

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Classification, Services, and Compensation

Compensation

State Payroll Certifications

Selection and Appointment

Approval of Appointments by Civil Service Commission

Proposed Amendments: N.J.A.C. 4A:3-4.1 and 4A:4-1.10

Authorized By: Civil Service Commission, Robert M. Czech, Chair/CEO.

Authority: N.J.S.A. 11A:2-6(d), 11A:3-1 et seq., and 11A:4-1 et seq.; and P.L. 2008, c. 29.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-122.

A **public hearing** concerning the proposed amendments will be held on:

Tuesday, September 25, 2012 at 3:00 P.M.

Civil Service Commission Room

44 South Clinton Avenue

Trenton, New Jersey

Please call Elizabeth Rosenthal at (609) 984-7140 if you wish to be included on the list of speakers.

Submit written comments by November 3, 2012 to:

Henry Maurer, Director
Merit System Practices and Labor Relations
Civil Service Commission
P.O. Box 312
Trenton, NJ 08625-0312

Summary

In *In the Matter of State Payroll Certifications* (Docket No. 2012-3147, decided 5/16/12), the Civil Service Commission directed that State appointing authorities continue to certify State payrolls, but only under present statutory authority, as the certifications up to that time were still referencing repealed laws. The Commission noted that this may be done electronically, although the certification documents must be signed by the appointing authority or designee. Additionally, the Commission stated that it would propose an appropriate rule to clarify and codify the requirement that State appointing authorities certify payrolls.

Accordingly, the Commission proposes amendments to N.J.A.C. 4A:3-4.1, General provisions; and N.J.A.C. 4A:4-1.10, Approval of appointments by Department of Personnel. New N.J.A.C. 4A:3-4.1(b)1 is proposed which would provide that, in State service, the appointing authority or designee shall sign the certification documents submitted to the Centralized Payroll Unit, Department of the Treasury. Proposed new paragraph (b)1 would further require that the appointing authority certify that all persons on the payroll have rendered services for the benefit of the State, in the positions shown and for the time period indicated,

for which funds are available. The certification would also provide that the formal approval of the employment of these persons has been or is in the process of being secured from the Civil Service Commission and the Department of the Treasury. Proposed new paragraph (b)1 would additionally provide a cross-reference to N.J.A.C. 4A:4-1.10, regarding Commission approval of appointments.

N.J.A.C. 4A:3-4.1 would also be amended to reflect the provisions of P.L. 2008, c. 29. Pursuant to that law, the Department of Personnel was abolished and replaced with the Civil Service Commission, a State agency in, but not of, the Department of Labor and Workforce Development. The law also provided that the Commissioner of Personnel be replaced by Chairperson of the Civil Service Commission. Therefore, paragraph (a)1 would be amended to state that a local appointing authority shall provide to an appropriate representative of the Civil Service Commission, rather than the Department of Personnel, a current copy of the local appointing authority's compensation plan. Paragraph (a)3, which permits a local appointing authority to request information and technical assistance from the Department of Personnel, would be amended to refer instead to an appropriate representative of the Civil Service Commission. Moreover, subsection (b) would be amended to replace references to the Department of Personnel and the "Commissioner or Board" to an appropriate representative of the Civil Service Commission and the Civil Service Commission, respectively, with respect to the auditing of a local or State appointing authority's payroll records.

Similarly, N.J.A.C. 4A:3-4.1(c) would be amended to refer to an appropriate

representative of the Civil Service Commission instead of the Department of Personnel regarding the auditing of payroll records in local service. Subsection (d) would be amended to refer to the Civil Service Commission rather than the Commissioner of Personnel with respect to establishing, maintaining, and approving changes in the State compensation plan. Paragraph (d)2 would be amended to refer to the Civil Service Commission instead of the Commissioner of Personnel regarding actions taken outside of the provisions of N.J.A.C. 4A:3 with respect to the salary range or pay rate assigned to an employee's job title and adjustments of an employee's pay.

N.J.A.C. 4A:4-1.10, Approval of appointments by Department of Personnel, would be amended to provide a cross-reference at subsection (b) to the State appointing authority payroll certification requirements of N.J.A.C. 4A:3-4.1(b)1. Technical changes in accordance with P.L. 2008, c. 29, are also proposed in this section. The heading of N.J.A.C. 4A:4-1.10 would be amended to Approval of appointments by Civil Service Commission. Review and approval of personnel actions in subsection (a) would be made by the Civil Service Commission rather than the Department of Personnel, and paragraph (a)1 would be amended to state that the Civil Service Commission rather than the Commissioner of Personnel may direct personnel action freezes under certain circumstances. Subsection (b) would be amended to refer to an appropriate representative of the Civil Service Commission instead of the Department of Personnel with respect to notification of approval of personnel actions. Finally, subsection (c) would be amended to refer to

the Civil Service Commission rather than the Commissioner of Personnel regarding the ordering of a retroactive appointment date.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

A positive social impact is expected as a result of the proposed amendments. The proposed amendments would codify longstanding practice, clarify the legal basis for requiring State appointing authorities to certify their payrolls, and promote fiscal accountability. Additionally, the practice enables agencies with audit authority, including the Civil Service Commission pursuant to N.J.A.C. 4A:3-4.1(b), to fulfill those audit responsibilities with respect to State government payrolls.

