THE WEST VIRGINIA PUBLIC EMPLOYEES
GRIEVANCE BOARD

RICHARD WOOD, et al.,
Grievants,

v. **DOCKET NO. 2009-1276-CONS**

PUBLIC SERVICE COMMISSION and
DIVISION OF PERSONNEL,
Respondents.

DECISION

Grievants[1] filed a grievance against their employer, the Public Service Commission, on March 3, 2009, stating that they are being required to perform job duties outside of their classifications of Weight Enforcement Officer/Supervisors. On their grievance form Grievants sought as relief:

> to be evaluated and worked according to the job description of Weight Enforcement Officer/Supervisor as assigned by the WV Division of Personnel and we want to take only the required training and be only required to maintain certification set by the Federal Motor Carrier Safety Regulations. Any additional training to maintain certification can and should be done at our annual in-service. Any reclassifications or additional job duties should be done with adjustments to the pay grade and with the approval of the West Virginia Division of Personnel. We would further request that the West Virginia Division of Personnel review what the job classifications duties are and interpret if we are working beyond our classification. We also request from the Division of Personnel an interpretation of how the Public Service Commission is applying Chapter 24, specifically 24A-7-7(a).

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[1] The 10 Grievants are Richard Wood, Kenny Taylor, John Muscatell, Larry Smith, Terry Queen, Randy Cummings, Eric Farnsworth, Bill McCurdy, Byron Murphy, and Thomas Painter.

The Division of Personnel was joined as a party at level one. The grievance was waived to level two by Respondent's Chief Administrator on March 23, 2009, and a mediation session was held on July 14, 2009. Grievants appealed to level three on July 25, 2009. A level three hearing was held before the undersigned Administrative Law Judge on February 1, 2010, at the Grievance Board's Westover office. Grievants were represented by Susan L. Riffle, Esquire, the Public Service Commission was represented by Belinda B. Jackson, Counsel for Human Resources, and the Division of Personnel was represented by Karen O'Sullivan Thornton, Assistant Attorney General. This matter became mature for decision on February 22, 2010, on receipt of the last of the parties' proposed findings of fact and conclusions of law.

Synopsis

Grievants are classified as Weight Enforcement Officers or Weight Enforcement Supervisors. When their positions were transferred to the Public Service Commission from the Division of Highways in 2004, Grievants voluntarily trained to perform motor carrier inspections, and began performing these duties, in addition to their weight enforcement duties. Grievants perform the same duties as certain employees of the motor carrier section of the Public Service Commission who are classified as Utilities Inspectors 2. Neither the Weight Enforcement Officer or Supervisor classifications, nor the Utilities Inspector 2 classification adequately describes Grievants' duties. However, Grievants presented no evidence to support a change in their pay grade.

The following Findings of Fact are properly made from the record developed at level three.[2]

Findings of Fact

1. Grievants are employed by the Public Service Commission ("PSC") in the Motor Carrier Section. Grievants McCurdy, Painter, Smith, and Wood are classified as Weight Enforcement Supervisors ("WES"), pay grade 12. The remainder of the Grievants are classified as Weight Enforcement Officers ("WEO"), pay grade 10.

2. Grievants were employed by the Department of Highways ("DOH") as WEO's or WES's until their positions were transferred to the PSC in 2004.

3. When Grievants were employed by DOH their duties involved enforcement of weight restrictions on commercial motor vehicles.

4. Prior to employing Grievants, the PSC employed Utilities Inspectors who performed various types of inspections of utilities regulated by the PSC. Some of these Utilities Inspectors performed safety inspections of commercial motor vehicles.

5. There are three levels of Utilities Inspectors, 1, 2 and 3, as well as Utilities Inspector Supervisor. These classifications are in pay grades 8, 10, 12, and 14, respectively.

6. After being transferred to the PSC, Grievants voluntarily trained to perform all types of inspections of commercial motor vehicles carried out by the PSC, and they spend a significant amount of time performing these inspection duties, in addition to weight enforcement duties. Specifically, they have received training in four levels of inspections

[2] The parties submitted Joint Exhibit A after the hearing. Joint Exhibit A is Ordered admitted into the record.

as follows: parts and accessories, log books, hazardous materials, and cargo tanks. This training took about four weeks to complete. Grievants have also received training in speed enforcement, enforcement of driving under the influence laws, and other serious traffic violations related to commercial motor vehicles.

