

MINUTES

STATE PERSONNEL COMMISSION MEETING STATE PERSONNEL DEVELOPMENT CENTER 101 WEST PEACE STREET RALEIGH, NORTH CAROLINA

June 18, 2009

The State Personnel Commission (SPC) met on June 18, 2009. Madam Chair Robin Adams Anderson called the meeting to order. Members present were Madam Chair Robin Adams Anderson, Commissioner George I. Allison, Commissioner Axel Lluch, Commissioner Janie Harrell, Commissioner Brenda Smith, Commissioner Caroline Lee and Commissioner Wayne Peedin.

Next on the agenda was the oral argument component of the docket. The following case was scheduled and heard for oral argument:

1. **Robert Anthony Coats v. O'Berry Neuro-Medical Treatment Center**

Attorney for the Petitioner
Attorney for the Respondent

Michael C. Byrne
Dorothy Powers

Next on the agenda was the business session. Chair Anderson asked if anyone signed up for the Public Hearing. No one signed up for the Public Hearing.

The first item on the business agenda was the approval of the minutes for April 16, 2009 State Personnel Commission meeting. There being no corrections, the minutes were approved as circulated. [See Attachment]

State Personnel Director's Report

The next item on the agenda was the State Personnel Director's Report.

Ms. Valerie Bateman, Counsel to the Commission, presented to the Commission on behalf of Ms. Linda D. Coleman, State Personnel Director, a report of exceptions granted by Ms. Coleman. Pursuant to the authority under **Rule 25 NCAC 1A.0004**, Ms. Coleman granted the exception and variance to **Rules 25 NCAC 1C.0405(a) and 1C.0407**. This exception allowed the Office of Economic Recovery and Investment to employ temporary employees for a term greater than twelve (12) months. This exception was granted in order to promote the efficiency of administration and provide for a fair and reasonable system of personnel administration. This exception was also justified due to the current economic circumstances, including the shortfall in State revenue, resulting in the reduction in the State Budget of funds sufficient to hire and continue to employ permanent State employees. [See Attachment]

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Next, Ms. Lynn Floyd, Human Resources Partner, presented to the Commission, for consideration and approval, state government classification and pay actions. Ms. Floyd gave reasons for the proposed actions and asked that the Commission approve the actions with an effective date of August 1, 2009 with an exception of the Land Records Manager actions to be effective retroactive February 1, 2009. **[See Attachment]**

Chair Anderson asked if there were any questions. Chair Anderson asked for a motion and second to approve the state government classification and pay actions presented to the Commission by Ms. Floyd. Commissioner Smith made a motion to approve the actions. Commissioner Harrell seconded the motion. The motion was made and carried.

Next, Ms. Floyd presented to the Commission for consideration and approval a continuous recruitment request from the Department of Revenue for the classification of Auditor. Ms. Floyd explained that NCGS §126-14.3 (Open and Fair Competition) requires closing dates for each job opening posted in a state agency or university unless an exception for critical classifications is approved by the State Personnel Commission. The Department of Revenue has made such a request for an exception to this requirement for identified Auditor vacancies. Ms. Floyd stated that upon review and analysis of the information and the agency's rationale for the exception, the Office of State Personnel (OSP) recommends the approval of the exception with an effective date of June 18, 2009. **[See Attachment]**

Chair Anderson asked if there were any questions. There were no questions. Chair Anderson asked for a motion and second to approve the continuous recruitment request from the Department of Revenue for identified Auditor vacancies. Commissioner Lee made a motion to approve the request. Commissioner Allison seconded the motion. The motion was made and carried.

Next, Mr. Dusty Wall, Human Resources Managing Partner, presented to the Commission for consideration and approval revisions to the Hours of Work and Overtime Pay Policy. Mr. Wall gave a brief summary of the proposed revisions and presented examples to the Commission for clarification of the revisions. Historically, OSP's direction to all agencies and universities has been that employees must receive cash payment rather than compensatory time for these hours. Below is an explanation of the proposed changes.

For employees whose regular work schedule is less than 40 hours per week, gap hours are those hours that are caught in the gap between the maximum hours of work required to meet the work schedule and the overtime threshold. For example, if a permanent part-time employee is required to work 20 hours a week, the hours worked between 21 and 40 would be considered gap hours. Similarly, for law enforcement employees whose regular work schedule is 28 days, gap hours are those hours that are caught in the gap between 160 hours and 171 hours worked before overtime compensation begins. A third example occurs when an employee is off on a holiday, for example on a Monday, but then works 40 additional hours that week. Overtime wouldn't

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occur until the employee actually works more than 40 hours, so there are 8 gap hours in this example.

Because of budget problems, several agencies have requested approval to award compensatory time instead of actual paid compensation for the gap hours worked. Therefore, we are proposing revisions that will allow agencies to choose to provide cash payment or compensatory time for gap hours worked. The decision shall not be an employee decision. The agency head shall determine the best method of compensation for gap hours based on consideration of budget and organizational needs. The decision to pay cash versus compensatory time should be applied consistently throughout the agency, with any exceptions being approved by the Office of State Personnel. Mr. Wall recommended that the Commission approve the proposed revisions to the Policy with an effective date of July 1, 2009. **[See Attachment]**

Chair Anderson, Commissioner Allison and Commissioner Peedin asked questions for further classification of the policy and revisions. Mr. Wall responded to the questions and gave satisfactory clarification. Chair Anderson asked for a motion and second to approve the proposed revisions to the Hours of Work and Overtime Pay Policy presented by Mr. Wall. Commissioner Allison made a motion to approve the proposed revisions to the Policy. Commissioner Lluch seconded the motion. The motion was made and carried.

Next, Mr. Drake Maynard, Human Resources Managing Partner, presented to the Commission for consideration and approval, the Hearing Officer's Report for **Rules 25 NCAC 1D.0112 Total State Service Defined, 1E.1006 Compensatory Time, and 1H.0631 Posting and Announcement of Vacancies**. The Commission approved the above-mentioned rules to begin the rulemaking process at its February 19, 2009 meeting. A public hearing was held on April 22, 2009. Mr. Maynard gave a brief summary of the proposed amendments to the rules and recommended that the Commission approve the Hearing Officer's Report. **[See Attachment]**

Chair Anderson asked if there were any questions. There were no questions. Chair Anderson asked for a motion and second to approve the Hearing Officer's Report presented by Mr. Maynard. Commissioner Allison made a motion to approve the Hearing Officer's Report. Commissioner Smith seconded the motion. The motion was made and carried.

Mr. Maynard also presented to the Commission for consideration and approval the Employee Mediation and Grievance Policy and Procedures of the North Carolina Office of the Commissioner of Banks. Mr. Maynard gave a brief summary of the Policy and Procedures. Mr. Maynard explained that the Policy and Procedures had been reviewed and were found to comply with the rules of the Commission. Mr. Maynard therefore recommended the approval of the Policy and Procedures. **[See Attachment]**

Chair Anderson asked if there were any questions. There were no questions. Chair Anderson asked for a motion and second to approve the Employee Mediation and Grievance Policy and Procedures of the North Carolina Office of the Commissioner of Banks presented by Mr. Maynard. Commissioner Allison made a motion to approve the Policy and Procedures. Commissioner Lluich seconded the motion. The motion was made and carried.

Executive Session

1. **Edward Alan Roper v. Broughton Hospital, North Carolina Department of Health and Human Services**
2. **Terri Walker West v. North Carolina Department of Transportation**
3. **James Grady Best v. O'Berry Neuro-Medical Treatment Center**