

MICHIGAN CIVIL SERVICE COMMISSION
Public Meeting
September 17, 2014

Present: Thomas M. Wardrop, Chair
James Barrett, Commissioner
Charles Blockett, Jr., Commissioner
Robert W. Swanson, Commissioner
Janet McClelland, Acting State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission (Commission) was opened by Chair Thomas M. Wardrop at 10:14 a.m., in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

Approval of Minutes

Chair Wardrop requested a motion to approve the minutes of the May 7, 2014 meeting. On motion duly made and supported, the minutes of the May 7, 2014 Civil Service Commission meeting were approved.

2. AMENDMENTS TO AGENDA

Commissioner Blockett made a motion to move Item 5.D. to 5.A. on the Agenda and to add 5.G., Chapter 7 Rules. The amendments were adopted.

3. INFORMATIONAL REPORTS

State Personnel Director's Report

The Commission received the following report from Acting State Personnel Director Janet McClelland.

Unclassified Positions Report

Department of Technology, Management and Budget

On June 16, 2014, a request was received to establish an exempt unclassified position to serve as the Director of the Office of Children's Ombudsman with the vacant Public Information Officer concurrently abolished. This request was approved effective June 8, 2014.

On August 7, 2014, a request was received to establish an exempt unclassified position which will serve as the Enterprise Procurement Director. This request was approved effective September 1, 2014.

Department of Transportation

On July 2, 2014, a request was received to establish two exempt unclassified positions which will serve as the Commission and Governmental Affairs Advisor and the Legislative and

Constituent Advisor. Concurrently, the position of Commission Advisor and Office of Governmental Affairs Director will be abolished. This request was approved for the Commission and Governmental Affairs Advisor with an effective date of March 2, 2014 and for the Legislative and Constituent Advisor with an effective date of June 22, 2014.

4. UNFINISHED BUSINESS

There was no unfinished business.

5. NEW BUSINESS

A. Memorandum of Understanding (MOU) on Retiree Health Benefits (Interim Approval Granted)

General Counsel John Gnodtke stated that Agenda Item 5.A. is an interagency Memorandum of Understanding between the Department of Technology, Management and Budget (DTMB) and the Civil Service Commission. Earlier this year, the Commission approved insurance plan changes for active employees. Under the State Employees' Retirement Act, the DTMB Director and Commission authorize any changes to plans offered to retirees. After discussions, an MOU to adopt most of the changes that were made for active employees' health benefits was reached. Interim approval was granted by the Acting State Personnel Director with the consent of the Chair.

Bob Kopasz, Chair of the State Employee Retirees Association (SERA), reviewed what has been accomplished over the last few months with the Office of the State Employer (OSE) and the Employee Benefits Division (EBD) regarding Retiree Health Benefits. While retirees are not necessarily happy with the outcome, Mr. Kopasz stated that retirees have traditionally tracked what active employees have received. Mr. Kopasz stated that SERA will continue to meet with OSE and EBD to look at ways to adapt the retiree health plans to save the state and retirees money.

Jan Winters, Office of the State Employer Director, followed up on Mr. Kopasz's comments. A series of meetings took place on the needed changes, the reasons, and the costs associated with increased health care costs. OSE is very interested in continuing discussions with SERA. Ms. Winters mentioned several ways that retirees are informed of changes in health care benefits. The OSE wanted the Commission to know that they fully support continued meetings with SERA.

Commissioner Swanson stated in the interest of full disclosure, that as a retired state employee the MOU has a direct impact on him. Commissioner Blockett also indicated that he is a retired state employee.

On motion duly made and supported to approve Agenda Item 5.A., the Memorandum of Understanding on Retiree Health Benefits, the motion was unanimously approved.

B. Proposed Fiscal Year 2016 Travel Rates

Ronda Whiting from the Department of Technology, Management, and Budget (DTMB) stated that the rates submitted to the Commission for FY 2016 reflect no changes in hotel or meal rates. DTMB requests approval now to allow departments time to budget for travel. The premium mileage, which is indexed to the IRS standard business rate, will change based on the methodology approved and the standard mileage rate will also change based on the State's mid-sized car cost.

