

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 BENITA BYRD,  
                   Appellant,  
 v.  
 Administrator, DIVISION OF  
 PERSONNEL,  
                   Respondent.  
 Case No. 81-350-PC  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

NATURE OF THE CASE

This is an appeal, pursuant to §230.44(1)(a), Wis. Stats., of a reclassification decision. The issue and subissue of this appeal, as agreed upon by the parties, are as follows:

ISSUE: Whether or not the decision of the administrator to reclassify appellant's position from Research Analyst 4 (PR 8-04) to Planning Analyst 3 (PR 1-14) instead of Planning Analyst 4 (PR 1-15) was correct.

SUBISSUE: If the Commission determines that Planning Analyst 4 is the proper classification for the position, whether the position should be reclassified to Planning Analyst 4, based upon Ch. Pers. 3.01(3)(a), or whether the position should be filled by competition.

FINDINGS OF FACT

1. At all times relevant to this matter, the appellant has been employed in the classified civil service by the Public Service Commission of Wisconsin (hereinafter PSCW).

2. On July 31, 1978, appellant was hired by the PSCW to fill a position classified as a Research Analyst 3. On September 9, 1979, appellant's position was reclassified to Research Analyst 4. On August 12, 1981, respondent denied appellant's request for reclassification of her position from Research Analyst 4 to Planning Analyst 4 and determined that appellant's

position was more appropriately classified at the Planning Analyst 3 level. On August 25, 1981, appellant filed a timely appeal of such denial and determination with the Personnel Commission.

3. The duties and responsibilities of appellant's position are as set forth in Respondent's Exhibit 2, the position description signed by appellant on June 3, 1981. In summary, these duties and responsibilities include:

- 60% A. Planning, development and enforcement of the State Residential Conservation Program prepared in response to the National Energy Conservation Policy Act of 1978.
- 15% B. Plan, analyze and evaluate utility informational programs designed to inform and influence gas consumers to conserve natural gas.
- 10% C. Investigation of alternate types of conservation plans and policies.
- 5% D. Review of gas public utility applications, investigations, petitions and other formal actions involving gas conservation.
- 5% E. Informal complaints and inquiries processing.
- 5% F. Improvement of technical skills.

4. The definition section of the class description for a Planning Analyst 3 (hereinafter PA 3) is as follows:

This is senior professional level planning work. Employees in this class perform long-range planning work requiring skills from a variety of educational backgrounds which may be applied in one of three specific programs: Agency Planning, Local and Regional Planning, Statewide Comprehensive Planning.

#### Agency Planner

Employees in this class conduct highly complex planning studies independently using the latest scientific techniques. The employee identifies, evaluates and selects criteria upon which the agencies long-range plans will be based and makes effective recommendations as to the method of outlining these plans. Work is performed independently under the general direction of higher level administrators or Planners. Supervision may be exercised over lower level planners on some studies.

#### Local and Regional Planner

Employees in this class perform complex, professional planning work in connection with the development of comprehensive plans and plan implementation programs including regulatory ordinances and capital improvement programs for localities within the state under general supervision.

#### Statewide Comprehensive Planner

Employees in this class advise any state department or agency on its planning programs. Employees are consultants on major aspects of the long range planning program which may involve direction and coordination of a lower level planner. Work at this level often entails complex and sophisticated planning studies of a high level program or policy nature originating from the governor, legislature, department secretary or bureau director. Work is performed independently and is subject to occasional administrative review.

5. The definition section of the class description for a Planning Analyst 4 (hereinafter PA4) is as follows:

This is lead professional or specialist level professional planning work requiring skills from a variety of educational backgrounds which may be applied in one of three specific programs: Agency Planning, Local and Regional Planning, Statewide Comprehensive Planning.

#### Agency Planner

Employees in this class perform work characterized by responsibility for specialized planning studies of a policy nature. The employe independently carries out major studies and often supervises several lower level agency planners in the conduct of the study.

#### Local and Regional Planner

This is advanced-level, comprehensive, long-range planning work in local and regional planning. Employees in this class are characterized by their responsibility for special planning projects in the development of comprehensive plans and plan improvement programs for localities and regions throughout the state.

#### Statewide Comprehensive Planner

This is highly complex and responsible planning, administrative and program analysis work in the Bureau of Planning characterized by specialized policy level studies which by their nature are extremely sensitive. Employees occasionally supervise several

lower level planners in the conduct of the study. Work at this level emphasizes highly complex specialized sophisticated planning studies of a high program level or policy nature originating from the governor, legislature, department secretary or bureau director, which include many or all state agencies. Work is performed independently and is subject to administrative review upon completion.

6. Appellant's position does not function as a "local and regional planner" or a "statewide comprehensive planner" as those planning categories are used in the class descriptions for a PA3 and PA4.

7. A review of the duties and responsibilities of positions classified at the PA4 level and which function as "agency planners" at that level indicates that, in general, such positions are independently responsible for major planning studies of a policy nature and/or lead or supervise the work of other staff in conducting such studies.

8. Appellant's position does not function as a lead worker or supervisor. Appellant's position was not independently responsible for developing Wisconsin's Residential Conservation Service (hereinafter RCS) Plan and the actual work performed by appellant's position in the development of such plan was not equivalent to the conduct of a major planning study of a policy nature.

9. The duties and responsibilities of appellant's position do not satisfy the criteria for classification as a PA4.

10. Appellant's position includes duties and responsibilities of both a program planning and policy planning nature which fit best within the class specifications for a PA3.

