

## MINUTES

### **STATE HUMAN RESOURCES COMMISSION MEETING VIA CONFERENCE CALL RALEIGH, NORTH CAROLINA**

**February 13, 2014**

The State Human Resources Commission (SHRC) met via conference call on February 13, 2014 due to adverse weather. Chair Susan B. Manning called the meeting to order. Members present were Chair Susan B. Manning, Commissioner Phillip Strach, Commissioner Martin Falls, Commissioner Mark Hamberlin, Commissioner Mel Asbury, and Commissioner John Eller. Pursuant to North Carolina General Statutes §138A, 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. Chair Manning asked that if the Commission becomes aware of any conflicts of interest or potential conflicts of interest to identify the conflict and refrain from any participation in the matter involved. There were no conflicts of interest or potential conflicts of interest.

Next, Chair Manning called the meeting to order. Chair Manning asked if anyone had signed up for the public comment session. Since there was no one signed up for the public comment session, Commissioner Strach asked for a motion to enter into executive session. The motion was seconded by Commissioner Falls. The motion was made and carried and the Commission proceeded to start executive session.

### Executive Session

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

1. **Kathryn Renee Johnson v. North Carolina Department of Correction**
2. **Betty M. Jones v. North Carolina Department of Health and Human Services, Division of Medical Assistance**

Commissioner Strach asked for a motion to close executive session and enter into the open session. Commissioner Eller seconded the motion. The motion was made and carried and the Commission proceeded into open session.

The contested case for **Purnell Sowell v. North Carolina Department of Transportation, Division of Motor Vehicles** was continued and jurisdiction was extended to the next commission meeting which is scheduled for April 17, 2014. Both parties have until March 3 to send in supporting documents for their contested case. Commissioner Strach made a motion to

extend jurisdiction and continue in the Sowell case at the next commission meeting. Commissioner Asbury seconded the motion. The motion was made and carried.

Next the Commission returned to the business session. Chair Manning called the meeting to order. Mr. C. Neal Alexander, Office of State Human Resources Director, gave his Director's Report. Mr. Alexander stated that OSHR is still actively engaged in employing the new grievance policy. OSHR will continue to inform the commission on items that OSHR is currently working on.

The next item on the business session agenda was the approval of the minutes. Chair Manning asked for a motion to approve the minutes of the December 12, 2013 commission meeting. Commissioner Strach made a motion to approve the minutes. Commissioner Falls seconded the motion. The motion was made and carried.

Next, Mrs. Pam Bowling, Human Resources Managing Partner, presented to the Commission for consideration and approval, one state classification and pay item Deputy Director of the Zoological Park for the Department of Environment and Natural Resources (DENR). DENR requested a pay supplement from the Zoo Society as they hired the new Deputy Director of the Zoological Park. The Deputy Director is being hired to serve "in training" for the Director who is scheduled to retire in 2016. The OSHR compensation staff gathered and reviewed labor market data to determine the total compensation package that may be offered as the department recruits for a Deputy Director. The amount of the supplement as requested by the Zoo Society is up to \$140,000 and is within the compensation findings of the OSHR compensation staff. Chair Manning asked what the current salary of the Zoo Director is. Mrs. Bowling answered that the current salary of the Zoo Director is \$250,000 which is being paid by the NC Zoo Society. Commissioner Hamberlin asked what is the difference between the two salaries for the Zoo director and Deputy Director. Mrs. Bowling stated that the difference in salaries is because the current Zoo Director is planning on retiring in 2016 and the salary for the Deputy Director is for training/learning while the Director is still there. Mrs. Bowling also stated that if and when the Deputy Director moves into the Director position, the Director salary will be reevaluated. Commissioner Manning asked if the Deputy Director position is being reinstated since the Zoological Park currently does not have a Deputy Director. Mrs. Bowling stated position is being reinstated and the intent in reinstating the position is due to the current Director's plans to retire. Chair Manning asked if there were any more questions. There being no more questions, Commissioner Falls made a motion to approve the classification item. Commissioner Eller seconded the motion. The motion was made and carried. **[See Attachment]**