Economic Impact

A positive economic impact is anticipated as a result of the proposed amendments. In particular, New Jersey taxpayers would benefit from the State continuing to ensure that public expenditures with regard to State employees are closely monitored and justified.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments govern State payroll certifications and are not subject to any Federal standards or requirements.

Jobs Impact

It is not anticipated that any jobs would be generated or lost if the proposed amendments were adopted. The proposed amendments govern State payroll certifications.

Agriculture Industry Impact

It is not anticipated that the proposed amendments would have any agriculture industry impact. The proposed amendments govern State payroll certifications.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments would regulate State payroll certifications.

Housing Affordability Impact Analysis

Since the proposed amendments concern State payroll certifications, they would have no impact on the number of housing units or the average cost of housing in New Jersey.

Smart Growth Development Impact Analysis

Since the proposed amendments concern employment in the public sector, they would have no impact on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 3

CLASSIFICATION, SERVICES, AND COMPENSATION

SUBCHAPTER 4. COMPENSATION

4A:3-4.1 General provisions

(a) In local service, appointing authorities shall establish compensation plans [which] **that** provide for paying employees in reasonable relationship to their job titles.

1. Each appointing authority shall provide a current copy of its compensation plan to [the Department of Personnel] **an appropriate representative of the Civil Service Commission**, and shall provide any subsequent modifications within 20 days after adoption.

2. When a salary range is established for a job title, an employee shall not be paid a base salary below the minimum or above the maximum established for that range.

3. An appointing authority may request information and technical assistance from [the Department of Personnel] **an appropriate representative of the Civil Service Commission** in developing compensation plans.

(b) In State and local service, [the Department of Personnel] **an appropriate representative of the Civil Service Commission** may audit an appointing authority's payroll records to determine compliance with Title 11A, New Jersey Statutes, Title 4A, N.J.A.C., and orders issued by the [Commissioner or the Board] **Civil Service Commission**.

1. In State service, the appointing authority or the appointing authority's designee shall sign the regular and supplemental payroll certification documents submitted to the Centralized Payroll Unit, Department of the Treasury. The certification documents shall state, in substance, that all persons whose names appear on the accompanying payroll proof have rendered services for the benefit of the State, in the positions shown and for the time period indicated, for which funds are available. The certification shall further state, in substance, that formal approval of the employment of these persons has been, or is in the process of being, secured from the Civil Service Commission and the Department of the Treasury. See N.J.A.C. 4A:4-1.10 for Civil Service Commission approval of appointments.

(c) In local service, payroll records may be audited through on-site examinations, submission of payrolls for specified time periods, or a combination of both. Upon request by [the Department of Personnel] **an appropriate representative of the Civil Service Commission**, an appointing authority shall submit a payroll, certified by an authorized financial officer, which contains the following information and such other information as may be requested:

1. Name of jurisdiction;
2. Name of department;
3. Names, titles, and social security numbers of employees;
4. Actual amount of pay for pay period, including dates employed;

5. Annual rate of pay; and

6. Beginning and ending dates for current pay period.

(d) In State service, the [Commissioner] **Civil Service Commission** shall establish, maintain, and approve changes in a compensation plan for all employees in the career and unclassified services. See N.J.A.C. 4A:3-2.5 for Senior Executive Service compensation.

1. The compensation plan shall establish pay rates and a series of salary ranges.

2. Each employee in the career and unclassified services shall be paid within the salary range or at the pay rate assigned to the employee's job title and pay shall be adjusted in accordance with this subchapter, except as otherwise provided by law, rule, or action of the [Commissioner] **Civil Service Commission**.

CHAPTER 4

SELECTION AND APPOINTMENT

SUBCHAPTER 1. TYPES OF APPOINTMENTS

4A:4-1.10 Approval of appointments by [Department of Personnel] **Civil Service Commission**

(a) All initial and subsequent appointments, promotions, and related personnel actions in the career, unclassified, or senior executive service are subject to the review and approval of the [Department of Personnel] **Civil Service Commission**.

1. The [Commissioner] **Civil Service Commission** may direct personnel action freezes in connection with layoffs or other emergent circumstances.

(b) Following submission and review of personnel actions, the appointing authority shall be notified by [the Department of Personnel] **an appropriate representative of the Civil Service Commission** whether the action has been approved or disapproved and the reasons for any disapproval. The appointing authority shall provide written notice to all affected employees of such personnel actions. **See N.J.A.C. 4A:3-4.1(b)1 for State appointing authority payroll certification requirements.**

(c) When a regular appointment has been made, the [Commissioner] **Civil Service Commission** may order a retroactive appointment date due to administrative error, administrative delay, or other good cause, on notice to affected parties.