

**STATE HUMAN RESOURCES COMMISSION MEETING
VIA WEBEX**

MEETING MINUTES – August 7, 2023

Members Present:

Members present on the Webex for the meeting were: Commissioner Dekhasta Becton Rozier, Chair, and Commissioner Andrea Allard, Commissioner Ross Beamon, Commissioner Doug Boyette, Commissioner April Page, and Commissioner Tye Vaught.

Other Attendees

Other attendees present: Barbara Gibson, Director, Glenda Farrell, Chief Deputy, and Twanetta Lytle Alston, Deputy Director, Office of State Human Resources; Blake Thomas, General Counsel, Anna Perkinson, Assistant General Counsel, and Lockhart Taylor, Director of Government Relations, Legal, Commission and Policy Division, Office of State Human Resources; Denise Mazza, State Human Resources Commission Administrator, Office of State Human Resources; LaQuita Alston, Nancy Astrike, Susan Beasley, Andrea Bennett, Amy Bowman, Felicia Bridges, Andrea Clinkscales, Lorence Crossett, Dominick D’Erasmus, Chris Drew, Helen Dicken, Dominick D’Erasmus, Linda Forsberg, Scarlett Gardner, Creshaya Graham, James Harris, Jennifer Harrison, Christine Hofer, Joel Jordan, Stephanie McFadden, Devon McGarvey, Luisa Mahler, Randy Mizelle, Davita Morant, Susan Reeves, Kristen Siemek, Mike Suggs, Deyla Tharrington, and Kimberly Whitaker of the Office of State Human Resources; Donnell Adams, HR Director, NC Department of Administration; Kieta Cannon, HR Director, NC Auditor’s Office; Pam Hess, HR Director, NC Department of Agriculture and Consumer Services; Angeline Hariston, HR Director, NC Office of Administrative Hearings; Renathe Cotton, HR Director, NC Department of Labor; Kristen Bierline, HR Director, NC Department of Justice; Chris Chiron, University System; Sylvia Crumpler, HR Director, Department of Adult Corrections; Jerry Daniels, HR Director, NC Department of Insurance; Karen Gerald, HR Director, NC Department of Health and Human Services; Shakeyia Hazell, HR Director, NC Community Colleges; Andrea Porterfield, HR Director, and Melody Isaak, Deputy HR Director, NC Commerce; Schmett Jones, NC State Bureau of Investigation; Patricia Garcia, HR Director, Office of State Budget & Management; Magnolia Lugo, HR Director, NC Community Colleges; Debra Thomas, HR Director, NC Office of the Treasurer; and Hollie Thornton, HR Director, NC Wildlife.

Opening

The Commission convened its open meeting at 10:06 a.m. via Webex Teleconference. The State Human Resources Commission (SHRC) last convened on June 13, 2023 for a special meeting. Pursuant to North Carolina General Statute Chapter 138A and the North Carolina Ethics Act, Chair Rozier asked all Commissioners if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. No conflicts were presented.

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There were no additions or corrections to the agenda for the August 7, 2023 special meeting.

CONSENT AGENDA

The Chair presented the draft minutes for the April 20, 2023 and June 13, 2023 State Human Resources Commission meetings.

There being no further discussion or questions, the Chair called for a motion to recommend approval of these minutes as provided with correction to the spelling of Commissioner Vaught's first name.

Motion: Commissioner Beamon made a motion to recommend approval of the draft minutes for the April 20, 2023 and June 13, 2023 State Human Resources Commission meetings.

Second: Commissioner Page seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the draft minutes for the April 20, 2023 and June 13, 2023 State Human Resources Commission meetings as provided.

Motion carried.

State Human Resources Director's Report

Director Barbara Gibson greeted the Commissioners and introduced new OSHR employee Mike Suggs who joined the agency in June as Director of Internal Auditing. Over the past 15 years, the Office of State Budget Management's Central Internal Audit Office has handled OSHR's internal auditing needs. After the last internal audit assessment when over 2000 hours of audit reviews were identified to audit HR programs, OSHR recognized it was time to identify a dedicated audit position to provide full-time support to handle its growing internal auditing needs. Director Suggs comes to OSHR from the North Carolina Education Lottery and has more than 24 years of state government experience in auditing, finance, accounting and collections. OSHR is very excited to have him join our team.

Director Gibson then shared another change to Team OSHR - Special Advisor Ronnie Condrey would retire on September 1- noting he will be greatly missed for his wise counsel, steady perspective, generous assistance, good humor and genuine friendship. Over the last six and a half years, Ronnie graciously handled issues that came up in any and every OSHR program area, which helped us all.

