



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 Rebecca Long

State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
June 24, 2013

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 June 24, 2013, at the State Personnel Office, Santa Fe, New Mexico.

Invocation Stuart Hamilton

Pledge of Allegiance Justin Najaka

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
Rebecca Long
Devon Day

2600 Cerrillos Road, Santa Fe, New Mexico, 87505 (505) 476-7759



Approval of Agenda

Chairman Yarbrough requested to remove Item VI f, SHARE ERP Series at the request of the agency. **Board Member Long moved to approve the agenda as amended, seconded by Vice Chairman Romero. Motion carried.**

Approval of Minutes – April 29, 2013/May 3, 2013

Board Member Long moved to approve the April 29, 2013 and May 3, 2013 State Personnel Board meeting minutes, seconded by Vice Chairman Romero. Motion carried.

II. Director's Report

Director Moser recognized new staff at the SPO. Director Moser also acknowledged David Morton, Labor Relations Division on his retirement.

The SPO is addressing security issues within the building and restricting access into the building. Within the next few months, a bullet proof Plexiglas partition will be placed in the front of the building and visitors will be required to sign in. The access point into the remaining part of the building will be through a pass code.

Director Moser provided an overview of the FY13 Strategic Plan. State government has high vacancy rates largely due to systemic processes including tough budget years and restricting compensation, impacting recruitment. In the past, Legislative action requested budgeting vacant positions at entry levels impacting current pay levels. The classification system is in need of major restructuring which is restricting the ability to recruit and causing low rating applicant pools. In addition, collective bargaining contracts restrict the ability to do certain things. Significant changes to retirement plans are set for July 1.

During the past two years, the Executive worked with the Legislature on implementing a pay plan. Over the past decade there were no adjustments to the plan; largely because it was initially set up to promote employees on a lateral basis. In addition, in past years the Legislature budgeted positions at the entry level. In the past year, the Legislature budgeted positions at midpoint providing the ability to fill positions.

The NEOGOV system is currently being utilized by over 20 states and the SPO has been working with those states to address problems and issues. NEOGOV is functioning well and the level of applicants over the last year has increased dramatically.

AFSCME and CWA filed a lawsuit based on FY09 salary increases put in place by the Legislature. By supporting the unions' position, the state is mandated to go back and restore salary levels. The Supreme Court will likely remand the case back to the District Court and possibly to the arbitrators to provide direction to the state and the unions. However, the decision will not impact all employees in state government; it will only impact union employees who were employed at that time. The estimated cost for the salary increase adjustment is between \$23 million and \$25 million. Director Moser noted the salary increase adjustment could impact the ability to address compensation for all state employees. Funding will need to be appropriated by the Legislature to those agencies affected by the lawsuit.



Vice Chairman Romero asked if there were any particular incidents that prompted the need for additional security in the building. Director Moser said there were no particular incidents; however hearing officers expressed concerns with the public having access to offices.

Vice Chairman Romero asked about the timeline for NEOGOV and whether or not the number of days to process applications has reduced. Director Moser said the average number of days to fill a position is currently inflated partly due to positions that have been open for four to five months.

III. General Public Comment

Donald Alire, president of CWA provided public comment in regards to the proposed Reduction in Force (RIF) for the Public Education Department (PED). Mr. Alire requested additional time and resources before making a decision to RIF employees. Currently, CWA is in bargaining with PED over the RIF. In addition, the CWA has filed a grievance regarding the RIF. The current contract states a person's post of duty cannot be transferred over 35 miles. The transfer for one employee would be 96 miles and 76 miles for another. The CWA is unclear about the duration of transfers causing concern. Most RIF employees that have returned to work have had to take a cut in pay.

IV. Reduction In Force – Public Education Department

Armida Zamora, HR Assistant, SPO presented the request for Reduction in Force (RIF) for the Public Education Department (PED). In accordance with State Personnel Board Rule 1.7.10.9 NMAC, Reduction In Force, the PED is requesting approval of the department's RIF plan effective July 9, 2013.

The RIF plan is being requested due to business operational needs pursuant to the Indian Education Act 22.23A-1 to 22-223A-8 NMSA 1978 and the need to implement section 22-23A-5 E (9) NMSA 1978 requiring the establishment of an Indian Education Office in the northwest corner of the state. PED will relocate three (3) positions currently located in the Gallup Office.

The RIF plan results in the loss of two employees. Two employees have declined positions in the relocated regions. The SPO will work with these employees to foster interviews and ensure reemployment rights are adhered to.

Paul Augilar, Deputy Secretary, PED added that achievement rates for Native American students have improved; however not to the extent that they have the capacity to. One of the charges that the PED has is to provide technical assistance to the school districts around the state that educate Native American children, both in the rural communities and urban communities. The northwest office is currently located in Gallup; however because of its remote location relative to the central consolidated school district housed in Shiprock, staff is not delivering services in a sufficient amount of time to get the work done. The PED has had a conversation with the Navajo Nation and they are in support of the move. The PED is proposing to house staff in the school districts at the central office which educate the vast majority of Native American children and also to establish a regionalization program.

