

#### STATE OF NEW JERSEY

In the Matter of Reallocation of Weights and Measures Apprentice from the Competitive to the Non-Competitive Division of the Career Service

CSC Docket No. 2015-1571

# FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Request for Title Reallocation

ISSUED: DEC - 5 2014 (CSM)

The Division of Classification and Personnel Management (CPM) recommends reallocation of the Weights and Measures Apprentice title to the non-competitive division of the career service in accordance with N.J.A.C. 4A:3-1.2.

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The rationale for reallocating this title is to provide appointing authorities the flexibility needed to more efficiently and quickly meet their hiring responsibilities. CPM explains that the title has no education or experience requirement and it only requires possession of a Commercial Driver's License, which makes competitive testing impracticable. Therefore, CPM recommends that the subject title be reallocated to the non-competitive division since testing for this title is not practicable due to the nature of the knowledge, skills and abilities associated with the job.

CPM advises that all negotiations representatives and interested parties have been notified of the proposed change. The Policemen's Benevolent Association, Local 203 (PBA), represented by Bruce D. Leder, Esq., indicates that it opposes the proposal. Specifically, it states that reallocating the title of Weights and Measures Apprentice would result in the movement of an individual who completes the apprenticeship to the title of Assistant Superintendent, Weights and Measures without ever being subjected to the competitive examination process. Thus, the PBA states that the elimination of the competitive testing requirement could lead to political favoritism. Further, it argues that a competitive examination can be developed to test the technical skills required for an apprentice position. Additionally, the PBA states that in the absence of a competitive test, an appointing authority would have no obligation to consider a veteran for the position. Michael

Wilson, State Commander, and Joseph M. Gugliuzza, Legislative Chariman, American Legion, Department of New Jersey, agree with the PBA's position that the proposed reallocation would adversely impact veterans preference and indicate that their organization also opposes the reallocation.

In response, CPM advised the American Legion by letter dated November 25, 2014 that *N.J.A.C.* 4A:5-2.3 requires appointing authorities to give preference to qualified veterans when making non-competitive appointments. Additionally, CPM advises that it attempted to contact counsel for the PBA on several occasions between July 2014 and October 2014 in order to meet and discuss the concerns it raised in its objections to the reallocation, but have not received a response.

CPM states that the changes specified in this title reallocation will become effective beginning on the first pay period following Civil Service Commission (Commission) approval of these actions.

N.J.A.C. 4A:3-1.2 provides, in part, that the Commission may reallocate titles from the competitive to the non-competitive division when competitive testing is not practicable due to the nature of the knowledge, skills, and abilities associated with the job or when certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems and working conditions.

Based on all of the foregoing, ample reasons exist for the reallocation of the subject title to the non-competitive division of the career service. The subject title has no education or experience requirement and only requires a Commercial Driver's License. Previously, the Commission has reallocated other titles to the non-competitive division that have no education or experience requirements, finding that competitive testing is not practicable for these titles or they pose significant recruitment issues due to high turnover rates. See In the Matter of Reallocation of State, Local and Common Titles from the Competitive to the Non-Competitive Division of the Career Service, Phase 3 (CSC, decided February 6, 2013). Additionally, apprentice titles are designed to provide entry level employment to public service. Given the lack of an experience requirement, competitive testing is not practicable particularly since the knowledge, skills, and abilities associated with this apprentice title are evaluated during the mandatory training period. In this regard, appointees would be required to complete both a 36 month training period as well as the required four month (or three month in local service) working test period prior to attaining permanent status. With respect to veterans preference, N.J.S.A. 11A:5-8 and N.J.A.C. 4A:5-2.3 require preference be given to qualified veteran eligibles when making appointments to the non-competitive division unless an appointing authority can show cause before the Commission as to why a veteran should not be appointed. Therefore, due to the nature of the knowledge, skills and abilities associated with this title, competitive testing is not practicable.

#### **ORDER**

Based on all of the above, it is ordered that the Weights and Measures Apprentice title be reallocated to the non-competitive division. It is further ordered that such action be effective December 13, 2014.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON

THE 3<sup>RD</sup> DAY OF DECEMBER, 2014

Robert M. Czech Chairperson

Civil Service Commission

Inquiries

Henry Maurer

and

Director

Correspondence

Division of Appeals and Regulatory Affairs Civil Service Commission Written Record Appeals Unit

P.O. Box 312

Trenton, New Jersey 08625-0312

#### Attachment

c: Kenneth Connolly Bruce Leder, Esq. Michael Wilson Mirella Bednar

All Local Appointing Authorities



## **MEMORANDUM**

DATE:

November 14, 2014

TO:

**Civil Service Commission** 

FROM:

Kenneth Connolly, Director

Classification and Personnel N

SUBJECT:

Change in the Classification Plan

#### **STATE & LOCAL GOVERNMENT**

The Division of Classification and Personnel Management requests a change in the assignment of the class of service of the Common title Weights and Measures Apprentice (04201) from the Competitive division of the Career Service to the Non-Competitive division of the Career Service.

N.J.A.C. 4A:3-1.2(c)1 permits for the reallocation of a job title from the competitive to the non-competitive class of service when competitive testing is not practicable due to the nature of the knowledge, skills or abilities associated with the job. The apprentice title only requires a Commercial Driver's License; there are no experience or education requirements, making competitive testing impracticable.

The changes will become effective at the beginning of the first pay period following Commission approval of these actions. The title will continue to be restricted to the Department of Law & Public Safety in State service.

### **CHANGE IN CLASS OF SERVICE**

FROM:

TO:

Weights and Measures Apprentice FA14-04201 Competitive

Weights and Measures Apprentice FA14-04201 Non-Competitive

KC/JT/BP