

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *
JOHN PAMPERIN,
Appellant,
v.
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,
Respondent.
Case No. 83-0191-PC
* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of the reallocation of the appellant's position following a personnel management survey. The stipulated issue for hearing was as follows:

Whether the respondent's decision to reallocate appellant's position from Planning Analyst 6 - Management (PR1-17) to Research Administrator 1 (PR1-17) was correct. If not, should the position have been reallocated to Civil Engineer 6 - Transportation Management (PR1-17) or Civil Engineer 7 - Transportation - Management (PR1-18) or Planning and Analysis Administrator 2 (PR1-18).

FINDINGS OF FACT

1. At all relevant times the appellant has been employed in the classified civil service in the Department of Transportation, Division of Planning and Budget, Bureau of Data Management, as Chief of the Transportation Network Data Section.

2. The duties and responsibilities of the appellant's position are accurately set forth in the position description signed by the appellant in May 3, 1982, Respondent's Exhibit 1, which is incorporated by reference as if fully set forth. The "POSITION SUMMARY" in said document is as follows:

14. POSITION SUMMARY

As Chief of the Transportation Network Data Section of the Transportation Department's Division of Planning and Budget, this position functions under the direct administrative review of one of the Department's chief planners -- the Director of the Bureau of Data Management.

This position reviews and analyzes proposals and regulations from the federal government; the state legislature; other state agencies; and various departmental administrators for anticipated effect upon long-range planning efforts of this section. The position coordinates the efforts of professional and technical staff engaged in major planning and research efforts, and makes effective recommendations concerning the agency's course of action.

This position is directly responsible for transportation system inventories; travel surveys and traffic analyses; road life and investment studies; certification of public road mileages for apportionment of federal and state transportation funds; and for facility use, performance and needs studies. In this capacity, the position directs and manages a Highway Planning and Research (HPR) program budget of approximately \$1.7 million annually involving 12 to 15 projects; 28 professional and technical employees; and includes the functional supervision, coordination, and monitoring of 8 districts' employees engaged in supplying data for the section's projects.

3. The relevant position standards are as set forth in Respondent's Exhibit 2 (Program and Planning Analyst), Respondent's Exhibit 3 (Research and Analysis), and Respondent's Exhibit 4 (Civil Engineer - Transportation), all of which are incorporated by reference as if fully set forth. Some significant excerpts from these position standards are set forth as follows:

a). Program and Planning Analyst

"B. Inclusions

These series are intended to allow classification of a wide range of positions specializing in policy analysis, program planning, facility planning, land use or regional planning, program evaluation, or comparable or combined functions. The work is performed as a staff service to line management, to assist them in defining program goals, developing and planning programs or facilities to achieve them, developing policies and procedures to guide these programs, and analyzing the current or projected effectiveness of programs in

achieving goals. Positions in these series analyze problems, issues, or proposals, develop alternatives, options, or plans, and recommend courses of action based on the results of analysis. The work is professional in nature (as defined in s. 111.81(1), Stats.) but such positions do not, typically, function as specialists in a particular discipline (e.g., economics engineering). Rather, they involve applying particular concepts, approaches, and techniques from a variety of disciplines or specializations along with a high degree of analytic skill and substantive knowledge of the program area. The specific series are defined below:

* * *

5. The Planning and Analysis Administrator series encompasses positions which meet the definition of "management" in s. 111.81(2), Stats. and have the primary purpose of administering a program of policy analysis, planning, program evaluation, or similar analytic functions. Such positions must also be evaluated at 610 points or more using the Factor Evaluation Guide (Section IV) of this standard.

