

**STATE HUMAN RESOURCES COMMISSION MEETING
LEARNING & DEVELOPMENT CENTER
101 WEST PEACE STREET
RALEIGH, NORTH CAROLINA**

MEETING MINUTES - APRIL 17, 2014

Members Present

Members present were Chair Susan B. Manning, Commissioner Phillip Strach, Commissioner Martin Falls, Commissioner Mel Asbury, Commissioner John Eller, Commissioner Virgie Devane-Hayes, and Commissioner Gloria Highsmith.

Opening

The State Human Resources Commission (SHRC) met on April 17, 2014. Pursuant to North Carolina General Statutes §138A and the North Carolina Ethics Act, Chair Manning asked all Commissioners if there were any conflicts of interest or potential conflicts of interests with respect to any matters coming before the Commission. There were no conflicts of interest or potential conflicts of interest noted by any Commissioner. Next, Chair Manning called the meeting to order.

Motion: Commissioner Strach asked for a motion to go into executive session pursuant to G.S. 143-318.11(a)(1).

Seconded: The motion was seconded by Commissioner Eller.

The motion was made and carried. The Commission proceeded into executive session.

Executive Session

The State Human Resources Commission voted and rendered decisions in the following cases:

1. **Patrice Bernard vs. NC A&T University – 08 OSP 01724, 09 OSP 03187**
2. **Nathan Anthony Swanson vs. DHHS. Division of Mental Health – 10 OSP 00929**

Next the Commission returned to the business session. Chair Manning called the meeting to order. Next on the agenda was the oral argument component. The following cases were scheduled and heard for oral argument:

1. **Purnell Sowell vs. NC DOT, DMV – 11 OSP 10308**

Neil Dalton, Special Deputy Attorney General, presented his oral argument on behalf of the respondent. The petitioner's attorney, Michael C. Byrne, did not request oral argument and was not present. Chair Manning asked for a motion to return to executive session to render a decision for the oral argument case.

Motion: Commissioner Devane-Hayes made a motion to enter back into executive session.

Seconded: Commissioner Falls seconded the motion.

The motion was made and carried.

Next the Commission returned to the business session. Chair Manning called the meeting to order.

Business Session

Approval of the Agenda

Chair Manning asked to amend the agenda to include the Periodic Review of Existing Rules which will be presented by Valerie Bateman.

Motion: Commissioner Devane-Hayes made a motion to approve the amendment to the agenda.

Seconded: Commissioner Highsmith seconded the motion.

The motion was made and carried.

Public Comment

No one signed up for public comment.

Approval of Minutes

Chair Manning asked for a motion to approve the minutes of the February 13, 2014 commission meeting as submitted.

Motion: Commissioner Eller made a motion to approve the minutes.

Seconded: Commissioner Devane-Hayes seconded the motion.

The motion was made and carried.

State Human Resources Director Report

Director Neal Alexander thanked the State Human Resources Commission for their dedication and service to the citizens of North Carolina. Director Neal Alexander gave a presentation, for informational purposes only, to the State Human Resources Commission on the Office of State Human Resources Organization and Job Functions. The presentation was given for informational purposes only. The presentation included the following topics: The OSHR vision for 2016, strategic direction, organizational design basis, Reorganization through Reduction (RTR) update, and a functional org chart of the OSHR job functions and changes.

Update of the Statewide Compensation System Study

Chris Clemmons, Human Resources Partner, gave an update, for informational purposes only, on the Statewide Compensation System Study. The presentation included the following topics: working teams, consultant support, technology RFP status, and going forward in the areas of classification, compensation, and salary administration. A report is due to the legislature on May 1, 2014. The next phase for the Statewide Compensation System Project will be the Design and Implementation Phase which will start July 2014.

Community Service Leave Policy

Shari Howard, OSHR Rules and Policy Coordinator, presented the Community Service Leave Policy (CSL) revisions and rule changes. The policy revision is required to comply with Senate Bill 402 (Session Law 2013-360) which required the State Human Resources Commission to establish policies and rules governing a leave program that allows employees to volunteer in a literacy program in a public school for up to five hours each month. An option for volunteering in a literacy program in a public school has been added as a special provision to the CSL Policy. The Legislature has requested records for literacy volunteer service be maintained separately from other CSL, so it is being added to the policy as a special provision option in addition to the current special provision option for tutoring and mentoring. Literacy volunteer service will be an option in lieu of taking regular CSL. The addition of the special provision for volunteering in a school literacy program gives employees another option for community service which in turn supports public school students. This literacy program option does increase the employee's lost time from work to up to 5 hours a month not to exceed 45 hours a calendar year in lieu of the 24 hours a calendar year allowed for regular CSL. The effective date of this request is June 1, 2014.

Motion: Commissioner Highsmith made a motion to approve the policy revisions and associated rules changes.

Seconded: Commissioner Devane-Hayes seconded the motion.

The motion was made and carried.

DOT Continuous Recruitment Request for Driver License Examiners

Larry Vales, Human Resources Partner, requested the approval of continuous posting and to designate as critical, Driver's License Examiner positions at the NC DMV, a Division of the Department of Transportation. The existing State policy and law require agencies that wish to continually post for critical classifications have those classifications approved by the State Human Resources Commission. DOT will establish the continuous posting process for these positions within the framework of its current recruitment practices. The agency has previously implemented continuous postings and currently continuously posts for Law Enforcement Agents and Engineering Technicians in Structure Management. The effective date of this request is May 1, 2014.

Motion: Commissioner Asbury made a motion to approve the DOT Continuous Recruitment Request for Driver's License Examiners and designate as critical.

Seconded: Commissioner Devane-Hayes seconded the motion.

The motion was made and carried.