Director Gibson then reported that OSHR was still awaiting a budget from the Legislature and that news reports from several agencies have demonstrated the impact of this delay. As

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Secretary of State Elaine Marshall put it last week, many offices are “on the brink of a crisis” as state agencies grapple with high vacancy rates and turnover. With a vacancy rate of roughly 23 percent across state government, our state employees are working tirelessly to provide vital services to North Carolinians and with the influx of new residents calling for even more needed resources, state agencies are being stretched thin and our workers are facing challenges with work-life balance and burnout. To support not only our state employees but all North Carolinians, we need to continue fighting for solutions to our vacancy, recruitment and retention challenges.

Last month, Director Gibson and Chief Deputy Glenda Farrell attended and presented at the National Association of State Personnel Executives conference in Denver, Colorado. They participated in various panels about the benefits of various HR structures in state governments, prioritizing skills and competency-based hiring and the importance of targeted recruitment efforts for Gen Z and other young jobseekers. As a growing number of states are moving towards eliminating strict degree requirements for state jobs with a focus on skills and competencies in this tight labor market, OSHR was delighted to talk about North Carolina’s efforts in lowering employment barriers through Executive Order 278, Recognizing the Value of Experience in State Government Hiring. During the panel on the importance of attracting and keeping Gen Z workers, attendees who have Gen Z employees in their agency were asked to raise their hands. Director Gibson note she was surprised to see how few hands were in the air. She reminded the Commission that twenty-five percent of state employees will be able to retire in the next five years – we will be counting on Gen Z workers to step up and reshape the way people get work done across state government. Members of this generation are already making impacts in state government. She noted that she is even seeing it firsthand within OSHR in our communications and Temporary Solutions sections. Emerging research shows that young people joining state government ranks are looking for job safety, work-life balance, structure and benefits – including retirement. As human resources professionals, this is seen in student interns, new hires and the evolving priorities of our workforce as a whole - especially with the dynamic of remote and hybrid work. With this and other impending shifts in our workforce just beyond the horizon, the need to enhance recruitment efforts and benefits for state employees is imperative. OSHR believes that the best way to truly understand our workforce is to have strong, reliable data. As the labor market has grown more competitive, we have seen workforce numbers dip slightly each month. Director Gibson state she was happy to report that from May to June of 2023, state government workforce saw its most substantial increase of 2023. This is a true testament to our hardworking HR professionals across the state, the importance of providing increased flexibility to our fellow agencies and competitive pay and benefits to our state employees.

She is hopeful it upward trends will continue as OSHR pursue efforts to make the State of North Carolina an even better place to work.

Director Gibson stated that the role of a human resources professional is always evolving. As a community, OSHR is constantly working to improve the workplace and advocate for fellow state employees. OSHR has worked tirelessly to provide more agency flexibilities and resources

to better serve state workers. OSHR is analyzing thousands of data points to provide the most accurate HR information to agencies, the media and legislators to support increased benefits, additional resources and more competitive pay for those employed by the State of North Carolina. OSHR will continue to work to drive success in human resources efforts throughout the state through several changes submitted to the Commission at this meeting, ranging from benefits relating to bringing home a new member of the family to how disciplinary actions are conducted.

Exceptions Granted under 25 NCAC 01A .0104 Variances

Deputy Director Twanetta Lytle Alston reported that there had been one new exception granted by Director Gibson under 25 NCAC 01A .0104 since the April 20, 2023 State Human Resources Meeting. OSHR approved the one-time exceptions to incentivize and retain the seven-member core team of Office of State Controller (OSC) employees working on the Financial Backbone Replacement (FBR) Project which will create the new North Carolina Financial System (NCFS). The approved exception allows the FLSA Exempt employees to extend by an additional twelve months their compensatory time that was earned in 2021 and 2022. If the compensatory time is not used it will expire at that time.

Changes to the State Human Resources Act

Director of Government Relations Lockhart Taylor presented information regarding legislative changes to the State Human Resources Act, N.C.G.S. § 126. He reported that, according to the leadership of both chambers, a budget is anticipated by the end of August. OSHR continues to work with legislators to ensure the passage of the agency bill – HB223 – which makes various changes to provisions of N.C.G.S. 126. It has received positive feedback and has passed the House. OSHR continues to work with Senate leadership as it awaits approval from the Senate.

Business Session Public Comment

Public Comment

There were no public comments.