C. Exclusions

Excluded from classes described in this position standard are:

* * *

5. positions performing analytic functions, but which are more appropriately identified in other classifications due to highly-specialized training and experience requirements or the high degree of specialized knowledge of the program service provided or service provision techniques (e.g., of social services, education, unemployment compensation/employment service);
6. all positions which are better defined in other classifications or class series."

b). Research and Analysis

"B. Inclusions

- 1) The Research Analyst series encompasses positions which have the primary purpose of conducting research, performing statistical analysis, or developing and maintaining statistical information reporting systems. Positions must be professional, as defined in s. 111.81(1), Stats., and typically require a professional knowledge of statistical or other quantitative research or analysis methods, or of the specific research methodology of a professional discipline such as history, demography, or psychology. Positions in this

series provide information, interpretations, and analysis to program planners, evaluators, administrator, or the public, with the common feature of enabling these users to know or forecast key features of the environment of their activities;

* * *

- 5) The Research Administrator series encompasses positions which meet the definition of "Management" in s. 111.81(2), Stats., and have the primary purpose of administering a program of research and/or statistical analysis and reporting. Such positions must also be evaluated at 610 points or more using the Factor Evaluation Guide in Section IV of this standard.

C. Exclusions

Excluded from classes described in this position standard are:

* * *

- 4) Positions performing applied or theoretical research in the natural or medical sciences, or which are identified in other classification series which are based on the specific discipline in which knowledge is required (e.g., economists);
- 5) All positions which are better defined in other classes or class series."

c). Civil Engineer - Transportation

"I. INTRODUCTION

Coverage in this Series

This series encompasses all engineering positions in the Department of Transportation, Division of Highways, as well as other divisions of the department which may require a position with a civil engineering background.

* * *

Registration as a professional engineer, or eligibility therefore, is required at and above the Civil Engineer 5 - Transportation level by the State Bureau of Personnel. The Department of Transportation however, requires Registration at the Civil Engineer 4 - Transportation level.

* * *

II. SPECIFIC ALLOCATIONS AND EXAMPLES OF WORK PERFORMED

The following allocation of duties and/or positions to specific classification levels provides both examples and patterns for present as well as future duties. Many different technical, managerial and administrative engineering tasks exist within the Department of Transportation. This position standard does not attempt to cover every eventuality or combination of duties as they currently exist or as they possibly could exist in the future. It is intended, rather, to be a framework within which classifications can be applied equitably to the present program and also adjusted to equitably meet future personnel relationships and patterns that develop as a result of changing programs and emphasis.

* * *

Civil Engineer 3 - Transportation (SR1-14)

* * *

DIVISION OF PLANNING

Planning

Group Leader - Data Unit - Supervises the collection and programming of traffic counts, and vehicle weight and classifications counts.

Group Leader - Data Control Index Unit - Supervises, guides, and trains a staff in selecting reference points; editing, updating and digitizing data to be used in the HNDI system. Develops systems methods and procedures and makes recommendations concerning system design concepts developed by consultants.

* * *

Civil Engineer 6 - Highways (SR1-17)

This is highly technical and/or supervisory engineering work of a professional nature in transportation engineering. Employees in this class are responsible for a program area and may report directly to the District Engineer or Section Chief. Supervision is normally exercised over a staff of professional, technical and clerical employees. Work is reviewed through conferences and the analysis of reports to determine the effectiveness of activities and adherence to established policies and standards.

* * *

PLANNING

Highway Planning Research Coordinator - Administers the statistical and office service units in the Division of Planning, Coordinates all planning - research and highway statistical activities.

* * *

Civil Engineer 7 - Transportation (SR1-18)

This is administrative and technical supervisory engineering work of a professional nature in the planning, design, construction, maintenance and operation of highways, structures and other transportation facilities. An employee in this class is responsible for the planning and technical supervision of a major engineering activity within a district such as construction, design, planning, maintenance or traffic; or serves as assistant in a specialized area within the central office to the state such as bridge, road design, construction, maintenance, materials or traffic; or performs duties of equal complexity. Emphasis is placed upon professional leadership and ability to advise district personnel, and outside public and private officials and organizations concerned with the specific program involved. Supervision is exercised over a staff of professional, technical and clerical employees. Work is reviewed through conferences and the analysis of reports to determine the effectiveness of activities and adherence to established policies and standards."