7. Those WEO's who chose not to train in inspections of commercial motor vehicles were assigned other duties.

8. Employees of the PSC who are classified as Utilities Inspectors, and whose duties involve inspections of commercial motor vehicles, have been trained to perform weight enforcement duties, and perform these duties.

9. Grievants perform the same duties as those employees of the PSC who are classified as Utilities Inspectors and whose duties involve inspections of commercial motor vehicles.

10. The Grievants who are classified as Weight Enforcement Supervisors do not supervise any employees, but they are assigned to weigh stations. Grievants Wood, Taylor, and Muscatell train Utilities Inspectors.

11. None of the Grievants has submitted a Position Description Form detailing their job duties to the Division of Personnel ("Personnel"), and requesting reallocation.

12. Personnel is currently in the process of reviewing classifications statewide. As part of this process, each state employee will be asked to complete a job content questionnaire. Personnel had anticipated that this project would be completed by December 31, 2010, but has already experienced some delays.

Discussion

As this grievance does not involve a disciplinary matter, Grievants have the burden of proving their grievance by a preponderance of the evidence. Procedural Rules of the Public Employees Grievance Bd. 156 C.S.R. 1 § 3 (2008); *Howell v. W. Va. Dep't of Health & Human Res.*, Docket No. 89-DHS-72 (Nov. 29, 1990). *See also Holly v. Logan County Bd. of Educ.*, Docket No. 96-23-174 (Apr. 30, 1997); *Hanshaw v. McDowell County Bd. of Educ.*, Docket No. 33-88-130 (Aug. 19, 1988). "The preponderance standard generally requires proof that a reasonable person would accept as sufficient that a contested fact is more likely true than not." *Leichliter v. W. Va. Dep't of Health & Human Res.*, Docket No. 92-HHR-486 (May 17, 1993).

In their post-hearing written argument Grievants requested that Personnel be ordered to create a new classification which describes their duties and which would be in a higher pay grade. Respondents argue that Grievants' current classification is the best fit for their duties.

W. VA. CODE § 29-6-10 authorizes the Division of Personnel to establish and maintain a position classification plan for all positions in the classified service. State agencies which utilize such positions must adhere to that plan in making assignments to their employees. *Toney v. W. Va. Dep't of Health & Human Resources,* Docket No. 93-HHR-460 (June 17, 1994).

In a misclassification grievance, the focus is upon the grievant's duties for the relevant period, and whether they more closely match those of another cited classification specification than the classification to which he is currently assigned. *See generally,*

Hayes v. W. Va. Dep't of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). Personnel job specifications generally contain five sections as follows: first is the "Nature of Work" section; second, "Distinguishing Characteristics"; third, the "Examples of Work" section; fourth, the "Knowledge, Skills and Abilities" section; and finally, the "Minimum Qualifications" section. These specifications are to be read in "pyramid fashion," i.e., from top to bottom, with the different sections to be considered as going from the more general/more critical to the more specific/less critical. *Captain v. W. Va. Div. of Health*, Docket No. 90-H-471 (Apr. 4, 1991). For these purposes, the "Nature of Work" section of a classification specification is its most critical section. *See generally, Dollison v. W. Va. Dep't of Employment Security*, Docket No. 89-ES-101 (Nov. 3, 1989).

The key to the analysis is to ascertain whether the employee's current classification constitutes the "best fit" for his required duties. *Simmons v. W. Va. Dep't of Health and Human Resources*, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. *Broaddus v. W. Va. Div. of Human Serv.,* Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Importantly, the Division of Personnel's interpretation and explanation of the classification specifications at issue should be given great weight unless clearly wrong. *See, W. Va. Dep't of Health v. Blankenship*, 189 W. Va. 342, 431 S.E.2d 681, 687 (1993).

143 C.S.R. 1 § 3.75 defines "Reallocation" as "[r]eassignment by the Director of Personnel of a position from one class to a different class on the basis of a significant change in the kind or level of duties and responsibilities assigned to the position." The key in seeking reallocation is to demonstrate "a significant change in the kind or level of duties

and responsibilities." *Keys v. Dep't of Environmental Protection,* Docket No. 06-DEP-307 (Apr. 20, 2007)*; Kuntz/Wilford v. Dep't of Health and Human Res.*, Docket No. 96-HHR-301(Mar. 26, 1997); *See, Siler v. Div. of Juvenile Serv.*, Docket No. 06-DJS-331 (May 29, 2007). An increase in the number of duties and the number of employees supervised does not necessarily establish a need for reallocation. *Kuntz/Wilford, supra.* "An increase in the type of duties contemplated in the [current] class specification, does not require reallocation. The performing of a duty not previously done, but identified within the class specification also does not require reallocation." *Id.*

