

974.90 C582 1992F c.2

NEW JERSEY. DEPT. OF
PERSONNEL.

STATE LAYOFF REPORT

974.90
C582
1992F
c.2



STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

CN 317
TRENTON NJ 08625

ANTHONY J. CIMINO
COMMISSIONER

To: Senate President Donald T. DiFrancesco
Assembly Speaker Garabed "Chuck" Haytaian

From: Anthony J. Cimino, Commissioner *AK*
N.J. Department of Personnel

Date: October 15, 1992

Re: State layoff report

In accordance with language in the State Appropriations Act, I am submitting the following report on the effectuation of the state employee layoff as mandated by S-1000.

I would like to emphasize at the onset that many of the findings and statistics contained in this document are preliminary. As this report was being being drafted, some departments, including the largest -- Human Services -- had yet to finish the administration of their layoffs. As the process is concluded in the coming weeks, my department will have the opportunity to make a thorough review of complete layoff data. After our review is complete,, I would gladly entertain an invitation from the Legislature to submit a follow-up, final report.

CHRONOLOGY OF EVENTS

After the Legislature on June 18, 1992 introduced its \$14.6 billion budget, \$1.1 billion less than what was proposed by Governor Florio, State departments were advised by the Office of Management and Budget of downward adjustments they would be required to make to interdepartmental and salary accounts.

On June 23, 1992, I requested state departments to submit, by July 6th, their "30-day layoff plan," as mandated under Civil Service Law (Title 4:A:8-1.4).

Handwritten notes:
Call
10/15/92
AK

As you are aware, the Legislature, on June 29, enacted the State Budget following a successful override of Governor Florio's veto of S-1000.

The Attorney General opined on July 2, 1992 that the budget language pertaining to the priority of layoffs was unconstitutional. Nevertheless, the Governor on that day instructed departments to follow the "spirit" of the budget language.

The governor issued two other directives related to the layoff process.

Number one, he instructed me, as Personnel Commissioner, to ensure that departments distribute layoffs in a fair and equitable manner so that rank and file employees would not be disproportionately impacted.

And number two, he told all departments to explore every means possible to minimize the impact of the layoff.

On August 5, 1992, I approved layoff plans submitted by all State departments and the Judiciary. By doing so, I started a 45 day+ window of layoff notification for affected State employees, as per the Administrative Code, and established a tentative termination date of October 2, 1992 for all workers.

On October 2, the termination date was put on hold pending the outcome of a legal challenge to the layoff before the New Jersey Supreme Court.

On October 5, the Supreme Court removed its stay of the layoff. In accordance with its ruling, I directed all departments to implement all layoffs and displacements at 5:00 p.m.

"FAIR" LAYOFF PLANS

The Department of Personnel shoulders the responsibility of reviewing layoff plans submitted by hundreds of merit system jurisdictions, including state departments. Approval is normally granted after the DOP determines that appointing authorities meet the 30-day requirements of the Administrative Code, i.e., they

New Jersey State Library

indicate reason for layoff, provide sample copies of layoff notices, indicate which positions are to be affected, etc. Our experience has been that layoff plans are infrequently rejected. When a plan is turned down, it is usually for a technical -- and easily-correctable -- reason.

Because the approval criteria in the State's case was broadened by Governor Florio's directive that the layoffs not fall unduly hard on rank-and-file workers, I took the unprecedented step of rejecting several layoff plans. In fact, I rejected plans submitted by eight State departments, then directed my staff to work with those departments on amending their plans so that rank-and-file workers were not disproportionately impacted.

One example of our success is illustrated by changes made in the Department of Transportation's layoff plan. Under the original DOT proposal, three dozen workers in maintenance titles were targeted for layoff. The plan was subsequently amended to save those civil service workers, then approved by the Department of Personnel.

By contrast, this layoff did not by-pass the jobs of hundreds of unclassified workers at the other end of the income scale. Project Specialists, Confidential Assistants, Confidential Secretaries, Deputy Commissioners, Assistant Commissioners, Executive Directors, Division Directors and Legislative Liaisons are all represented in this layoff.

MINIMIZING THE LAYOFF

While the Legislature and the Administration may have stood far apart in estimating layoff fallout from State budget cuts, we often stood united in the effort to minimize the impact.