4. Among the knowledge and skills required by the appellant's position is:

Considerable knowledge of transportation engineering principles and transportation planning practices as evidenced by academic training in Transportation and Environmental engineering courses culminating in a BS degree in Civil Engineering, and further training and experience in Applied Math, Statistics, Physics, Economics, and Computer Science....

Advanced engineering training and experience in such areas as Traffic Capacity Analysis, Travel Forecasting, Bridge Inspection and Appraisals, Cost-Benefit Analysis, Transportation System Management, and Value Engineering/Analysis....

Registration as a Professional Engineer (Respondent's Exhibit 1)

5. This position is best described by the Civil Engineer- Transportation position standard, and within that series by the Civil Engineer 6 level.

6. As a result of a personnel management survey of the Research, Analysis and Planning areas, the respondent reallocated appellant's position from Planning Analyst 6 - Management (PR1-17) to Research Administrator 1 (PR1-17), effective June 12, 1983.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. The appellant has the burden of proving that the respondent's reallocation decision here appealed was incorrect and that his position should have been reallocated to the level(s) sought.
3. The burden of proof is that "... the facts be established to a reasonable certainty by the greater weight or clear preponderance of the evidence." Reinke v. Personnel Board, 53 Wis. 2d 123, 137, 191 N.W. 2d 833 (1971).
4. The appellant has sustained his burden of proof to the extent that he has established that the respondent erred in reallocating his position from Planning Analyst 6 - Management (PR1-17) to Research Administrator 1 (PR1-17) instead of Civil Engineer 6 - Transportation Management (PR1-17).
5. The appellant has not sustained his burden of proving that his position should have been reallocated to the alternative classifications of Civil Engineer 7 - Transportation - Management (PR1-18) or Planning and Analysis Administrator 2 (PR1-18).

OPINION

The Research and Analysis Position Standard, Respondent's Exhibit 3, contains under "Inclusions," §I. B.1, the following:

The Research Analyst series encompasses positions which have the primary purpose of conducting research, performing statistical analysis, or developing and maintaining statistical information reporting systems. Positions must be professional, as defined in §111.81(11), Stats., and typically require a professional knowledge of statistical or other quantitative research or analysis methods, or of the specific research methodology of a professional discipline such as history, demography, or psychology. Positions in this series provide information, interpretations, and analysis to program planners, evaluators, administrators, or the public, with the common feature of enabling these users to

know or forecast key features of the environment of their activities," (emphasis supplied).

Under "exclusions," the position standard includes the following at §I.C.:

Excluded from classes described in this position standard are:

* * *

4) Positions performing applied or theoretical research in the natural or medical sciences, or which are identified in other classification series which are based on the specific discipline in which knowledge is required (e.g., economists);

5) all positions which are better defined in other classes or class series. (emphasis added)

The position in question falls within the general research analyst "inclusions" statement to the extent that it is involved in developing and maintaining statistical information reporting systems. While it does not require a "professional knowledge of statistical or other quantitative research or analysis methods," it does require professional knowledge of the "specific research methodology of a professional discipline [i.e., engineering]...."

However, it is apparent from the research and analysis position standard that if a position fits within the "exclusions," it should not be classified as a research analyst or research administrator), see specifically Respondent's Exhibit 3, Paragraph I.C.: "Excluded from classes described in this standard are:

... 4) Positions ... identified in other classification series which are based on the specific discipline in which knowledge is required...." (emphasis added)

The Civil Engineer - Transportation position standard, Respondent's Exhibit 4, includes the following:

This series encompasses all engineering positions in the Department of Transportation, Division of Highways as well as other

divisions of the department which may require a position with a civil engineering background....

