

CIVIL SERVICE

CIVIL SERVICE COMMISSION

General Rules and Commission Organization

Proposed Amendments: N.J.A.C. 4A:1-1.3 and 3

Authorized By: Civil Service Commission, Robert M. Czech, Chairperson.

Authority: N.J.S.A. 11A:2-6(d) and P.L. 2008, c. 29.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-052.

A **public hearing** concerning the proposed amendments will be held on:

Thursday, March 17, 2011, at 3:00 P.M.

Civil Service Commission Room

44 South Clinton Avenue

Trenton, New Jersey

Please call Elizabeth Rosenthal at (609) 984-7140 if you wish to be included on the list of speakers.

Submit written comments by April 23, 2011 to:

Henry Maurer, Director

Merit System Practices and Labor Relations

Civil Service Commission

P.O. Box 312

Trenton, New Jersey 08625-0312

The agency proposal follows:

Summary

P.L. 2008, c. 29, amended Title 11A of the New Jersey Statutes, eliminating the Department of Personnel and the Merit System Board and assigning the primary functions of the Department to an independent agency known as the Civil Service Commission, in but not of, the Department of Labor and Workforce Development, with an appellate and rulemaking body also titled the Civil Service Commission replacing the Merit System Board. Accordingly, it is necessary to amend the civil service rules at Title 4A to implement these changes to the Civil Service Act and further the intent of the Act as amended.

Some definitions in N.J.A.C. 4A:1-1.3 are proposed for deletion while others are proposed for addition. Definitions for “Board” (Merit System Board) and “Commissioner” (Commissioner of the Department of Personnel) are to be deleted. Definitions for “Chairperson,” referring to the Chief Executive Officer (CEO) of the Civil Service Commission, and “Commission,” referring to the Civil Service Commission, are to be added.

N.J.A.C. 4A:1-3.1, General provisions, is also proposed for amendment. “Department of Personnel” is proposed for deletion in subsection (a), to be replaced by “Civil Service Commission,” along with an explanation that it is established “in but not of, the Department of Labor and Workforce Development.” References to “Commissioner” are changed to “Chairperson,” and “Merit System Board” to “Civil Service Commission.”

N.J.A.C. 4A:1-3.2, Commissioner of Personnel, would be amended to “Chairperson.” Proposed amendments to the rule would substitute all references to the Commissioner with

references to the Chairperson. Amendments to the rule would also update the duties of the Chairperson, in accordance with P.L. 2008, c. 29. Under the proposed amendments, the Chairperson would be the administrator, the chief executive officer and the appointing authority of the Civil Service Commission, as well as the request officer of the Commission as that term is defined in P.L. 1944, c. 112, §1. Additionally, several of the duties performed by the former Commissioner would be delegated by the Commission to the Chairperson. These duties include the following: maintaining a management information system to implement the Civil Service Act, establishing necessary programs and policies for State and local service, establishing and consulting with advisory boards, making required reports to the Governor and Legislature, and approving appointments in State and local service. Additionally, between Commission meetings, the Chairperson would be afforded the authority to provide for interim remedies or relief in a pending appeal, and pursuant to N.J.A.C. 1:1-14.10 review requests for interlocutory review of an order or ruling by an administrative law judge. As P.L. 2008, c. 29 deleted the requirement in Title 11A that the Commissioner assist the Governor in personnel and labor relations and rendering final administrative decisions on classification, salary, layoff rights and State noncontractual grievances, these duties are proposed for deletion as they relate to the Chairperson. (It is noted that the Commission would render final administrative decisions on **all** appeals filed under the Civil Service Act, including ones reviewed by the former Commissioner, as provided in proposed amendments to N.J.A.C. 4A:1-3.3, more fully described below.)

To effect the above-described amendments, N.J.A.C. 4A:1-3.2(a)3 and 4 would be recodified as paragraphs (b)1 and 2, with no change in text, while paragraphs (a)5 and 6 are proposed for deletion, with a proposed new (b)3, and a recodification of paragraphs (a)7 through 10 as paragraphs (b)4 through 7, with no change in text.

N.J.A.C. 4A:1-3.3, Merit System Board, would be amended to “Civil Service Commission.” This rule would set forth the duties of the Commission. A proposed amendment to the text of the rule would also replace the reference to the Board in subsection (a) with a reference to the Commission. A proposed amendment to paragraph (a)2 would provide that the Chairperson, rather than the Commissioner, refers appeals to the Commission to render final administrative decisions. A cross-reference to N.J.A.C 4A:1-3.2(a)6 is proposed for deletion, as the Commission will review all appeals, including those formerly reviewed by the Commissioner under that paragraph.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is exempted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Commission anticipates a positive social impact to result from the proposed amendments. N.J.A.C. 4A:1-1.3 and 3 would be brought into conformity with P.L. 2008, c. 29. In particular, correcting terminology by deleting outdated references to the Department of Personnel, Commissioner of Personnel and Merit System Board, and replacing them with Civil Service Commission and Chairperson, would ensure that other State agencies, local jurisdictions, their employees and members of the general public are familiar with the changes that have occurred within the former Department of Personnel. Additionally, in accordance with P.L. 2008, c. 29, some functions would no longer be performed by the agency at all, while others would still be performed but delegated by the Commission to the Chairperson. The Commission, which meets only once or twice a month, would retain its appellate and rulemaking authority, but the full-time Chairperson, as the chief executive officer, would be responsible for administrative duties associated with the day-to-day

operation of the agency. Thus, these amendments would provide a clear delineation of duties and the division of responsibilities within the agency.