On motion duly made and supported to approve Agenda Item 5.B., Proposed Fiscal Year 2016 Travel Rates, the motion was unanimously approved.

C. Letter of Understanding (LOU) between OSE and MCO (Interim Approval Granted)

General Counsel John Gnodtke stated that Agenda Item 5.C. is a Letter of Understanding between OSE and MCO involving implementation of a 12-hour shift pilot program at the St. Louis Correctional Facility. Similar LOUs have been approved by the Commission for other pilots. The LOU was granted interim approval by the Acting State Personnel Director with consent of the Chair.

On motion duly made and supported to approve Agenda Item 5.C., Letter of Understanding between OSE and MCO, the motion was unanimously approved.

D. Letters of Understanding (LOUs) between OSE and UAW (Interim Approval Granted)

General Counsel John Gnodtke stated that Agenda Item 5.D. is two Letters of Understanding between OSE and UAW both involving overtime procedures; one related to Probationary Emergency Dispatchers and the other related to clearing a backlog in a program area. Both LOUs were granted interim approval by the Acting State Personnel Director with consent of the Chair.

On motion duly made and supported to approve Agenda Item 5.D., Letters of Understanding between OSE and UAW, the motion was unanimously approved.

E. Secondary Agreements (Interim Approval Granted)

Assistant General Counsel Nicholas Kechkaylo mentioned that last year the Commission extended all secondary agreements for one year after approving new primary agreements. Since the Commission's last meeting, 14 secondary agreements have been received and granted interim approval by the Acting State Personnel director with the consent of the Chair. Staff has reviewed the agreements and found no prohibited subjects of bargaining implicated.

On motion duly made and supported to approve Agenda Item 5.E., Secondary Agreements, the motion was unanimously approved.

F. Pay Increases effective September 1, 2014 (Interim Approval Granted)

General Counsel John Gnodtke stated that Agenda Item 5.F. Pay Increases effective September 1, 2014, increases the minimum hourly compensation for five state classifications to \$8.15. The state's minimum wage act had been amended to increase the minimum wage to that amount on that date. Interim approval granted the pay increases for those 5 classifications.

On motion duly made and supported to approve Agenda Item 5.F., Pay Increases effective September 1, 2014, the motion was unanimously approved.

G. Chapter 7 Rules

Commissioner Blockett indicated that he had been a state employee for 33 years and that approval of contracts is one core reason that the Commission was established, to assure a quality work force and protect the merit system. The state has a competent and dedicated workforce by design. Commissioner Blockett commented that in the past Michigan was recognized as having one of the strongest merit systems in the nation. He stated his objection to contracting out several hundred aide positions at the Grand Rapids Home for Veterans and food-service positions at prisons based on cost savings with no consideration to the quality of the work or public health and safety. Previous commissions have said repeatedly that the contractual services process needed to be reviewed. In 1988, the Citizens Review Committee specifically recommended that the Commission be more involved in the process. He concluded that the Standards should be revised. Commissioner Blockett moved:

That a Civil Service work group be appointed to review the current system to approve requests for contractual personal services in Chapter 7 of the Rules and report back to the Commission by its December meeting.

Commissioner Swanson seconded the motion.

Commissioner Barrett asked Janet McClelland if cost alone is the basis for contracting out public services, what savings were associated with the two Departments noted by Commissioner Blockett, and what percentage of the state workforce has been affected by contracting out. Ms. McClelland responded that there are four standards for contracting out: (1) temporary and intermittent work, (2) work uncommon to the classified workforce, (3) equipment and facilities not reasonably available to the agency, and (4) Standard D for cost savings. While she did not have the exact savings for the DMVA and DOC disbursements, she indicated that they were around 40% and 20%, respectively. The percent of the 49,000-member state workforce affected is very small, with very few Standard D requests approved involving layoffs.

Commissioner Blockett emphasized that over the last two years there have been three times more employees laid off due to contracting out than in the previous 16 years.