* * *

... Registration as a professional engineer, or eligibility therefore, is required at and above the Civil Engineer 5 - Transportation level by the State Bureau of Personnel. The Department of Transportation however, requires registration at Civil Engineer 4 - Transportation level. (emphasis supplied)

Therefore, even if the appellant's position is described by the Research and Analysis position standard, if it fits within the "exclusions" segment of that position standard, it is "excluded from classes described in this position standard," Respondent's Exhibit 3, paragraph I.C. More specifically, if it is one of the positions "identified in other classification series which are based on the specific discipline in which knowledge is required" or "better defined in other classes or class series," Respondent's Exhibit 3, paragraph I.C. 4), 5), such as the Civil Engineer - Transportation series, than it should not be classified in the Research and Analysis series.

In its analysis of this position, the respondent placed great emphasis on the "primary purpose" language from the Research and Analysis position standard "Inclusions." However, reading the position standard as a whole, including the "Exclusions" (Paragraph I.C), the conclusion is inescapable that even if the "primary purpose" of the position is "developing and maintaining statistical information reporting system," it would be excluded from this series if it requires an engineering background and meets the criteria set forth in the Civil Engineer - Transportation position standard.

There are a number of allocations in the CE - Transportation position standard which are responsible for planning or research, but this such

responsibility is in an engineering context, with an engineering background required.

Examples include the following CE 3 positions:

Group Leader - Data Unit - Supervises the collection and programming of traffic counts, and vehicle weight and classification counts.

- , Group Leader - Data Control Index Unit - Supervises, guides, and trains a staff in selecting reference points, editing, updating and digitizing data to be used in the HNDI system. Develops systems methods and procedures and makes recommendations concerning system design concepts developed by consultants...,

and the following CE 6 position:

PLANNING

Highway Planning Research Coordinator - Administers the statistical and office service units in the Division of Planning, Coordinates all planning - research and highway statistical activities.

It seems fairly clear that one could characterize the "primary purpose" of these positions as "conducting research," in the sense of "developing and maintaining statistical information reporting systems," yet it seems just as clear that they would fall within the "Exclusions" section of the position standard and would not properly be classified in the Research and Analysis series.

The appellant presented very substantial evidence that his work was engineering in nature and required a formal engineering background, and, indeed, state certification as a Professional Engineer (PE). This evidence included a number of documents constituting work product, his own testimony, the testimony of Thomas J. Frank, a Planning and Research Engineer for the Federal Highway Administration, who worked with the appellant, and the appellant's position description, Respondent's Exhibit 1. This document was signed by the appellant, his immediate supervisor, W. F. Stambaugh,

and, as personnel manager, Victor A. Thompson of DOT. In the section "knowledge and Skills Required by the Position" it included the following:

Considerable knowledge of transportation engineering principles and transportation planning practices as evidenced by academic training in Transportation and Environmental engineering courses culminating in a BS degree in Civil Engineering ... Advanced engineering training in such areas as Traffic Capacity Analysis, Travel Forecasting, Bridge Inspection and Appraisals, Cost-Benefit Analysis, Transportation System Management, and Value Engineering/Analysis ... Registration as a Professional Engineer....

The respondent called as witnesses two personnel specialists, Mr. Milanowski of DER, who effectively made the reallocation decision, and Mr. Thompson. The respondent conceded that some engineering knowledge was required for this position, but did not agree that it required an engineer or someone registered as a PE. They argued that since the "primary purpose" of the position was "conducting research," in the sense of "developing and maintaining statistical information reporting systems," it should be classified in the Research and Analysis series.

With respect to the degree of engineering background or knowledge required for this position, Mr. Milanowski testified that he relied for his information on Mr. Thompson. Mr. Thompson testified that the position required some engineering knowledge, but not an engineering degree:

... in the appellant's case, much of the information and materials and data that he works with are, is information and data utilized by engineers out in the highway districts, and, because it's engineering - related data, the appellant must have a knowledge of various engineering principles and, at least the terminology, so that is something we don't try to ignore and downplay, but recognized that, but the more important question then becomes, what is the primary purpose of the position, and after our evaluation of the appellant's position as well as others, it was determined that the primary purpose is not engineering, but rather its research in the sense of developing or maintaining statistical information reporting systems.

