

Chapter ERC 4

REFERENDA CONCERNING ALL-UNION AGREEMENTS

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Note: Chapter ERB 4 was renumbered chapter ERC 4 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468; Chapter ERC 4 as it existed on June 30, 2006, was repealed and a new chapter ERC 4 was created, Register June 2006 No. 606, effective July 1, 2006.

ERC 4.01 Scope. This chapter governs the general procedure relating to referenda to authorize or determine the continuation of private sector all-union agreements under s. 111.06 (1) (c), Stats.

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

ERC 4.02 Policy. Except as provided in s. 111.06 (1) (c) 2., 3., and 4., Stats., before implementation of an all-union agreement between an employer and a voluntarily recognized, rather than certified, exclusive representative, the employer or exclusive representative shall petition the commission for a referendum to determine whether the required number of employees in the bargaining unit involved favors authorization of an all-union agreement. After lawful implementation, an all-union agreement is subject to termination as a result of a discontinuation referendum. A discontinuation referendum shall be conducted only if the commission determines that there is reasonable ground to believe that the required number of employees does not favor the continuation of the all-union agreement.

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

ERC 4.03 Petition seeking referendum authorizing all-union agreement. (1) WHO MAY FILE. A petition seeking a referendum authorizing an all-union agreement may be filed by the employer or by the exclusive representative of an appropriate bargaining unit, or by anyone acting on its behalf.

(2) TIME FOR FILING. A petition for initial authorization of an all-union agreement may be filed at any time after the parties have agreed that an all-union agreement shall be implemented upon the requisite referendum result favoring its implementation and before the implementation of the all-union agreement.

(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 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 has 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.

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

(a) The name and address of the employer involved, 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 num-

ber 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 employees in the unit.

(d) A description of the proposed all-union agreement involved.

(e) The date on which the most recent referendum, if any, was conducted, and the results of that referendum.

(f) 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 4.04 Petition seeking referendum to determine the continuation of all-union agreement. (1) WHO MAY FILE. A petition seeking a referendum to determine the continuation of an all-union agreement may be filed by either party to the all-union agreement, or by anyone acting on their behalf.

(2) TIME FOR FILING. A petition to determine the continuation of an all-union agreement may be filed at any time after an all-union agreement has been implemented.

(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 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 has 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.

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

(a) The name and address of the employer involved, 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 employees in the unit.

(d) A description of the all-union agreement involved.

(e) The date on which the most recent referendum, if any, was conducted, and the results of that referendum.

(f) 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.

(g) A statement that reasonable grounds exist to believe that the employees in the bargaining unit do not favor continued authorization of the all-union agreement. The grounds need not be stated in the petition.

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

ERC 4.05 Stipulation seeking referendum authorizing implementation of an all-union agreement.

(1) WHO MAY FILE. When an employer and the exclusive representative of employees of the employer in an appropriate collective bargaining unit, in their negotiations with respect to the inclusion of an all-union agreement in their collective bargaining agreement, jointly desire to determine whether the employees in the collective bargaining unit favor the implementation of an all-union agreement, the employer and exclusive representative or anyone authorized to act on their behalf, may file a stipulation for a referendum for that purpose.

(2) TIME FOR FILING. A stipulation for a referendum seeking authorization to implement an all-union agreement shall be filed prior to the proposed implementation of the all-union agreement involved.

(3) FORM, NUMBER OF COPIES, FILING AND SERVICE. The stipulation shall be in writing on a form provided by the commission, or a facsimile of the commission's form, and shall include the signatures or a facsimile of the signatures of the parties or representatives filing the stipulation. A stipulation is not filed unless it contains the required signatures or signature facsimiles and unless and until the stipulation has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The stipulation shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the stipulation is filed in paper form, a total of 2 copies of the petition shall be included.