Commissioner Swanson stated his agreement with Commissioner Blockett that the current standards, particularly Standard D, are not adequate and complete.

Chair Wardrop called the question.

Commissioner Barrett – Nay
Commissioner Swanson – Yea
Commissioner Blockett – Yea
Chair Wardrop – Nay

The motion failed.

6. PUBLIC COMMENT

Nick Ciaramitaro, Director of Legislation and Public Policy for Michigan AFSCME Council 25 and MSEA AFSCME Local 5, expressed his disappointment with the refusal to form a work group to review the rules on contracting out services. Mr. Ciaramitaro indicated his belief that J2S and Aramark have demonstrated an unwillingness to provide quality services. At the

Grand Rapids Home for Veterans, J2S has faced continued staffing shortages resulting in overworked staff, insufficient number of staff, shorted paychecks, staff unrest and turnover, and untrained employees assuming full work responsibilities. All these issues can result in neglected veterans. Mr. Ciaramitaro stated that Aramark has failed to properly perform the requirements of its contract and that Aramark employees are not vetted for potential conflicts or tested for competency. Mr. Ciaramitaro reiterated his request that the Commission establish a work group to examine and debate the question of outsourcing and the roll of the Commission, and any needed changes.

Jim Dunn, Deputy Director of the Michigan Veteran's Affairs Agency, oversees the Grand Rapids Home for Veterans. Mr. Dunn addressed Mr. Ciaramitaro's comments. Mr. Dunn stated that while some staff shortages occurred as happens at any 24/7 facility, J2S has mandated employees to stay on for less than 2% of its hours of service. This is common in the industry. Mr. Dunn assured the Commission that the Director of Nursing reviews the shifts every week and the number of people on those shifts. There is no reason to believe that J2S submitted false figures or the implication that J2S employees were allowed to work a 24-hour shift. Mr. Dunn noted that in the year after J2S replaced the state employee aides, the number of residents reporting bedsores dropped 50%, which is inconsistent with allegations of neglect. Mr. Dunn has spent hours discussing with the legislature the issue of complaints and has met with people at the Home to develop a better complaint process. Mr. Dunn assured the Commission that quality care is being provided.

Leno Pretto, Member of the Board of Managers for the Grand Rapids Veterans Home, suggested that if Mr. Ciaramitaro's intent is to resolve issues, then the issues should be raised at the home and not brought to meetings such as the Commission meeting much later.

Dr. L. J. Padula, Ph.D., a psychologist at Walter Reuther Psychiatric Hospital (WRPH) stated his understanding that the Department of Community Health has submitted a notice to outsource psychiatric services. At WRPH, about half the patients are incompetent to stand trial on criminal charges or have been adjudicated not guilty by reason of insanity. The hospital has used many medical extenders instead of filling positions with psychiatrists. Dr. Padula believes that contractual psychiatrists tend to have higher turnover and more absences with a lower standard of care and he is concerned because patients need the stability of a relationship with psychiatrists. Providers that are not skilled and experienced as psycho-diagnosticians or with prescribing medications would be detrimental to patients and dangerous to public safety. Dr. Padula asked the Commission to look at not only monetary concerns but also public safety and quality of care.

State Representative Scott Dianda expressed his concern about public safety due to contracting out food service in the prisons. He mentioned the problem of narcotics coming into prisons and expressed his opinion that inmates, employees, and the local community are at risk because of this situation. He stated that many individuals have been negatively affected economically by the Aramark contract. In addition, he commented that he has constituents who have not received the severance pay to which they are entitled. Representative Dianda asked the Commission to consider establishing an independent committee to review the rules on contracting out personal services.