Total Rewards: Salary Administration: Temporary Rules 25 NCAC 01E .1901-.1908 Paid Parental Leave

General Counsel Blake Thomas presented proposed temporary rules for adoption. He noted that these rules are almost the same as what was presented at the June 13, 2023 meeting to put the temporary rules out for public comment. No formal comments were received, but informal conversations with the Department of Public Instruction and an attorney representing school boards resulted in three small changes. They are:

Rule .1903(d) – A sentence was added at the end of temporary Rule .1903 to indicate that any birth, adoption, foster placement, or other legal placement after the effective date is eligible for paid parental leave.

Rule .1905(b) – Edited to indicate there is paid parental leave for part time employees to the level that had historically been provided under the Commission’s policy and Executive Order 95.

Rule .1906 – A new sentence was added to the end of the temporary Rule .1906 to clarify that Paid Parental Leave Runs Concurrently with Family and Medical Leave.

There being no discussion or questions, the Chair called for the Commission to recommend approval of the proposed temporary rules 25 NCAC 01E .1901-.1908 Paid Parental Leave as presented.

Motion: Commissioner Vaught so moved.

Second: Commissioner Page seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the proposed temporary rules 25 NCAC 01E .1901-.1908 Paid Parental Leave as revised.

Motion carried.

Total Rewards: Paid Parental Leave Policy

General Counsel Blake Thomas presented proposed revisions to the Paid Parental Leave Policy as required by new N.C.G.S. § 126-8.6 created by House Bill 190. This legislation created a uniform set of benefits matching the structure (eight weeks for birthing parents, and four weeks for non-birthing parents) by placing a sunset date on the option for agencies to provide the alternative structure historically offered in the policy. Additionally, language was added at section 9.3 requiring the agency to respond to the employee in writing as promptly as possible, but no fewer than two weeks from the date of receipt.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Paid Parental Leave Policy as revised.

Motion: Commissioner Beamon so moved.

Second: Commissioner Page seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the Paid Parental Leave Policy as revised.

Motion carried.

Total Rewards: Leave without Pay Policy

Assistant General Counsel Anna Perkinson presented revisions to the Leave without Pay Policy which added cross references to the FMLA Policy, Paid Parental Leave Policy and Reasonable Accommodation Policy for types of leave that may be available after childbirth.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Leave without Pay Policy as revised.

Motion: Commissioner Vaught so moved.

Second: Commissioner Beamon seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the Leave without Pay Policy as revised.

Motion carried.

Total Rewards: Reasonable Accommodation Policy

Assistant General Counsel Anna Perkinson presented revisions to the Reasonable Accommodation Policy adding the cross references presented in the Leave without Pay Policy as well as updating it to comply with the Pregnant Workers Fairness Act (PWFA) a federal law. PWFA requires employers to make reasonable accommodations for “known limitations” related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity.

Commissioner Allard asked if in defining known limitation, was that a temporary limitation.

Perkinson said the definition was taken directly from the PWFA and did not know if it was necessarily temporary as it is related medical conditions.

Commissioner Allard then asked if it is a temporary related medical condition, could at some point it turn into a disability and would SHRC then address it.

Perkinson stated she believed that was correct but said once the EEOC addresses it there will be a better understanding of how it is applied with the ADA.

Commission Beamon asked if it is determined that any monies have to be spent to afford these accommodations, from whose budget does it come.

Perkinson believed it would continue to work with the Reasonable Accommodation Policy.

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Diversity and Workforce Services Division Director Nancy Astrike interjected that accommodation requirements, whether they are ADA or PWFA, would be the responsibility of the employing agency.

Commissioner Allard then asked that if the employee is using the FMLA, would temporaries be allowed to be hired.

Perkinson requested that Commissioner Allard clarify that she was asking if someone is out on this leave, a temporary could be hired to fill the position.

Commissioner Allard confirmed that was her question and asked if could she hire a temporary employee during the FMLA period.

Perkinson, asked for Director Astrike assistance in responding. Astrike stated that OSHR policy would allow a time-limited or temporary employee to be hired should it be needed.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Reasonable Accommodation Policy as presented.

Motion: Commissioner Beamon so moved.

Second: Commissioner Page seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the Reasonable Accommodation Policy as revised.

Motion carried.

Talent Acquisition: Recruitment and Posting of Vacancies Policy

Talent Acquisition Manager Kristin Siemek presented a revision to the Recruitment and Posting of Vacancies Policy. The revision clarified when a posting is labeled “Internal to Agency” or “Internal to State Agency and University Employees” and states temporary employees are eligible, temporary employees employed by Temporary Solutions or directly by the agency may apply, but not temporary employees of a third-party staffing agency or contractors. This opens up the opportunity for temporary employees working with the State to become permanent employees.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Recruitment and Posting of Vacancies Policy as presented.

