

ANALYSIS OF THE NEW JERSEY FISCAL YEAR 2002 - 2003 BUDGET



DEPARTMENT OF PERSONNEL

PREPARED BY

OFFICE OF LEGISLATIVE SERVICES

NEW JERSEY LEGISLATURE

APRIL 2002

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF PERSONNEL

Budget Pages..... C-18, C-26; D-367 to D-372

Fiscal Summary (\$000)

	Expended FY 2001	Adjusted. Appropriation FY 2002	Recommended FY 2003	Percent Change 2002-03
State Budgeted	\$33,967	\$29,541	\$27,195	(7.9)%
Federal Funds	8	0	0	—
<u>Other</u>	<u>0</u>	<u>3,753</u>	<u>4,378</u>	<u>16.7%</u>
Grand Total	\$33,975	\$33,294	\$31,573	(5.2)%

Personnel Summary - Positions By Funding Source

	Actual FY 2001	Revised FY 2002	Funded FY 2003	Percent Change 2002-03
State	421	427	413	(3.3)%
Federal	0	0	0	—
<u>Other</u>	<u>13</u>	<u>13</u>	<u>14</u>	<u>7.7%</u>
Total Positions	434	440	427	(3.0)%

FY 2001 (as of December) and revised FY 2002 (as of September) personnel data reflect actual payroll counts. FY 2003 data reflect the number of positions funded.

Introduction

The Department of Personnel administers the personnel system for all of State government and provides personnel services to 20 of New Jersey's 21 counties, 192 municipalities, and approximately 100 other autonomous public entities (e.g., authorities). Major responsibilities of the Department of Personnel are: (1) to develop and administer a comprehensive personnel system based on merit; (2) to offer cost-effective training and staff development services; (3) to assist State and local government agencies in filling staff vacancies with qualified candidates; and (4) to administer the State's Equal Employment Opportunity and Affirmative Action programs.

Key Points

- The FY 2003 recommended State appropriation for the Department of Personnel is \$27.2 million, a decrease of \$2.3 million or 7.9 percent, from the FY 2002 adjusted appropriation of \$29.5 million.
- The FY 2003 recommended appropriation for the department eliminates all funding for the Sexual Harassment Training Program, a \$750,000 reduction. This funding is recommended for elimination due to the completion of the two-year "Prevention of Sexual Harassment Training Program." Overall, a \$1.5 million reduction in funding is recommended for the Human Resource Development Institute.
- The Governor's budget recommends a \$1.4 million reduction in salaries and wages including annualized attrition savings estimated at \$551,000.
- The Governor's budget recommends that application fees for hiring and promotional examinations for non-public safety positions be raised by \$10 through legislation and that training rates be revised to reduce the gap between the costs and supporting revenues. The department estimated raising \$450,000 and \$420,000, respectively, in new revenue from these two proposed increases in fee rates.
- In addition to the recommended State appropriation, \$4.4 million in "off budget" revenues from fees and service charges are anticipated to be available to the department, \$625,000 or 16.7 percent, more than anticipated in FY 2002. Of this amount, it is estimated that \$2.2 million will be generated by the Human Resource Development Institute, a \$753,000 increase over the amount estimated for FY 2002. Approximately \$420,000 of this new revenue would be generated through the proposed training fee rate increase mentioned above. Together, examination fees and shared service reimbursements are expected to generate approximately \$128,000 or 5.5 percent less than in FY 2002, despite the proposed \$10 increase in examination fees mentioned previously. Budget language allows these "off budget" revenues (including the excess over estimated amounts) to be retained and spent by the department, subject to approval by the Director of Budget and Accounting.
- Funding for equipment and other material is recommended for a \$175,000 reduction in the Governor's FY 2003 budget.

Background Papers

- State Employee Payroll Count p.11
- Significant Changes in Civil Service Compensation and Layoff Procedures p.13

Program Description and Overview

The Department of Personnel was established by the Civil Service Act (Title 11A), P.L.1986, Chapter 112.

The department administers the personnel system for all State executive branch departments and agencies, the Office of the Chief Executive, the Legislature, and the Judiciary. It also provides personnel services to 20 of New Jersey's 21 counties (Somerset County excluded) and more than 192 municipalities and numerous autonomous bodies. The department develops and implements policy governing all phases of personnel administration. This includes the recruitment and examination of qualified candidates; ensuring equitable treatment of employees through its classification and compensation programs; guaranteeing equal employment opportunities; providing for employee appeals procedures; promoting affirmative action; and furnishing selected training programs to employees.

The department is organized into five program classifications: Personnel Policy Development and General Administration; State and Local Government Operations; Merit Services; Equal Employment Opportunity and Affirmative Action; and the Human Resource Development Institute.