Next, Ms. Bowling presented to the Commission, for information purposes only, the state classification revision of Director, Ferry Division-Department of Transportation. Ms. Bowling explained that the Department of Transportation wanted to change the training and education requirement for that position. The OSHR analyst reviewed the request and based on the information gathered the training and education requirement change was approved and is being presented to the commission for information only. There is not an approval needed for this change. Chair Manning asked why the department wanted to make that change to the training and education requirement. Mrs. Bowling explained that the Department of Transportation

wanted the experience and education to be more in administration and program planning rather than operations and maintenance. Chair Manning asked if there were any more questions. There being no more questions, the commission proceeded to the next agenda item. [See Attachment]

Next, Mr. Chris Clemmons, Human Resources Managing Partner, presented to the Commission, for information purposes only, the Statewide Compensation System Project. Mr. Clemmons presented the background information on the current graded and banded pay systems. He also explained the compensation vision and which principles will be used to guide compensation project. He stated that market responsiveness, pay for performance, and equitable compensation are the key total compensation principles. Commissioner Hamberlin asked if the vision items listed are a requirement for the new system or a “wish list”. Mr. Clemmons answered that the compensation project is a designing system and everything is not guaranteed, but the vision that the team has set forth is what they are currently working towards. Mr. Clemmons also reviewed the organization chart that was included in his PowerPoint presentation. Mr. Clemmons explained that all agency compensation managers meet monthly to discuss the project, and a monthly update is sent to all agency human resources directors. Chair Manning asked Mr. Clemmons who were the members that are considered part of the compensation project executive steering committee. Mr. Clemmons gave a list of participants that are on the steering committee. Mr. Clemmons reviewed the time frames of the compensation project. Mr. Clemmons gave an explanation of what items the compensation team has worked on so far. The team focuses three major categories: technical expertise, administration/policy, and technology. Chair Manning asked if employees will continue to receive longevity pay or will the State plan on putting a “cap” on longevity pay. Mr. Clemmons stated that longevity would still be available and “grandfathering” employees in would be an option if the longevity pay policy is changed in the future. Mr. Clemmons also explained that the compensation team is trying to come up with different options for a new longevity pay policy. Chair Manning also asked if there will there be a hybrid of graded and banded systems. Mr. Clemmons answered that there will be a mixture of both systems with more flexibility and wider ranges for setting pay movements. Mrs. Pam Bowling also stated that the compensation team is also looking at occupational and executive pay plans as well. Mr. Clemmons continued to explain the technology phase that the compensation team is working on. The technology phase will test and implement new tools, coordinate Beacon clean-up, and ensure new technologies align with existing technologies. Commissioner Eller asked if this program will have an impact on local governments that are substantially equivalent and have different job classifications. Mr. Clemmons stated that the intent is to not change local government classifications at this time. OSHR Director, Neal Alexander, stated that local government may be a phase two project in the future. Chair Manning stated that the local government classifications are very out-of-date and hard to understand and need to be rewritten or the local government agencies need to be written out of the statute. Chair Manning asked if OSHR is planning on delegating certain processes back to the agency level in regards to compensation and classifications. Mrs. Bowling stated that OSHR has a lot of delegation in place at this time and 90% of day to day actions are delegated back out to the agencies. OSHR only sees high-level actions at this time. On the salary side of compensation, there are more restrictions so OSHR does review and approve a lot of salary actions. Mrs. Bowling stated that OSHR will still be involved in research, study, and development of classifications and market review, but the goal is to limit the day to day actions to the agencies so that OSHR can focus on

