

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
EMPLOYMENT RELATIONS COMMISSION

APPROVED MINUTES
REGULAR MEETING OF JUNE 10, 2014
DETROIT, MICHIGAN

The meeting of the Employment Relations Commission was called to order at 9:59 a.m., by the Commission Chair, Edward D. Callaghan, at MERC's Detroit Office, 3026 W. Grand Boulevard, Suite 2-750 in Detroit, Michigan.

Those in attendance: Edward D. Callaghan, Commission Chair; Commissioner Robert S. LaBrant and Commissioner Natalie P. Yaw; Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney; James Spalding, Mediation Supervisor; Micki Czerniak and Sidney McBride, Mediators; Ann Warner and Lisa Lane, Administrative Law Specialists; Denise Hinneburg, Election Officer and Nancy Pitt, Executive Secretary.

Public in Attendance: Attorney Bruce A. Campbell, Wayne County; Dennis Raterink, Attorney General's Office; Mark Cousens of AFT-MI; Tony Marasco, Metro Detroit Bureau of School Studies; Sarah Harwood, Abbott Nicholson, PC; Cliff Hammond, Nemeth Law, PC; Kevin Loftis, POAM; John McGlinchey, City of Lowell; Mark Howe, City of Lowell; Derk Wilcox, Mackinac Center Legal Foundation; Patrick Wright, Mackinac Center Legal Foundation; Brandon Walker, Thrun Law Firm, PC; Christine Gerdes, University of Michigan; Keisha Blevins, University of Michigan and Jack Spencer, Mackinac Center Legal Foundation.

The agenda of the regular MERC meeting of June 10, 2014 was amended to add (1) the reappointment of Commission Chair Callaghan to the Administrative Agenda, (2) Mackinac Center's request seeking promulgation of a new rule was added to New Business and (3) the Closed Session was moved up after the Administrative Agenda. It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to adopt the agenda of the regular MERC meeting of June 10, 2014 as amended. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

Commission Chair Callaghan called for a moment of silence in memory of former Commissioner Harry Bishop, who recently passed.

MINUTES

It was moved by Commissioner Yaw and seconded by Commissioner LaBrant to adopt the minutes of the regular meeting and the minutes of the closed session meeting of May 13, 2014 as proposed. A vote was called on the motion. Edward

D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

DIRECTOR'S REPORT

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. There are 16 Act 312 cases and 31 Fact Finding cases listed on the report.

The Administrative Law Judge Reports were reviewed and discussed.

The Event Report was reviewed.

The Representation and Election Reports were reviewed and discussed. There are 54 new and active cases currently listed on the Representation Case Activity Report.

The Mediation Activities Report was reviewed.

There were no work stoppages to report.

The Appellate Report was reviewed. There are 14 MERC cases currently pending before the Michigan Court of Appeals. The Supreme Court dismissed the application for leave to appeal in the *Wayne County/AFSCME* case pursuant to *Wayne County v Michigan AFSCME Council 25*, Supreme Court No. 148997.

ADMINISTRATIVE AGENDA

New hire Ashley Olszewski, will begin her employment as a paralegal with the agency on June 23, 2014.

Congratulations were extended to Commission Chair Callaghan on his reappointment to a second three-year term expiring June 30, 2017.

Updates were reported by the Director on the significant case report.

An update was reported by Jim Spalding on the MERC Act 12/Fact Finder Constituent Training. The dates for the training have been confirmed for March 26-27, 2015 at the Schoolcraft College Vista Tech Center in Livonia, Michigan. Jim suggested using single rooms each day for the seminars. A half-day session is being planned for Thursday, March 26 for the constituents and a full-day session on Friday, March 27, for Act 312 and Fact Finding. The committee is meeting at the end of the month to work on the agenda and to finalize the program.

The MERC Back to Basics training seminar has been confirmed for August 20, 2014 at the Bank of America Headquarters Building in Troy, Michigan. The

training seminar is being sponsored by the Tony Marasco of the Metro Detroit Bureau of School Studies.

The Commission requested an update at the July 8 MERC meeting from Sidney McBride on the Webinar regarding the MERC Rule Amendments.

