

**State of Michigan
CIVIL SERVICE COMMISSION
Public Meeting
February 10, 2010**

Present: Sherry L. McMillan, Chair
Andrew P. Abood, Commissioner
Kelly G. Keenan, Commissioner
Thomas M. Wardrop, Commissioner
Jeremy S. Stephens, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by Chair, Sherry McMillan, at 10:29 a.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

a. Approval of Minutes

Chair Sherry McMillan requested a motion to approve the minutes of the September 23, 2009 meeting. On motion duly made and supported, the Commission approved the minutes of the September 23, 2009, meeting.

b. Retirement Resolutions

On a motion duly made and supported the following Retirement Resolutions were adopted:

Derrick Barber
Connie Behm
Debbie Cord
Evelyn Fratzke
Michael Gailey
Crystal Ley
Joylene Price
Susan Prudden
Roger Tijerina
Jean Wangler
Maria Zinn

2. AMENDMENTS TO AGENDA

3. INFORMATIONAL REPORTS

- a. **Director's Report:** The Commission received the following report from State Personnel Director, Jeremy S. Stephens.

Unclassified Position Report

Since the last report, the following approvals were processed:

Department of Attorney General

A request dated October 14, 2009, to serve as a Special Assistant to the Attorney General. Concurrently, the vacated Special Assistant to the Attorney General position was abolished. The request was approved effective October 14, 2009.

A request dated November 5, 2009, to serve as a Chief Administration Officer. Concurrently, the position of Senior Advisor was abolished. The request was approved effective November 1, 2009.

Department of Treasury

A request dated January 6, 2010, to serve as the Racing Manager under the Michigan Gaming Control Board. Concurrently, the Deputy State Treasurer for Programs position was abolished. The request was approved effective December 27, 2009.

Regulations

Civil Service Commission Rules require that the State Personnel Director report to the Commission on the promulgation of regulations, which are issued to further implement Commission rules.

Regulation 5.07, Performance-Pay Programs (effective October 1, 2009)

This regulation has been updated to reflect changes to Standard C.8 with regard to fiscal year 09-10 limits. This provision prohibits performance-pay increases to be awarded or approved and was extended from the previous September 30, 2009 ending date to October 1, 2009 through September 30, 2010. The effective date for this regulation was October 1, 2009.

Regulation 3.14, State Transitional Designation and Appointments, and 2.01, Implementing a Reduction In Force For Nonexclusively Represented Employees (effective December 2, 2009)

Regulation 3.14 reflects amendments to the amount of time required in the transitional period before removal of the transitional designation for transitional professional and transitional manager positions. Additionally, time required for crediting experience for credential review purposes has been adjusted for transitional professional positions. Further, SEMA job classifications for appointments to professional P11, 12 and 13-level job classifications are now addressed separately for greater clarification.

As a result of the amendments to Regulation 3.14, it also was determined that sections b., c. and d. of Standard D. of Regulation 2.01, Implementing A Reduction In Force For Nonexclusively Represented Employees, are no longer needed and have been deleted. The effective date for this regulation was December 2, 2009.

Regulation 2.03, Leaves of Absence (effective January 10, 2010)

This regulation reflects amendments changing eligibility criteria for qualifying exigency and covered service member leaves. These amendments are the result of the new federal FMLA provisions in the 2010 National Defense Authorization Act. Definitions for “covered service member” and “FMLA leave of absence” have been revised, and “covered active duty” and “veteran” have been added. The effective date for this regulation was January 15, 2010.

4. UNFINISHED BUSINESS

There was no unfinished business.

5. NEW BUSINESS

a. Civil Service Commission Financial Reports

Certificate of Payroll FY 2009 and Budget FY 2010

Ms. Carol Vargovich, Director, Budget & Financial Services Division, addressed the Commission regarding the financial summary of FY09, the Certificate of Payroll and appropriation adjustments that were made for FY10 operating budget. A decrease in FY10 budget is primarily a result of statewide general fund reduction requirements. As a result, the Commission decreased its budget for funding associated with CSS&M savings and vacancies attributable to attrition. The aggregate payroll for the classified service from October 1, 2008 through September 30, 2009 is \$4,781,203,263.