Economic Impact

A positive economic impact is anticipated as a result of the proposed amendments. It is expected that State government and local jurisdictions would operate more efficiently with amendments clearly explaining the respective duties of the Commission versus the Chairperson. Also, with requests for interim relief as well as interlocutory appeals reviewed by the Chairperson between Commission meetings, these important matters would not be held up due to the Commission's meeting schedule. Such matters could be reviewed promptly, saving the parties' time and resources.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments govern the organization of a State agency, the Civil Service Commission and the powers and duties of the Chairperson of the Commission, and are therefore not subject to any Federal standards or requirements.

Jobs Impact

It is not anticipated that the proposed amendments would cause the generation or loss of jobs. The proposed amendments govern the organization of the Civil Service Commission and the powers and duties of the Chairperson.

Agriculture Industry Impact

It is not anticipated that the proposed amendments would have any agriculture industry impact. The proposed amendments govern the organization of the Civil Service Commission and the powers and duties of the Chairperson.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments govern the organization of the Civil Service Commission and the powers and duties of the Chairperson.

Smart Growth Impact

It is not anticipated that the proposed amendments would have any impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002).

Housing Affordability Impact

Since they concern the organization of an agency in the public sector, the Civil Service Commission and the powers and duties of the Chairperson, the proposed amendments would have no impact on the number of housing units or the average cost of housing in New Jersey.

Smart Growth Development Impact

Since they concern the organization of the Civil Service Commission and the powers and duties of the Chairperson, the proposed amendments would have no impact on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

4A:1-1.3 Definitions

The following words and terms, when used in these rules, shall have the following meanings unless the context clearly indicates otherwise:

...

["Board" means the Merit System Board.]

...

"Chairperson" means the chief executive officer and administrator of the Civil Service Commission.

...

["Commissioner" means the Commissioner of Personnel.]

"Commission" means the Civil Service Commission.

...

SUBCHAPTER 3. ORGANIZATION

4A:1-3.1 General provisions

(a) [The Department of Personnel is constituted as a principal State Department consisting]

The Civil Service Commission is established in, but not of, the Department of Labor and Workforce Development in the Executive Branch of State Government, and consists of the:

[1. Commissioner of Personnel;

2. Merit System Board; and]

1. Chairperson;

2. Civil Service Commission; and

3. Such subdivisions as the [Commissioner] **Chairperson** may deem necessary.

4A:1-3.2 [Commissioner of Personnel] **Chairperson**

(a) The [Commissioner of Personnel] **Chairperson** shall:

1. Serve as chairperson of the [Merit System Board;] **Civil Service Commission; and**
2. Serve as **the administrator, the** [principal] **chief executive officer and the appointing authority of the Commission, as well as the** request officer of the [Department;]
Commission, within the meaning of such term as defined in P.L. 1944, c. 112, §1.

(b) The Chairperson, on behalf of the Commission, shall:

Recodify existing 3. and 4. as **1. and 2.** (No change in text.)

[5. Assist the Governor in personnel and labor relations;

6. Render final administrative decisions on appeals of classification, salary, layoff rights and State noncontractual grievances;]

3. Between meetings of the Commission, provide for interim remedies or relief in a pending appeal where warranted, and review requests for interlocutory review of an order or ruling by an administrative law judge;

Recodify existing 7. through 10. as **4. through 7.** (No change in text.)

4A:1-3.3 [Merit System Board] **Civil Service Commission**

(a) The [Merit System Board] **Civil Service Commission** shall:

1. Hold a public meeting at least once each month, except August, at which three members shall constitute a quorum;

2. Render final administrative decisions on appeals and on other matters referred by the [Commissioner, except for those matters listed in N.J.A.C. 4A:1-3.2(a)6 or delegated to the Commissioner] **Chairperson**;
3. Adopt rules for implementing Title 11A, New Jersey Statutes after public hearing, except that a public hearing shall not be required for the adoption of emergency rules. See N.J.A.C. 1:30-4.5 for Office of Administrative Law emergency rule adoption procedures;
4. Interpret the application of Title 11A, New Jersey Statutes, to any public body or entity;
5. Perform such other duties as prescribed by law and these rules.