Personnel Policy Development and General Administration

Exercises overall direction and control of the department's operations; develops proposals for revised legislation governing the public career system; issues official rules and regulations which implement the Merit System statutes; develops, evaluates and adjusts personnel programs; and provides general administrative support.

State and Local Government Operations

Provides government agencies with support in organizational design, classification of job titles, and equitable compensation of staff; recruits applicants; plans, schedules and conducts examinations; prepares lists of eligible candidates for State and local government positions; administers all reductions in force in State and local government as well as the Senior Executive Service; administers performance appraisals; monitors and processes all new hires and promotions to ensure compliance with Merit System rules; develops and publishes job specifications for all classified titles in all levels of government; maintains employment records and monitors all personnel transactions to ensure compliance with Merit System law and department rules; and provides information processing support to the department and its appointing authorities.

Merit Services

Provides professional, technical and clerical support services for the Merit System Board and the Commissioner of Personnel; investigates and responds to appeals; maintains agendas and schedules Board meetings; resolves disputes by providing alternate avenues of resolution; prepares and reviews Merit System rules for inclusion in the New Jersey Administrative Code; and ensures compliance with laws and rules governing appointments and determinations.

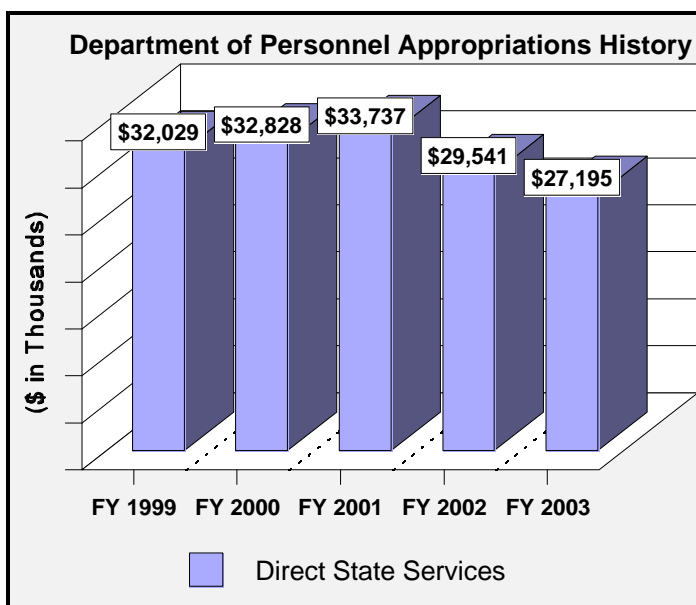
Program Description and Overview (Cont'd)

Equal Employment Opportunity and Affirmative Action

Monitors affirmative action programs in State agencies for compliance with State law and regulations and the federal Americans with Disabilities Act (ADA); develops and implements programs which ensure appropriate representation of protected classes at all levels of responsibility in State government; identifies barriers to equal employment opportunity in the existing structure of the merit system; and distributes information on equal employment opportunity and affirmative action programs.