11. Appellant's position is more accurately described by class specifications for a PA3 than class specifications for a PA4.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving that respondent's decision denying the reclassification of appellant's position from Research Analyst 4 to Planning Analyst 4 and respondent's determination that appellant's position was more appropriately classified as a Planning Analyst 3 were incorrect.

3. The appellant has failed to meet that burden of proof.

4. Respondent's decision regarding the appropriate classification of appellant's position was correct.

5. Due to the fact that the Commission has not determined that appellant's position is more appropriately classified at the Planning Analyst 4 level, it is not necessary for the Commission to reach a decision on the subissue in this appeal.

OPINION

The class descriptions for both a PA3 and a PA4 designate three different planning categories: 1) agency planner; 2) local and regional planner; and 3) statewide comprehensive planner. The majority of the duties and responsibilities of a position must satisfy the requirements of one of these categories in order to be classified as a PA3 or PA4. Neither appellant nor respondent has asserted that appellant's position functions as a statewide comprehensive planner. Appellant has asserted, however, that her position functions as a local and regional planner. In addition, the PSCW's recommendation to the respondent that appellant's position be reclassified to the PA4 level rested on the PSCW's contention that appellant's position functioned as a local and regional planner. However, the local and regional planner category is

intended to include those planning positions which provide assistance and consultation to localities in the development of a comprehensive planning program, i.e., the integration of many varied program activities at the local level into one comprehensive plan. The duties and responsibilities of appellant's position involve only public utilities and only the energy conservation programs of such public utilities. A public utility is not a locality within the meaning of the local and regional planner category. Moreover, even if a public utility were equivalent to a locality as asserted by appellant, the limitations of appellant's duties and responsibilities to a single program activity, i.e., energy conservation, does not satisfy the requirements for comprehensive planning, i.e., the integration of many varied program activities. Appellant's position does not, therefore, function as a local and regional planner as that planning category is intended to be utilized within the Planning Analyst series.

The remaining planning category is that of "agency planner." A review of the agency planner class specifications at the PA4 level and of the duties and responsibilities of agency planner positions classified at the PA 4 level indicates that, in general, such positions involve independent responsibility for major planning studies of a policy nature and/or leading or supervising the work of other staff in conducting such studies. Appellant's position clearly does not function as a lead worker or supervisor. Appellant's position, although receiving input from other PSCW staff in certain instances, does not lead or supervise the work of other staff. Although appellant attempted to equate the relationship her position maintains with public utilities as a "supervisory" one, it is not reasonable to regard the relationship an employe of a state agency has with a non-governmental entity

which such agency regulates as a supervisory relationship within the meaning of the body of law governing the classification of positions within the state classified service.

Sixty percent of the duties and responsibilities of appellant's position relate directly to Wisconsin's RCS program. Appellant offered such RCS-related duties and responsibilities as the justification for the requested reclassification of her position to the PA4 level. During the period of time preceding the date of respondent's decision in the matter which forms the basis of this appeal, however, appellant's position did not have independent planning responsibility for the RCS program and the work appellant actually performed in relation to the RCS program did not involve the conduct of a major planning study of a policy nature. Although appellant had responsibility for preparing, for soliciting utility and PSCW input into and approval of, and for implementing a major segment of Wisconsin's RCS plan, the responsibility for the overall plan belonged to Jim McCambridge of the Division of State Planning and Energy. Thus, appellant did not have independent responsibility for the RCS plan. In addition, the testimony of appellant's witnesses revealed that Wisconsin's RCS plan was essentially a codification of the energy conservation measures the PSCW already had ordered prior to the federal RCS legislation and that appellant's duties did not change significantly as a result of the RCS legislation. Since the PSCW's major energy conservation policies were established pursuant to its order 05-GV-2 in September of 1977 (10 months prior to appellant's employment with the PSCW) and since compliance with the federal RCS requirements necessitated only very minor changes in Wisconsin's energy conservation programs, it would not be reasonable to conclude that the formulation of Wisconsin's RCS plan involved

a "major study" or that appellant's role in the RCS planning process involved significant policy formulation.

Although the duties and responsibilities of appellant's position do not fit well within the class specifications for a PA4, the majority of these duties and responsibilities do involve long-range planning in energy conservation and some of these duties and responsibilities (although less than a majority) do involve long-range planning of a policy nature. Such long-range planning by appellant has resulted in PSCW orders expanding on the goals and requirements of 05-GV-2 and in public education programs relating to energy conservation. The level and nature of the duties and responsibilities of appellant's position fit well within both the language and intent of the class specifications for a PA3.

It should be noted that the level of knowledge, skill, and professionalism exhibited by an individual employee is not an appropriate criterion to utilize in deciding whether to classify the employee's position at the PA3 or PA4 level. Although the record clearly indicates that the PSCW has a high regard for the quality of appellant's work, the Personnel Commission's final determination must rest on an analysis of which class specifications best describe the duties and responsibilities of appellant's position.

Finally, the subissue in this appeal relates to the method by which appellant's position should be filled if the Personnel Commission were to determine that such position was more appropriately classified at the PA4 level. Since this Commission has not made such a determination, it is not necessary for it to reach a decision on the subissue.



ORDER

Respondent's decision regarding the reclassification of appellant's position is affirmed and this appeal is dismissed.

Dated: November 24, 1982

STATE PERSONNEL COMMISSION

Laurie R. McCallum  
LAURIE R. McCALLUM, Commissioner

James W. Phillips  
JAMES W. PHILLIPS, Commissioner

LRM:ers

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