

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DEARBORN HEIGHTS,
Employer-Petitioner,

-and-

Case No. UC99 G-25

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 25,
DEARBORN HEIGHTS CHAPTER OF LOCAL 290,
Labor Organization.

APPEARANCES:

Ronald G. Acho, Esq., Cummings, McClorey, Davis & Acho, P.L.C., for the Petitioner

Kevin Bramlet, Administrative Director, Michigan AFSCME Council 25, for the Labor Organization

DECISION AND ORDER ON UNIT CLARIFICATION

Pursuant to the provisions of Section 12 of the Public Employment Relations Act (PERA), 1947 PA 336, as amended by 1965 PA 379 and 1973 PA 25, MCL 423.212; MSA 17.455(12), this matter came on for hearing at Detroit, Michigan, on November 2, 1999, before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission. Based upon the entire record, including briefs filed by the parties on or before December 29, 1999, the Commission finds as follows:

The Petition and Background Information:

The petition was filed on July 23, 1999, by the City of Dearborn Heights. Petitioner employs approximately 300 employees organized in eight bargaining units. American Federation of State, County and Municipal Employees, Council 25, Dearborn Heights Chapter of Local 290 (hereafter "AFSCME") represents a bargaining unit of eighty employees in clerical, custodial, and maintenance positions. Excluded from this unit as confidential employees are two secretaries in the Mayor's office and a classification entitled human resource specialist. In the petition, the Employer seeks to exclude the health benefits coordinator and the police department executive secretary from the bargaining unit represented by AFSCME.

Factual Findings -- Health Benefits Coordinator:

The position of health benefits coordinator is currently unfilled. The Employer is prepared to fill the position immediately, but indicated that it was first requesting a Commission determination as to its status as a matter of courtesy to AFSCME. The health benefits coordinator is assigned to the human resource department and will report directly to the human resource director. The human resource director has a wide range of responsibilities including recruiting, hiring, benefit administration, policy development, and collective bargaining. The health benefits coordinator position was created to provide assistance to the human resource director in the area of health benefits, which has become an increasingly important topic in negotiations with the City's eight unions.

At present, the eight union contracts include over fifty different insurance plans for health, dental, vision, life, and disability. The City's aim is to simplify its approach by designing and developing one or two major health care plans. The duties of the health benefits coordinator will include gathering information with respect to health benefit plans, researching the costs and benefit levels for all of the union contracts, comparing the City's health plans with those of other communities and developing proposals and strategies for a health care plan for the City. The position will function as the City's health care specialist and will be expected to be at the bargaining table when necessary. The health benefits coordinator will also fill in for the human resource director on occasion, managing the office in her absence, going to committee meetings, handling grievances and performing other related work. The job description for the health benefits coordinator indicates that the individual will prepare, analyze, and recommend various proposals for bargaining on behalf of the City, and will be expected to actively participate in labor negotiations at the bargaining table.

One position in the human resource department, the human resource specialist, is already excluded from the AFSCME bargaining unit as a confidential. This individual assists the director by typing agendas for the civil service commission, and handling personnel record-keeping and computerized data, including job applications. The human resource specialist has no collective bargaining responsibilities.

Factual Findings -- Police Department Executive Secretary:

There are approximately 112 employees in the police department organized in four bargaining units. The police chief and the deputy police chief are in charge of the department and are responsible for the formulation and effectuation of management policies and collective bargaining with the four units. The department secretary recently retired; this position had been included in the AFSCME bargaining unit. It is currently being filled by a temporary employee pending our decision in this case.

The executive secretary will perform the duties of the former secretary, with certain added responsibilities with respect to labor relations matters. Because there are no confidential employees

in the police department, the police chief takes documents of a confidential nature to the Mayor's office for typing. This will become increasingly inefficient when the police department begins a planned move to a new location some distance from the Mayor's office. The new position of executive secretary will be responsible for gathering, typing, and filing information related to bargaining proposals, responses to grievances, and reports with respect to internal department investigations and criminal investigations in other departments.

Discussion and Conclusions of Law:

The Employer maintains that it has met its burden with respect to establishing the confidential status of both positions at issue in this case. It is clear that the Employer intends to assign duties to these positions which we would traditionally find to be confidential. However, as we stated in *Lake County Sheriff*, 1999 MERC Lab Op 107, 113, the mere fact that the employee has been delegated certain executive or confidential functions does not, standing alone, meet the burden of showing the necessity of an additional exclusion from the bargaining unit. It is our policy to apply the confidential exclusion cautiously so as not to deprive public employees of their right to be represented under PERA. An employer is entitled to exclude at least one employee from a bargaining unit as a confidential, but it must justify the need for additional exclusions. A confidential exclusion is not justified by an employer's administrative convenience alone. *Lansing Community College*, 2000 MERC Lab Op ___; *City of Mt Clemens*, 1997 MERC Lab Op 625, 629; *Pontiac School District*, 1997 MERC Lab Op 173,180-181.

There are currently at least three employees excluded as confidentials from the AFSCME bargaining unit of approximately 80 employees: two secretaries in the Mayor's office and the human resource specialist in the human resources department. The human resource specialist works with personnel records, but has no responsibilities related to collective bargaining. While exclusion of the position might be administratively convenient to the Employer, we conclude that Petitioner has not justified the need for an additional confidential in the human resource department.

We reach a different conclusion with respect to the executive secretary in the police department. There are four bargaining units in the police department and no department employee is available to provide clerical assistance to the police chief and deputy chief in collective bargaining and confidential labor relations matters. Under these circumstances, we find that the collective bargaining workload justifies an additional confidential exclusion. *Pontiac School District*, *supra* at 181. Accordingly, we issue the order set forth below:

ORDER

It is hereby ordered that the unit clarification petition filed by the City of Dearborn Heights be granted in part, and that the position of executive secretary in the police department be excluded from the bargaining unit represented by the American Federation of State, County and Municipal Employees, Council 25, Local 290, as a confidential employee. It is further ordered that the petition be denied as to the health benefits coordinator in the human resources department and that the position shall be included in the AFSCME Council 25 bargaining unit.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Chair

Harry W. Bishop, Member

C. Barry Ott, Member

DATED: _____