Mr. Augilar clarified that one position is being relocated from a physical space in Gallup to the Gallup public school districts and one position will move to the central consolidated school district in Shiprock. Gallup and Shiprock have both agreed to provide office space for staff. Positions have been offered to the existing staff; however they chose not to accept them.

Chairman Yarbrough asked about the union contract and transferring employees' post of duty over 35 miles. Mr. Augilar said there is a procedure to transfer employees and the PED has followed that procedure.

Albert Gonzales, Deputy General Counsel, PED added that Article 15 of the Collective Bargaining Agreement does state the employer may not involuntarily transfer an employee to a post of duty not more than 35 miles of his/her current post of duty. However, Article 14 provides the right to implement a RIF as long as the union is notified and met with to discuss the RIF not less than 30 days prior to submitting the RIF plan to the State Personnel Board. In addition, the RIF plan was litigated before the Labor Relations Board with respect to the prior RIF and it was determined it was a management issue. Chairman Yarbrough asked for clarification of the duration of transfer. Mr. Augilar said the Indian Education Act requires an office in the northwest portion of the state. The PED is expanding the office by placing staff in both Gallup and the central consolidated schools and it is a permanent decision; no further changes are anticipated.

Vice Chairman Romero asked if the agency considered sending employees out into the field and keeping the Gallup office intact. Mr. Augilar said staff was supposed to provide technical assistance in the districts; according to the districts, this has not been done. Vice Chairman Romero said the situation is a management issue and progressive discipline as opposed to RIF's should be considered. Mr. Augilar said the need for staff in the districts is not a discipline issue. There is much more of a specific value to each individual child by having staff in the districts on a daily basis. Locating the entire office in Gallup was a decision made by the previous administration. The RIF is not for discipline reasons, it is to better affect the Indian Education programs in the school districts. Vice Chairman Romero asked if the PED has resolved staffing issues. Mr. Augilar said the RIF was never preplanned; it was hoped that staff would have accepted the new positions, however they chose not to. It is not PED's intent to pursue any further RIFs.

Chairman Yarbrough asked if the RIF will leave the Gallup office underserved. Mr. Augilar said having staff in the district will serve them much better than they are currently being served. In addition, the PED is working with the district and the Navajo Nation on a STEP agreement to provide latitude and flexibility in working with districts on federal funding. PED hired a general manager housed out of Santa Fe work with the districts and provide technical assistance. The PED will also be in closer contact with the superintendents on a weekly basis.

Board Member Day moved to approve the Reduction in Force for the Public Education Department as presented, seconded by Vice Chairman Romero. Motion carried.

V. State Investment Council – Policy Making Exempt Positions

Leane Madrid, Shared HR Services Division Director, SPO said in accordance with NMSA 1978 Section 10-9-4(N), the State Investment Council (SIC) is requesting creation of two exempt



policy making positions. The request is made to bring the number of exempt SIC employees in compliance as authorized under statute 10-9-4(C) and 10-9-4(K). The two positions are the investment chief financial officer and the deputy director of investments. The Department of Finance and Administration (DFA) reviewed the request for compliance with the Governor's exempt plan and DFA also supports SIC's request for approval by the Board.

In response to Board Member Long, Ms. Madrid clarified that the proposed positions are not classified and are currently governor exempt positions. The FTE count will not change for the agency. These positions have authority to make decisions regarding rules, regulations and anything that impacts the agency falling within the requirements of an exempt policy making position.

Board Member Long moved to approve the creation of the State Investment Council – Policy Making Exempt positions, seconded by Board Member Day. Motion carried.

VI. Classification

a. Coordinator Classroom Technology

Stuart Hamilton, Compensation & Classification Senior Analyst, SPO recommended approval of the Coordinator Classroom Technology classification and pay bands. The job description was measured by the Job Evaluation Committee on June 19, 2013 and was assigned a pay band of 65 and an alternative pay band of 70. The implementation of the classification study, in line with State Personnel Board Rules, does not have a fiscal impact; however individual agency utilization of the classification after implementation may have a fiscal impact.

Chairman Yarbrough asked if there are similar positions already created in state government. Mr. Hamilton said the position is a blend of education and technology and there is not another classification performing the same duties. Director Moser added that having individuals who can develop and utilize on-line training technology would reduce costs within state government. In response to Board Member Day, Director Moser said the salary range is competitive with the private industry.

Vice Chairman Romero moved to approve the Coordinator Classroom Technology classification and assigned pay bands, seconded by Board Member Long. Motion carried.

b. Labor Relations Administrator

Stuart Hamilton, Compensation & Classification Senior Analyst, SPO recommended approval of the Labor Relations Administrator classification and pay bands. The job description was measured by the Job Evaluation Committee on June 19, 2013 and was assigned a pay band of 70 and an alternative pay band of 75. The implementation of the classification study, in line with State Personnel Board Rules, does not have a fiscal impact; however individual agency utilization of the classification after implementation may have a fiscal impact.