Correspondence from Attorney Howard Shifman regarding the Advocates Advisory (General) Committee Recommendations on MERC Panels was shared with the Commission by Director Okun. After review and consideration of the amendment to MERC's Application Policy, it was moved by Commissioner Yaw and seconded by Commissioner LaBrant to adopt the amendment to MERC's Application Policy as read by Director Okun.

To be eligible for placement on the Act 312 panel, an applicant must have (a) conducted hearings in 2 or more Fact Finding cases and (b) issued 2 or more written Fact Finding Reports. Failure to meet these requirements does not preclude parties from stipulating to the appointment of an individual to act as their Act 312 Chairperson. The Commission may waive this requirement for reasons stated on the record based on the applicant's extensive experience and/or background; the applicant's ineligibility to be placed on the Fact Finding panel because of prior State employment, or; other extraordinary reasons.

A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

Commissioner LaBrant stated that he disagrees with recommendation #2 - the Open Meetings Act Amendment.

Commission Chair Callaghan requested that the Rules be examined in reference to recommendation #3(e), the application of a 180 day limit opposed to a 90 day limit on Fact Finding matters.

The next regular MERC meeting is scheduled for Tuesday, July 8, 2014 at 10:00 a.m., at the State of Michigan Library and Historical Center, Lake Superior Room, 720 W. Kalamazoo, Lansing, Michigan.

Commission Chair Callaghan requested to reschedule the October 14 meeting to October 7, 2014.

Pending Litigation (closed session)

The Commission called for a closed session at 10:30 a.m. Updates were provided by Dennis Raterink, Assistant Attorney General regarding pending litigation cases involving the Commission including Lansing School District, *Alex Toth, et al v Callaghan, et al v Callaghan, et al*, Case No. 13-cv-10557; Teamsters, Local 214 RTW cases; the City of Detroit bankruptcy and the City of Detroit Water & Sewerage Department.

The Commission moved to return to Open Session at 10:49 a.m.

DECISIONAL AGENDA

The Commission decided the following matters:

1. ***Macomb County Juvenile Justice Center -and- Christine Peltier***, Case No. C07 F-122.
2. ***University of Michigan -and- Graduate Employees Organization/AFT***, Case No. R11 D-034.
3. ***Wayne County -and- AFSCME Council 25, AFL-CIO***, Case No. C10 A-024A.

The Commission discussed the following matters:

1. ***City of Lowell -and- Int'l Brotherhood of Electrical Workers (IBEW), Local Union 876***, Case No. C13 C-050.

The matter is tabled to the July 8 MERC meeting pending further review by the Commission.

2. ***Macomb County -and- Michigan AFSCME Council 25, AFL-CIO, and Its Affiliated Local 411***, Case No. C11 L-215.

The matter is tabled to the July 8 MERC meeting pending further review by the Commission.

NEW BUSINESS

The Department of Treasury Emergency manager/DEP Information and the Deficit School District list were reviewed. There are 12 municipalities with an EM; 5 K-12 districts with an EM; 45 remain in deficit and 10 districts projected to be out of deficit by the end of June, 2014.

Sidney McBride provided an update on the May 2014 Dashboard Project. Kudos was extended to the staff for their hard work.

The Commission reviewed the Mackinac Center's request, with MERC, pursuant to MCL 24.238, seeking promulgation of a new rule to require certain public sector unions to notify members about their opt-out rights and to specifically require that the unions give members three weeks' notice in advance of the annual registration period. There was discussion by the Commission regarding the process. The matter is tabled to the July 8 MERC meeting and FTW Specialist Lisa Lane has been requested to submit a recommendation regarding the matter at that time.

OLD BUSINESS

Sidney McBride reported that the General Rules and Act 312 Rules are being submitted to the Legislative Service Bureau for formal certification prior to being sent to Joint Committee Administrative Rules. He stated that we are in the last two stages of the process.

Denise Hinneburg reported on the audits of unions representing public sector employees. Currently 546 audits have been posted. In 2012 761 union audits were filed and in 2013 543 union audits were filed. Denise and Tracy Marr were recognized for their efforts on the union audit project. Commission Chair Callaghan requested an update of the audits at the July 8 MERC meeting.

PUBLIC COMMENT

There were comments from Attorney Mark Cousens regarding the University of Michigan case.

ADJOURNMENT

There being no further business before the Commission at this time, Commissioner Yaw moved that the meeting be adjourned at 11:16 a.m. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

