



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

**MINUTES OF SPECIAL MEETING OF
THE CIVIL SERVICE COMMISSION
DECEMBER 23, 2013**

Robert M. Czech, Chairperson
Robert E. Brenner
Thomas J. Perna
Richard E. Williams

DECEMBER 23, 2013

A special meeting of the Civil Service Commission was held on Monday, December 23, 2013, in Trenton, New Jersey.

PRESENT: Robert M. Czech, Chairperson, Members Robert E. Brenner, Thomas J. Perna and Richard E. Williams; Pamela Ullman, Deputy Attorney General; Henry Maurer, Director, Division of Appeals and Regulatory Affairs.

In accordance with L.1975, c.231, the Secretary to the Civil Service Commission opened the meeting with the following statement:

Notice of this meeting was filed with the Secretary of State and sent to the Trentonian, Trenton Times, Courier-Post and Star Ledger on December 20, 2013, and posted at the Civil Service Commission, 3 Station Plaza, Trenton, New Jersey.

All actions were by unanimous vote unless otherwise specified.

SECTION B – MISCELLANEOUS MATTERS

B-1 NOTICE OF PROPOSED SUBSTANTIAL CHANGES UPON ADOPTION (JOB BANDING); SUBSTANTIAL CHANGES TO NEW RULE: N.J.A.C. 4A:3-3.2A; SUBSTANTIAL CHANGES TO PROPOSED AMENDMENTS: N.J.A.C. 4A:3-3.5 AND 3.9; 4A:4-2.4; AND 4A:4-7.1A; NEW PROPOSED AMENDMENT: N.J.A.C. 4A:7-2.2.

Submitted for the Commission's review is a Notice of Proposed Substantial Changes Upon Adoption to the Job Banding rule proposal, originally published in the March 18, 2013 issue of the *New Jersey Register*. These proposed changes to the original rule proposal are prompted by Assembly Concurrent Resolution 199 and some of the comments to the original proposal.

ACTION: The Civil Service Commission approved the changes for public notice and comment.

After the Commission voted on the above matter, the Chairperson, Robert M. Czech made the following comments:

December 23, 2013

Statement from Robert M. Czech, Chair/CEO

Job Banding

I think every lawyer while in law school heard the adage: When you have the law on your side, argue the law; when you have the facts on your side, argue the facts; when you have neither, bang the table. Well when it comes to banding, civil service has the law and the facts on its side and the opponents have been banging away on the table.

For example, by statute and as reinforced by the New Jersey Supreme Court, the classified employees of the Judiciary are under the jurisdiction of civil service. Judiciary has used a successful job banding methodology for at least fifteen years, and civil service had to authorize it. Now after 15 years, opponents want us to tell the Judiciary, what you are doing, without any statutory amendments, is no longer authorized by statute.

As it regards some of the other objections made by unions, the first one that lacks credibility is on the issue of veterans' preference. To suggest that the Christie Administration is anti-veteran is ridiculous. Our response reinforces the fact that we are not changing veterans' preference and its application in banding. However, what is ironic is that the union never objected to the lack of veterans' preference language in the Judiciary banding policy and the Judiciary has had no veterans' preference issues with banding selections since its inception.

Another objection that lacks credibility regards the charge that banding will increase political coercion and cronyism. This charge is not only incorrect but disparaging. First of all, this has not been the case at the Judiciary and the corresponding inference that the 350 to 400 non civil service jurisdictions are pervasive bastions of political coercion and cronyism is without merit. In fact, non civil service towns like Montclair, Cherry Hill, Fanwood, West Deptford, and Princeton, to name a few, have functioned pretty well. Let us not forget, that allegations of this nature have not historically been strangers in Civil Service jurisdictions. Advancements in banding require achieving the competencies to perform. It should also be remembered that the statutory and regulatory prohibitions against political coercion are not changing. However in deference to the objections, we are removing banding authorization for local jurisdictions.

Job Banding goes to the heart of the constitutional requirement of merit and fitness. Although it will not be applicable to every title, such as law enforcement titles, and may be most appropriate for titles with a series attached to the title, as provided in our recent Pilot programs, it introduces a more effective option to appointing authorities and employees in insuring that the ability to perform competently is assessed. It is also well within the statutory authorization for Civil Service to establish and create movement criteria between titles. The statute says Civil Service can "establish, consolidate and abolish titles; " as well as," ensure the grouping in a single title of positions with similar qualifications, authority and responsibility".

Job banding is a competency-based human resource process that groups similar job titles together to form career bands. Advancements are based on a multifaceted approach including the organization's strategic staffing plan, attainment of certain competencies by employees, and a structured internal selection process based on the employee having attained pre-specified competencies for a particular level within the band. Banding is designed to align the organizational structure with the core mission, to tie individual performance to organizational performance indicators, and to develop a cohesive and functionally-relevant workplace.

Job banding benefits the overall organization by increasing productivity by boosting employee competence levels and encouraging advancement tied to measurable performance. It benefits management by expanding the scope, responsibility, and flexibility in advancing employees, and enhancing the skill sets of motivated and creative employees by aligning competencies more closely to their jobs.

Banding benefits employees by giving them the chance to acquire higher-level skills, the tools to grow through training and career development, and greater confidence and mobility. Since about 60% of promotions are done through E and E, (education and experience with an enhancement for seniority) without independent civil service validation of what is represented by the applicant, the banding process is clearly more merit based. The statute says Civil Service "shall test fairly the knowledge, skills and abilities required to satisfactorily perform the duties of a title or group of titles. The examinations may include, but are not limited to, written, oral, performance and evaluation of education and experience". In fact education and experience has a validity score of .11, well below that of a structured interview score of .51. Support for the status quo is not support for improving merit and fitness.

Furthermore, the Civil Service pilot recently resulted in cutting the time for advancement of six employees to just three months, compared to the six months or more it would have previously taken. This was accomplished even though a more comprehensive assessment process was used.

Still another objection by the union that lacks credibility is the charge that somehow banding takes away employee rights to challenge what they believe are discriminatory practices. There are federal laws, state laws, administrative regulations and union contract provisions that prohibit discrimination in the workplace. Therefore, whether someone believes they are being retaliated against for discriminatory reasons, because of not being promoted, advanced, or assigned, the complaint process remains the same. There is no change. In fact we are reinforcing this process by amendment. Furthermore, it is worth noting that the Judiciary has not become a hotbed of discrimination since banding's inception fifteen years ago.

The final objection that warrants comment regards banding level challenges by employees. These are not classification appeals. However, as with the Judiciary, the unions through the contract grievance procedures, when applicable, will have a direct role in the process. This is authorized by current rules and allows for negotiations on the procedure in the future. Furthermore, this procedure allows for a more timely resolution of the challenge.

Our responses to all the comments are in the decision. However, I wanted to address these objections, because when you get beyond the demagoguery and hyperbole, banding is just another merit based option for both employers and employees to improve accountability and performance.

Thank you.

There being no further business before the Civil Service Commission, the meeting was adjourned to convene on Wednesday, January 15, 2014, at 10:00 a.m., at 3 Station Plaza, Trenton, New Jersey.

Robert M. Czech
Chairperson
Civil Service Commission