On motion duly made and supported, Resolution 2010-01 and Resolution 2010-02 were approved.

b. Secondary Agreement housekeeping changes to Article 13 – Section A.8, Definition/Work Site between UAW and Department of Community Health

General Counsel D. Daniel McLellan stated that the proposed amendments correct the work site definitions in Article 13, §A.8. Staff has reviewed the proposed amendments and has not identified any violations of the Commission’s rules on prohibited subjects of bargaining.

On motion duly made and supported, Item 5b., DCH-UAW Secondary Agreement amendments were approved.

c. Letter of Understanding (LOU) between OSE and SEIU, MPE on Bumping and Recall for Probationary Employees (interim approval granted)

General Counsel D. Daniel McLellan addressed the commission regarding the LOU between OSE and SEIU, MPE on bumping and recall for probationary employees.

On motion duly made and supported, the LOU between OSE and the SEIU was approved.

d. Memorandum of Understanding (MOU) between CSC and DMB on Retiree Health Benefits (interim approval granted)

General Counsel D. Daniel McLellan addressed the commission regarding the MOU between CSC and DMB which returns retirees to a Medicare Supplemental plan, effective January 1, 2010.

On motion duly made and supported, the MOU between CSC and DMB was approved.

e. Memorandum of Understanding (MOU) between OSE and SEIU, 517M regarding Contract Extension, Temporary Layoffs, Banked Leave Time, New State Health Plan, E-mail, Grievance Representation, Travel Reimbursement, and Voluntary Work Schedules (interim approval granted).

General Counsel D. Daniel McLellan addressed the Commission regarding the MOU between OSE and SEIU 517M which amends the current collective bargaining agreement for reducing temporary layoff days from 6 to 4, requires 34 hours of banked leave time, provides for a new state health plan for new hires effective April 1, 2010, and some other miscellaneous items. The MOU also provides for an extension to the CBA from January 1, 2011 to December 31, 2011. [Economics October 1, 2011 to September 30, 2012]

Director Sharon Bommarito, Office of the State Employer and Deputy State Budget Director Nancy Duncan, addressed the Commission to support the negotiated settlements with projected budgetary savings of \$51 million for the FY11 budget.

Commissioner Sherry McMillan questioned whether efforts are being made to open contracts for negotiation given the shortfall anticipated with the current contract which includes a 3% increase in FY11 and the MOU includes an extension of the contract for FY12. Director Bommarito indicated that the 3% had already been approved and included in the budget and because negotiations were continuing she could not comment.

On motion duly made and supported, Resolution 2010-03 for the MOU excluding the extensions was approved.

On a separate motion duly made and supported, Resolutions 2010-04, 05, and 06 regarding the extension of the contract were approved.

f. Memorandum of Understanding (MOU) between OSE and MCO for employees in the Security Unit regarding Contract Extension, New State Health Plan, Banked Leave Time, Compensatory Time, Sick Leave/Overtime Reduction Pilot Program, and Administrative Leave Bank

General Counsel D. Daniel McLellan addressed the commission regarding the MOU between OSE and MCO which amends the current collective bargaining agreement for requiring 3 hours of banked leave time, provides for a new state health plan for new hires effective April 1, 2010, increases compensatory time accrual cap from 150 hours to 200 hours and some other miscellaneous items. The MOU also provides for

an extension to the CBA from January 1, 2011 to December 31, 2011 [Economics October 1, 2011 to September 30, 2012].

Director Sharon Bommarito, Office of the State Employer, addressed the Commission and urged the Commission's approval of the MOU which would assume MCO's portion of employee savings of \$8.2 million for the FY10 budget.

