

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

Orig
File
S. H. Sides
by Matthew
Board

In the matter of UNIT DETERMINATION OF
APPROPRIATE UNITS FOR EMPLOYEES OF THE
STATE OF KANSAS

HEARING OFFICER'S RECOMMENDED FINDINGS

Official recorded hearings were held on fourteen petitions filed by the Department of Administration of the State of Kansas in the above matter. These hearings were held over a period of four months and for all or part of twenty-five days. The State Department of Administration presented testimony and documentary evidence as well as one expert witness. The Chief Attorney for the State Department of Administration also filed a comprehensive brief and orally argued the position of the Department of Administration. The following employee organizations appeared either by business agent, filing of briefs, or by attorney or a combination of all of these: American Federation of State, County and Municipal Employees, Terry Watson, Attorney; Kansas Association of Public Employees, William Haynes, Attorney; Office and Professional Employees, Robert Reinhold, Attorney; Laborers' International Union Local 1132, Lloyd Rose, Business Agent; and Kansas Council of Government Engineers and Scientists, Bruce McCollom, President. Numerous state agencies testified by their agency heads and the State Department of Social and Rehabilitation Services appeared by Charles Hamm, Chief Attorney, who also filed a memorandum brief. Numerous documentary exhibits were received into evidence, and these, together with the testimony briefs arguments have all been considered by the Hearing Officer and these recommended findings.

As all parties and attorneys have conceded the Public Employer-Employee Relations Act of the State of Kansas, KSA 75-4321 and following is difficult of interpretation and application. The Department of Administration urges that the Act must be read in context of other

statutes of the State of Kansas regarding state personnel matters, and this certainly cannot be disputed. However, the primary source of legislative intent and authority upon which the Board must act and upon which these recommended findings are based is the above Public Employer-Employee Relations Act.

The basic guide for the determination of an appropriate unit is found in KSA 75-4327(e) which sets out several criteria for the determination of appropriate units as follows:

1. The principal of efficient administration of government;
2. The existence of a community of interest among employees;
3. The history and extent of employee organization;
4. Geographical locations;
5. The effects of overfragmentation and the splintering of a work organization;
6. The provisions of KSA 1972 Supp. 75-4325; and
7. The recommendations of the parties involved.

There is no guidance from the legislature as to whether equal weight should be given all these criterion or whether in a given instance some should carry more weight than others. It seems from a full reading of all the evidence and briefs and arguments that the Department of Administration is primarily concerned with the efficient administration of state government and overfragmentation. This is that department's responsibility, and certainly no criticism can be made of that position. However, there remains some question as to whether efficiency of government will be promoted by the adoption of fourteen large appropriate units as the Department of Administration has petition. Even assuming that the most efficient operation of state government would be thereby promoted, this in and of itself should not mandate the adoption of said fourteen units. The other factors involved, and particularly the existence of a community of interest and the history of employee organization

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should be given substantial weight and will be as far as this Hearing Officer's recommendation is concerned. The criterion of avoiding fragmentation and over splintering of the work organization must also be considered to some extent. As a matter of law, the Hearing Officer cannot find any evidence or precedent for holding that the "work organization" comprises the entire Civil Service system of the State of Kansas. Even if the term "work organization" were to be so interpreted, the State Department of Administration's petitions dividing the state employee force into fourteen different groups would cause some splintering and fragmentation. It is not necessary for these recommended findings to determine and interpret precisely what "work organization" means; however, it seems clear and the Hearing Officer does so rule that "work organization" does not constitute the entire Civil Service system of the State of Kansas.

Much has been said pro and con with regard to large and small units. - It seems that in the present context of state employee organization that the efficient and effective organization of state employees will best be obtained by given recognition of the criterion or community of interest and this leads us logically to the formation and recommendation of appropriate units that are numerically more and somewhat smaller in size than the fourteen units proposed by the State Department of Administration.

In addition to the above criterion, attention must be given to the fact that professional and security employees of the State of Kansas must be given separate and special attention in regard to formation of appropriate units. With these brief introductory remarks, attention will now be given to the recommendation of appropriate units in several categories.