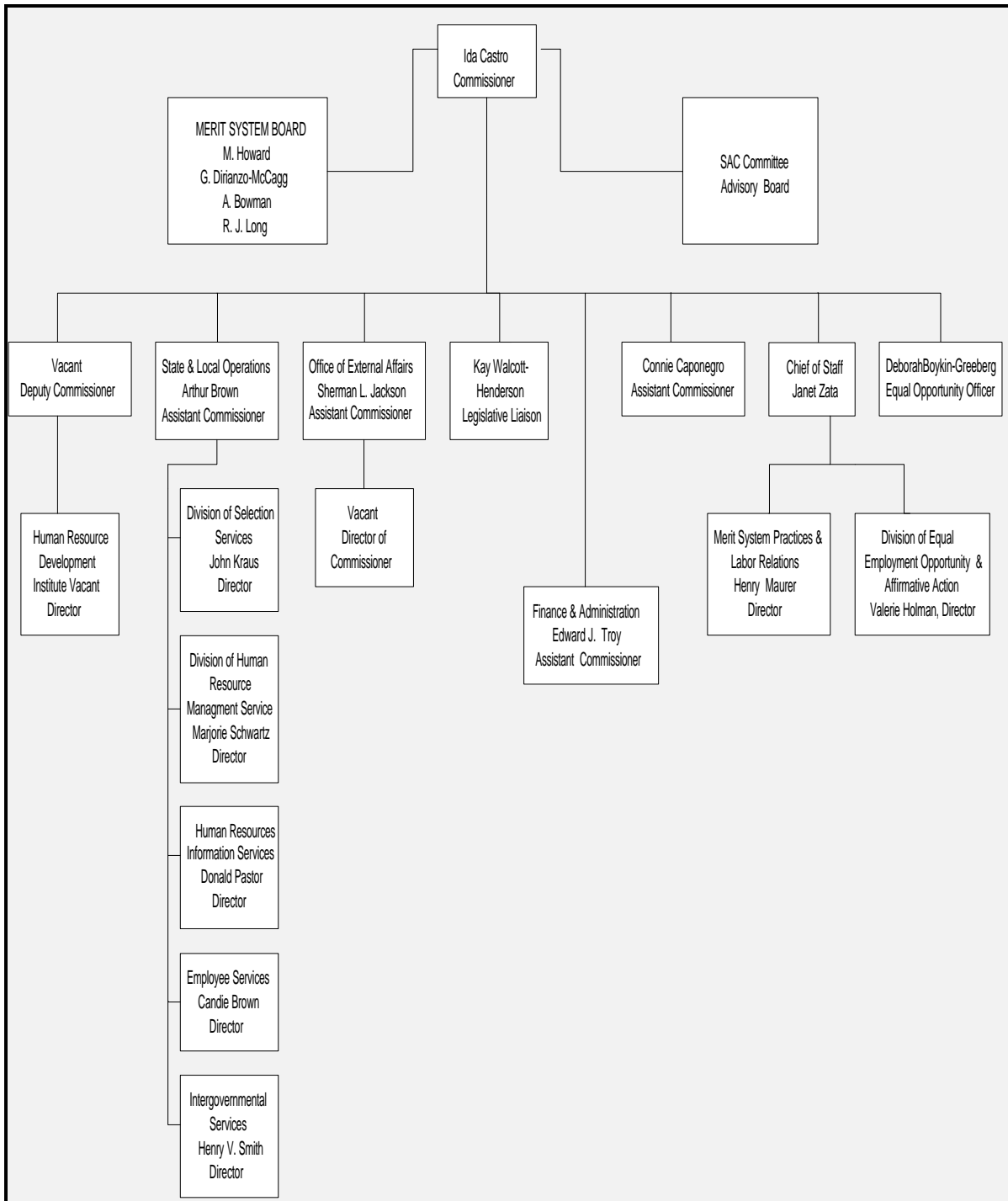
Human Resource Development Institute (HRDI)

Compiles information on the human resource development and training needs of State government; advises the Governor on human resources development and training plans, policies and programs; works with the State agencies to prepare human resource development and training plans and programs; presents formal training courses in both common tasks and agency-specific subjects to State government employees; determines the necessity for the use of training providers from outside State government, and obtains these services as required.



Note: For the chart above, FY 1999 - 2001 show expended amounts; FY 2002 is the adjusted appropriation, and FY 2003 is the recommended budget appropriation.

Organization Chart



Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2001	Adj. Approp. FY 2002	Recom. FY 2003	Percent Change	
				2001-03	2002-03
General Fund					
Direct State Services	\$33,967	\$29,541	\$27,195	(19.9)%	(7.9)%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$33,967	\$29,541	\$27,195	(19.9)%	(7.9)%
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	\$0	\$0	\$0	0.0%	0.0%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$33,967	\$29,541	\$27,195	(19.9)%	(7.9)%
Federal Funds	\$8	\$0	\$0	(100.0)%	0.0%
Other Funds	\$0	\$3,753	\$4,378	----	16.7%
Grand Total	\$33,975	\$33,294	\$31,573	(7.1)%	(5.2)%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2001	Revised FY 2002	Funded FY 2003	Percent Change	
				2001-03	2002-03
State	421	427	413	(1.9)%	(3.3)%
Federal	0	0	0	0.0%	0.0%
All Other	13	13	14	7.7%	7.7%
Total Positions	434	440	427	(1.6)%	(3.0)%

FY 2001 (as of December) and revised FY 2002 (as of September) personnel data reflect actual payroll counts. FY 2003 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	32.9%	33.4%	33.4%	----	----
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GENERAL GOVERNMENT SERVICES**Direct State Services****Personal Services:**

Salaries and Wages	\$21,166	\$19,745	(\$1,421)	(6.7)%	D-371
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The FY 2003 Budget reduces funding for positions in various program classes. A reduction for annualized attrition of \$551,000 is the largest component of this decrease. Recommended salary funding decreases of \$450,000 for State and local government operations and \$420,000 for Human Resource Development Institute (HRDI) will be offset by receipts from fee increases.

Sexual Harassment

Training Program	\$750	\$0	(\$750)	(100.0)%	D-372
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Due to the completion of the two-year Prevention of Sexual Harassment Training Program, this funding is not recommended for continuation in FY 2003.

**Additions,
Improvements and
Equipment**

	\$286	\$111	(\$175)	(61.2)%	D-372
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This proposed reduction in funding would result in the postponement of equipment purchases.