* * *

Q. Do you agree with the premise that Mr. Pamperin's position requires an engineering degree -- from a professional personnel standpoint.

A. No.

Q. Why is that?

A. Under various -- not various, but under the relevant state statute, I don't believe a person will find anything that requires an individual performing the kinds of duties Mr. Pamperin is to have a civil engineering degree. Typically, the references for civil engineering degree in the statutes would be for building an engineer involved in buildings, but beyond that, obviously this, I feel the primary purpose of the position is not engineering. The position does require a knowledge of engineering principles and does require some engineering skills, but does not require an engineering degree.¹

With respect to the statement in the position description that a PE registration was required, Mr. Thompson's testimony included the following:

Q. Now looking at Respondent's Exhibit #1 and Appellant's Exhibit #66, those are the same ... there is a statement on page one of the position description Part B under "knowledge and skills required" by the position, and there is a reference to registration as a professional engineer, and it lists certain areas -- B1, B3, C2, C3, D1, D5, E5, E6, E7. Now, did you -- your signature appears on the front of that document, doesn't it?

A. Yes.

Q. Were you aware that that was in that document or that -- or were you signing that you approved of that? What is the significance of --

A. I was aware of that statement in the job description.

Q. But you didn't attempt to have it changed?

A. No.

¹ This and all other quotations from the hearing testimony are based on a partial transcription of excerpts of the hearing tape.

Q. But you did not, from a personnel standpoint, agree with that statement?

A. Well, no -- I guess I can put it that way. Essentially I didn't argue with the point, knowing that the individual was registered as a professional engineer. Whether it's required for the position as the heading of course would indicate is a different matter, and although I didn't agree with that, I didn't see fit to request that it be removed or what have you.

While Mr. Thompson testified that he discussed the position with, among others, the appellant's immediate supervisor, Mr. Stambaugh, there was no indication that Mr. Stambaugh ever retracted or contradicted the PE registration requirement set forth on the appellant's PD:

Q. Did Mr. Stambaugh say these should not be engineers?

A. I don't believe he said that.

Q. Did he say they didn't need engineering background for the positions they were holding?

A. I don't believe he indicated that.

Basically, the respondent's contention that the appellant's position does not require the incumbent to be an engineer or registered as a PE rests on Mr. Thompson's testimony as set forth above. While he testified that he discussed the classification of the position with a number of other people, who agreed with the Research Analysis series classification, the indication is that this was based on the "primary purpose" rationale:

The discussions primarily with those individuals were regarding the engineer versus research or planning classification, and once again, I guess, the key determination was primary purpose of a position would determine a series, and it was -- well all those individuals concurred that engineering was not the primary purpose, and although it may be required, it was not the primary purpose and therefore engineering was not the appropriate classification.

Obviously, the Commission must base its findings solely on the record evidence. §227.07(9), Stats. Mr. Thompson's testimony on this point is essentially summarized in the following excerpt:

... under the relevant state statute, I don't believe a person will find anything that requires an individual performing the kinds of duties Mr. Pamperin is to have a civil engineering degree. Typically, the references for civil engineering degree in the statutes would be for building, an engineer involved in buildings, but beyond that, obviously the, I feel the primary purpose of the position is not engineering. The position does require a knowledge of engineering principles and does require some engineering skills, but does not require an engineering degree.

With respect to the contention that the statutes do not require a PE registration for a job such as this, the Commission makes two observations.