Finally,

> [i]t is within the jurisdiction of the Grievance Board to determine whether a classification should have been created that would more closely fit the duties and responsibilities of a grievant. *Pridemore v. West Va. Bureau of Employ. Programs,* Docket No. 92-BEP-435 (Aug. 17, 1993). *Compare AFSCME v. Civil Service Com'n of W.Va.*, 380 S.E.2d 43 (W.Va. 1989). The standard under which such a case should be decided is whether the Division of Personnel abused its broad discretion in not creating an additional classification.

Nida v. W. Va. Dep't of Health and Human Res./Div. of Health and W. Va. Dep't of Admin., Docket No. 93-HHR-240 (Aug. 20, 1993).

> When a worker challenges the paygrade and salary ranking of his job class and/or alleges that his job class should include a series of one or more prog[r]essively higher positions (career ladder), he or she bears the burden of proof that laws, rules or regulations have been violated, misapplied or misinterpreted, or that an abuse of discretion has occurred with respect to those issues. *Frame v. W.Va. Dept. of Health and Human Resources/Personnel*, Docket No. 94-HHR-140 (Nov. 29, 1994); *Thompson v. W.Va. Dept. of Health and Human Resources/Personnel*, Docket No. 94-HHR-051 (Nov. 23,1994).

Johnston v. W. Va. Dep't of Health and Human Res./Div. of Personnel, Docket No. 94-HHR-206 (June 15, 1995).

Grievants are classified as either Weight Enforcement Officers or Weight Enforcement Officer Supervisors. The classification specification for Weight Enforcement Officer follows.

WEIGHT ENFORCEMENT OFFICER

Nature of Work

Under general supervision, an employee in this class performs at the full-performance level and weighs and inspects vehicles and combinations of vehicles to ensure compliance with the motor vehicle laws pertaining to size and weight restrictions and road tax registration. Work is performed outdoors in all types of weather and includes heavy lifting. Performs related work as required.

Distinguishing Characteristics

This classification is distinguished from the classification of Weight Enforcement Worker by the fact that an employee in this classification performs weight enforcement duties at the full-performance level under general supervision.

Examples of Work

May conduct a roving mobile patrol and unscheduled inspections of motor vehicles.

Responds to inquiries from operators of inspected vehicles and the general public regarding West Virginia motor vehicle laws.

May investigate complaints regarding the possible violation of West Virginia motor vehicle laws.

Sets up signs and road markers in order to stop vehicles for weighing.

Unloads and sets up portable and permanent scales and directs vehicle to proper position for weighing and inspection.

Weighs vehicles and measures for width, length, height, and axle placement.

Inspects oversize and overweight permits, temporary road tax permits, weigh bills, or other pertinent papers and compares with recorded measurements to determine compliance with motor vehicle laws.

Issues citations and makes arrests for violations pertaining to size, weight, and road tax regulations.

Prepares evidence for trial and testifies in court as a state witness.

Knowledge, Skills and Abilities

Knowledge of basic safety precautions.

Ability to load and unload portable and permanent scale units from transporting vehicle.

Ability to set up and operate portable or permanent scales.

Ability to compare measurement records with standard road user permits.

Ability to deal tactfully and with restraint when issuing citations and making arrests for violations of motor vehicle laws.

Ability to prepare evidence and testify in court as a state witness.

Ability to maintain routine records.

Minimum Qualifications

Training:

Education equivalent to graduation from a standard four-year high school.

Special Requirements:

Successful completion of a motor vehicle inspection and weight enforcement training program conducted by the West Virginia Department of Public Safety.

Possession of a valid driver's license.

Established: 11/16/93
Revised: 11/14/94
Effective: 11/14/94

The classification specification for Weight Enforcement Supervisor follows.

WEIGHT ENFORCEMENT SUPERVISOR

Nature of Work

Under limited supervision, an employee in this class supervises a permanent scale operation or a mobile crew of weight enforcement personnel within a designated area to ensure compliance with the motor vehicle laws pertaining to size and weight restrictions and road tax registration. Work is performed outdoors in all types of weather and includes heavy lifting. Performs related work as required.