In response to Chairman Yarbrough, Mr. Hamilton said the jobs duties are currently being performed; however in order to align the job duties with a proper classification, a new classification was created.

Board Member Long moved to approve the Labor Relations Administrator classification and assigned pay bands, seconded by Board Member Day. Motion carried.

c. WIC Nutritionist Series

Cliff McNary, State Classification Manager, SPO recommended approval of the Women, Infant and Children (WIC) Nutritionist Series and assigned pay bands. The series is a fulfillment of the current WIC federal grant with the Department of Health (DOH). The series designates five levels of currently used classifications; however the titles have been changed to include WIC. Mr. McNary noted that proposed pay bands are the same as the current pay bands.

Vice Chairman Romero moved to approve the WIC Nutritionist Series and assigned pay bands, seconded by Board Member Long. Motion carried.

d. Process Improvement Analyst

Cliff McNary, State Classification Manager, SPO recommended approval of the Process Improvement Analyst classification and assigned pay bands. The Process Improvement Analyst maps key processes and implements value stream analysis (LEAN) to reduce waste, inefficiencies and downtime in state government. The proposed classification makes the job more marketable and more competitive with the private sector.

In response to Vice Chairman Romero, Raul Alvarez, Senior Advisor, Motor Vehicle Division (MVD) said process improvements were implemented in the Carlsbad office to reduce the wait time from one hour to three minutes. MVD will hold community town meetings to gather input from the public to improve processes.

Board Member Long moved to approve the Process Improvement Analyst classification and assigned pay bands, seconded by Vice Chairman Romero. Motion carried.

e. MVD Agent Series

Theresa Rogers, Compensation and Classification Analyst, SPO recommended approval of the Motor Vehicle Division (MVD) Agent Series and assigned pay bands. The series represents a clarification in the organizational structure in the MVD. The jobs in the series are the employees seen in every state-run MVD field office all across the state, or the people at the MVD phone centers. Staff is trained in the MVD codes and regulations, perform physical vehicle identification number inspections, perform driver road tests and verify and process both commercial and non-commercial driver documents.

Supervisors must also be aware of any changes to the MVD Code, improvements in efficiency methods, customer service strategies and be able to communicate the status of their offices to the MVD director and to legislative and executive members.

These jobs are currently paid 20 percent behind market. The MVD faces no fiscal impact.

Vice Chairman Romero moved to approve the MVD Agent Series and assigned pay bands, seconded by Board Member Long. Motion carried.

VII. 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 Long:

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

The Board met in Executive Session from approximately 10:48 a.m. to 11:42 a.m. For the record, the matters discussed in closed session were limited to those specified in the Motion to close.

1. *Waggenerman v. NM Department of Transportation*; Docket No. 12-074;
 2. *Soherr-Hadwiger v. NM Higher Education Department*; Docket No. 12-051;
 3. *Smith v. NM Corrections Department*; Docket No. 12-066;
 4. *Scott v. NM Department of Homeland Security and Emergency Management*; Docket No. 12-093;
 5. *Hernandez v. NM Corrections Department*; Docket No. 12-039;
 6. *Sanchez v. NM Children, Youth and Families Department*; Docket No. 12-106; and
 7. *Valenzuela v. NM Department of Health*; Docket No. 12-063
- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Waggenerman v. NM Department of Transportation*; Docket No. 12-074, **Board Member Day moved to adopt the Administrative Law Judge's recommended decision, seconded by Vice Chairman Romero. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Soherr-Hadwiger v. NM Higher Education Department*; Docket No. 12-051, **Vice Chairman Romero moved to table 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 *Smith v. NM Corrections Department*; Docket No. 12-066, **Vice Chairman Romero 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 *Scott v. NM Department of Homeland Security and Emergency*

Management; Docket No. 12-093, **Board Member Long** moved to adopt the **Administrative Law Judge's recommended decision, seconded by Board Member Day. Motion carried.**

- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Hernandez v. NM Corrections Department*; Docket No. 12-039, **Board Member Day** 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 *Sanchez v. NM Children, Youth and Families Department*; Docket No. 12-106, **Vice Chairman Romero** moved to adopt the **Administrative Law Judge's recommended decision, seconded by Board Member Day. Motion carried.**
- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Valenzuela v. NM Department of Health*; Docket No. 12-063, **Board Member Long** moved to adopt the **Administrative Law Judge's recommended decision, seconded by Vice Chairman Romero. Motion carried.**

VIII. Litigation Update

Leonard Padilla, Chief Administrative Law Judge, SPO advised that a State Personnel Board appeal was filed from a recent decision to the District Courts.

IX. **Other Business - Next Meeting Date:** August 19, 2013

X. Adjournment

With no further business, **Vice Chairman Romero** moved to adjourn the State Personnel Board meeting at approximately 11:50 a.m., seconded by Board Member Day. Motion carried.

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:



Eugene Moser, Director