On motion duly made and supported, Resolution 2010-07 for the MOU excluding the extensions was approved.

On a separate motion duly made and supported, Resolutions 2010-08 regarding the extension of the contract was approved.

g. Amendments to Rule 5-10.3, Banked Leave Time for NERE and MSC Employees

General Counsel D. Daniel McLellan addressed the Commission regarding amendment to Rule 5-10.3, Banked Leave Time, which requires non-exclusively represented employees (NEREs), and managers, supervisors, and confidential (MSC) employees to take 28 hours of banked leave time between February 21, 2010 and September 4, 2010. Part time employees would be required to take a prorated amount of banked leave time.

Director Sharon Bommarito, Office of the State Employer, addressed the Commission and urged the Commission's approval of amendments to Rule 5-10.3 which provides for the NEREs share of employee savings of approximately \$14.4 million for the FY10 budget.

On motion duly made and supported, Resolution 2010-09 regarding banked leave time was approved.

h. Amendment to Rule 5-11, New State Health Plan for new NERE and MSC employees

General Counsel D. Daniel McLellan addressed the Commission regarding the request from Director Sharon Bommarito, Office of the State Employer, to approve a new state health plan for all non-exclusively represented employees (NEREs), and manager, supervisory, and confidential (MSC) employees hired after April 1, 2010.

Director Sharon Bommarito, Office of the State Employer, addressed the Commission and urged the Commission's approval to amend Rule 5-11. Director Bommarito indicated this new plan will help the state address health care costs by increasing employees' premium share and increasing drug co-pays, deductibles and office co-pays, co-insurance and out-of-pocket maximum expenses.

Mr. Dale Threehouse, President, of the Michigan Association of Governmental Employees (MAGE), representing managers and supervisors in state government, addressed the Commission regarding his concern for incentives for new state employees. He asked that the Commission and the Office State Employer look at a provision for new employees who after 5-10 years of service would have the opportunity to move to the richer plan as an incentive to retain those employees as they build a career within state government.

On motion duly made and supported, Resolution 2010-10 regarding the new state health plan for NEREs was approved.

i. Coordinated Compensation Panel Recommendations – FY 2011

Mr. Matthew Fedorchuk, Director, Office of Classifications, Selections & Compensation, presented the recommendations contained in the proposed Coordinated Compensation Panel (CCP) for FY11 that was developed by the members of the Employment Relations Board, serving as the CCP under Civil Service Rule 5-1.3.

The Panel recommended Commission approval of the following for FY11:

- A three percent across-the-board pay increase effective October 1, 2010.

The Panel recommended denial of the following:

- Requests by ASEM and Allen Williams to reform the pay-for-performance program for Group 4 employees.

The Panel also recommended that the Commission take no action on the following proposals:

- Request by MAGE to allow shift preference for Corrections Shift Supervisors based on seniority.
- Requests by Allen Williams to discontinue frozen classification of positions and to credit as concessions the amount of pay increases unavailable for pay-for-performance classes because of recent pay freezes.

The Panel also recommended that the Commission also direct the State Personnel Director to undertake a comprehensive review of the pay-for-performance system and propose improvements to the current system.

Deputy State Budget Director Nancy Duncan addressed the Commission and provided budgetary information on the general fund's revenue decline and the continued budgetary challenge that Michigan faces for FY 10-11. Copies of the budgetary information provided to the Commissioners from Deputy Director Duncan are on file as part of this record.

Director Sharon Bommarito, Office of the State Employer, addressed the Commission opposing the CCP recommendation. Ms. Bommarito stated that due to projected deficits for FY11 and FY12, the administration cannot support the consensus agreement signed in 2007 for FY11, and therefore, cannot support the three percent increase due to the change in circumstances since 2007. Copies of the OSE position relative to the CCP panel process for managers, supervisors, and confidential employees and for non-exclusively represented employees are on file as part of this record.