While the Administration endeavored to save jobs by exercising several options, including the transfer of State employees to positions funded by federal and other non-State sources, the Legislature introduced several bills which complemented the job-saving effort.

Two bills (A-1799 and A-1678/S-1062) will save 129 jobs at the Department of Environmental Protection and Energy. Another

bill, A-1781, will avert the layoff of employees in the Division of Commercial Recording, Dept. of State. And A-1863 will allow approximately 36 Alcoholic Beverage Control inspectors in the Department of Law and Public Safety to remain on the job. In addition to these bills, the Legislature is to be commended for working with the Administration to revise hours of operation at DMV inspection stations and avert costly overtime payments.

As of today, the Department of Personnel estimates that 764 employees avoided being laid off as a direct result of successful minimization efforts.

THE LAYOFF PROCESS

Upon confirmation of the imminence of State-wide layoffs, I created a Layoff Task Force to help departments implement their layoff plans. The task force, which remains active, is comprised of 39 employees. Of the 39, 14 were supplied from the Department of Personnel. The remaining 25 were provided with the cooperation of other departments in State government.

The Layoff Task Force is made up of 4 teams, each working toward the successful and fair implementation of the layoff plans -- 1) the Seniority Audit Team; 2) the Title Rights Team; 3) the Administration Team and; 4) the Appeals Unit.

The Seniority Audit Team -- The Seniority of employees lies at the heart of the "bumping" process in state government layoffs. In short, an employee targeted for layoff with more seniority, in a specific title, can "bump" the least senior employee in that same title. Thus, the targeted employee may retain a job while the least-senior employee must either take a demotion or face a layoff.

The Seniority Audit Team worked to identify the seniority of affected employees to ensure that they were afforded all the rights they are entitled to based on the time they have been working for the State.

The Title Rights Team -- The N.J. Administrative Code permits targeted employees to "bump" other employees into new titles. The Title Rights team was specifically responsible for the development and delivery of Title Rights for the titles affected in the layoff.

Once the affected titles had been identified by an appointing authority, and their 30-day package had been approved, the lateral and demotional title rights for the affected titles were provided to the appointing authority.

Administration Team -- During the administration of the layoff, affected employees were interviewed individually, either in person or by phone, such that they could select their preferred option based in the Seniority Rights and Title rights afforded to them. This team's role was to train appointing authorities in the layoff process as defined by the Administrative Code. During the administration of the layoff, a representative from the Administration Team went to the central location of a department's layoff and assisted in the interpretation of layoff rules and regulations.

Appeals Unit -- For those employees who feel they were unjustly affected in a layoff, the Layoff Task Force provides an Appeals Unit. The unit is charged with the review and response to all appeals based upon the Department of Personnel's determination of title rights and seniority rights.

As indicated, the Layoff Task Force was charged with the administration of the layoff and with providing on-site assistance to the departments, in the implementation of the plans. Once title rights were determined, the Task Force and departments began the process of scheduling interviews with affected employees, so that they could begin to exercise their lateral and demotional rights.

As this is a seniority-based system which allows employees' rights to both lateral and lower titles, as well as titles formerly held by the affected individual, this is a process which changes as each employee makes his or her own individualized, particular decision. Therefore, it is imperative that the Task Force and the Department of Personnel carefully monitor and oversee the entire process to ensure that it is completed within the timeframes required under the rules and regulations in the Administrative Code governing the layoff process.

INTERPRETATION OF TITLE RIGHTS

New Jersey State Library

In the administration of this layoff, I elected to enforce a narrow interpretation of employee title rights. Prior to the Civil Service Reform Act of 1986, a relaxed interpretation of title rights resulted in a ratio of about 10 bumps (laterally or demotionally) for each layoff. Although the narrow view of title rights was vehemently opposed by the largest state employee union, I felt it was imperative that we balance the protection of title rights with the desire to avoid a chaotic disruption of state workers and services.

Had a liberal interpretation of title rights been applied to this layoff, a 10 to 1 bumping ratio would have disrupted 15,000 to 18,000 workers. The restricted application of title rights has yielded a bumping to an estimated layoff ratio of 4.35 to 1, resulting in the bumping of approximately 5,080 workers.

