

## MINUTES

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

**April 19, 2012**

The State Personnel Commission (SPC) met on April 19, 2012. Chair Susan Bailey called the meeting to order. Members present were Chair Susan Bailey, Commissioner George I. Allison, Commissioner Wayne Peedin, Commissioner Axel Lluch, Commissioner Virgie DeVane-Hayes, Commissioner Thomas Stern and Commissioner Lisa Grafstein. Commissioner Hayes participated via telephone. Pursuant to North Carolina General Statutes §138A, the North Carolina Ethics Act, Chairman Stern asked all Commissioners if there were any conflicts of interest with respect to any matters coming before the Commission. Commissioners Allison and Peedin recused themselves from the deliberations and voting in the matter of **Millie E. Hershner v. North Carolina Department of Administration and The N.C. Human Relations Commission.**

Chair Bailey and the Commission acknowledged and welcomed Ms. Segal Howell, Professor at North Carolina Central University, along with three of her students.

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

- Tiffany Ann Benson v. Debbie Hughes, North Carolina Department of Correction**  
Attorney for the Petitioner Ms. Linda Vespereny  
Attorney for the Respondent Mr. Oliver G. Wheeler, IV
- David Hill v. North Carolina Department of Correction**  
Attorney for the Petitioner Ms. Mary-Ann Leon  
Attorney for the Respondent Mr. Oliver G. Wheeler, IV
- Michael Shaw v. North Carolina Central University**  
Attorney for the Petitioner Mr. Mark A. Key  
Attorney for the Respondent Ms. Kimberly D. Potter
- Millie E. Hershner v. North Carolina Department of Administration and The N.C. Human Relations Commission**  
Attorney for the Petitioner Mr. John Walter Bryant  
Attorney for the Respondent Ms. Ann Stone

## **Status of the Following Oral Argument Case**

1. **Archie Andrew Copeland v. North Carolina Department of Juvenile Justice and Delinquency Prevention - Continued until the June 21, 2012 State Personnel Commission Meeting. The Commission also extended jurisdiction in this matter.**

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

The minutes for the December 8, 2011 and February 16, 2012 State Personnel Commission meeting minutes were approved.

### **State Personnel Director's Report**

Chair Bailey stated that it was a pleasure to announce that Ms. Ann Cobb had been appointed as the Interim State Personnel Director. Ms. Cobb stated that she was honored to have the opportunity to represent the Office of State Personnel.

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

Ms. Pam Bowling, Human Resources Managing Partner, presented to the Commission, for consideration and approval, state classification and pay actions. Ms. Bowling explained that the North Carolina Wildlife Resources Commission requested that a trainee progression be established to assist with recruitment efforts. This progression will allow the department to recruit graduates with the required educational background while providing them with the necessary training to become a Wildlife Information and Education Specialist I. Ms. Bowling requested that the State Personnel Commission establish the trainee progression effective June 1. **[See Attachments]**

Chair Bailey asked if there were any questions. There being no questions, Chair Bailey asked for a motion to approve the above state classifications and pay action presented by Ms. Bowling. Commissioner Hayes made a motion to approve the action. Commissioner Allison seconded the motion. The motion was made and carried.

Ms. Bowling presented to the Commission a second item for informational purposes. Ms. Bowling presented another group of revised education and experience requirements.

Next, Ms. Lynn Floyd, Human Resources Partner, presented to the Commission for consideration and approval, Revised Merit-Based Recruitment and Selection Plans for the North Carolina Department of Commerce and the North Carolina Community College System. Ms. Floyd explained that both plans had been revised to reflect current leadership, reinforce the statutory changes to Veterans Preference priority, and streamline/update terminology. The revised Department of Commerce plan reflects the incorporation of processes as a result of the merger between the Department of Commerce and the Employment Security Commission. In addition, the plan for the North Carolina Community College System Office reduces the required posting period from ten working days to five working days, which continues to meet policy

requirements. Staff of the Office of State Personnel has reviewed each proposed plan and recommends that the Commission grant approval for both plans effective May 1, 2012. [See Attachment]

Commissioner Peedin expected specific wording regarding Veterans Preference for the Department of Commerce Merit-based Recruitment and Selection Plan. Ms. Floyd agreed to review the concern with the Department of Commerce and report back to the Commission at the June meeting with the clarification. Commissioner Stern asked if there was a pressing time deadline. Ms. Floyd explained that the merger took place in November and that human resources is just one part of the merger. The agency has been working very hard to accomplish the whole merger.

Chair Bailey asked if there were any further questions or concerns. Chair Bailey recused herself from voting on the plan for the Department of Commerce. There being no further questions or concerns, Chair Bailey asked for a motion to approve the plans. Commissioner Bailey stated that he would make a motion to approve the plan for the Department of Commerce as long as proper clarification was brought back regarding the Veterans Preference matter to the June 21, 2012 Commission meeting. Commissioner Allison seconded the motion. The Commission approved the Department of Commerce merit-based recruitment and selection plan effective May 1, 2012, with the caveat of the reporting the clarifying language at the June meeting. Both plans were approved.