First, if this were the case, this would be a relevant piece of information, but it would not be conclusive. There is nothing in the CE Transportation position standard, nor has respondent cited any other authority, to the effect that, in evaluating whether the required knowledge and skills of a position from a personnel standpoint include extensive engineering knowledge which may include registration as a PE, an absence of a statutory requirement is conclusive. In fact, the position standard states:

Registration as a professional engineer, or eligibility therefore, is required at and above the Civil Engineer 5 - Transportation level by the State Bureau of Personnel. The Department of Transportation, however, requires registration at the Civil Engineer 4 Transportation level. (Respondent's Exhibit 4)

Mr. Thompson also testified that the DOT requirement for registration at the CE 4 level is based on an agreement with the state engineering association.

Second, the respondent's contention that there is no statutory requirement for PE registration for this position is not compelling. The relevant statute, §443.01(4), provides in part as follow:

Practice of professional engineering includes any professional service requiring the application of engineering principles and data, in which the public welfare or the safeguarding of life, health, or property is concerned and involved, such as consultation, investigation, evaluation, planning, design, or responsible

supervision of construction, alteration, or operation, in connection with any public or private utilities, structures, projects, bridges, plants and buildings, machines, equipment, processes and works....

The coverage of this statute is not as clearly delineated as Mr. Thompson's testimony would suggest. Because of the reasons discussed above, the Commission does not believe either party must establish conclusively that PE registration is or is not required under §443.01(4), Stats., as an essential element of his case. The record in this case supports a determination that PE registration for the position in question may be required by §443.01(4), Stats.

The remainder of this testimony cites the "primary purpose" criterion. However, it simply does not follow that because the "primary purpose" of a position may be research or planning that it does not require PE registration or staffing by an engineer. Even laying to one side the more narrow question of the PE registration requirement, the Research and Analysis position standard makes it clear that a position may have a primary purpose of research yet be excluded from that series if it falls within the "exclusions," one of which includes positions "...identified in other classification series which are based on the specific discipline in which knowledge is required.... Furthermore, the allocations cited in the CE Transportation position standard make it clear that certain positions primarily performing research and planning, including certain functions involving data collection, should be considered engineering positions.

Based on the entire record, there is a substantial preponderance of evidence that the knowledge and skills required by the appellant's position includes being an engineer and registration as a PE.

The Commission further is persuaded that the position is better classified in the CE Transportation series than the Research and Analysis

series. It fits within the Research and Analysis position standard "Exclusions" in that it is a position "identified in other classifications series which are based on the specific discipline in which knowledge is required..." (emphasis added) namely CE Transportation. To the extent that the testimony of respondent's expert witnesses, neither of whom audited the position, that the "primary purpose" of the position was research is considered as a contention that the position was not substantially involved in "engineering" work, this is outweighed by the substantial body of direct evidence to the contrary adduced by the appellant. The position requires PE registration and fits squarely within the CE 6 Highways definition:

Civil Engineer 6 - Highways (SR1-17)

This is highly technical and/or supervisory work of a professional nature in transportation engineering. Employees in this class are responsible for a program area and may report to the District Engineer or Section Chief. Supervision is normally exercised over a staff of professional, technical and clerical employees. Work is reviewed through conferences and the analysis of reports to determine the effectiveness of activities and adherence to established policies and standards. Respondent's Exhibit 4, p. 12.

Furthermore, the position compares fairly closely to one of the CE 7 representative planning position:

PLANNING

Highway Planning Research Coordinator- Administers the statistical and office services units in the Division of Planning, coordinates all planning, research and highway statistical activities. Respondent's Exhibit 4, p. 12.

The appellant's position supervises the Facilities Data Unit and the Traffic Data Unit. The section it heads is responsible for the development and maintenance of "... transportation data and information files relating to the physical characteristics, uses, conditions, performance, and improvement needs of transportation facilities for the planning and

operational functions of the Department...." Respondent's Exhibit 1. It reports directly to a bureau director.