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

- (a) The names and addresses of the parties on whose behalf the referendum is being stipulated, and the names, addresses and phone numbers of the parties' principal representatives. Fax numbers and e-mail addresses shall be included, if available.
- (b) A request that the commission conduct a referendum to determine whether the employees in the collective bargaining unit involved favor the implementation of an all-union agreement.
- (c) A description of the collective bargaining unit involved, and the approximate number of employees in the unit.
- (d) A description of the all-union agreement involved.
- (e) A statement by the employer that it agrees that, if the required number of employees votes in favor of authorizing the all-union agreement, then the employer shall incorporate the all-union agreement in the collective bargaining agreement covering the employees in the bargaining unit involved.
- (f) A statement by the exclusive representative that it agrees that, if the required number of employees does not vote in favor of authorizing the all-union agreement, the exclusive representative shall withdraw its request that an all-union agreement be implemented covering the employees in the bargaining unit involved.

(g) A complete list of employees agreed upon by the parties as being included in the collective bargaining unit and eligible to vote.

(h) Suggested days of the week, time and place for the conduct of the referendum.

(5) PROCEDURE FOR RESOLVING REFERENDUM-RELATED DISPUTES. Questions arising in connection with the conduct of or the results of the referendum shall be processed in accordance with the procedures following a referendum directed as a result of a hearing under s. ERC 4.10.

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

ERC 4.06 Stipulation seeking referendum to determine the continuation of all-union agreement. (1) WHO MAY FILE.

A stipulation for a referendum to determine the continuation of an all-union agreement may be filed by the exclusive representative and the employer who are parties to the all-union agreement, or anyone authorized to act on their behalf.

(2) TIME FOR FILING. A stipulation for a referendum to determine the continuation an all-union agreement may be filed at any time following the implementation of the all-union agreement involved.

(3) FORM, NUMBER OF COPIES, FILING AND SERVICE. The stipulation shall be in writing on a form provided by the commission, or a facsimile of the commission's form, and shall include the signatures or a facsimile of the signatures of the parties or representatives filing the stipulation. A stipulation is not filed unless it contains the required signatures or signature facsimiles and unless and until the stipulation has been actually received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). The stipulation shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the stipulation is filed in paper form, a total of 2 copies of the petition shall be included.

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

- (a) The names and addresses of the parties on whose behalf the referendum is stipulated, and the names, addresses and phone numbers of the parties' principal representatives. Fax numbers and e-mail addresses shall be included, if available.
- (b) An agreement that a hearing shall be waived and a request that the commission conduct a referendum to determine the continuation of an all-union agreement.
- (c) A description of the collective bargaining unit involved, and the approximate number of employees in the unit.
- (d) A description of the all-union agreement involved.
- (e) The date on which the most recent referendum, if any, was conducted, and the results of that referendum.
- (f) A complete list of employees agreed upon by the parties as being included in the collective bargaining unit and eligible to vote.
- (g) Suggested days of the week, time and place for the conduct of the referendum.

(5) PROCEDURE FOR RESOLVING REFERENDUM-RELATED DISPUTES. Questions arising in connection with the conduct of or the results of the referendum shall be processed under the procedures following a referendum directed as a result of a hearing under s. ERC 4.10.

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

ERC 4.07 Withdrawal of petition. Practice and procedure for withdrawal of a petition in referendum proceedings shall be as set forth in s. ERC 15.06.

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 4.08 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 4.09 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 4.10 Hearings. Practice and procedure regarding hearings in referendum proceedings shall be as set forth in s. ERC 15.09.

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 4.11 Direction of referendum or other dispositional order. Practice and procedure regarding a commission 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 4.12 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 4.13 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 4.14, the commission shall issue to the parties a certification of the results of the referendum.

(2) EFFECT OF CERTIFICATION. (a) *Not favoring all-union agreement.* Where the certification of the results of a referendum indicates that the required number of employees has not authorized the implementation of, or the continuation of, the all-union agreement, the all-union agreement shall not be implemented, or shall be terminated at the termination of the collective bargaining agreement of which it is then a part or at the end of 1 year from the date of the commission's certification of the result of the referendum, whichever is earlier.

(b) *Favoring all-union agreement.* Where the certification of the results of a referendum indicates that the required number of employees has authorized the continuation of, or implementation of, the all-union agreement shall continue or shall become effective as of the date of the commission's certification of the result of the referendum, or on a later 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 4.14 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 4.15 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 4.16 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 a petition for rehearing in a referendum proceeding shall be as set forth in s. ERC 15.15.

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.**