All Other Funds**Human Resources**

Development Institute	\$1,405	\$2,158	\$753	53.6%	D-372
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This increase in Human Resources Development Institute revenues will be generated from increased rates charged for training services, and offsets an equivalent reduction in appropriations for salaries and wages.

Language Provisions

2002 Appropriations Handbook

B-164

The unexpended balance as of June 30, 2001 in the Sexual Harassment Training program account is appropriated for the same purpose.

2003 Budget Recommendations

D-372

No comparable language.

According to the Department of Personnel, Sexual Harassment Training was a two-year initiative that has been completed. Any account balance as of June 30, 2002 is thus not needed to continue the program, and can lapse.



Discussion Points

1. The Governor's budget identifies approximately \$870,000 in additional revenues from new or increased fees in the Department of Personnel.

- **Question:** Please identify the authority (i.e., legislation, executive order, or agency regulation) for any fee changes or other new State revenue sources reflected in the FY 2003 budget for the Department of Personnel. If legislation is required to implement these changes, what is the status of those bills?

2. The FY 2003 recommended budget reflects "across-the-board efficiencies," including \$76 million in savings through an Employee Salary Savings Initiative. This initiative eliminates cabinet and managerial salary increases and establishes an "aggressive attrition program with the implementation of an early retirement program," which the Administration has announced, pending Legislative enactment. The proposed early retirement incentive will be three additional years of pension service credit for State employees age 50 or older with at least 25 years of service credit, and other incentives for older employees with fewer years of service.

- **Questions:** How many employees are considered "managerial" employees and thus affected by the elimination of salary increases? What percentage of the savings total of \$76 million is attributable to this component of the initiative? How will this Administration deal with the issues of "salary compression" that may arise from this policy, as they have in the past?
- **Questions:** How many employees are eligible for the proposed early retirement incentive program? What are the total current salaries of these employees? Please provide this information by department. Based on historical experience, what percentage of this group of employees could be expected to leave State employment by July 1, 2002? By July 1, 2003? What percentage of the savings total of \$76 million is attributable to this component of the initiative? What percentage of the positions vacated by early retirement does the Administration estimate must remain vacant in order to achieve its salary savings target?

3. The FY 2003 recommended budget eliminates \$750,000 in funding for the Sexual Harassment Training Program, which is represented as having been a two-year program that is now completed.

- **Questions:** In the absence of resources earmarked for this purpose, how will the Department ensure that adequate training and education in this subject will be provided to State employees?

4. P.L.2001, c.240, which was signed into law on September 6, 2001 by Acting Governor DiFrancesco, provides that changes to the State employee compensation plan must be the result of negotiations between the State and its employee unions.

- **Questions:** Has the Administration conducted any negotiations to revise the State employee compensation plan? If so, what items are being negotiated? How will this change in law affect upcoming contract negotiations?

Discussion Points (Cont'd)

5. The budget overview on page D-367 states that the Department's course of action for FY 2003 "...emphasizes certain new strategic initiatives to improve management of public sector employees..." with the success of these initiatives dependent upon "...forging new union and management partnerships."