Buncombe County Substantial Equivalency Request

Dominic D'Erasmus, Human Resources Partner, requested the approval of the Buncombe County request for substantial equivalency in two program areas: recruitment/selection/advancement and classification and compensation. Buncombe County has consolidated its human service divisions and is not required to follow our local rules. Buncombe County has chosen to have their employees remain under the State Human Resources Act, demonstrating their commitment to fair, equitable, and sound HR practices. The review was conducted by Local Government Program Consultant Dominick D'Erasmus. The scope of the review included an analysis of the submitted County personnel documents (policies, procedures, ordinance and resolution) for the

specified system portions. Discussions regarding Buncombe's request began early in 2013 and after many discussions and revisions, the documents were finalized in February 2014. The Local Government Program Consultant found that Buncombe County operates a sound and comparable system for administering the Recruitment, Selection and Advancement, and Classification and Compensation programs. There is clear evidence of compliance with State Human Resources Commission rules and Federal Merit Standards. The effective date of this request is May 1, 2014.

Motion: Commissioner Eller made a motion to approve the Buncombe County request for substantial equivalency in two program areas: recruitment/selection/advancement and classification and compensation.

Seconded: Commissioner Strach seconded the motion.

The motion was made and carried.

Rule 1J. 1304 – Settlements/Consent Agreements in Grievances, Contested Cases

Valerie Bateman, General Counsel, requested the approval of changes to Rule 1J. 1304- Settlements/Consent Agreements in Grievances, Contested Cases. This rule appeared in Subchapter 1B (State Personnel Commission). When HB 834 passed and became effective August 21, 2013, it became necessary to re-write this rule and the decision was made to re-adopt all of the 1B (State Personnel Commission) rules that apply to contested cases and grievances in Subchapter 1J (Employee Relations) and particularly in Section .1300. This rule was approved as a temporary rule by the State Human Resources Commission at its October 17, 2013 meeting. The Administrative Rules Review Commission (ARRC) objected to this rule at its January 21, 2014 meeting. During subsequent discussions with the staff to the ARRC, and consideration of objections by Jack Nichols and Tom Harris from the State Employees Association of North Carolina (SEANC), it was agreed that if the SHRC would add a provision to one of its rules making it clear that it was not intending to impede the exercise of the ALJ's discretion and authority, then such a change would address the objections. This change is being proposed as paragraph (g) of this rule. The rule change will go through the permanent rulemaking process which will provide for public hearing and public comment before it is finally adopted by the SHRC at a future date. The effective date requested for this rule change is April 17, 2014.

Motion: Commissioner Asbury made a motion to approve the rule change.

Seconded: Commissioner Devane-Hayes seconded the motion.

The motion was made and carried.

Rule 1J. 1310 – Interest

Valerie Bateman, General Counsel, requested the approval of changes to Rule 1J. 1310- Interest. This rule pertaining to the award of interest in a grievance or contested cases appeared in Subchapter 1B (State Personnel Commission), in a slightly different format. When HB 834 passed and became effective last August 21, 2013, it became necessary to re-write this rule and the decision was made to re-adopt all of the 01B (State Personnel Commission) rules that apply to contested cases and grievances and place them in in Subchapter 01J (Employee Relations) and particularly in Section .1300 in a format which did not mention the State Human Resources Commission. This rule was approved as a temporary rule by this Commission at its December 19, 2013 meeting. The Administrative Rules Review Commission (ARRC) objected to this rule at its February 20, 2014 meeting. During subsequent discussions with the staff to the ARRC,

and consideration of objections by Jack Nichols and Tom Harris (SEANC), it was agreed that if the SHRC would add a provision to one of its rules making it clear that it was not intending to impede the exercise of the ALJ's discretion and authority, then such a change would address the objections. This change is being proposed as paragraph (g) of 25 NCAC 01J .1304. The ARRC requested a change to this rule, 01J .1310 INTEREST, for clarification purposes. The rule change will go through the permanent rulemaking process which will provide for public hearing and public comment before it is finally adopted by the SHRC at a future date. The effective date requested for this rule change is April 17, 2014.

Motion: Commissioner Strach made a motion to approve the rule change.

Seconded: Commissioner Asbury seconded the motion.

The motion was made and carried.

HB 74 (G.S. 150B-21.3A) – Periodic Review of Existing Rules

Valerie Bateman, General Counsel, requested approval of a listing of OSHR rules to be reviewed by the Commission in compliance with HB 74 (G.S. 150B-21.3A) – Periodic Review of Existing Rules that was received from the Administrative Rules Review Commission (ARRC). These rules are scheduled for review by the Administrative Rules Review Commission (ARRC) on August 21, 2014. The final spreadsheet with the rules and changes are due to the ARRC on July 15, 2014. There will be a 60 day comment period from April 25, 2014 to June 24, 2014 to receive any comments regarding any changes to the rules. The State Human Resources Commission will need to hold a special call meeting between June 30 and July 11, 2014 after the comment period is over to consider any comments received, any necessary changes to the rules and finally adopt the rules with changes. The Commission will be contacted by LaShanda Langley, Commission Administrator, to determine a date and time that the specially called meeting will take place.

Motion: Commissioner Eller made a motion to approve the periodic review of existing rules and the public comment period.

Seconded: Commissioner Strach seconded the motion.

The motion was made and carried.

Adjournment

Chair Manning asked if there was any other business to be heard at the meeting. There being no additional items on the agenda, Chair Manning asked for a motion to adjourn.

Motion: Commissioner Eller made a motion to adjourn.

Seconded: Commissioner Falls seconded the motion.

The motion was made and carried. The meeting was adjourned.

Minutes submitted by:

LaShanda Langley, State Human Resources Commission Administrator

Approved by: