



New Mexico State Personnel Board State Personnel Office

SUSANA MARTINEZ
GOVERNOR

Eugene J. Moser
Director

Nivia L. Thames
Deputy Director

State Personnel Board
Paul T. Yarbrough, Chairman
Christine Romero, Vice Chairman

Devon Day Chris Sanchez
Rebecca Long

State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
January 11, 2013
9:00 AM

Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:00 a.m. on January 11, 2013, at the State Personnel Office, Santa Fe, New Mexico.

Invocation Stuart Hamilton

Pledge of Allegiance Scott Summerfield

Roll Call

Eugene Moser, Director, State Personnel Office (SPO), called roll and a quorum was established with the following members present:

Paul Yarbrough, Chairman
Christine Romero, Vice Chairman
Chris Sanchez
Rebecca Long

Board Member Devon Day was absent.

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Approval of Agenda

Director Moser requested that item VII, Annual Review of Safety Sensitive Positions be tabled until the next scheduled meeting. **Board Member Sanchez moved to approve the agenda as amended, seconded by Board Member Long. Motion carried.**

Approval of Minutes – November 16, 2012

Board Member Long moved to approve the November 16, 2012 State Personnel Board meeting minutes, seconded by Board Member Sanchez. Motion carried.

II. Director's Report

Director Moser introduced new staff.

Director Moser met with staff and members from the Legislative Finance Committee (LFC) to discuss adjustments to compensation. SPO, Department of Finance and Administration (DFA) and LFC staff is working with the Hay Group to review all classifications and develop a classification study. The classification study is expected to be complete in March 2013. The study will be presented to the Board and the Legislature at the next Legislative session.

The SPO is scheduled to present its budget recommendation to the House Appropriation and Finance Committee (HAFC) on Friday, February 1, 2013 at 3:30 p.m. All Board members are encouraged to attend.

Scott Summerfield, Administrative Law Judge will retire at the end of May 2013. SPO is in the process of beginning to recruit for the upcoming vacancy allowing time for transition.

In response to Vice Chairman Romero, Director Moser clarified that work with the Hay Group will be to appropriately classify positions, as well as to address the compensation structure. Adjustments to change the minimum levels for compensation were not made during the last administration establishing a pay structure that is an 80 percent range from minimum to maximum (most pay plans are typically in the 50 percent range). Issues are at the entry levels ranging as much as 25 percent below market. Vice Chairman Romero asked if state employees have the opportunity for merit increases as well as other increases. Director Moser said the Legislature has the authority to appropriate increases and currently, the rules allow for increases; however they are contingent upon available funding. SPO is working with agencies to use existing funding for merit increases. State employees have not had salary increases in approximately four to five years. Vice Chairman Romero asked if there was knowledge of proposed legislation that would affect state employee's retirement packages. Director Moser said the Public Employees Retirement Association (PERA) is considering changes that may have some impact on future employees.

In response to Chairman Yarbrough, Director Moser concurred that the state is not able to hire individuals at the entry level; agencies are hiring higher within the range in the majority of occupations. Director Moser noted that minimum qualifications were reinstated and agencies

are obtaining certified lists of individuals who qualify. The SPO is working with the Workforce Solutions Department (WSD) to contact individuals who are qualified for positions, but refuse to interview; those individuals will become ineligible for unemployment wages.

III. General Public Comment

Joel Viarael, staff representative, AFSCME Council 18, provided comment regarding conflicts arising out of the negotiation process including pay and equity and issues with the retirement plan. Retention adjustments and recruitment adjustments are creating unattended consequences within the workforce. Mr. Viarael expressed concern with the retirement plan and discussions of a 401K versus a defined plan. Mr. Viarael requested that prior to making changes to pay, it be negotiated with the union. The union has the right to negotiate wages, benefits and terms and conditions of employment.

Corina Sisfuentes, president, AFSCME Local 3320 and line staff with the Children, Youth and Families Department (CYFD), submitted petitions from staff addressing the wage disparity at the J. Paul Taylor Center in Las Cruces, New Mexico and other agencies. New hires, many of which are highly educated, are hired at a higher pay rate. While it is deserving, career staff taking the time to train new hires is not compensated. New hires are not completing their yearly probation before moving into a higher position. This issue has created tension. CYFD has invested a lot time and money in training new staff; however some funding should be used to reward and retain career staff.

Paula Fisher, president, AFSCME Local 2029 and staff with the Children, Youth and Families Department (CYFD), expressed concern with new hires being hired at a higher pay not always based on education, but for other reasons. Current career employees at a lower salary are training new hires. Ms. Fisher provided petitions requesting that career employees be compensated to the same rate of pay, if not more, based on their work experience as the new hires. Ms. Fisher also provided discrepancies in postings for positions at the Juvenile Justice Facilities.

Lisa Hannah, vice-president, AFSCME Local 2029 and senior investigator with the Children, Youth and Families Department (CYFD), Child Protective Services Division, provided petitions addressing pay disparity. Ms. Hannah also expressed concern with pay differences between newly hired investigators and career investigators.

Tony Garcia, president, AFSCME Local 3199 and employee with the Public Defender's Department, provided comment in regards to employees at the Children, Youth and Families Department (CYFD) and other agencies in Roswell, Mexico. New hires are hired at a higher salary causing morale issues with career employees. Mr. Garcia provided petitions regarding pay disparity on behalf of CYFD employees.