Motion: Commissioner Vaught so moved.

Second: Commissioner Allard seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the Recruitment and Posting of Vacancies Policy as revised.

Motion carried.

Diversity and Workforce Services: Disciplinary Action Policy

Diversity and Workforce Services Division Director Nancy Astrike presented the revisions to the Disciplinary Action Policy. The proposed revisions update the policy to reflect developments in caselaw and to align with the Administrative Code provisions on the same topic. Astrike shared that the revisions had been shared with a stakeholder group prior to bringing them to the SHRC so that their feedback could be provided.

Commissioner Vaught asked in Section 4.4 on page 132, in the first bullet point, use of credentials for personal gain, if there is a definition of “personal gain,” for example a teacher getting a discount at a store.

Astrike directed this question to Legal as she was unaware of a definition in the Administrative Code but believed it was a broader definition as to how those credentials could be used for advancing yourself either financially or positive benefits or attributes that you would not have received otherwise.

Perkinson added that that language previously appeared in the list of what was considered personal conduct and was moved down to be an example because as Astrike indicated the revisions were aligning the list of unacceptable person conduct with the Administrative Code. So, there is not necessarily a definition of personal gain but lawful uses of one’s credentials would not be considered unacceptable personal conduct. She was not aware of any public caselaw, but there could be examples like law enforcement officials using theirs to get some benefit or an employee using their credentials to get access to somewhere for personal reasons under the gaze of it being work related. She restated that this language is not new to the policy.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Disciplinary Action Policy as revised.

Motion: Commissioner Allard so moved and thanked the Division noting that a lot of work had been done on this policy.

Second: Commissioner Page seconded the motion and agreed with Commissioner Allard that a lot of work had been done on this policy.

A roll call vote was held and all attending members of the Commission recommended approval of the Disciplinary Action Policy as revised.

Motion carried. Chair also agreed with the amount of work that had been put into updating the policy.

Total Rewards: Sign-On and Retention Bonus Policy

Lead Pay Administration Consultant Lorence Crossett presented the following revisions to the Sign-On and Retention Bonus Policy. Specifically, sections 2 and 3 of the policy were revised to discuss employees who are not eligible for a bonus because they already are an employee in North Carolina state government subject to the State Human Resources Act. Both instances of this language, in sections 2 and 3 of the Policy, now use exactly the same language.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Sign-on and Retention Bonus Policy as revised.

Motion: Commissioners Beamon and Vaught so moved.

Second: Commissioner Page seconded the motion.

A roll call vote was held, and all attending members of the Commission recommended approval of the Sign-on and Retention Bonus Policy as revised.

Motion carried.

Total Rewards: Hours of Work and Overtime Compensation Policy

General Counsel Blake Thomas presented one proposed revision to the Hours of Work and Overtime Compensation Policy, noting that this policy, like the Disciplinary Action Policy, needed to be completely reviewed and tentatively suggested that may be in the fourth quarter of this year or the first quarter of next year. This change will add more structure in a process that has been mentioned periodically in our exceptions reports to you including at the beginning of the meeting today. This change would add more detail when it is approved to pay out compensatory time to employees who are exempt from the FLSA. These changes would be effective on October 1, 2023.

It does not apply to Law Enforcement, Fire Protection and Emergency Response Personnel found in Section 29.7, but shall apply in 29.8 Exempt Employees when the Governor declares an emergency or disaster. This is because Law Enforcement and Emergency employees have a different way they may be compensated because overtime is a part of the job and this change limiting the granting of a waiver retroactively would not apply to them.

There being no further discussion or questions, the Chair called for the Commission to recommend approval of the Hours of Work and Overtime Compensation Policy as revised.

Motion: Commissioner Beamon so moved.

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Second: Commissioner Vaught seconded the motion.

A roll call vote was held and all attending members of the Commission recommended approval of the Hours of Work and Overtime Compensation Policy as revised.

Motion carried.

Adjournment

There being no further discussion or questions, Chair Rozier called for a motion to adjourn.

Motion: Commissioner Beamon so moved.

Second: Commissioner Allard seconded the motion.

A roll call vote was held and all attending members of the Commission agreed to adjourn the August 7, 2023 SHRC meeting.

Motion carried.

The Commission adjourned at 11:14 a.m.

Executive Session

The State Human Resources Commission did not have an executive session at its August 7, 2023 meeting.

Minutes submitted by:

Denise H. Mazza,
State Human Resources Commission Administrator