I. Security Services Employees

After due consideration to the criterion referred to above, and in addition, after recognition of the fact that KSA 75-4327(f)(2) provides that uniform police employees and public property security guards may not be included in a recognized employee organization with any other public employees, but that such security personnel may form their own "separate homogeneous units".

A. Security Services Unit (correctional officers)

This unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt employees designated as Correctional Officer I and Correctional Officer II wherever located in the State of Kansas and employed by whatever agency or institution of the State of Kansas.

EXCLUDE: All employees classified as above who are appointed on a temporary, seasonal, student, emergency, or exceptional basis and all supervisory, confidential and managerial employees of the above classifications.

It is recognized that correctional officers do not technically comply with the definition "uniform police employees" or "public property security guards". They are, however, engaged in work of such a specialized and unique type within the state Civil Service system that it is believed to be in the best interest of these employees as well as the State of Kansas and the employee organizations concerned to place them in a separate appropriate unit. All cross-petitions, answers, counter-claims, objections and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

Again giving attention to the principal announced by the legislature in KSA 75-4327(f)(2)

B. Security Services Unit (KBI special agents)

This unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt employees of the State of Kansas in the classification (KBI Special Agent I).

EXCLUDE: All employees in the above classification who are appointed on a temporary, seasonal, student, emergency or exceptional basis and all employees in the above classification who are supervisory, confidential or managerial employees.

All cross-petitions, answers, counter-claims, objections and pending petitions, or any part or parts thereof which might conflict with the above described appropriate unit should be denied.

Again giving consideration to all the statutes pertaining to unit determination, an appropriate unit is determined to be the following:

C. Security Services Unit (patrolmen and security officers)

This unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt employees in the classifications patrolmen and security officer I

EXCLUDE: All employees appointed on a temporary, seasonal, student, emergency or exceptional basis and all supervisory, confidential and managerial employees of the above classification.

All cross-petitions, answers, counter-claims, objections and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

Again considering all the statutes involved, an appropriate unit is recommended to be the following:

D. Security Services Unit (Kansas highway patrol troopers)

This unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt employees in the above classification

EXCLUDE: All employees who are appointed on a temporary, seasonal, student, emergency or exceptional employees and all supervisory, confidential and managerial employees of the above classification

All cross-petitions, answers, counter-claims, objections and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

Petitions of the State Department of Administration enumerated SUD 9, 10, 11 and 12 as amended are therefore allowed.

II. Social Services *Field Empl.*

In designating an appropriate unit for employees of the State of Kansas engaged in social service under the jurisdiction of the State Department of Social and Rehabilitative Services, attention was given to the recommendations of the parties, community of interest, efficiency of an administration of government, and geographical distribution of employees. Although some attention is given to the prohibition against overfragmentation and splintering of the work force, that particular criterion is not deemed to be as significant as some of the others in this regard. Testimony of Social Workers indicated a community of interest with other "field employees" of the State Department of Social and Rehabilitative Services. An appropriate unit for employees of the Regional and District offices of the Department of Social and Rehabilitative Services Division of Social Welfare as follows:
A unit in each of the regions as follows:

- A. Garden City
- B. Hays
- C. Salina
- D. Chanute
- E. Wichita (non-sedgwick county)
- F. Topeka (non-Shawnee county)
- G. Shawnee County District
- H. Sedgwick County District
- I. Wyandotte County District

The nine units above which are hereby deemed appropriate shall be as follows:

INCLUDE: All employees holding permanent, provisional, probationary, part-time, intermittent and in-lieu-of appointments in the classifications of: Social Worker I, Social Worker Aide, Volunteer Services Coordinator, Domestic Homemaker, Homemaker, Social Clerk Aide (Disadv.), Program Aide (Disadv.), Program Worker I (Disadv.), Account Clerk I, Account Clerk II, Clerk I, Clerk II, Clerk Typist I, Clerk Typist II, Clerk Stenographer I, Clerk Stenographer II, Addressograph Operator, Key Punch Operator, Tabulating Equipment Operator II, Duplicating Machine Operator II, Switchboard Operator I, Cashier, and all other professional and clerical employees.

EXCLUDE: All employees appointed in these classifications on a temporary, seasonal, student, emergency and exceptional basis and all security, confidential, managerial and supervisory employees.