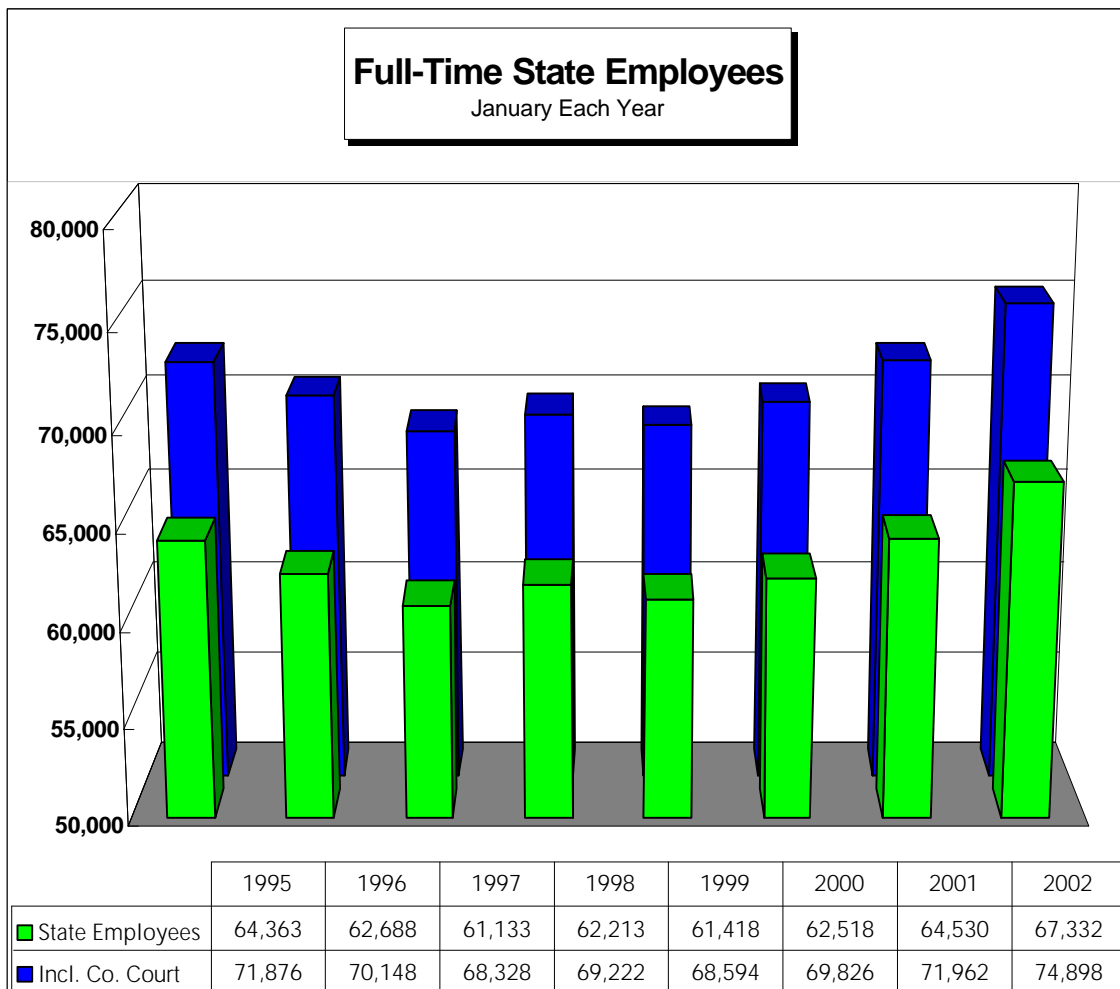
- **Questions:** Please detail the new strategic initiatives that the Department of Personnel will undertake in FY 2003 to attain improved management of public sector employees? How will the initiatives involve and affect local government Merit System jurisdictions? What will the Legislature's role be in enabling the department to implement these initiatives?

Background Paper: State Employee Payroll Count

The charts included below provide information on the State employee payroll. These numbers represent the actual number of checks issued to full-time State employees from all sources (i.e. State, federal or other funds). These figures do not include vacant positions, part-time positions, or higher education employees, such as employees of Rutgers University, the University of Medicine and Dentistry (UMDNJ), and the New Jersey Institute of Technology (NJIT) and the State colleges.

In January 1995, 7,513 former County Court employees were added to the State payroll system as a result of P.L.1994, c.162, "The Judicial Employees Unification Act." Excluding the former County Court employees, the number of State employees has increased from 64,363 in January 1995 to 67,332 in January 2002, an increase of 2,969, or 4.6 percent.

The bar chart illustrates the year-to-year change in the number of full-time State employees based on the number of actual checks issued. The table on the following page provides a breakdown of current full-time State employees — as of January 2002 — by department and funding source.



Background Paper: State Employee Payroll Count (Cont'd)