the research and development of new classifications. Chair Manning asked Director Alexander if the Commission could review the final recommendations on the compensation project before they are sent to the Governor's Office. Director Alexander stated that the Commission could see the final recommendations before they are sent to the Governor's Office. Chair Manning stated that this project requires a lot of work be completed in a short amount of time, and she just wanted to make sure that the team will be ready to submit recommendations in a timely manner. Also, Chair Manning stated that if the team was not ready to submit recommendations by the timeframes listed, then they should go back and review timeframes and deadlines and adjust the submission of recommendations. Director Alexander stated they plan to prioritize the recommendations and be more responsive to agency needs to improve customer service. Neal also stated they are going to ask for more time for implementation when needed. Mr. Clemmons stated again that the May 1 status report deadline is set by the legislature and if they need more time for study and development of the compensation project then they will ask for more time from the legislature. Chair Manning asked if a consultant was being used for the performance management process. Director Alexander stated that the performance management process does not include the use of a consultant as of yet. The performance management process will be linked with the new learning system and very easy to use. He also stated that the process will be automated and kept simple and the new performance management process will be brought to the Commission in June 2014 or August 2014. Chair Manning asked if there were any more questions. There being no more questions, the commission proceeded to the next agenda item. **[See Attachment]**

Chair Manning asked Mrs. Valerie Bateman if she could revert back to the contested case regarding Betty M. Jones. There was an error in the dates of the decision that was received from the Office of Administrative Hearings. On page 3 of the ALJ Decision, it references May 31, 2010 date and it should be May 31, 2009. Ms. Bateman will take note of the error and proceed accordingly.

Next, Mr. John Bogner, Human Resources Managing Partner, presented to the Commission for consideration and approval, the Workplace Safety and Health Requirements Program Report. The NC General Statute requires OSHR to monitor state agency programs once a year to verify compliance with applicable safety and health regulations and performance indicators established by the OSHR Safety and Health Steering Committee. The report includes the philosophy, policies, and procedures of the State Employees' Workplace Requirements Program for Safety and Health. The report period covers fiscal year 2012 and 2013. Mr. Bogner stated that OSHR has new Safety and Workers Compensation leadership and has been establishing relationships with Safety leaders and Worker's Compensation Administrators across the state. Mr. Bogner explained communications have improved and the need for training and support has been accessed. Chair Manning mentioned that this report is located on the HUB for review. Mr. Bogner stated that the report includes statistics from the Department of Labor. Chair Manning stated that the commissioners should be looking at the report as a whole and not just the statistics. Chair Manning suggested Mr. Bogner highlight some of the main items in the report in the interest of time. Mr. Bogner highlighted the key items from fiscal years 2012 and 2013. One of the main highlights is to control and lower workers compensation costs. Mr. Bogner also reviewed the dollar figures of monies saved due to agencies being audited to make sure they are

following all workplace safety processes and procedures. Chair Manning asked Mr. Bogner to highlight the recommendations section of the report. Mr. Bogner explained that they are trying to restructure communications in dealing with workers compensation and trying to get employees back to work in a timely manner. In 2012 there was 1 fatality reported and in 2013 there were 5 fatalities reported. These are some areas that will need to be improved to ensure that no state employee is ever involved in a fatality. Mr. Bogner also stated that the report gives details on how the agencies need to be more proactive when working with the Workers Compensation third party administrators. He also explained that the Governor would like to see a 10% reduction in all workers compensation claims over the next three fiscal years. Also, more workers comp communications will be going through the Office of State Human Resources. Director Alexander commented that the state is spending about \$140 million dollars a year on workers compensation costs, and Mr. Bogner will be working to lower the workers compensation costs. He also mentioned that in the future there will be more case management opportunities available and agencies will be establishing a separate line item in the budget for workers comp in order to track their costs. Chair Manning also asked that the Commission be kept informed on the workers compensation reports and payments made to third party administrators and their processes. Chair Manning asked if there were any more questions. There being no more questions, Commissioner Asbury made a motion to approve the Workplace Safety and Health Requirements Program Report. Commissioner Strach seconded the motion. The motion was made and carried. **[See Attachment]**