Distinguishing Characteristics

This classification is distinguished from the classification of Weight Enforcement Officer by its supervisory responsibilities such as planning, assigning, monitoring and evaluating the work of subordinate Weight Enforcement Officers and Weight Enforcement Workers.

Examples of Work

Responds to inquiries from the operators of inspected motor motor vehicles and the general public regarding West Virginia motor vehicle laws.

Supervises the operation of a weigh station or the work of a weight enforcement crew within a designated area.

Schedules weighing operations with the local State Police unit to coordinate motor vehicle law enforcement.

Weighs vehicles and measures for width, length, height, and axle placement.

Promotes safety practices during weighing operations. Inspects oversize and overweight permits, weigh bills, or other pertinent papers and compares with recorded measurements to determine compliance with motor vehicle laws.

Investigates overweight vehicle complaints within the designated area.

Issues citations and makes arrests for violations pertaining to size, weight, and road tax regulations.

Prepares evidence for court, files complaints for warrants, and testifies in court as a State witness.

Writes daily and monthly reports of activities and citations issued and submits abstracts on citations which have been adjudicated.

Knowledge, Skills and Abilities

Knowledge of West Virginia laws and regulations pertaining to vehicle size, weight, load limitations, and vehicle road taxes.

Knowledge of oversize and overweight permit regulations.

Knowledge of the standard safety procedures of the Division of Highways.

Ability to supervise subordinate weight enforcement personnel.
Ability to prepare work schedules and deal effectively with other law enforcement agencies.
Ability to operate portable or permanent scales.
Ability to deal tactfully and with restraint when issuing citations and making arrests for violations of motor vehicle laws.
Ability to prepare evidence and testify in court as a State witness.
Ability to keep a variety of records and write activity reports.

Minimum Qualifications

Training:

Education equivalent to graduation from a standard four-year high school.

Experience:

Two years of full-time or equivalent part-time paid employment in motor vehicle weight enforcement, law enforcement, motor carrier inspection.

Special Requirement:

Successful completion of a motor vehicle inspection and weight enforcement training program conducted by the West Virginia Department of Public Safety will be required after employment. Possession of a valid driver's license.

Established: 11/16/93

The Utilities Inspector 2 and 3 classification specifications provide as follows:

UTILITIES INSPECTOR 2

NATURE OF WORK

Under general supervision, at the full-performance level, performs more complex inspections and investigations of the physical plant, property, operational procedures and records of public utilities, licensed motor carriers, railroads and pipeline operators regulated by the Public Service Commission (PSC). The work may involve exposure to hazardous materials and work environment. Travel in a designated region of the state is required. Performs related work as required.

EXAMPLES OF WORK

Performs more complex inspections of utility properties and equipment, operating procedures and records.
Determines compliance with codes, laws and regulations governing utilities.
Performs vehicle and safety inspections on motor carriers regulated by PSC.
Reports violations and explains requirements and procedures to obtain compliance.
Initiates prosecution of violators and testifies in court or before the Public Service Commission.
Performs inspections of railroad tracks and equipment for compliance with federal and state railroad safety regulations. Investigates railroad accidents and determines causes.
Writes reports of inspections and investigations and maintains appropriate records.

KNOWLEDGE, SKILLS AND ABILITIES

Knowledge of the facilities and operations of the assigned utility area.
Knowledge of the codes, laws and regulations of the assigned utility area.

Ability to conduct inspections and investigations of utility properties, operations and records.
Ability to prepare written reports of inspections and investigations.
Ability to maintain appropriate records.
Ability to maintain effective relationships with utility officials, employees and the public.

MINIMUM QUALIFICATIONS

Training:

Graduation from a standard high school or the equivalent.

Experience:

Four years of full-time or equivalent part-time paid experience in criminal justice, law enforcement, engineering, operations, maintenance, safety, inspection or investigation in the area of assignment which includes work with a public utility or an industrial power distribution system, railroad, trucking fleet, or a pipeline carrier.

Substitution:

Successfully completed study in an accredited college or university in criminal justice, law enforcement, engineering, engineering technology, safety or industrial hygiene may substitute for the required experience on a year-for-year basis.

SPECIAL REQUIREMENT:

Possession of a valid West Virginia drivers license. Employees must successfully meet federally-required certification standards by the end of the probationary period.

NOTE: Criminal justice/law enforcement experience and/or training is appropriate for the Motor Carrier Division only.