FULL-TIME STATE EMPLOYEE COUNT - ALL FUNDING SOURCES

As Of January 2002

Department/ Agency	Total	Employee Counts*			
		General Funds	Dedicated Funds	Federal Funds	Non-State
Agriculture	259	171	0	43	45
Banking & Insurance	517	108	404	0	5
Chief Executive's Office	116	116	0	0	0
Community Affairs	1,106	256	464	269	117
Corrections	9,445	8,995	0	36	414
- Parole Board	713	713	0	0	0
Education	991	484	67	252	188
Environmental Protection	3,449	2,418	822	116	93
Health	1,656	609	33	644	370
- Senior Services	492	331	0	141	20
Human Services*	18,978	13,337	0	5,121	520
- Management and Budget	470	320	0	134	16
- Medical Assistance	620	199	0	421	0
- Family Development	450	242	0	208	0
- Commission for the Blind	282	183	0	99	0
- Division of Youth and Family Services	3,579	2,884	0	667	28
- Division of the Deaf	6	6	0	0	0
- Developmental Disabilities	7,618	4,702	0	3,590	445
- Mental Health Services	4,810	4,777	0	2	31
Labor	3,486	208	449	2,822	7
- Public Employees Relation Commission	36	36	0	0	0
Law And Public Safety	7,379	4,702	1,041	162	1,474
- Election Law Enforcement Commission	50	50	0	0	0
- Victims of Crime Compensation Board	47	47	0	0	0
- Executive Commission Ethical Standards	9	9	0	0	0
- Juvenile Justice Commission	1,638	1,208	0	52	378
Military And Veterans' Affairs	1,449	1,299	0	150	0
Personnel	440	427	0	0	13
State	202	141	2	4	55
- Commission on Higher Education	24	22	0	2	0
- Public Broadcasting Authority	159	119	0	0	40
- Student Assistance	213	30	0	167	16
Transportation	4,110	3,022	0	1,088	0
- Division of Motor Vehicles	1,328	1,140	108	80	0
Treasury - (Balance of)	3,880	3,467	0	0	413
- Casino Control	334	0	0	0	334
- Commerce & Econ. Growth Commission	119	109	0	0	10
- Displaced Workers Pool	0	0	0	0	0
- Office of Administrative Law	112	102	0	0	10
- Office Telecommunications & Information	1,048	0	0	0	1,048
- Public Defender	942	941	0	0	1
- Science & Technology	9	9	0	0	0
- Board of Public Utilities	307	0	296	11	0
Misc. Executive Commissions	2	2	0	0	0
Sub-Total	65,045	44,628	3,686	11,241	5,571
Legislature	492	492	0	0	0
Judiciary	1,795	1,535	0	81	179
Statewide Total	67,332	46,655	3,686	11,241	5,750
County Court	7,566	6,303	0	1,248	15
Grand Total	74,898	52,958	3,686	12,489	5,765

*Number of full-time employees who received pay checks, excluding higher education. Also excluding special services and summer seasonal employees for all agencies except Human Services.
Source - Office of Management and Budget, Payroll and Position Systems.

Background Paper: Significant Changes in Civil Service Compensation & Layoff Procedures

SUMMARY

Recent changes in law (1) require any revisions to the current State employee compensation plan to be negotiated with State employee labor unions; and (2) restore seniority to primary importance in determining the order of layoffs for State employees.

INTRODUCTION

In her 1998 State of the State speech, former Governor Whitman focused on civil service reform as one of her priorities. The Governor announced that she would be ordering two regulatory changes:

First, we will restructure our compensation system to be more in line with modern management practices. Pay raises and advancements should and will be based on merit over seniority, just as in the private sector. Second, we will eliminate a practice peculiar to state government - a practice known as "bumping." Currently, every time we try to replace a mid-level manager, we have to shift as many as ten other people, some of whom lose their jobs, even though they're doing a good job right where they are. Only in government...but no longer in New Jersey.

Regulations restructuring the State employee compensation system to be in line with a merit-based pay system were not promulgated even though \$800,000 was spent to study revisions to the State employee compensation plan. Regulations changing the order of layoffs by establishing a merit point system were promulgated in 1999 but are no longer applicable and must be revised. Both of these civil service initiatives had met with strenuous opposition from State employee labor unions.

P.L.2001, c.240 and P.L.2001, c.241 make major changes in the State's civil service compensation and layoff policies and may be viewed as reactions to former Governor Whitman's civil service "reform" initiatives. P.L.2001, c.240, which was signed into law on September 6, 2001 by Acting Governor DiFrancesco, provides that changes to the State employee compensation plan must be the result of negotiations between the State and its employee unions and can no longer simply be made by the Commissioner of Personnel. P.L.2001, c.241, which was also signed into law on September 6, 2001, changed civil service layoff procedures by statutorily specifying the order of layoffs. In so doing, it curtailed the power of the Merit System Board to determine the order of layoffs by regulation, eliminated the concept of merit points, and restored the primary importance of seniority in the layoff process.

Background Paper: Significant Changes in Civil Service Compensation & Layoff Procedures (Cont'd)

CHANGES IN DETERMINING THE STATE EMPLOYEE COMPENSATION PLAN AS A RESULT OF THE ENACTMENT OF P.L.2001, c.240

The Civil Service Act, N.J.S.A.11A:1-1 et seq., had given the Commissioner of Personnel broad powers in the area of employee compensation. N.J.S.A.11A:3-7 had directed the commissioner to establish, administer and amend a State employee compensation plan, which included pay schedules, the assignment and reassignment of salaries for all State titles, and standards and procedures for salary adjustments. The State employee compensation plan establishes salary ranges for every State title or position. Each salary range contains nine steps, also referred to as increments. An increment is 5 percent of the first step of a salary range and averages approximately 4.1 percent of pay over a full range for those employees eligible to receive increments. The system is designed to reward employees for satisfactory and/or superior performance over time. Upon reaching the ninth and final step of the salary range, an employee is ineligible to receive further increments.