All cross-petitions, answers, counter-claims, objections and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

The above in foregoing appropriate units are deemed appropriate subject to the provision of the law which allows professional employees to exclude themselves from a unit on the basis of a majority vote, assuming that employees classified as Social Worker I are "professional" employees. There is some testimony in the record to the effect that employees in these categories are "professional" employees within the meaning of the Public Employer-Employee Relations Act, but since they are not members of a learned profession in the classic sense, and since no firm determination has been made on this issue by the Public Employee Relations Board, it is recommended that this particular issue not be decided at the present time, but these employees are included in the unit so that they will have the benefit of an opportunity to organize and participate in a meet and confer unit with other employees listed above.

III. Physical and Natural Sciences, Professional Unit

The State Department of Administration by petition denominated SUD 8, petition for a unit composed of professionals engaged in physical and natural sciences within the classified and classified exempt service of the State of Kansas. There was no substantial evidentiary opposition to this particular petition and the employee organization primarily concerned with this unit, the Council of Kansas Governmental Engineers and Sciences agreed with the petition and requested it be allowed.

An appropriate unit is therefore recommended as follows:

INCLUDE: All employees of the State of Kansas classified and classified exempt service in the following job classifications:

Air Pollution Control Engineer I	Mechanical Engineer I
Air Quality Engineer	Mechanical Engineer II
Architect I	Microbiologist I
Ceramist I	Microbiologist II
Chemist I	Microbiologist III
Chemist II	Paleontologist
Civil Engineer I	Petroleum Research Specialist
Civil Engineer II	Pharmacist I
Ecological Specialist	Pharmacist II
Engineer in Training	Pharmacist Intern
Entomologist I	Public Health Physicist
Entomologist II	Radiation Protection Specialist
Environmental Pesticide Specialist	Sanitarian I
Epidemiologist	Sanitary Engineer I
Fish and/or Game Biologist I	Sanitary Engineer II
Forensic Chemist	Sanitary Engineer III
Geologist I	Utilities Engineer
Geologist II	Vertebrate Zoologist
Hydrologist I	Veterinarian I
Hydrologist II	Veterinarian II
Hydrologist III	Water Quality Biologist
Landscape Architect I	

EXCLUDE: All managerial, supervisory and confidential employees in these job classifications and all other state classified and classified exempt employees.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

IV. State Highway Commission Employees

From the clear convincing and indeed overwhelming testimony of State Highway Commission employees presented by the American Federation of State, County and Municipal Employees, Council 64, it is apparent that the only workable organizational structure for the State Highway Commission insofar as an appropriate unit for their employees is concerned is one based on the geographical disbursement of employees into Highway Commission Districts.

An appropriate unit is therefore named to be the following:

INCLUDE: All non-professional employees of the Highway Commission in the following:

- A. Commission offices and headquarters in Topeka
- B. Division 1, approximately 300 employees
- C. Division 2, approximately 200 employees
- D. Division 3, approximately 175 employees
- E. Division 4, approximately 225 employees
- F. Division 5, approximately 250 employees
- G. Division 6, approximately 150 employees

EXCLUDE: All managerial, supervisory and confidential employees and all uniformed police employees, public property security guards, uniformed firemen, and employees appointed on a temporary, seasonal, student, emergency and exceptional basis.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

V. Institutional Employees

It is equally clear from the evidence aduced from the employees of Osawatomie State Hospital, Topeka State Hospital, the Kansas Soldiers' Home at Ft. Dodge and the Larned State Hospital, that the only feasible and workable organizational structure insofar as an appropriate unit for institutional employees is that based on

all of the employees of a given institution being designated appropriate as follows:

- A. Larned State Hospital, approximately 750 employees
- B. Osawatomie State Hospital, approximately 700 employees
- C. Winfield State Hospital & Training Center, approximately 750 employees
- D. Parsons State Hospital & Training Center, approximately 400 employees
- E. Norton State Hospital, approximately 220 employees
- F. Topeka State Hospital, approximately 620 employees
- G. Kansas Neurological Institute, approximately 500 employees
- H. Kansas Soldiers' Home, approximately 124 employees
- I. The Southeast Kansas Tuberculosis Hospital, approximately 50 employees

INCLUDE: All non-professional employees of the above named institutions.

