



STATE OF NEW JERSEY

In the Matter of the Pemberton
Township Municipal Utilities
Authority

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2024-113

Administrative Appeal

ISSUED: August 23, 2023 (DASV)

Pemberton requests that the former employees of the Pemberton Township Municipal Utilities Authority (PTMUA) be recorded as permanent employees with Pemberton, effective January 1, 2020.

By way of background, Pemberton passed ordinances for the dissolution of the PTMUA, a non-Civil Service agency, effective December 31, 2019, and the “absorption” of its employees in its newly created Sewage Division in its Department of Public Works, effective January 1, 2020. It thereafter requested permanent appointments for the employees, noting that they would serve a three-month working test period prior to becoming permanent pursuant to *N.J.A.C. 4A:4-5.2(b)1*, and indicated that the Local Finance Board also granted approval of the movement. The Division of Agency Services (Agency Services) conducted a review of the position classification of the PTMUA employees and their years of service to determine the proper placement of the employees in Pemberton. As set forth in the attached spreadsheet, Agency Services has proposed appropriate job titles in the career service for each position and presents that all of the PTMUA employees have worked for one year or more with the PTMUA prior to December 31, 2019. Agency Services supports Pemberton’s request and reports that there are no applicable special reemployment lists which would prevent the appointment of the employees.

CONCLUSION

Initially, the Civil Service Commission (Commission) notes that the Legislature made substantial changes to the laws governing the sharing of services and consolidation of local governments. See P.L. 2007, c. 63, P.L. 2013, c.166, and P.L. 2018, c.140. These changes included the repeal of *N.J.S.A. 11A:9-8*, which had stated that “[w]hen the functions of two or more political subdivisions are consolidated, and any one of the political subdivisions shall be operating under [Title 11A, Civil Service Act] at the time of such consolidation, the other political subdivision or subdivisions shall be deemed to have adopted this title with regard to the consolidated functions.” The changes included the enactment of the “Uniform Shared Services and Consolidation Act”(Act), *N.J.S.A. 40A:65-1, et seq.*, which was then supplemented with the “Common Sense Shared Services Pilot Program” (Pilot Program), *N.J.S.A. 40A:65-4.1, et seq.*, that established a pilot program in seven counties to evaluate the efficiencies related to the sharing of services of certain local personnel.

However, the movement of the former PTMUA employees would not be the type of arrangement contemplated by the Act or the Pilot Program. Rather, in this case, the PTMUA was dissolved, and its employees, in essence, simply ceased to be employed with that entity. Thus, the “absorption” of the PTMUA employees into Pemberton constitutes new appointments. Pemberton requests that such appointments be recorded as permanent. In that regard, *N.J.A.C. 4A:4-1.10(c)* provides that “[w]hen a regular appointment has been made, the [Commission] may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.” Further, the method by which an individual can achieve permanent appointment in the competitive division is if the individual applies for and passes an examination, is appointed from an eligible list, and satisfactorily completes a working test period. However, in the present case, it would be inequitable and possibly detrimental for the employees who have all worked in the PTMUA for more than one year to compete in an open competitive examination situation, and conceivably be displaced, in order to secure a position for which they have already clearly demonstrated their merit and fitness to perform.

In these unique circumstances, while *N.J.S.A. 11A:9-9* does not precisely mirror the present situation, its application is instructive. *N.J.S.A. 11A:9-9* provides that “[a]ny employee of a political subdivision who, at the time of adoption of [Title 11A], was actively employed by the political subdivision continuously for a period of at least one year prior to the adoption of [Title 11A], or any employee who was on an approved leave of absence and had at least one year of continuous service with the political subdivision prior to the adoption of [Title 11A], and who comes within the

career service, shall continue to hold such position, and shall not be removed except in accordance with the provisions contained in [Title 11A].” *See also N.J.A.C. 4A:9-1.1(b)*. In the present case, the PTMUA employees have come within the career service by virtue of their agency’s dissolution and the utilization of their positions within Pemberton, a jurisdiction that has adopted Title 11A. Accordingly, under these circumstances, good cause has been presented to grant Pemberton’s request. Therefore, it is ordered that the permanent appointments of the former PTMUA employees be recorded in Pemberton’s Department of Public Works, effective January 1, 2020, without the necessity of a new working test period as the employees have already demonstrated successful performance of the duties of their position by way of their former service with PMTUA.

ORDER

Therefore, it is ordered that this request be granted.

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 23RD DAY OF AUGUST, 2023



Allison Chris Myers
Chairperson
Civil Service Commission

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and
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Attachment

c: David A. Patriarca
Daniel Hornickel
Records Center
Division of Agency Services
Division of Human Resource Information Services

EMPLOYEE NAME	PTMUA Job Title (Old Title)	Township of Pemberton Title (New Title)
Borger, Douglas	Chief Plant Operator	SUPERVISING SEWAGE PLANT OPERATOR/SEWER REPAIRER SUPERVISOR - 06792
Ems, Susan	Lab Supervisor (PT)	PRINCIPAL LABORATORY TECHNICIAN, WATER ANALYSIS - 05450
Grabitz, James	Repairer	SEWER REPAIRER 2 - 03585
Green, Douglas	Senior Repairer	SEWER REPAIRER 2 - 03585
Sechler, Alyssa	Lab Tech/Secretary	LABORATORY TECHNICIAN, WATER ANALYSIS - 05078