The FY 1999 Appropriations Act included \$800,000 for consultant fees to study and propose revisions to the State employee compensation plan. The study was intended to propose a new classification and compensation system that reduced the number of job titles and established a merit-based pay system. Buck Consultants was selected for the project and completed the study in the summer of 2000. The results of the study have never been released. The move to a merit-based pay system was generally opposed by the various State employee labor organizations on the grounds that "merit" determinations would be subjective determinations and would lead to favoritism in, and politicization of, the career service.

P.L.2001, c.240 amended N.J.S.A.11A:3-7 to require that the State negotiate with State employee labor unions in order to make changes to the State employee compensation plan. Prior to the 2001 law, the Commissioner of Personnel could make changes to the plan unilaterally and did not have to negotiate with State employee unions regarding the changes that were being made. The 2001 law removed the commissioner's power to unilaterally establish and amend a State employee compensation plan and to assign and reassign the salaries of all State titles. Instead, the commissioner's power is now limited to that of administering a State employee compensation plan which has been negotiated with State employee labor unions through the process of collective bargaining.

P.L.2001, c.240 specifies that prior to the adoption or implementation of an amendment, change or modification to a compensation plan for State employees represented by a labor union, the State must negotiate with the union for an agreement on the amendment, change or modification to the compensation plan. A State employee compensation plan cannot be amended, changed or modified except pursuant to a written agreement entered into between the State and the union after negotiations. The State is required to negotiate in good faith with the union.

The State has always negotiated with its employee unions on a narrow range of issues concerning State employee compensation (such as the provision of an annual cost-of-living adjustment) which the commissioner incorporated into the State employee compensation plan. However, the 2001 law makes negotiable a broad range and scope of issues. Not only can annual cost-of-living adjustments be negotiated but other significant issues, such as the number of steps

Background Paper: Significant Changes in Civil Service Compensation & Layoff Procedures (Cont'd)

in a range and how an employee moves between steps and between ranges, can also be negotiated. More importantly, however, a "merit-based" pay system replacing the existing range and step compensation system could not be implemented without first securing the approval of State employee labor unions in the collective bargaining process.

CHANGES IN CIVIL SERVICE LAYOFF PROCEDURES AS A RESULT OF THE ENACTMENT OF P.L.2001, c.241

As a result of the enactment of P.L.2001, c.241, significant changes have been made in the civil service layoff process by curtailing the power of the Department of Personnel's Merit System Board and by restoring the primary importance of seniority in determining the order of layoffs for State employees.

The Civil Service Act, N.J.S.11A:1-1 et seq., provides that a permanent employee may be laid off for "economy, efficiency or other related reason." Prior to the enactment of P.L.2001, c.241, the Merit System Board, located in the Department of Personnel and whose chairperson is the Commissioner of Personnel, could determine the order of layoffs by regulation. The law, N.J.S.A.11A:8-1, had delegated that function to the Merit System Board and had stated that "the board shall adopt rules regarding the order of layoffs and employee rights upon recommendation by the commissioner. The commissioner shall consult with the advisory board representing labor organizations prior to such recommendation." P.L.2001, c.241 amended the Civil Service Act to specify the order of layoffs instead of delegating that power to the Merit System Board and, in so doing, provided that seniority would be the major factor in determining the order of layoffs.

On December 7, 1999, under its previous grant of authority, the Merit System Board had adopted revised layoff regulations. Those regulations replaced previous regulations which gave primary importance to seniority. The 1999 regulations introduced the concept of merit points for the purpose of determining the order of layoffs and the exercise of lateral and demotional title rights for State employees. A lateral title right means the right of a permanent employee to exercise displacement (bumping) rights against an employee in the layoff unit holding a title determined to be the same or comparable to the affected title of the employee. A demotional title right means the right of a permanent employee to exercise displacement (bumping) rights against an employee in the layoff unit holding a title determined to be lower than, but related to, the affected title of the employee. The Merit System Board's 1999 regulatory changes did not revise layoff procedures for local government appointing authorities or apply the concept of merit points to local government employees.

Merit points were to be based upon a combination of seniority and performance and were intended to provide that job performance, as well as seniority, would be considered during the layoff process. These regulations were the object of controversy, with opponents, primarily State employee labor unions, arguing that merit performance appraisals were subjective determinations and prone to rating errors. However, the regulations were adopted by the Merit System Board and became effective on January 3, 2000. They were scheduled to expire on January 3, 2003.