Next, Mrs. Lynn Freeman, Human Resources Partner, presented to the Commission, for consideration and approval, Local Government Salary Plans. Ms. Freeman explained that the salary plan package consists of two major components. Those components are a spreadsheet of state classification titles and salary grades as well as a document called the reporting form. Samples were provided to commissioners to review on the Hub. The filings of the reports confirm compliance with acceptable local pay practices and by default, they also comply with the Federal Merit for equitable and adequate compensation. Lynn stated all the plans have been approved by the local government program team and now they need commission approval. Chair Manning asked for a motion to approve the local government pay plans. Commissioner Strach made a motion to approve the local government pay plans. Commissioner Falls seconded the motion. The motion was made and carried. Chair Manning stated there are certain counties that do not have to submit pay plans and asked if there were any other jurisdictions/counties that do not have to submit plans. Ms. Freeman stated there are twelve new jurisdictions/counties that do not have to make a submission. Chair Manning asked who the twelve new jurisdictions/counties were. Ms. Freeman said she would send an update of those jurisdictions/counties to be placed on the HUB for commission to review. **[See Attachment]**

Next, Mrs. Lynn Freeman, Human Resources Partner, presented to the Commission, for consideration and approval, a revision to the Reorganization through Reduction (RTR) policy. Ms. Freeman stated the policy was revised to reflect the additional requirement that volunteers for the program do not return to work for any local government employer if the local government agency is covered by G.S. 126 for six months. The change is located under "Employee Responsibilities" within the policy. Chair Manning asked is there a motion to approve the RTR policy as amended. Commissioner Strach made a motion to approve the amendment to the RTR

policy. Commissioner Falls seconded the motion. Chair Manning wanted to discuss what the purpose of the revision is and why the State of NC is concerned if an employee goes to work for a local government system. Mrs. Valerie Bateman stated that the state is only concerned about it if the employee goes to a local government agency that is subject to the State Human Resources Act. Mrs. Freeman stated that it would be a conflict of interest for an employee to leave state government voluntarily under the RTR Program and then go to work under a local government agency that is still subject to the State Human Resources Act. The result would be the employee would be able to “double dip” into salaries and retirement programs. Director Alexander stated the intent was not for an employee to voluntarily leave a state government position and then go work at another agency that is still subject to the State Human Resources Act. Director Alexander explained the leave payouts and sick time transfer to other agencies. Chair Manning stated that it would be hard to control where an employee goes to work once they leave their current position and the State of NC does not have any control over the local government agencies approving transfer of vacation time or sick time. Director Alexander explained that the vacation leave would be paid out when the employee leaves and the sick time would be what is transferred. Commissioner Eller commented that the local government agency would take up to 240 hours of leave to be transferred if an employee comes to work for a local government but any time listed above 240, the employee would lose. Commissioner Eller stated he understood the revision and was clear on the change since he is involved with local governments. Mrs. Freeman stated that the RTR policy attempts to parallel the state retirement policy that once an employee retires they are not allowed to return to work in state government for at least six months. Mrs. Bateman explained that there is a provision that allows transferring service time between state and local government. Chair Manning asked if there were any more questions or comments. There being no more questions or comments, the motion were made and carried. The Commission moved to the next item on the agenda.

**[See Attachment]**

Next Mrs. Valerie Bateman, Legal Counsel for the Office of State Human Resources (OSHR) presented to the Commission the Hearing Officer’s Report on the following rules in Title 25 of the North Carolina Administrative Code:

**Subchapter B**

**01B .0413 Exercise of Commission Discretion (Amendment)**

**Subchapter C**

**01C .0202 Equal Employment Opportunity (Repeal)**

**Subchapter D**

**01D .2501 Career Growth Recognition Award (Repeal)**

**01D .2502 Amount of Career Growth Recognition Award (Repeal)**

**01D .2503 Employees Eligible for Career Growth Recognition Award (Repeal)**

**01D .2504 Effective Date of Career Growth Recognition Award (Repeal)**

**01D .2505 Cost-of-Living Adjustment (Repeal)**

- 01D .2506 Amount of Cost-of-Living Adjustment (Repeal)**
- 01D .2507 Employees Eligible for Cost-of-Living Adjustment (Repeal)**
- 01D .2508 Effective Date of Cost-of-Living Adjustment (Repeal)**
- 01D .2509 Performance Bonus (Repeal)**
- 01D .2510 Amount of Performance Bonus (Repeal)**
- 01D .2511 Employees Eligible for Performance Bonus (Repeal)**

