



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

Dennis Garcia Rebecca Long
Megan Muirhead

State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
April 28, 2014

Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:05 a.m. on April 28, 2014, at the State Personnel Office, Santa Fe, New Mexico.

Invocation David Berry

Pledge of Allegiance Michael McEuen

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
Dennis Garcia
Megan Muirhead

Board Member Rebecca Long was absent.

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Approval of Agenda

Board Member Garcia moved to approve the agenda, seconded by Vice Chairman Romero. Motion carried.

Approval of Minutes – March 26, 2014

Board Member Garcia moved to approve the March 26, 2014, State Personnel Board meeting minutes, seconded by Vice Chairman Romero. Motion carried.

II. Director's Report

Director Moser introduced new staff.

Director Moser reported that SPO has made substantive changes within the personnel system including modifications to pay structures.

New Mexico pays \$50,000 for an annual contract to NEOGOV. New Mexico does not own the software, but subscribes to the service. Almost half of the states in the country are utilizing NEOGOV. The Legislative Finance Committee (LFC) conducted an audit on NEOGOV that was presented in March. The audit utilized data that was three years old and did not provide agency information; however recommendations were very minor. Justin Najaka, Director of Compensation and Andrea Rivera-Smith, Career Services Division Director, SPO provided an overview of the LFC audit report. Mr. Najaka said NEOGOV was installed in June 2011; however minimum qualifications were not implemented until November 2011. Prior to NEOGOV, SPO was in violation of the Personnel Act. In PeopleSoft, applicants were not accurately and qualifiedly ranked due to the elimination of minimum qualifications. As a result, those that did not meet minimum qualifications were not excluded from employment lists. There was not a requirement to verify education and the director was not able to certify ranked employment lists of the highest standing candidates. Veterans' points and preference points were provided prior to the final score rather than above and beyond.

NEOGOVS is a proven comprehensive public sector solution to recruitment. It is web-based, easy to implement, simple and easy to use, affordable, low risk, and has the ability to create job interest cards. There is the ability to track applicants at every stage of the recruitment and selection process and a self-service feature is available. There is also a high return on investment.

Ms. Rivera-Smith added that the Personnel Act requires SPO to provide an employer with a ranked list of the highest standing candidate. Applicants are required to answer a series of questions to ensure they qualify.

The LFC audit compared the number of days to fill a position utilizing data from FY12 to FY14. Ms. Rivera-Smith noted that FY12 includes PeopleSoft. Prior to PeopleSoft, SPO banded applications in groups of four depending on agreed upon qualifications from an agency and

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SPO. It was taking 134 days to provide lists to managers. Time to fill positions are flat lined in NEOGOV and are taking approximately 78 days; 56 of those days are processing.

The LFC audit also addressed qualified applicants not being on a list. SPO provides extensive information to applicants when they are applying for jobs and is working with agencies to customize job advertisements to ensure that the type of applicant they are looking for applies and to avoid error.

The LFC recommended that SPO stop applicants from applying if they don't attach transcripts. NEOGOV has the capability of doing this; however almost every one of the qualifications has equivalency language.

The Personnel Act requires that preference points be given to Veterans' and New Mexico residents. Preference points are added manually after lists are ranked.

In response to Board Member Garcia, Mr. Najaka said PeopleSoft is an Oracle product. The state owns the hardware and software and provides its own maintenance. During implementation of PeopleSoft, SHARE was behind 21 bundles of upgrades. Director Moser added that enhancements were turned off when the system was installed. Board Member Garcia asked if non-compliance with the Personnel Act was an audit finding or if it had ever been commented on. Director Moser said he informed the LFC, but it was not substantiated in reports to them. The audit report compared SPO to the state of Washington; however each agency runs its own version of NEOGOV and they do not have the same requirements as New Mexico statute dictates.

Mr. Najaka added that NEOGOV fixed recommendations made by the LFC in a 2001 audit.

Chairman Yarbrough requested that the LFC NEOGOV audit be revisited at the next scheduled Board meeting. Chairman Yarbrough asked what force the LFC audit carries. Mr. Najaka said the audit is an audit of recommendations.

Director Moser announced that he will retire from state government effective May 30, 2014.

Chairman Yarbrough introduced new Board Member, Megan Muirhead. Ms. Muirhead provided a brief history of her work experience.

III. General Public Comment

None.

IV. Paul Gessing, Rio Grande Foundation – Study on State Employee Pay

Paul Gessing, Rio Grande Foundation said the Rio Grande Foundation is a free market public policy organization based in Albuquerque. The foundation approaches issues from the free market and limited government perspective.