Next, Mr. Keita Cannon, Human Resources Partner, presented to the Commission, for consideration and approval the following local government rules in Title 25 of the North Carolina Administrative Code:

- 25 NCAC 1I .1704 Personnel Records and Reports (Repeal)**
- 25 NCAC 1I .1804 Allocation of Positions to Classification Plan (Amendment)**
- 25 NCAC 1I .1805 Tentative and Flat Rate Provisions (Amendment)**
- 25 NCAC 1I .1806 New and Additional Permanent: Full or Part-time Positions (Amendment)**
- 25 NCAC 1I .2005 Separation (Amendment)**
- 25 NCAC 1I .2101 Compensation Plan (Amendment)**
- 25 NCAC 1I .2102 Establishment of Salary Schedule (Amendment)**
- 25 NCAC 1I .2103 Salary Rates (Amendment)**
- 25 NCAC 1I .2107 Procedures for Submission and Approval (Amendment)**
- 25 NCAC 1I .2303 Dismissal for Grossly Inefficient Job Performance (Amendment)**
- 25 NCAC 1I .2304 Dismissal for Personal Conduct (Amendment)**
- 25 NCAC 1I .2307 Demotion (Amendment)**

Mr. Cannon gave a brief justification for the proposed rule changes. Mr. Cannon asked that the Commission approve the above-mentioned rules to begin the rulemaking process. [See Attachment]

Chair Bailey asked for a motion to approve the above-mentioned proposed rules presented by Mr. Cannon to begin the rulemaking process. Commissioner Grafstein made a motion to approve the proposed rules to begin the rulemaking process. Commissioner Allison seconded the motion. The motion was made and carried.

Next, Ms. Shari Howard and Mr. Ken Litowsky, Human Resources Partners, presented to the Commission for consideration an approval, the Hearing Officer's Report for the following rules:

- 25 NCAC 1B. 0436 Settlements/Consent Agreements  
In Grievances, Contested Cases (Amendment)**
- 25 NCAC 1B .0437 State Personnel Commission: Procedures  
(Amendment)**
- 25 NCAC 1B .0438 Establishment of Reasonable Attorney  
Fees by the Commission (Amendment)**
- 25 NCAC 1D .0107 Cross Hiring (Repeal)**
- 25 NCAC 1D .0303 Effective Date (Amendment)**
- 25 NCAC 1D .0308 Salary Increases (Amendment)**
- 25 NCAC 1D .0403 Effective Date (Repeal)**
- 25 NCAC 1D .0605 Effective Date (Amendment)**
- 25 NCAC 1D .0611 Reallocation/Salary Rate (Amendment)**
- 25 NCAC 1D .0808 Salary Rate (Amendment)**
- 25 NCAC 1D .1205 Agency Responsibility (Repeal)**
- 25 NCAC 1E .0102 Types of Leave (Repeal)**

Mr. Litowsky explained that the Commission approved the above proposed rules to being the rulemaking process at the December 2011 State Personnel Commission meeting. The rules were noticed in the North Carolina Register and a public hearing was held on March 19, 2012 to receive oral and written comments. Mr. Litowsky recommended that the Commission approve the Hearing Officer's Report. Commissioner Grafstein asked for a brief summary of the rule changes. Mr. Litowsky and Ms. Howard gave to the Commission a brief explanation for the rule changes. Commissioner Grafstein asked if the rule regarding attorney's fees changed the authority of the Commission awarding attorney's fees. Ms. Valerie Bateman, legal counsel, stated that it was not clear. Ms. Bateman gave further explanation for the rule amendments. **[See Attachments]**

Chair Bailey asked for a motion to approve the Hearing Officer's Report. Commissioner Peedin made a motion to approve the Hearing Officer's Report. Commissioner Grafstein seconded the motion. The motion was made and carried.

Next, Mr. Litowsky and Ms. Sharon Howard, Human Resources Partner, presented to the Commission for consideration and approval, Employee Mediation and Grievance Policies and Employee Appeals and Grievance Policies:

**Employee Mediation & Grievance Policies**

**Ms. Sharon Howard**

**Agencies**

**Department of Administration  
Department of Commerce  
Department of Cultural Resources  
Department of Environment and Natural Resources  
Department of Labor  
Office of State Personnel  
Secretary of State  
State Treasurer**

**Universities**

**East Carolina University  
Elizabeth City State University  
NC A&T State University  
North Carolina Central University  
UNC – General Administration  
Winston-Salem State University**

**Boards and Commissions**

**Board of Elections  
Board of Opticians  
Office of the Commissioner of Banks**

**Employee Appeals and Grievance Policies**

**Mr. Ken Litowsky**

**Agencies**

**Department of Agriculture and Consumer Services  
Department of Health and Human Services  
Department of Insurance  
Department of Justice  
Department of Public Instruction  
Department of Revenue  
Department of Transportation  
North Carolina Community College System  
North Carolina Arboretum  
Office of Information Technology Services  
Office of State Auditor  
Office of State Budget  
Wildlife Resources**