With the enactment of P.L.2001, c.241, the 1999 regulations are no longer applicable. The Merit System Board cannot determine the order of layoffs by regulation but must adopt rules consistent with the layoff provisions contained in the new law. As of the date of this writing, new

Background Paper: Significant Changes in Civil Service Compensation & Layoff Procedures (Cont'd)

regulations have not been promulgated. The statutory provisions specify that if State or political subdivision permanent employees are to be laid off, the order of layoffs will be in inverse order of seniority. These 2001 statutory provisions mirror the regulations that had been in effect prior to the adoption of the 1999 merit point regulations. The law (N.J.S.A.11A:8-1) now specifies that:

- Permanent employees in the service of the State or a political subdivision will be laid off in inverse order of seniority. "Seniority" means the length of continuous permanent service in the jurisdiction, regardless of the title held during the period of service. (For police and firefighting titles, however, "seniority" means the length of continuous permanent service only in the current permanent title and any other title that has lateral or demotional rights to the current permanent title.) Seniority for all titles will be based on the total length of calendar years, months and days in continuous permanent service regardless of the length of the employee's work week, work year or part-time status.
- For purposes of State service, a "layoff unit" means a department or autonomous agency and includes all programs administered by that department or agency. For purposes of political subdivision service, the "layoff unit" means a department in a county or municipality, an entire autonomous agency, or an entire school district, except that the commissioner may establish broader layoff units.
- For purposes of State service, "job location" means a county. The commissioner will assign a job location to every facility and office within a State department or autonomous agency. For purposes of local service, "job location" means the entire political subdivision and includes any facility operated by the political subdivision outside its geographic borders.
- For purposes of determining lateral title rights in State and political subdivision service, title comparability will be determined by the department based upon whether:
 - (1) titles have substantially similar duties and responsibilities;
 - (2) education and experience requirements for the titles are identical or similar;
 - (3) employees in an affected title, with minimal training and orientation, could perform the duties of the designated title by virtue of having qualified for the affected title; and
 - (4) special skills, licenses, certifications or registration requirements for the designated title are similar and do not exceed those which are mandatory for the affected title.
- Demotional title rights will be determined by the commissioner based upon the same criteria, except that the demotional title will have lower compensation but substantially similar duties and responsibilities as the affected title.

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- In State service, a permanent employee in a position affected by a layoff action will be provided with applicable lateral and demotional titles rights first, at the employee's option, within the municipality in which the facility or office is located and then to the job locations selected by the employee within the department or autonomous agency. The employee will select individual job locations in preferential order from the list of all job locations and will indicate job locations at which he or she will accept lateral and demotional titles rights. In local service, a permanent employee in a position affected by a layoff action will be provided lateral and demotional title rights within the layoff unit.
- Following the employee's selection of job location preferences, lateral and demotional title rights will be provided in the following order:
 - (1) a vacant position that the appointing authority has previously indicated it is willing to fill;
 - (2) a position held by a provisional employee who does not have permanent status in another title (if there are multiple employees at a job location, the specific position will be determined by the appointing authority);
 - (3) a position held by a provisional employee with permanent status in another title (if there are multiple provisional employees at a job location, the specific position will be determined based on level of the permanent title held and seniority);
 - (4) the position held by the employee serving in a working test period with the least seniority;
 - (5) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was significantly below standards or an equivalent rating;
 - (6) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was marginally below standards or an equivalent rating; and
 - (7) the position held by the permanent employee with the least seniority.
- A permanent employee will be granted special reemployment rights based on the employee's permanent title at the time of the layoff action and the employee will be certified for reappointment after the layoff action to the same, lateral and lower related titles. Special reemployment rights will be determined by the commissioner in the same manner as lateral and demotional rights.

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It should be noted that P.L.2001, c.241 returned to the pre-1999 regulatory definition of a State layoff unit: a department or autonomous agency, including all programs administered by that department or autonomous agency. The 1999 regulations had stated that an entire department or autonomous agency would no longer automatically be considered a layoff unit. A division in a department or autonomous agency with more than 1,000 employees could have been considered a layoff unit if approved by the Commissioner of Personnel. The commissioner could also have approved of the combining of divisions in a department or agency to create a layoff unit of 1,000 or more employees. The purpose of the 1999 regulations was to be able to target layoffs and reduce the exercise of civil service "bumping" rights throughout an entire department or autonomous agency. Such targeting can no longer be done.

P.L.2001, c.241 also codified into law regulations requiring an appointing authority to lessen the possibility, extent or impact of layoffs by implementing certain pre-layoff actions, after consulting with labor unions, such as:

- (1) initiating a temporary hiring or promotion freeze;
- (2) separating non-permanent employees;
- (3) returning provisional employees to their permanent titles;
- (4) reassigning employees; and
- (5) assisting potentially affected employees in securing transfers or other employment.

In summary, as a result of P.L.2001, c.241, the Merit System Board can no longer determine the order of layoffs by regulation but must implement the order of layoffs as specified in the new law. Any regulations promulgated by the Merit System Board must be consistent with the law. Thus, P.L.2001, c.241 not only reinstated the importance of seniority in the layoff process but limited the authority of the Merit System Board.

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