The Rio Grande Foundation prepared a regression analysis comparing state government workers in New Mexico with private sector workers in New Mexico. The analysis shows that



private sector employees were paid eight percent less than public worker comparable; conflicting with SPO's 2013 Compensation Report.

Economic conditions vary widely from state to state and New Mexico's economy continues to struggle. States in the West are growing year over year while New Mexico shrank by negative .5. External economic factors, both federal and state, impact turnover rates and workers desire to look for new opportunities.

Comparing categories with government across state lines is very difficult and may not necessarily be as relevant in comparing overall work with benefits.

In conclusion, it is best to take out all the different variables impacting compensation through a regression analysis and compare private sector workers with public sector workers in the same state.

Director Moser agreed with the analysis and said it is difficult to compare compensation categories.

V. FY15 SPO Operating Budget

Eve Banner, Chief Financial Officer, SPO presented the FY15 SPO Operating Budget. The approved budget includes 51 permanent FTE positions. SPO currently has 52 permanent FTE positions and two (2) term FTE that will be funded for FY15 with a 4.2 percent vacancy savings implied. Two (2) term FTE will not be funded until vacancy savings allows.

Ms. Banner provided an overview of SPO's organizational chart; there were no significant changes.

SPO's financial summary includes sources and uses and agrees at \$4.576 million. General fund transfers include a .2 percent shaving and a three percent compensation appropriation. Other revenues of \$280,900 are from Shared Services. In response to Vice Chairman Romero, Ms. Banner clarified that only classified employees will receive a three percent increase.

SPO received a special appropriation from the computer enhancement fund in the amount of \$450,000 for a digitization project.

In response to Chairman Yarbrough, Ms. Banner clarified that SPO does not have special language to increase additional funds for Shared Services; a special appropriation would be requested from the Legislature in January if needed.

Board Member Garcia moved to approve the FY15 SPO Operating Budget, seconded by Vice Chairman Romero. Motion carried.

VI. Deletion of Safety Sensitive Positions – Department of Health

Alicia Lucero, HR Consultant, Agency Human Resources Division, SPO presented the deletion of Safety Sensitive Positions for the Department of Health (DOH). In accordance with designation of safety sensitive positions, subsection D of 1.7.8.9 NMAC, DOH is requesting



approval for an out of cycle request for deletion of 12 safety sensitive designated positions. One position has been eliminated and will no longer be necessary or budgeted; DOH requests that safety sensitive designation be removed from the position. The remaining 11 positions have been reclassified and will no longer be performing tasks that require a safety sensitive designation; DOH requests that the safety sensitive designation be removed for the 11 positions.

Teresa Padilla, HR Manager, DOH clarified that the 11 positions that were reclassified were positions located in the Facilities Management Program (FMP). FMP administers the 24/7 facilities. By statute, positions within those facilities that are providing direct patient care are designated as safety sensitive positions. These positions have been reclassified out of the FMP into other programs within DOH that do not provide 24/7 direct patient care.

Board Member Garcia moved to approve the deletion of 12 out of cycle Safety Sensitive Positions within the Department of Health, seconded by Vice Chairman Romero. Motion carried.

VII. Classification Studies

a. Public Regulation Commission Utility Economist

Cliff McNary, State Classification and Testing Manager, SPO, presented the Public Regulation Commission (PRC) Utility Economist classification. The consolidation of 2001 introduced more generic engineer and economist classifications; however because of the unique nature of these positions at the PRC, they were required to be separated into their own classification.

Mr. McNary recommended approval of the Public Regulation Commission Utility Economist and alternative pay band of 80 to be more competitive with the eight surrounding states that have similar pay ranges.

Dwight Lamberson, Utility Division Director, PRC added that the experience required at the PRC are utility specific and able to review the books and operations of companies to satisfy regulatory requirements. Mr. McNary added that the PRC Utility Economist classification covers numerous disciplines besides electric generation.

Mr. McNary said the adoption of the classification and pay band will not have a direct fiscal impact on the agency as a result of implementation; however how the agency hires and utilizes positions in the future may have some cost. Mr. Lamberson added that the agency would phase positions in and up assuming budget approval.

Chairman Yarbrough asked if input was received from the utility companies. Mr. Lamberson said yes, the utility companies are looking to the PRC to provide trained and educated staff that can understand the variety and complexity of issues.

Board Member Garcia moved to approve the Public Regulation Commission Utility Economist classification and alternative pay band of 80, seconded by Vice Chairman Romero. Motion carried.



b. Public Regulation Commission Utility Engineer

Cliff McNary, State Classification and Testing Manager, SPO, presented the Public Regulation Commission Utility Engineer classification and alternative pay band of 85.