When I first announced the approval of layoff plans in August, I estimated that the bumping ratio would be approximately 3 to 1. The primary reason for a slightly higher ratio is that, per the budget language, departments targeted higher-salaried managers. A rule of thumb in the seniority-based civil service system is that when a higher-salaried position is targeted for layoff, a greater number of bumps is triggered.

APPEALS

Permanent employees are permitted to appeal a layoff or demotion to the Department of Personnel.

The Administrative Code offers two types of appeals.

Good Faith Appeals, based on a claim that the appointing authority laid off or demoted an employee in lieu of a layoff for reasons other than economy and efficiency or other related reasons;

and

Determination of Rights Appeals, based on a claim that an employee's layoff rights or seniority were determined and/or applied incorrectly.

To date, approximately 575 appeals have been filed on the basis of title rights or seniority rights. These are "first level" appeals which are received by the Office of Personnel Management. "Second level" appeals are forwarded by OPM to the Commissioner for final administrative action.

In addition, approximately 450 "good faith" appeals have been filed with The Department of Personnel's Division of Appellate Practices. In an effort to expedite the processing of this heavy caseload of good faith appeals, appeals have been consolidated and separated by department.

OUTPLACEMENT

In fulfilling its responsibilities as the State's full service human resource agency, the Department of Personnel is aggressively undertaking initiatives -- many in concert with the Department of Labor -- to help employees impacted by the layoffs.

One of the most important programs being offered by our department is outplacement counseling. In two-day workshops at the Human Resource Development Institute, professional trainers assist displaced employees in identifying skills, developing a resume, setting new career goals, conducting a job search and handling job interviews.

Since we began offering these workshops in July, approximately 300 State employees have participated.

Two or three instructors (depending on class size) provide intensive, one-on-one assistance to workshop participants.

I must add that while the Department of Personnel provided this service for free, we estimate that most private sector entities offering outplacement would charge, at the very least, \$300 for similar services.

In approximately three months from now, the HRDI will be conducting a survey of outplacement "graduates" to ascertain their success in finding new employment.

This weekend, the DOP is co-sponsoring with the Department of Labor a Job Fair for State workers. Scheduled for October 17th

at Mercer County Community College, the fair will allow job seekers to interface with dozens of potential employers who will be participating. We expect 70 employers to participate and 1,000 State employees to attend.

In another program, selected employees of the Department of Personnel have been trained to access the Department of Labor's Computer Bank which will include all separated State employees. Requests from agencies seeking authorization to hire have to clear existing Special Reemployment Lists as well as other appropriate lists. However, we are also attempting, through the computer, to identify separated employees who have the requisite skills and/or experience and so notify an agency seeking to hire. The agency will then be required to find out if the identified employees have any interest in the position and, if so, interview them.

The Department of Personnel is also encouraging employees to take advantage of the Employee Advisory Service. The EAS is a counseling and referral service for state employees. It has proven to be helpful to people needing emotional and financial guidance in managing the adverse effects of the layoff.

And, all separated employees have received information about low cost health care available, on a sliding fee scale, to Mercer County residents at the Henry J. Austin Health Care Center and a list of other federally-funded qualified health centers throughout New Jersey.

In these difficult and troubling times, State employees' needs for assistance and support have never been more pronounced. I am gratified that the Department of Personnel is playing such an instrumental role in meeting those needs.

CONCLUSIONS/OBSERVATIONS

Despite the success of minimizing bumping by narrowing title rights (as explained in the Interpretation of Title Rights Section), one doesn't need to look beyond newspaper reports to get a sense of how the layoff has disrupted the state workforce.

Rather than lay blame for the disruption totally on the bumping system doorstep, it is my opinion that there are underlying reasons why many workers are now performing unfamiliar jobs, as well as workable solutions to the problem.

Bumping, it should be clarified, allows an employee targeted for layoff with more seniority, in a specific title, to bump the least senior employee in that same title. It also permits targeted employees to bump other employees in titles that have "substantially comparable" duties and the "same or similar" education and experience requirements.

In other words, the bumping system is not only designed to protect seniority, it is designed to promote continuity of title work. However, that continuity can only be maintained when workers consistently perform duties native to their titles.