Mr. Dale Threehouse and Alan Quattrin, of MAGE, addressed the Commission regarding their position on the voluntary agreement between OSE, MAGE and the other labor relations organizations which provides for the three percent increase. They further discussed their ongoing concerns regarding pay compression issues previously brought to the Commission, and that not granting the three percent increase will further exacerbate the problem. MAGE requested the Commission to support the CCP recommendation.

Attorney Brandon Zuk, Counsel for Michigan Association of Governmental Employees (MAGE), spoke in opposition of OSE's position due to the breach of contractual commitment made by OSE with the LROs in 2007. Mr. Zuk reiterated that one significant aspect of the CCP recommendation is that the Commission in the past recognized the necessity of equity in its consideration for NEREs and that past concessions were spread equitably across the board. MAGE requested the Commission to consider equity as a factor in granting the three percent increase to NEREs as it had previously been agreed to by OSE with other collective bargaining agreements.

Commissioner Wardrop referenced paged 8 of the Coordinated Compensation Panel recommendation whereas the Panel stated that "given the economic crisis, raises for any classified employees are not justified. The drafters of the Constitution have provided a method for the equitable rescission of pay increases for civil servants by legislative action."

Department of Corrections employees, Lieutenant Randy Winn, Lieutenant Joseph Horning, and Sergeant Richard Koch, MAGE members, addressed the Commission individually in support of the three percent increase for NEREs, asking the Commission for what is fair and equitable and what was agreed to in 2007.

Attorney Robert Huber, representing Association of State Employees in Management (ASEM), addressed the Commission in opposition of the position of the State Employer. Mr. Huber requested the Commission favorably consider the recommendations of the CCP by granting the three percent increase previously agreed to by OSE in a consensus agreement in 2007, to reform the pay-for-performance program for group four employees, and to also increase the annual leave payout at time of separation from state employment.

NERE employees, Allen Williams, Stephen Gobbo, Thomas Welch and Daphne Johnson also addressed the Commission in their support for the three percent increase, and also a recommendation was made in support for a review of the pay-for-performance system.

A motion to approve the CCP recommendation excluding the three percent increase was made and supported 3-1, with Commissioner Keenan in opposition.

A second motion to approve the recommendation of the CCP to award NEREs a three percent increase for FY11 was made. The motion failed 2-2 with Commissioners Wardrop and Keenan in opposition.

j. Unclassified Pay Recommendations – FY 2011

Mr. Fedorchuk presented staff's proposal for the annual unclassified pay recommendation required under Article XI, Section 5 of the Michigan Constitution.

A survey of department director salaries in large states was conducted by staff, and information on Michigan county official and university president salaries was compiled. The salary levels of Michigan elected officials and classified deputy department directors was also reported.

Based on the data provided, and CSC earlier action, staff recommended a zero percent increase for FY11.

On motion duly made and supported, the Commission approved the unclassified pay recommendation for FY11.

6. PUBLIC COMMENT

Arthur Andrews, Employment Consultant Services, addressed the Commission regarding his recommended proposal to amend Rule 6-5.4 and Regulation 8.01 to provide non-exclusively represented classified employees with an additional representation option at disciplinary conferences, technical fact-finding hearings, grievances conferences and grievance appeal hearings. Mr. Andrews asked the Commission for a formal review of his proposal.

Shirley Diamond Hollton addressed the Commission regarding an employment sanction received. General Counsel McLellan advised Ms. Hollton that staff would meet with her to discuss her options in the appeal process to determine if other steps are available to her.

7. COMMISSION APPEALS

In a closed session the Commission considered 27 recommended decisions of the Employment Relations Board (ERB). Copies of the review sheets indicating the Commission's actions on these decisions are on file with the Civil Service Commission.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chair McMillan adjourned the meeting at 12:42 p.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Civil Service Commission, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at 517-373-3020.

I, Jeremy Stephens, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission meeting of February 10, 2010.

State Personnel Director