While this is not an exact fit, it is a close fit, as Mr. Milanowski conceded. Furthermore, the CE - Transportation position standard, which became effective in 1970, provides at page 2:

- , The following allocation of duties and/or positions to specific classification levels provides both examples and patterns for present as well as future duties. Many different technical, managerial and administrative engineering tasks exist within the Department of Transportation. This position standard does not attempt to cover every eventuality or combination of duties as they currently exist or as they possibly could exist in the future. It is intended, rather, to be a framework within which classifications can be applied equitably to the present program and also adjusted to equitably meet future personnel relationships and patterns that develop as a result of changing programs and emphasis.

The respondent attempted to mitigate the effect of the foregoing allocation. This attempt was not successful.

Mr. Milanowski's testimony included the following:

Q. Is there -- do you have before you Respondent's Exhibit #4 -- the civil engineering - transportation class specifications?

A. Yes.

Q. Is there an allocation for a planning engineer?

A. There are a number of them...

Q. Were you aware of this allocation at the time you made your decision?

A. Oh, yes.

Q. And, why did it not persuade you -- or that allocation persuade you to identify Mr. Pamperin's position as a planning engineer, if you will.

A. For a couple of reasons. First of all, a number of the planning engineer, or the planning allocations, appeared to me to be more functionally doing engineering, in other words, putting the actual specifications to highway plans. The other would be that a number of positions identified in the specification as planning engineers simply no longer

exist. In that sense, there's an element of outdatedness to the specification and another area, there was, there are a number of positions which trace back their history, that apparently were identified in this area that have since become other things by evolution of those particular jobs, so that in most cases it was either a matter of the fact that I felt that the jobs were, based on my conversation with Mr. Thompson, and my reading of the position description, more, that Mr. Pamperin's job had more of a research and statistical information focus than these jobs, or that the jobs themselves were no longer in existence and had been essentially -- their derivatives had been classified in other series. Either the jobs were different or they didn't exist, so essentially I was not left with too much guidance from the standard in terms of what to do with Mr. Pamperin's job.

* * *

[CROSS]

Q. ... I'd like to specify, ask you, which ones [representative positions in the CE position standard] became other things?

A. Well, I think it's an interesting allocation here... the one I had particularly in mind was a ... on p. 12, the CE 6 - Highways, where it talked about planning, highway planning research coordinator, on p. 12, that appears to be a job that is much like, in some sense, what Willard Stambaugh's job was, is, was at the time he retired, although it didn't apparently have planning in it per se, it certainly had statistical office services in the successor division to the division of planning, so that in some sense, some while ago, sometime back in the 70's, early '70's, someone decided the job had changed from this allocation and made the job into a planning analyst -- something -- management, I don't recall the exact title.

Q. Do you recall when the planning analyst survey was adopted, the first one?

A. I think 1972 -- I'm not positive though.

Q. How about '68?

A. That could be right. As I say, I'm not positive.

Q. Do you know when the CE standards were adopted?

A. The initials on the back would apply, 4 of '70, April of '70.

Q. Do you know of any other things that changed?

- A. That's the one I had in mind. That the one -- this is the one that I, in relationship to your position, -- this is the one that struck me most forcefully, because, there are certainly some elements of it that are similar to Mr. Stambaugh's old job, and then of course, would have to be considered similar to your job also, because of that.

With respect to the CE 6 representative position in question, this testimony is to the effect that the actual job in DOT changed and was reallocated to a planning analyst classification. It does not follow from this, nor does the record otherwise support the conclusion that the CE 6 Planning - Highway Planning Research Coordinator representative position/allocation is outmoded and should not be given effect in determining the proper classification of the appellant's position. Indeed, Mr. Milanowski testified at another point as follows:

... Now, I think there might have been, in the earlier part of the specs, there might have been another group here that could have changed, although they're a little different -- yeah, on page 5 we have other engineers in the division of planning. Group leader, data unit, Group leader, data control index unit. And, apparently at some time, jobs that were somewhat like this were made into planning analysts. I don't know why. But apparently someone thought they weren't engineers anymore.