Although it is difficult and time consuming to document, it is my judgment that many state workers are not properly classified, meaning they are not performing the duties specifically outlined in a title's specification. This phenomena is called "out-of-title work".

When someone performing out-of-title work is then bumped, their unfamiliarity with a new work assignment is compounded. Therefore, while an out-of-title worker who is bumped may very well land in a position with specifications similar to the position he left, the work he will have to perform may in fact be totally unfamiliar.

Without a mechanism in place to centralize and monitor title classifications, the out-of-title/misclassification problem will no doubt lead to further disruptions in future workforce reductions, whether the reductions are achieved through layoffs, early retirement programs or other downsizing methods.

One potential mechanism, which the department is ready to implement, is the Classification Support System (CSS) -- a data base of information relating to all job duties and the knowledge, skills and abilities for every title in state service.

The automated CSS process will bring State government into the 21st century with the ability to utilize survey information to objectively determine the classification and compensation

levels for all employees, testing methods, training needs in particular occupations and other human resource functions.

The missing piece, however, is the consolidation of all classification and compensation functions in the Department of Personnel. Due to the loss of revenue sources, many of these functions have been delegated to the various departments and agencies of state government.

Legislation to centralize and consolidate classification and other human resource functions in the Department of Personnel has been introduced by Assemblyman Kamin. Also, the Commissioner of Personnel does have the discretionary authority to consolidate these functions.

In an effort to gain a better understanding of the manner in which the layoff and bumping process was administered, and how it can be improved, I have established a three-tiered review process.

The first step was to make the Layoff Task Force permanent. The Layoff Task Force was an invaluable asset in the effort to guide state departments through this very difficult and painful process. Its new role will be to conduct a thorough evaluation of the workforce reduction procedures carried out in this layoff.

The second review step I am taking is the creation of a blue-ribbon bumping task force. This task force, which will be comprised of public and private sector officials and union representatives, will study the bumping process employed by state government, as well as by the private sector, and make recommendations for improvement.

The third step of review is the process of gathering comments and recommendations from personnel officers in state government who actively and directly participated in this workforce reduction. These officers are members of a Personnel Advisory Board of the Layoff Task Force.

This week, the Board submitted a preliminary, internal layoff report, in which members conveyed some personal observations to me about the layoff.

The following are some excerpts from that report:

"The primary purpose of a layoff should be to target functions, not people. This has the least amount of pain and disruption of services. A layoff can be used to phase out programs."

"A recommendation was made to charge a filing fee for the processing of appeals. This should serve two purposes: to help curtail the administrative expense and to help in reducing frivolous and capricious actions."

"It is important that we look at the potential of out-of-title work after a reduction in force has occurred."

"Each department should be given the flexibility to do what is best for it with regard to planning and pre-layoff/alternative actions."

Without question, workforce downsizing is as much of a reality today for state government as it is for Corporate America. The Florio Administration has humanely met this downsizing challenge this fiscal year by establishing an attrition program for 2,850 positions, as well as instituting a virtual, absolute hiring freeze in areas of government it can control.

As you are aware, the Administration does not control hiring practices in the Legislature, the Judiciary and the higher education community.

Needless to say, we view the process of downsizing by layoff as disruptive. Short-term monetary savings to the State through a layoff are only destined to be offset by long-term losses a layoff triggers in unemployment compensation and public assistance expenses.

cc: Governor Jim Florio
Chief of Staff Joseph Salema
Treasurer Sam Crane
Office of Management and Budget Director Richard Keevey

New Jersey State Library

Senator John A. Lynch
Assemblyman Joseph V. Doria, Jr.
Senator Robert E. Littell.
Senator Peter A. Inverso
Senator Wynona Lipman
Assemblyman Rodney P. Frelinghuysen
Assemblyman C. Richard Kamins
Assemblyman John S. Watson

STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL
PRELIMINARY SUMMARY OF PERSONNEL ACTIONS
FY 92 LAYOFF

STATE AGENCY	UNCLASSIFIED LAYOFFS	CLASSIFIED LAYOFFS	OTHER LAYOFFS	LATERAL MOVES	DEMOTIONS	VOLUNTARY RETIREMENTS IN LIEU OF LAYOFF	TOTAL LAYOFFS	JOBS SAVED SINCE 7/30/92	TOTAL EMPLOYEES EFFECTED
BANKING	7	0	0	0	0	0	7	0	7
COMMERCE	5	19	0	1	8	2	24	12	35
COMMUNITY AFFAIRS	15	10	1	17	5	1	26	8	49
CORRECTIONS	25	77	24	166	183	2	126	159	477
EDUCATION	45	7	0	6	9	3	52	75	70
ENVIRONMENTAL PROTECTION	16	4	19	51	18	0	39	129	108
HEALTH	7	62	0	110	121	5	69	52	305
HIGHER EDUCATION	10	0	0	0	0	0	10	10	10
HUMAN SERVICES (NOTE 1)	55	585	6	1,300	600	10	646	88	2,556
INSURANCE	5	0	0	0	0	0	5	0	5
JUDICIARY	67	0	0	0	0	0	67	19	67
LABOR	0	0	0	0	0	0	0	0	0
LAW AND PUBLIC SAFETY	70	0	0	0	0	0	70	13	70
MILITARY AND VETERANS AFFAIRS	7	13	0	20	21	7	20	27	68
PERSONNEL	6	29	5	26	41	1	40	17	108
PUBLIC ADVOCATE	2	27	0	40	47	0	29	0	116
PUBLIC BROADCASTING	0	0	0	0	0	0	0	143	0
STATE	7	43	0	3	41	1	50	0	95
TRANSPORTATION	7	77	2	147	146	2	86	0	381
TREASURY	27	94	29	233	169	1	150	12	553
							0		
TOTAL	383	1,047	86	2,120	1,409	35	1,516	764	5,080

NOTE 1 HUMAN SERVICES INFORMATION IS ESTIMATED THE LAYOFF IS STILL IN PROGRESS

NOTES ON HOW JOBS WERE SAVED

COMMERCE	OMB AUTHORIZED THE UTILIZATION OF 12 VACANT LOWER PAYING TITLES FOR SAVINGS
PUBLIC BROADCASTING	ANTICIPATING A SUPPLEMENTAL APPROPRIATION TO CARRY SALARY DEFICITS
COMMUNITY AFFAIRS	SHIFTS TO FEDERAL, NON-STATE, OTHER, AND CONTIGENCY FUNDS
CORRECTIONS	SAVINGS DUE TO OTHER AGREEMENTS
EDUCATION	INCLUDES 28 SHIFTED TO FEDERAL AND OTHER FUNDING, 2 RESIGNATIONS, AND 3 ESSENTIAL POSITIONS RESTORED LAYOFF SET TO ZERO PER AGREEMENT WITH UNION AND DEPARTMENT.
ENVIRONMENTAL PROTECTION	92 LAYOFFS AVERTED IN PARKS DUE TO LEGISLATIVE INITIATIVE THAT PROVIDED \$2.55 MILLION TO OFFSET REDUCTIONS, 37 POSITIONS SHIFTED TO VARIOUS FEE SUPPORTED POSITIONS
HEALTH	DEPARTMENT CANNOT SUBSTANTIATE UNION INFORMATION BUT IS ASSUMING CWA. ALL 52 WERE SHIFTED TO NON-STATE FUNDS, AND MORE WILL OCCUR
HIGHER EDUCATION	SHIFTED TO FEDERAL AND NON-STATE LINES
HUMAN SERVICES	NURSING TITLES AND SHIFTS TO OTHER FUNDING SOURCES
LAW & PUBLIC SAFETY	ADDITIONAL RESOURCES AND COST SHIFTS
MILITARY & VETERANS AFFAIRS	SHIFTS TO NON-STATE FUNDS
PERSONNEL	ADDITIONAL RESOURCES, FEDERAL GRANT AND EMPLOYEES SHIFTED TO CHEATER BEATER PROGRAM
TREASURY	REDUCED PER NEW DEPARTMENT OF LABOR PROJECT
JUDICIARY	THE COURT REPORTERS ARE PARTICIPATING IN A FURLOUGH PROGRAM REDUCING TO 7. ALL ARE OBLIGATED TO AN AMENDED CONTRACT OF 20 FURLOUGH DAYS.
SOURCE OMB	