



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of the Jersey City  
Incinerator Authority

CSC Docket No. 2016-2332

Administrative Appeal

ISSUED: **OCT 19 2016** (WR)

The City of Jersey City (Jersey City) requests that the former employees of the Jersey City Incinerator Authority (Incinerator Authority) be recorded as employees of its Department of Public Works, effective April 2, 2016.<sup>1</sup>

By way of background, on September 9, 2015, the Local Finance Board approved Jersey City's application for dissolution of the Incinerator Authority, a non-Civil Service agency, and "absorption" of its 141 employees. The effective date of the transfer was April 2, 2016. The Division of Agency Services (Agency Services) conducted a review of the Incinerator Authority employees' classifications and years of service to determine the proper placement of the employees in Jersey City. Agency Services has proposed appropriate job titles in the career service or unclassified service for each position.

In the instant matter, Jersey City requests that the employees of the Incinerator Authority who have worked for one year or more with the Incinerator Authority prior to the April 2, 2016 transfer date, and will hold career service titles in Jersey City, be deemed to have attained permanent status in their present positions with Jersey City. It is noted that Agency Services supports Jersey City's request and notes that the employees who hold career service titles but possess less than one year of employment with the Incinerator Authority prior to the April 2, 2016 transfer date will be afforded provisional appointments. Additionally, Agency Services indicates that certifications of applicable special reemployment lists will be

<sup>1</sup> The original proposed effective date was January 1, 2016.

issued. Jersey City acknowledges that the special reemployment lists will be utilized prior to effectuating the permanent appointments.

## CONCLUSION

Initially, the Civil Service Commission (Commission) notes that, effective April 3, 2007, the Legislature made substantial changes to the laws governing the sharing of services and consolidation of local governments. See P.L. 2007, c. 63. These changes included the repeal of *N.J.S.A. 11A:9-8*, effective November 1, 2007, 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] 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 April 3, 2007 changes, entitled the “Uniform Shared Services and Consolidation Act,” *N.J.S.A. 40A:65-1, et seq.*, set forth the three different types of local government consolidations: a shared services agreement, a joint meeting, and municipal consolidation.

However, the movement of employees from the Incinerator Authority to Jersey City would not be the type of arrangement contemplated by the Uniform Shared Services and Consolidation Act.<sup>2</sup> Rather, the Incinerator Authority in this case was dissolved and its employees, in essence, simply ceased to be employed with that entity. Thus, the “absorption” of Incinerator Authority employees into Jersey City on April 2, 2016 constitutes new appointments that will be made. Accordingly, Jersey City’s request must be considered a request for permanent appointments. 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 worked in the Incinerator Authority for one or more years 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.

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<sup>2</sup> For instance, although Incinerator Authorities fall within the definition of a “local unit” in *N.J.S.A. 40A:65-3*, it would be redundant for Incinerator Authorities to enter into shared services agreements with their respective jurisdictions, since Incinerator Authorities are already statutorily authorized to provide certain services for their jurisdictions. Essentially, it would be a situation where a jurisdiction is creating an independent entity to provide a certain service for it (*e.g.*, incineration) and then entering into a shared services agreement with that entity to perform that service.

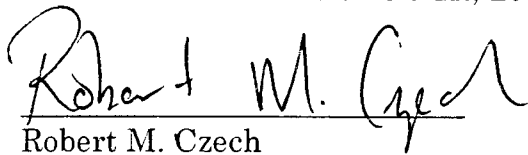
In these unique circumstances, while *N.J.S.A.* 11A:9-9 does not precisely mirror the present situation, its application is instructive. *N.J.S.A.* 11A:9-9 provides that “[a]ny employee of a political subdivision who, at the time of adoption of [Title 11A], was actively employed by the political subdivision 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 Incinerator Authority employees have come within the career service by virtue of their agency’s dissolution and the utilization of their positions within Jersey City, a jurisdiction that has adopted Title 11A. Accordingly, under these circumstances, good cause has been presented to grant Jersey City’s request. Moreover, those individuals who did not possess one year of service as of the April 2, 2016 transfer date are correctly considered provisionally appointed on that date and must proceed through the examination process in order to achieve permanent status.

### CONCLUSION

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 19th DAY OF OCTOBER, 2016



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