- Q. Yet these are still in the standards. So you say you can circumvent the standard anytime you wish.

- A. If the jobs were identical to what is in the standard, then it would appear to me that the standards would be most appropriately applied.

The CE 6 level is more appropriate to this position than the CE 7 level, which is defined in the CE-Transportation position standard, Respondent's Exhibit 4, as follows:

Civil Engineer 7 - Transportation (SR1-18)

This is administrative and technical supervisory engineering work of a professional nature in the planning, design, construction, maintenance and operation of highways, structures and other transportation facilities. An employee in this class is responsible for the planning and technical supervision of a major engineering activity within a district such as construction, design, planning, maintenance or traffic; or serves as assistant in a

specialized area within the central office to the state such as bridge, road design, construction, maintenance, materials or traffic; or performs duties of equal complexity. Emphasis is placed upon professional leadership and ability to advise district personnel, and outside public and private officials and organizations concerned with the specific program involved. Supervision is exercised over a staff of professional, technical and clerical employees. Work is reviewed through conferences and the analysis of reports to determine the effectiveness of activities and adherence to established policies and standards.

Since an examination of the entire CE-Transportation position standard indicates that the term "planning" includes research elements, it may be said that in the most general sense the aforesaid definition describes the appellant's position. However, the close resemblance between the appellant's position and the CE 6 representative Planning - Highway Planning Research Coordinator position dictates placement of the appellant's position at that level.

The other alternative classification series included in the issue is Program and Planning Analyst, and more specifically, Planning and Analysis Administrator 2 (PR1-18).

The appellant's position is more specifically described in the CE-Transportation series than in the Program and Planning Analyst series and fits within the "Exclusions" section of the Program and Planning Analyst position standard, Respondent's Exhibit 2, p.3:

5. Positions performing analytic functions, but which are more appropriately identified in other classifications due to highly-specialized training and experience requirements on the high degree of specialized knowledge of the program service provided or service provision techniques (e.g., of social services, education, unemployment compensation/employment service);

6. All positions which are better defined in other classifications or class series.

Furthermore, as between the Program and Planning Analyst and the Research and Analysis series, the appellant's position partakes more of research activities than of planning activities. This is illustrated by

some excerpts from some of the key features of the appellant's position description, Respondent's Exhibit 1:

Transportation Network Data Section

The Transportation Network Data Section has been established to develop and maintain transportation data and information files relating to the physical characteristics, use, conditions, performance, and improvement needs of transportation facilities for the planning and operational functions of the Department. The section also conducts special travel surveys at the request of other divisions, and coordinates transportation system performance and cost studies for federal and state programs (such as the Highway Performance Monitoring Study (HPMS) and the Interstate Cost Estimate (ICE)).

* * *

This position is directly responsible for transportation system inventories; travel surveys and traffic analyses; road life and investment studies; certification of public road mileages for apportionment of federal and state transportation funds; and for facility use, performance and needs studies. In this capacity, the position directs and manages a Highway Planning and Research (HPR) program budget of approximately \$1.7 million annually involving 12 to 15 projects; 28 professional and technical employees; and includes the functional supervision, coordination, and monitoring of 8 districts' employees engaged in supplying data for the section's projects. (emphasis supplied)

While the appellant's position does contain some planning-type elements as that term is utilized in the Program and Planning Analyst position standard, the research-type elements are more predominant than the planning-type elements.

ORDER

The respondent's action reallocating the appellant's position from Planning Analyst 6 - Management (PR1-17) to Research Administrator 1 (PR1-17) instead of Civil Engineer 6 - Transportation Management (PR1-17) is rejected, and this matter is remanded for action in accordance with this decision.

Dated: April 25, 1985 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Commissioner

AJT:jmf
ID5/2


LAURIE R. McCALLUM, Commissioner

Parties:

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