EXCLUDE: All supervisory, confidential, managerial, uniform police employees, public property security guards, uniform firemen and employees appointed on a temporary, seasonal, student, emergency and exceptional basis.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

VI. Non-Correctional Guards (penal and corrective institutions)

Employees in clerical, maintenance, operational and other categories at the penal and corrective institutions of the State of Kansas should be allowed to form a meet and confer unit apart from the correctional officers at those institutions who have been declared to be members of another appropriate unit herein.

INCLUDE: All non-professional clerical, maintenance and service employees at the following institutions:

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- A. Lansing State Penitentiary
- B. Kansas State Industrial Reformatory
- C. Kansas Receptional & Diagnostic Center
- D. Industrial School for Boys, Topeka
- E. Industrial School for Girls, Beloit
- F. Womens' State Penitentiary at Lansing

EXCLUDE: All professional, managerial, confidential and supervisory employees, correctional officers, uniformed police, uniformed firemen, and all temporary, seasonal and employees employed on an exceptional basis.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

In order to formulate as comprehensive a plan for appropriate units in the states services possible, it is deemed appropriate that certain units petitioned for by the Department of Administration with the exception of the employees at the state universities, the penal and patient care institutions and the highway commission be declared appropriate. It is recognized that the community of interest and geographical criterion in these units may not be as strong as in some of the others formed, but nevertheless it is recommended that these units be set up so that the employees who are members thereof will have the opportunity to organize a meet and confer unit.

VII. Administrative Services, SUD 1-1973

The Department of Administration petition SUD 1-1973 is allowed and a unit is deemed appropriate for the Administrative Services of the classified and classified exempt service of the State of Kansas as follows:

INCLUDE: All classified and classified exempt Administrative Services employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, and employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

VIII. Operational Services, SUD 6-1973

The Department of Administration petition SUD 6-1973 is granted with the same exceptions, inclusions and exclusions as the Administrative Services as follows:

INCLUDE: All classified and classified exempt Operational Services employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, and employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

IX. ^{Special} Social Services, SUD 13-1973

The Department of Administration petition SUD 13-1973, regarding the Social Services is social services employees of the classified and classified exempt services is granted and said unit to be deemed appropriate is as follows:

INCLUDE: All classified and classified exempt Social Services employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas, and employees in the district and regional social welfare services unit formed herein.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

X. Technical Employees, SUD 14-1973

The Department of Administration petition SUD 14-1973, regarding classified and classified exempt Technical Employees is allowed and the unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt Technical employees in the agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas.

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

XI. Fiscal and Staff Employees, SUD 2-1973

The Department of Administration petition SUD 2-1973, as amended, regarding Fiscal and Staff classified and classified exempt employees is allowed and the unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt Fiscal and Staff employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

XII. Inspection and Regulatory Employees, SUD 3-1973

The Department of Administration petition SUD 3-1973, as amended, regarding Inspection and Regulatory classified and classified exempt employees is allowed and the unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt Inspection and Regulatory employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

XIII. Legal Employees, SUD 5-1973

The Department of Administration petition SUD 5-1973, as amended, regarding Legal classified and classified exempt employees is allowed and the unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt Legal employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

IVX. Patient Care Employees, SUD 7-1973


The Department of Administration petition SUD 7-1973, as amended, regarding Patient Care classified and classified exempt employees is allowed and the unit is deemed appropriate as follows:

INCLUDE: All classified and classified exempt Patient Care employees employed in agencies of the State of Kansas in the classifications listed on said petition.

EXCLUDE: All temporary, seasonal and exceptional basis employees and all managerial, confidential and supervisory employees, employees of the penal and other institutions of the State of Kansas, employees of the state colleges and universities of the State of Kansas, highway commission employees of the district offices of the State of Kansas and of the highway commission headquarters in Topeka, Kansas

All cross-petitions, answers, counter-claims, objections, and pending petitions, or any part or parts thereof, which might conflict with the above described appropriate unit should be denied.

Respectfully Submitted,


Matthew J. David, Atty.
Hearing Officer for the Board

Hearing Officer's Exh. 6
3/10/77/edz

STATE HIGHWAY SYSTEM OF KANSAS