Established: 9/19/93
Revised: 3/01/04
Effective: 3/01/04

UTILITIES INSPECTOR 3

NATURE OF WORK

Under general supervision, performs conducts complex inspections of the physical plan, property, operational procedures and records of public utilities, licensed motor carriers, railroads and pipeline operators regulated by the Public Service Commission (PSC). Supervision may be exercised over other utility inspectors. The work may involve exposure to hazardous materials and work environments. Travel in a designated region of the state is required. Performs related work as required.

DISTINGUISHING CHARACTERISTICS

This position performs as the lead worker by supervising and training other utilities inspectors and personnel.

EXAMPLES OF WORK

Supervises the work of other utilities inspectors.
Performs complex inspections of utilities properties and equipment, operating procedures and records.
Determines compliance with codes, laws and regulations governing utilities.
Performs vehicle and safety inspections on motor carriers regulated by PSC.
Reports violations and explains requirements and procedures to obtain compliance.

Initiates prosecution of violators and testifies in court or before the Public Service Commission.
Performs inspections and investigations and maintains appropriate records.
Trains other utility inspectors.

KNOWLEDGE, SKILLS AND ABILITIES

Knowledge of the facilities and operations of the assigned utility area.
Knowledge of the codes, laws and regulations of the assigned utility area.
Ability to conduct inspections and investigations of utility properties, operations and records.
Ability to supervise the work of others.
Ability to prepare written reports of inspections and investigations.
Ability to maintain appropriate records.
Ability to maintain effective relationships with utility officials, employees and the public.

MINIMUM QUALIFICATIONS

Training:

Graduation from a standard high school or the equivalent.

Experience:

Six years of full-time or part-time paid experience in criminal justice, law enforcement, engineering, operations, maintenance, safety, inspection or investigation in the area of assignment which includes work with a public utility or an industrial power distribution system, railroad, trucking fleet, or a pipeline operator.

Substitution:

Successfully completed study in an accredited college or university in criminal justice, law enforcement, engineering, engineering technology, safety or industrial hygiene may substitute for the required experience on a year-for-year basis.

Special Requirements:

Possession of a valid West Virginia drivers license. Employees must successfully meet federally-required certification standards by the end of the probationary period.

NOTE: Criminal justice/law enforcement experience and/or training is appropriate for the Motor Carrier Division only.

Established: 9/16/93
Revised: 3/01/04
Effective: 3/01/04

Grievants voluntarily accepted additional training and duties after their positions were transferred from DOH to the PSC. This transfer occurred as a result of legislation. Additional legislation was enacted which provides, in pertinent part:

> The [Public Service] commission is authorized to delegate motor carrier inspector duties to weight enforcement officers as it considers appropriate, following successful training and certification of individual officers, who shall then have the same authority as motor carrier inspectors under this section. The commission is also authorized to delegate weight enforcement duties to motor carrier inspectors.

W. VA. CODE § 24A-7-7(a). This legislation specifically authorizes the PSC to assign motor carrier inspection duties to Grievants and any other Weight Enforcement Officer. Apparently the Legislature did not believe that the addition of these duties supported any statutory pay increase. Because of this specific legislation, and because Grievants voluntarily accepted training and the additional motor carrier inspection duties, it would not be appropriate to now remove these duties from Grievants six years later.

It is clear from the record that Grievants' duties changed significantly several years ago. It is also clear that the employees of the PSC who perform inspections of commercial motor vehicles, with the exception of those who are classified as Weight Enforcement Supervisors, all perform the same duties, yet they are not all in the same classification. Those employees who are classified as Weight Enforcement Supervisors are assigned to weigh stations, and may have as a distinguishing characteristic that they are supervising a permanent scale operation. This is not clear from the record. Those Grievants who are classified as Weight Enforcement Officers have demonstrated that they should be in the same classification as Utility Inspectors who inspect commercial motor vehicles. However, they did not demonstrate that they lead other employees, so were they to be classified as Utilities Inspectors, they would be Utilities Inspector 2's, which is in the same pay grade as the Weight Enforcement Officer. That being the case, they would not be entitled to a pay increase were they placed in that classification. The Weight Enforcement Supervisor Grievants do not supervise or lead any other employee, so they would not qualify for placement in a higher pay grade classification within the Utility Inspector series. Grievants did not present a classification specification which would better reflect the combined duties of the Weight Enforcement Officers and the Utilities Inspectors, nor did they present

evidence in support of a higher pay grade for their duties, or even suggest what pay grade would be appropriate. To the contrary, the fact that Utilities Inspector 2's are in the same pay grade as Weight Enforcement Officers tends to suggest that, regardless of their classification, Grievants are in the proper pay grade.