Board Member Garcia moved to approve the Public Regulation Commission Utility Engineer classification and alternative pay band of 85, seconded by Vice Chairman Romero. Motion carried.

Vince Martinez, Chief of Staff, Public Regulation Commission commended SPO on their work with the PRC.

c. General Services Department Staff Architect

Michael McEuen, Senior Compensation Analyst, SPO, presented the General Services Department (GSD), Staff Architect classification. There are several architect positions within the Facilities Management Division (FMD); however they are not required to be registered in the state of New Mexico. The Staff Architect will be required to be registered and formally approve drawings, etc. In addition, the Staff Architect will supervise the other architects within FMD. Duties and responsibilities are substantial.

Mr. McEuen recommended approval of the General Services Department Staff Architect classification and pay band 90.

George Morgan, Director, Facilities Management Division, GSD, added that the Staff Architect position will be the only registered architect with the General Services Department for the state of New Mexico and the 750 plus buildings. The Staff Architect has the responsibility for all capital outlay planning and is the strategic planning individual for master planning for the state of New Mexico, its facilities and portfolio. FMD also assists local public bodies and other agencies in the design and construction criteria for implementation of their capital outlay.

Board Member Garcia moved to approve the General Services Department, Staff Architect classification and pay band 90, seconded by Vice Chairman Romero. Motion carried.

Mr. Morgan commended SPO on their work with the FMD.

d. Child Protective Services Manager

Cliff McNary, State Classification and Testing Manager, SPO, presented the Child Protective Services Manager classification. The classification is a continuation of new content. Currently, there is two staff in the proposed classification.

Mr. McNary recommended approval of the Child Protective Services Manager classification content and noted the pay bands are already assigned and will not change.



Board Member Garcia moved to approve the Child Protective Services Manager classification, seconded by Vice Chairman Romero. Motion carried.

VIII. Executive Session

Vice Chairman Romero 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 Garcia:

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

The Board met in Executive Session from approximately 11:15 a.m. to 11:46 a.m. For the record, the matters discussed in closed session were limited to those specified in the Motion to close.

1. *Castillo v. NM Department of Health*; Docket No. 12-089

- After careful consideration in the matter of *Castillo v. NM Department of Health*; Docket No. 12-089, Board Member Muirhead moved to adopt the administrative law judge's recommended decision, seconded by Board Member Garcia. Motion carried.

2. *Melvin Ortiz v. NM Department of Transportation*; Docket No. 13-028

- After careful consideration in the matter of *Melvin Ortiz v. NM Department of Transportation*; Docket No. 13-028, Board Member Garcia moved to adopt the administrative law judge's recommended decision with the following modification: the statement "and capable of supporting a fourth degree felony charge" is stricken from pages 2 and 37, and any other place this language may appear, seconded by Vice Chairman Romero. Motion carried.

3. *Eric Lucero v. NM Department of Transportation*; Docket No. 13-032

- After careful consideration in the matter of *Eric Lucero v. NM Department of Transportation*; Docket No. 13-032, Vice Chairman Romero moved to adopt the administrative law judge's recommended decision with the following modification: the statement "and capable of supporting a fourth degree felony charge" is stricken from pages 2 and 37, and any other place this language may appear, seconded by Board Member Garcia. Motion carried.

IX. Litigation Update

Richard Levine, Administrative Law Judge, SPO reported there have been no additional cases appealed to District Court and no additional substantive changes to the four pending cases.



Two pending cases within Adjudication have been disposed of and a new appeal has been filed since the last Board meeting. The *Mary Ellen Carr v. NM Regulation and Licensing Department* case has been withdrawn by the appellant.

Jessica Cooper, Administrative Law Judge, SPO reported a hearing is set for *Hollis v. NM Taxation and Revenue Department*. In *Kneal v. Children, Youth and Families Department*, Judge Ortiz recused himself and the case is now assigned to Judge Wilson.

Director Moser added that the ALJ's have substantially reduced the backlog of cases.

X. Other Business - Next Meeting Date: May 28, 2014

Board Member Garcia moved to add July 25, 2014, as an additional Board meeting date, seconded by Vice Chairman Romero. Motion carried.

XI. Adjournment

With no further business, **Board Member Garcia moved to adjourn the State Personnel Board meeting at approximately 11:56 p.m., seconded by Vice Chairman Romero. Motion carried.**

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:


Eugene Moser, Director