IV. Election of Officers

State Personnel Board Rules provide for an annual election of three officers: the Chairman, Vice Chairman and Secretary. The secretary is the State Personnel Director.



Vice Chairman Romero moved to nominate Paul Yarbrough as Chairman of the State Personnel Board. Motion carried.

Board Member Long moved to nominate Christine Romero as Vice Chairman of the State Personnel Board. Motion carried.

V. Regulation and Licensing Department – Policy Making Exempt Positions

Vincent Velarde, HR Consultant, Agency Human Resource Services Division, SPO said in accordance with Subsection N of the State Personnel Act 10-9-4 1978, Coverage of Service, the Regulation and Licensing Department (RLD) is requesting approval to designate one vacant classified position as an exempt general counsel policy making position.

Currently, RLD does not have general counsel exempt positions designated as policy making. Upon approval, the general counsel policy making position will have the authority to make and set policy on behalf of the Superintendent.

J. Dee Dennis, Superintendent, RLD added that in January 2011, RLD had a total of 19 exempt positions; many of the positions were not required and only nine to ten positions would be filled. Because there was not a deputy superintendent position or general counsel position, three exempt positions were filled to include the deputy superintendent, general counsel and administrative assistant leaving the policy making positions held by the director of Boards and Commissions vacant (the director of Boards and Commissions is not identified as a position by statute because they are only administratively attached). The Department of Finance and Administration (DFA) informed RLD that eight of the 19 exempt positions were unauthorized; one of those occupied by the administrative assistant. To become compliant with statute, the administrative assistant position was moved to a vacant classified position. RLD requests that a newly created general counsel position will be moved from a classified position to a policy making exempt position as originally designated. RLD is also in process of trying to fill the director's position for Boards and Commissions.

Vice Chairman Romero expressed that she is not in favor of moving classified positions to exempt positions; however she is in favor of agencies requesting exempt positions from DFA. Superintendent Dennis responded that RLD eliminated eight unauthorized exempt positions. In addition, RLD changed an exempt position to a classified position. The department is requesting to change the classified position back to an exempt position. DFA authorized the exempt position and instructed RLD to request approval from the SPB.

Board Member Sanchez moved to designated one (1) classified position as an exempt general counsel policy making position in accordance with Subsection N of the State Personnel Act 10-9-4 1978, Coverage of Service, at the Regulation and Licensing Department, seconded by Board Member Long. Motion carried.

VI. Continuation of Alternative Pay Band Assignments

Cliff McNary, State Classification Manager, SPO requested the approval and extension of the alternative pay bands on a select number of positions. As outlined in the annual Compensation Report, 31 percent of job classifications are assigned alternative pay bands as a direct result of

being substantially behind the comparative market. Alternative pay bands allow certain classifications that are crucial to the function of the classified service to be competitive as a state. In addition, pay opportunities allow agencies to hire at higher pay and opportunity and/or to allow a retention strategy.

Vice Chairman Romero asked if there was an opportunity for resolution before year's end. Director Moser said in working with the Hay Group, positions will be properly classified. In addition, a methodology will be determined to move forward.

Board Member Long moved to approve the continuation of Alternative Pay Band Assignments for an additional year, seconded by Board Member Sanchez. Motion carried.

VII. Annual Open Meetings Resolution

Mona Valicenti, Assistant Attorney General, Office of the Attorney General said every year a public body is required to adopt an Open Meetings Resolution advising the public about notice requirements for regular meetings, special meetings and emergency meetings.

Board Member Long moved to adopt the Annual Open Meetings Resolution as presented, seconded by Board Member Sanchez. Motion carried.

VIII. Annual Operating Procedures

Director Moser advised that the Annual Operating Procedures have not changed from the previous year.

Board Member Sanchez moved to adopt the Annual Operating Procedures as presented, seconded by Board Member Long. Motion carried.

IX. Executive Session

Board Member Long moved that the State Personnel Board meeting be closed. The authority for closing the meeting is under the Open Meetings Act NMSA 1978, Section 10-15-1 (H)(3), for deliberations in connection with an administrative adjudicatory proceeding, for the matters listed on the agenda; seconded by Board Member Sanchez:

- 1. Sandlin v. New Mexico Corrections Department; Docket No. 12-040; and*
- 2. Bourassa v. New Mexico State Board of Licensure for Professional Engineers and Professional Surveyors; Docket No. 12-060.*

Director Moser called roll and all members voted in the affirmative. **Motion carried.**

The Board met in Executive Session from approximately 10:34 a.m. to 11:14 a.m. For the record, the matters discussed in closed session were limited to those specified in the Motion to close.



- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Sandlin v. New Mexico Corrections Department*, Docket No. 12-040, **Board Member Sanchez** moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.
- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Bourassa v. New Mexico State Board of Licensure for Professional Engineers and Professional Surveyors*; Docket No. 12-060, **Board Member Long** moved to adopt the Administrative Law Judge's recommended decision with the following modification:

“SCRA” at the bottom of page 10 is changed to “NMRA.”

seconded by Board Member Sanchez. Motion carried.

X. Litigation Update

Submitted in writing.

XI. Other Business - Next Meeting Date: March 8, 2013

XII. Adjournment

With no further business, **Board Member Long** moved to adjourn the State Personnel Board meeting at approximately 11:19 a.m., seconded by Board Member Sanchez. Motion carried.

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:



Eugene Moser, Director