Grievants have demonstrated that the Weight Enforcement Officer, Weight Enforcement Supervisor, and Utilities Inspector 2 classification specifications do not adequately describe all their duties. The undersigned does not have the authority to create a new classification. That is the role of Personnel. However, the undersigned must also conclude from the evidence presented Personnel will be carefully reviewing Grievants' job duties within the near future. It is up to Grievants to prepare and submit position description forms which properly describe their jobs, which they have not done. Personnel must then determine whether to revise either the Weight Enforcement Officer or Utilities Inspector 2 classification specification, and whether to revise the Weight Enforcement Supervisor classification specification to reflect the combined duties, or create new classification specifications for the employees performing these duties.

The following Conclusions of Law support the Decision reached.

Conclusions of Law

1. As this grievance does not involve a disciplinary matter, Grievants have the burden of proving their grievance by a preponderance of the evidence. Procedural Rules of the Public Employees Grievance Bd. 156 C.S.R. 1 § 3 (2008); *Howell v. W. Va. Dep't of Health & Human Res.*, Docket No. 89-DHS-72 (Nov. 29, 1990). *See also Holly v. Logan County Bd. of Educ.*, Docket No. 96-23-174 (Apr. 30, 1997); *Hanshaw v. McDowell County*

Bd. of Educ., Docket No. 33-88-130 (Aug. 19, 1988). "The preponderance standard generally requires proof that a reasonable person would accept as sufficient that a contested fact is more likely true than not." *Leichliter v. W. Va. Dep't of Health & Human Res.*, Docket No. 92-HHR-486 (May 17, 1993).

2. In a misclassification grievance, the focus is upon whether the grievant's duties for the relevant period more closely match those of another cited classification specification than the classification to which he is currently assigned. *See generally, Hayes v. W. Va. Dep't of Natural Resources,* Docket No. NR-88-038 (Mar. 28, 1989).

3. The key to the analysis is to ascertain whether the grievant's current classification constitutes the "best fit" for his required duties. *Simmons v. W. Va. Dep't of Health and Human Resources,* Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. *Broaddus v. W. Va. Div. of Human Serv.,* Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Importantly, the Division of Personnel's interpretation and explanation of the classification specifications at issue should be given great weight unless clearly wrong. *See, W. Va. Dep't of Health v. Blankenship*, 189 W. Va. 342, 431 S.E.2d 681, 687 (1993).

4. It is within the jurisdiction of the Grievance Board to determine whether a classification should have been created that would more closely fit the duties and responsibilities of a grievant. *Pridemore v. West Va. Bureau of Employ. Programs,* Docket No. 92-BEP-435 (Aug. 17, 1993). *Compare AFSCME v. Civil Service Com'n of W.Va.*, 380 S.E.2d 43 (W.Va. 1989). The standard under which such a case should be decided is whether the Division of Personnel abused its broad discretion in not creating an additional classification.

Nida v. W. Va. Dep't of Health and Human Res./Div. of Health and W. Va. Dep't of Admin./Div. of Personnel, Docket No. 93-HHR-240 (Aug. 20, 1993).

5. Grievants demonstrated that the existing classification specifications do not adequately describe their job duties.

Accordingly, this grievance is **GRANTED**. Grievants are **ORDERED** to prepare and submit position description forms or job content questionnaires to the Division of Personnel for review. The Division of Personnel is **ORDERED** to either revise the Weight Enforcement Officer or Utilities Inspector 2 classification specification, and the Weight Enforcement Supervisor classification specification, or create new classification specifications which reflect that the duties of the Weight Enforcement personnel have been combined with those of the Utilities Inspectors who inspect commercial motor carriers.

Any party may appeal this Decision to the Circuit Court of Kanawha County. Any such appeal must be filed within thirty (30) days of receipt of this Decision. *See* W. VA. CODE § 6C-2-5. Neither the West Virginia Public Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal and should not be so named. However, the appealing party is required by W. VA. CODE § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the certified record can be prepared and properly transmitted to the Circuit Court of Kanawha County. *See also* 156 C.S.R. 1 § 6.20 (2008).

BRENDA L. GOULD
Administrative Law Judge

Date: May 24, 2010