John Eck addressed the Commission on behalf of SEIU members at the Michigan Department of Transportation (MDOT). Mr. Eck has been an employee with MDOT for 30 years and has actively opposed contracting out. Mr. Eck stated that in the past MDOT contracted out work requiring skills that were specialized or technically unique skills. Since 1996, MDOT requested blanket authorization approvals from Civil Service under Standard A for services that are temporary, intermittent, or irregular. Further, Mr. Eck stated that the current 300 vacant

positions could be filled to save money by reducing use of contract workers. After reviewing some exhibits, Mr. Eck asked the Commission to form a taskforce to review its rules, including reviewing all disbursements under Standards A and D, discontinuing the practice of extending existing CS-138s to increase their dollar amount or length, discontinuing the approval of CS-138s with open dollar amounts, and increasing Civil Service staff who review applications and limiting their reliance on the requesting Department's staff to justify the need.

Greg Johnson, Chief Operations Officer for MDOT, and Myron Frierson, Director of the Bureau of Finance for MDOT, addressed the Commission. Mr. Johnson discussed how MDOT conducts its business. The dollar amount that MDOT contracts out each year varies. This year \$111 million has been contracted out, but no MDOT employees have been displaced. MDOT contracts out less work compared to 10 years ago. MDOT's financial situation has been variable and uncertain for many years. Savings from some vacancies help MDOT receive federal aid. Mr. Johnson also stated that data provided by unions did not contain appropriate employee costs to make an accurate comparison. When correct figures are compared, consultants are comparable to the overall cost for technicians. Mr. Johnson indicated that MDOT has not laid off any permanent employees in the 25 years he has worked at MDOT because it keeps employees for base programs rather than matching peaks based on bonding or one-time dollars. Mr. Johnson also discussed how technological advances have changed how MDOT conducts business, making the work process more efficient and effective. Mr. Frierson confirmed that MDOT's financial situation varied from year to year.

Commissioner Swanson asked if personal contract employees commonly earn more than state employees. Mr. Frierson responded that it varies by classification but some personal contract employees receive more money and some less.

Jeremy Tripp, Deputy of Government Affairs, Michigan Corrections Organization, stated his disappointment that the Commission did not create a work group because one is needed for the inclusion of quality. Since the beginning of its contract, Aramark has continually served poor food quality, had food shortages, and made costly substitutions. Aramark employees' offenses include not showing up for work, overfamiliarity with inmates, and drug smuggling. Mr. Tripp asked the Commission to reconsider its decision on creating a work group.

Russ Marlan, former Administrator of the Executive Bureau of the Department of Corrections (DOC), stated that over the last few months he has recapped the history of contracting out of food services. A request for proposal was sent out to operate food services in the DOC. The savings required under Standard D was satisfied, a vendor was selected, and Aramark began on December 8, 2013.

Commissioner Barrett asked Mr. Marlan to respond to the comment about drugs being brought into correctional facilities compared to the past. Mr. Marlan indicated that drugs have come into the prison by classified and contractual employees. Since January 2012, there have been ten instances of state employees investigated for bringing contraband into the prison and two Aramark employees.

Commissioner Swanson asked Mr. Marlan about the \$98,000 fine that was suspended and why the Commission was not informed about that suspension. Commissioner Swanson stated that in March the DOC described its concerns and the corrective actions the DOC was taking to remedy the situation without mentioning the suspension. Mr. Marlan responded that the contract allows imposing fines at the discretion of the Director of DOC, but that the DOC's overall strategy is that it wants Aramark to comply with the contract. Fines are not used to punish but to force the vendor into compliance. There was not a formal letter issued to

Aramark on suspending the fine. After the Director's conversation with Aramark, he felt the plan was adequate and was comfortable suspending the fine.

Chair Wardrop asked Mr. Marlan how many fines have been imposed. Mr. Marlan stated that three fines had been imposed. The \$98,000 was comprised of two parts and the second fine imposed last month was \$200,000 and is taken out of Aramark's billing.

Chair Wardrop asked General Counsel Gnodtke if Civil Service had control over the Aramark contract. Mr. Gnodtke responded that the Commission approves the disbursement of funds for personal services. Historically, the Commission has not been involved in the review and approval of contracts.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chair Wardrop called for a motion to adjourn. On motion duly made and supported, the meeting was adjourned at 12:02 p.m.

I, Janet McClelland, Acting State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission meeting of September 17, 2014.



Janet McClelland
Acting State Personnel Director