STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DIVISION OF PERSONNEL MANAGEMENT DOA-15317 (C07/2015) STATS. 230.09 WIS. STATS. PREVIOUSLY OSER-DCLR-85



COMPENSATION & LABOR RELATIONS 101 E. WILSON ST, 4TH FL MADISON, WI 53703

Management Exclusion Analysis

This analysis should be completed by the position's supervisor and reviewed by the agency human resources representative prior to classifying a position as "management." The information will be used to assist in determining if the position is performing duties which support inclusion of the position in a career executive or other management classification, resulting in exclusion of the position from bargaining unit representation.

Wisconsin Statute s. 111.81(13), excludes management personnel from the definition of employee for collective bargaining purposes. Section 111.81(13) defines "management" to include "those personnel engaged predominately in executive and managerial functions, including such officials as division administrators, bureau directors, institution heads, and employees exercising similar functions and responsibilities as determined by the [Wisconsin Employment Relations] Commission."

The Commission referenced above is the Wisconsin Employment Relations Commission (WERC) which, under s. 111.825(3), assigns eligible employees to the appropriate bargaining units and ultimately determines the appropriateness of management exclusions.

In Case 33, No. 16403, SE-65, Decision No. 11640-C, the WERC used the following criteria in determining if employees were management. (Some of the statements are interpretations of statements made by the WERC rather than statements actually made in the decision.)

- 7. If the employee is a division administrator, bureau director, or institution head, the employee is, <u>per se</u>, management.
- 8. If the employee is not a division administrator, bureau director, or institution head, and if the employee is engaged <u>predominately</u> in <u>executive and managerial functions</u> similar to those engaged in by division administrators, bureau directors, or institution heads, the employee is management.

"Predominate function" is defined as the primary duties performed by the employee. If the primary duty is to provide legal services or supervise and review the work of others for compliance with established policy, the employee is not engaged predominately in executive and management functions, even though some of the time is spent in formulation, determination, and implementation of management policy. Predominate functions may be based on importance or percent of time spent. Generally, percent of time spent will be the determining factor.

(OVER)

Management Exclusion Analysis

"Executive and management functions" are defined as:

- a. participation in a significant manner in the formulation, determination, <u>and</u> implementation of management policy; or,
- b. effective authority to commit the employer's resources.

To participate in a significant manner in the formulation, determination, and implementation of management policy, the employee must have greater authority than merely offering advice to higher-level management which may accept or reject the recommendation, or must do more than serving on a management team/committee which must reach consensus. Formulation, determination, and implementation of management policy must be the primary duty of the employee and must be at a level similar to that exercised by division administrators, bureau directors, and institution heads.

Case 33 did not address the resource commitment aspect of the executive and managerial functions. In municipal sector cases, the WERC has defined this aspect as the exercise of effective authority to commit the employer's resources such as through exercise of authority to establish an original budget or to allocate funds for differing program purposes from such an original budget when the purpose of such funds has not been previously specified.

Rationale for the above conclusion (use additional	paper if necessary):	
signature below means the position has been review anagement found in s. 111.81(13), Wis. Stats.	red and you have concluded	it meets the definition of
pervisor Signature	Date	e
uman Resources Representative	Dat	e