



B-77

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Prosecutor's Agent,
Warren County Prosecutor's Office

Administrative Appeal

CSC Docket No.2015-2341

ISSUED: MAR - 9 2015

(CSM)

Richard T. Burke, Warren County Prosecutor, requests that the Warren County Prosecutor's Office (Warren County) be permitted to increase the number of employees in the unclassified Prosecutor's Agent title beyond the limit set in *In the Matter of County Prosecutor's Agents* (MSB, decided May 23, 1989).

By way of background, the title of Prosecutor's Agent was originally established by the Civil Service Act at N.J.S.A. 11:4-4(s) and placed in the unclassified service. Moreover, N.J.S.A. 11:4-4(s) set forth the maximum number of Prosecutor's Agents that could be employed at any one time by Prosecutor's Offices on the basis of county population:

Agents, investigators or special officers in the office of the prosecutors of the pleas not in excess of 12 in counties having a population of more than 300,000; 6 in counties having a population in excess of 160,000 and not more than 300,000; and 2 in other counties.

When the former Civil Service Act was repealed in 1986, the newly-enacted Civil Service Act, Title 11A, New Jersey Statutes, did not make any provision for the continuation of this title. Thereafter, in recognition of the sensitive nature of the Prosecutor's Office and the longstanding use of Prosecutor's Agents, the former Merit System Board (Board) provided for the continued use of this unclassified title in Prosecutor's Offices pursuant to N.J.S.A. 11A:3-4(l), which provides for the allocation of titles to the unclassified service as determined by the Board, with the provision that their numbers remain at the levels established by the above-cited repealed provision. See *County Prosecutor's Agents, supra*. Thus, pursuant to this

decision, Warren County, which according to the 2010 census had a population of 108,692, is permitted to employ 2 employees in the Prosecutor's Agent title. Subsequently, in *In the Matter of Prosecutor's Agent, Bergen County Prosecutor's Office* (MSB, decided February 28, 2007), the Board underscored that there was no legal impediment to the conditional appointment of additional Prosecutor's Agents beyond the limits set forth in *County Prosecutor's Agent's, supra*, but the duties to be performed by those appointed to excess positions must undergo a classification review in order to ensure that the positions are properly classified, and then subject to approval by the Board, upon notice to all affected parties.

In its request to the Civil Service Commission (Commission), Warren County states that it is required to provide periodic review, oversight, and/or approval of various law enforcement policies as required by the New Jersey Attorney General, including, but not limited to school security/safety, active shooter response, and public information, but is unable to do so with its current staffing and work assignments. It also states that the position will perform community relations, updating its standard operating procedure, and coordinate and implement in-house and county wide training. Warren County states that these varied tasks can be best addressed by a Prosecutor's Agent, as such duties are not assigned to any career service title. The Division of Agency Services has reviewed this request and determined that it is appropriate to increase the allotted staffing level from two Prosecutor's Agents to three Prosecutor's Agents in Warren County.

It is noted that the Policemen's Benevolent Association, Local 331 and the Communications Workers of America (CWA), Local 1032, were notified of Warren County's request and given the opportunity to provide additional information or argument for the Commission to review in this matter. In response, Local 331, represented by Scott Imboden, President, states that it does not object to the request for an additional Prosecutor's Agent but asks that the position not be used to supplement any duties pertaining to a sworn law enforcement officer. No response was received from CWA Local 1032.

CONCLUSION

In accordance with *Bergen County, supra*, the Division of Agency Services has reviewed Warren County's request and determined that there is a legitimate need to increase the allotted staffing level from two Prosecutor's Agents to three Prosecutor's Agents. In this regard, the duties of the position are to involve such things as public information, community relations, and training, which are *not* duties primarily assigned to a law enforcement officer. Additionally, Local 331 does not object to the creation of one additional Prosecutor's Agent position so long as it is not used to supplement any duties of a sworn law enforcement officer. Under these circumstances, Warren County has demonstrated a need for an additional

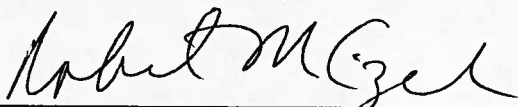
position and should be permitted to employ a maximum of three unclassified Prosecutor's Agents at any one time.

ORDER

Therefore, it is ordered that the request be granted and Warren County is permitted to employ a maximum of three unclassified Prosecutor's Agents at any one time.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF MARCH, 2015



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