**Subchapter H**

- 01H .1103 Denial of Veterans' Preference (Amendment)**

**Subchapter J**

- 01J .0617 Discrimination and Retaliation (Adoption)**
- 01J .0618 Appeal of Denial of Veteran's Preference (Adoption)**
- 01J .1309 Health Insurance (Adoption)**
- 01J .1310 Interest (Adoption)**
- 01J .1311 Reinstatement (Adoption)**

Mrs. Bateman stated that there were no attendees at the public hearing and there were no written comments received. The Hearing Officer's Report is located on the HUB for the Commission to review. The public hearing was held on January 28, 2014. The rules were posted on the State Human Resources Commission website on January 14, 2014. The Office of Administrative Hearings, Rules Division posted the rules on its website on January 7, 2014. The comment period ended on January 21, 2014. Mrs. Bateman explained that all the rules in Subchapter D were being repealed. These rules deal with career progression and the legislature repealed G.S. 126-7 which is the statutory authority for Subchapter D. Mrs. Bateman explained that OSHR has been working with the Rules Review Staff from OAH on the temporary rule making process to repeal these rules. OAH informed OSHR that they could write a letter asking for the rules to be repealed since the statutory authority has been repealed for these rules without having to go through rule making process. Mrs. Bateman proposed that the Commission accept and vote on the Hearing Officer's report with an amendment to withdraw the Subchapter D rules since they will be handled a different way as stated above, and to also withdraw the Subchapter B rule that was already voted on in October 2013. Director Alexander stated the Commission needs to accept the Hearing Officer's report as presented and then any action beyond that would be administrative and behind the scenes. Mrs. Bateman explained that the Commission also needs to vote on filing the rules presented in the Hearing Officer's report to start the temporary rulemaking process for rules listed above with the exception of Subchapter B and Subchapter D. Chair Manning asked for a motion to accept the Hearing Officer's report as presented. Commissioner Hamberlin made a motion to accept the Hearing Officer's report as presented. Commissioner Asbury seconded the motion. The motion was made and carried. Mrs. Bateman asked for a motion to withdraw the rules from Subchapter B and Subchapter D and approve the temporary rulemaking process for the additional rules left that are listed above. Commissioner Strach made the motion to withdraw the rules from Subchapter B and Subchapter D and approve the temporary rulemaking process for the additional rules. Commissioner Falls seconded the motion. The motion was made and carried. Chair Manning asked if the Commission was correct to vote on the withdrawal of the rules from

Subchapter B and Subchapter D and approve the temporary rulemaking process for the additional rules. Mrs. Bateman answered “yes”. Mrs. Bateman also explained that in the last meeting that was a rule that needed one word removed which was the word “creed” and that word was removed. Commissioner Eller asked for staff to send a brief memo to explain more on the rulemaking process prior to the next Commission meeting so he could have a better understanding of the rulemaking process. Mrs. Bateman explained where Commissioner Eller could find more information on the rules and rulemaking process. Director Alexander stated that OSHR would be more than happy to explain more on the rulemaking process. Mrs. Bateman again explained why Subchapter B and Subchapter D rules were being removed.

**[See Attachment]**

Director Alexander asked Chair Manning to return to the public comment section on the agenda to make sure no one had joined the conference call to make a public comment. Again, there was no one signed up for public comments, therefore, no one had come in since the beginning of the meeting who wished to address the Commission. Chair Manning asked if there were any more questions or comments. There being no more questions or comments the meeting was adjourned.