**Universities**

**Fayetteville State University  
NC School of Science and Mathematics**

**North Carolina School of the Arts  
North Carolina State University  
UNC – Asheville  
UNC – Chapel Hill  
UNC – Greensboro  
UNC – Pembroke  
UNC – Wilmington  
Western Carolina University**

**Boards and Commissions  
Office of Administrative Hearings  
State Board of Barber Examiners  
State Board of Cosmetic Arts**

Mr. Litowsky and Ms. Howard worked with the agencies on making the necessary changes due to Senate Bill 781 replacing the language referencing the Office of Administrative Hearings for final decisions in contested cases, changes to Veterans' Preference. Mr. Litowsky explained that the remainder of the changes was to offer clarification to the human resources arena as well as the people who would use the policies in a grievance or appeal. Mr. Litowsky stated that the Commission's rules require that every even number year, agencies submit their packages. Commissioner Stern asked if there was feedback from the agencies or the State Employees Association with concerns about the policies being brought before the Commission. Mr. Litowsky explained that a call had been received from a representative from SEANC about why there were so many policies. Mr. Litowsky stated that they asked for random copies of the policies. Mr. Litowsky recommended the approval of the policies by the Commission. **[See Attachments]**

Chair Bailey asked for a motion to approve the above mentioned policies presented by Mr. Litowski and Ms. Howard. Commissioner Peedin made a motion to approve the policies. Chair Bailey seconded the motion. The motion was made and carried.

Next, Ms. Nellie Riley, Human Resources Managing Partner, presented to the Commission for consideration and approval the Senate Bill 886 Report (2011). Ms. Riley gave a brief summary of the Senate Bill 886 Report. Ms. Riley explained that this Report, which was prepared in response to Senate Bill 886 (ratified on August 27, 1997) lets the legislature know about certain personnel functions with regards to representation, compensation, disciplinary actions, grievances, equivalencies, etc. Next, Ms. Riley gave highlights of the Report. Ms. Riley asked that the Commission approve the Senate Bill 886 Report to be forwarded to the Joint Legislative Commission on Governmental Operations. **[See Attachment]**

Chair Bailey asked if there were any questions. Commissioner Grafstein wanted to know if there was a tracking mechanism for employees with disabilities. Ms. Riley explained that some tracking was done in some of the other report, but that it was also done in the progress report. That report comes to the Commission in August. Ms. Riley explained that in 1985 the Office of State Personnel did a survey. It was found that there were a great number of employees with disabilities that reported them from the survey. Another survey was taken in

1989. Ms. Riley explained that the Office of State Personnel has encouraged agencies to continue to send the invitation to employees to report the information.

Chair Bailey asked for a motion to approve the Senate Bill 886 Report. Commissioner Grafstein made a motion to approve the Report. Commissioner Allison seconded the motion. The Commission voted. The motion was made and carried.

Next Ms. Bobbi Brown, Human Resources Partner, presented to the Commission for consideration and approval the Equal Employment Opportunity Institute Semi-Annual Report (January – June 2011). Ms. Brown explained the information is a summary of the important trends reflected in the Semi-Annual Report. This is a mandated training for all managers and supervisors appointed to such positions on or after July 1, 1991. Ms. Brown presented to the Commission the various trends and data within the Report. Ms. Brown recommended that the Commission approve the Report. **[See Attachment]**

Chair Bailey asked for a motion to approve the Equal Employment Opportunity Institute Semi-Annual Report. Commissioner Allison made a motion to approve the Report. Commissioner Hayes seconded the motion. The Commission voted. The motion was made and carried.

Next Mr. Lynn Summers, Human Resources Partner, presented to the Commission for consideration and approval the Annual Performance Management Report (Cycle 23-2011). Mr. Summers explained that the Office of State Personnel is required to report annually on the administration of the state's performance management system. North Carolina General Statutes §126-7 requires each agency and university to have a performance management system that ensures that employees have clear performance expectations and receive feedback on their performance. Mr. Summers gave a brief summary of the report which included suggestions for improving the performance management system. Mr. Summers asked if the Commission had any questions. **[See Attachment]**

Chair Bailey asked for a motion to approve the Annual Performance Management Report. Commissioner Peedin made a motion to approve the Report. Commissioner Allison seconded the motion. The Commission voted. The motion was made and carried.

The Commission adjourned into Executive Session to consider the contested cases.

### **Executive Session**

1. **Jonathan Wesley Bunn v. Albemarle Correctional Institution**
2. **Lakisha Cherry v. Pitt County Health**
3. **Dewayne Johnson v. North Carolina Department of Correction**

4. **Latega Powell v. North Carolina Department of Agriculture & Consumer Services, Veterinary Division**
5. **Janet R. Reed v. Brunswick County Department of Social Services**
6. **Cheryl Simmons v. North Carolina Department of Correction**
7. **Sherry Young v. Division of Child Development**