

STATE OF WISCONSIN

BOARD OF PERSONNEL

W. P. VICKERS,

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Appellant,

\*\*

vs.

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JOE NUSBAUM, SECRETARY  
DEPARTMENT OF ADMINISTRATION,

\*\*

Respondent.

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#73-3

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**OFFICIAL**  
FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

Hearing was held in this matter by the State Board of Personnel on February 23, 1973, at the Wilson Street State Office Building, Madison, with the following Board members present: William Ahrens, Chairman, John A. Serpe, and Percy L. Julian, Jr. Board members Charles Brecher and Susan Steininger were absent. The appellant appeared personally and was not represented by counsel, and the respondent, Joe Nusbaum, Secretary, Department of Administration, appeared by D. J. Sterlinske, Attorney. The Board having reviewed the transcript of the proceedings, together with all exhibits admitted into evidence, makes and files the following:

FINDINGS OF FACT

1. That the appellant, William Vickers, is a permanent state employe with the classification of Architect 6, salary range 1-17. That he commenced his employment with the State Department of Administration on May 18, 1970, as an Architect 5 with a sub-title of Specification Writer, and that six months thereafter he acquired permanent status as a tenured classified employe.

2. That the Bureau of Facilities Management, Department of Administration, is charged with the responsibilities of the State Building Program, including the development of master plans for the construction of state institutional buildings under the supervision of the Wisconsin Building Commission. That Paul Brown is the Director of this bureau and is the ultimate supervisor and serves as Secretary of the Building Commission.

3. That Patrick J. Lucey, the Governor of the State of Wisconsin, in May of 1972, sent instructions to various agencies of the state indicating that it was the executive determination that there were to be no new buildings built or requested to be built except as those critically needed and that for the ensuing biennium there would be a drastic curtailment of the State Building Program.

4. That the Department of Administration, Bureau of Facilities Management, in the budget preparation for submission to the Governor, prepared the budget with an anticipated building program of approximately \$77 million. That the similar program in the preceding biennium was approximately \$172 million.

5. That to supervise the reduced building program, substantial curtailment in personnel was necessary.

6. The organizational structure within the Bureau of Facilities Management had project management teams charged with the responsibility of supervising new building construction and that 5 1/2 such teams were currently employed within the bureau.

7. That a plan to reduce the team personnel to two teams was initially prepared and submitted to the State Bureau of Personnel to effect the staff reduction required by the curtailment of the State Building Program.

8. That the State Bureau of Personnel approved the proposal to implement this layoff and the identification of the initial classes as well as the implementation thereof was approved.

9. On November 21, 1972, Paul Brown, as Director of the Bureau of Facilities Management, outlined the procedure and positions to be utilized in effecting the layoff procedures. Thereafter, in the implementation of these procedures, positions were identified for elimination and the incumbents were ranked in accordance with the layoff procedure by seniority and a performance evaluation. In implementing the layoff within the Architect 6 classification, the appellant and his position were identified as requiring layoff action.

10. That on December 22, 1972, the Secretary of the Department of Administration, being the respondent herein, initially notified the appellant by letter that it would be necessary to lay off the appellant effective June 1, 1973. The appellant was advised of his rights of appeal, together with his bumping rights, and that thereafter, by letter of January 4, 1973, he timely appealed this initial layoff decision.

#### OPINION

The Board, in reviewing the transcript of the testimony as well as the exhibits of the parties, concludes that there was a drastic curtailment in the State Building Program under the direction of the Governor. That to implement this reduction, the initial budget as prepared by the department required substantial reduction in funds available for purposes of supervising and financing the state building programs. As a result of this drastic reduction in funds, it was necessary for the department to anticipate this budgetary reduction and take preliminary steps to implement the layoff procedures by identifying specific positions to be eliminated and apply seniority and performance rankings to the incumbents as well as implementing the bumping procedures which are a part of this process. It appears from all of the evidence herein that the respondent properly identified positions to be eliminated which was necessitated by lack of funds, and properly followed the Bureau of Personnel directives in the layoff process implementation. It appears that the entire process was completed within the requirements of the statutes and the administrative rules and that there were no improprieties or illegalities in any step of the proceedings.

The Board having entered the foregoing Findings of Fact and Opinion enters the following:

#### CONCLUSIONS OF LAW

1. That the layoff action is appealable under section 16.28 of the Wisconsin Statutes. That the appellant's appeal therefrom is timely and the Board has jurisdiction to hear the matter.

2. That a substantial reduction in funds will be imposed by the legislative budget process and just cause exists for the respondent's determination to implement the layoff proceedings.

3. That the layoff procedure as undertaken by the respondent was in accordance with the statutes and rules and is hereby sustained and affirmed.

4. That the appeal from such layoff action be and the same should be hereby dismissed on its merits.


ORDER

The Board having entered its Findings of Fact, Opinion, and Conclusions of Law herein, makes and files the following Order:

1. It is ordered that the appellant's appeal from the layoff respondent be and the same is hereby dismissed on its merits, and the respondent's layoff determination be and the same is hereby ratified and affirmed.

Dated at Madison, Wisconsin this 16<sup>th</sup> day of July, 1973.

STATE PERSONNEL BOARD, By

  
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William Ahrens, Chairman