

B-42




STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kurt Kinney,
Assistant Director of Public Works
(PM0011S), Lawrence Township

CSC Docket No. 2014-3261

Examination Appeal

ISSUED:  19 2014 (SLK)

Kurt Kinney appeals the determination of the Division of Selection Services (Selection Services) that, per the substitution clause for education, he did not meet the experience requirements for the promotional examination for Assistant Director of Public Works (PM0011S), Lawrence Township.

The examination at issue was announced with specific requirements that had to be met as of the January 21, 2014 closing date (see attached). Two employees applied for the subject examination that was cancelled on July 3, 2014 due to a lack of qualified applicants.

On Mr. Kinney's application, he indicated that he worked provisionally in the title under test from January 2014 to the January 21, 2014 closing date, as a General Supervisor Streets from July 2010 to December 2013 and as an Assistant Supervisor Streets from July 2007 to July 2010. Personnel records indicate that he was provisionally serving in the subject title from January 1, 2014 to the January 21, 2014 closing date, a General Supervisor Streets from July 2010 to December 2013, an Assistant Supervisor from August 2007 to July 2010, a Senior Street Repairer from July 2005 to August 2007, a Street Repairer from August 2000 to July 2005, and a Laborer 1 from July 1999 to August 2000. He also indicated that he had earned 18 college credits and that he has taken numerous training classes at both colleges and the workplace related to office skills, management skills, public works skills, and public works safety. Selection Services credited him with eight months of experience for his 18 college credits and one month of experience based

on his provisional experience in the subject title, but determined that his remaining experience was not applicable. It commented that his other experience was line supervision and assistant line supervision and not in the administration and implementation of public works programs, and that he did not have management responsibilities. Consequently, Selection Services determined that Mr. Kinney was lacking eight years and three months of the required experience.

On appeal, Mr. Kinney states that he started working for the appointing authority in 1999 as a Laborer 1 and thereafter was promoted to a Street Repairer, Senior Street Repairer, Assistant Supervisor Streets, General Supervisor Streets, and provisionally to the subject title. He presents that as a Laborer 1 he performed various public works duties and then was promoted to Senior Street Repairer where he continued to perform these same tasks, but also became a crew leader. As a crew leader, he received orders from his supervisor, prepared his crew, collected all materials and tools needed to performs the tasks, made decisions on the job site, and advised his supervisor of any changes in the plan and execution based on his decision. Thereafter, the appellant was promoted to Assistant Supervisor Streets where he highlights that he planned all phases of the street division jobs and worked directly with public works and appointing authority management, professionals, and departments and took on additional public works responsibilities. Then, Mr. Kinney represents that he took on additional public works duties, regulatory compliance, public interaction, emergency management and storm clean-up, and supervisory responsibilities. He highlights that the entire clean-up of Hurricane Sandy was handled internally for a cost of around \$200,000. The appellant indicates that he was provisionally promoted to the title under test in January 2014 and has been serving in this position for over six months. In this position, he maintains that he performs all of his previous responsibilities plus he is now in charge of Public Works when the Director is absent, supervises the Street Supervisor, Parks Supervisor, and Vehicle Maintenance Supervisor, approves purchase requisitions, places bids on jobs, prepares spending, materials, and job reports, trains new supervisors, and is more involved in employee hiring, disciplinary actions, and consulting with supervisors in setting-up jobs for the town. Mr. Kinney asserts that he was provisionally appointed to the subject title with the recommendation of the Director of Public Works and the approval of the Township Manager and Council.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. Further, *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

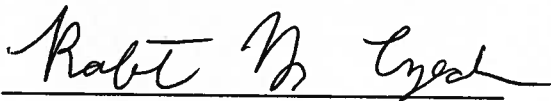
The Civil Service Commission (Commission) agrees that Selection Services correctly determined that Mr. Kinney did not meet the required experience as of the January 2014 closing date. However, although Mr. Kinney's experience does not precisely mirror the requirements contained in the announcement, the Commission is satisfied that the totality of his varied levels of experience as a Public Works supervisor as far back as August 2007 along with the numerous training that Mr. Kinney has completed in office skills, management skills, public works skills, and public works safety warrants his admission to the subject examination. Additionally, Mr. Kinney continues to serve provisionally in the title under test. Moreover, the record evidences that the examination was cancelled due to a lack of qualified candidates. Therefore, under these circumstances, good cause exists to relax the provisions of *N.J.A.C. 4A:4-2.6(a)* and accept the totality of Mr. Kinney's experience and admit him to the subject examination. Accordingly, admitting the appellant to the subject examination will provide the appointing authority with an eligible list so that it can make a permanent appointment.

ORDER

Therefore, it is ordered that the appeal be granted, the examination cancellation be rescinded, and that Kurt Kinney be scheduled for an examination as soon as possible. If the appellant achieves a passing score, his name should be added to the eligible list for prospective employment opportunities only.

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 17th DAY OF SEPTEMBER, 2014**



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

**c: Kurt Kinney
Richard Krawczun
Dan Hill
Joseph Gambino**

NEW JERSEY CIVIL SERVICE COMMISSION
 COUNTY AND MUNICIPAL GOVERNMENT SERVICES
PROMOTIONAL ANNOUNCEMENT



\$25.00 PROCESSING FEE REQUIRED
 Make Check/Money Order Payable to NJCSC

SYMBOL: PM0011S **WEIGHT CODE: ***
TITLE: ASSISTANT DIRECTOR OF PUBLIC WORKS **SALARY: \$69,445.00 - \$96,039.00**
ISSUE DATE: January 01, 2014 **CLOSING DATE: January 21, 2014**
TITLE CODE: 07150/ A6RLR8 **JURISDICTION CODE: T11070011**
JURISDICTION: LAWRENCE
DEPARTMENT: PUBLIC WORKS

**RETURN COMPLETED APPLICATIONS TO: ONLY ON LINE APPLICATIONS
 WILL BE ACCEPTED
 FOR THIS ANNOUNCEMENT**

Open to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements listed below:

Education: Graduation from an accredited college or university with a Bachelor's degree. You must indicate either possession of a degree or total number of college credits completed to date on your application. (Foreign degrees/transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

Applicants who do not possess the required education may substitute additional experience as indicated on a year for year basis with thirty (30) semester hour credits being equal to one (1) year of experience.

Experience: Five (5) years of experience in the development, administration, and implementation of public works or other similar construction/maintenance programs, three (3) years of which shall have included management responsibilities.

Note: Possession of a Master's degree in Business Administration, Public Administration, Industrial Management, Industrial Engineering, Management Science, or in a program related to the organization, operation, administration, and control of private or public organizations from an accredited college or university may be substituted for one (1) year of the non-supervisory experience. You must indicate the details of your Master's degree on your application. (Foreign degrees/ transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

License: Appointees will be required to possess a driver's license valid in New Jersey only if the operation of a vehicle rather than employee mobility, is necessary to perform the essential duties of the position. The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate, rests with the Appointing Authority.

Note: This announcement may be tested via the Management Test Battery (MTB). Under the guidelines of the MTB program, an applicant's score will be retained and applied to subsequent promotional or open competitive announcements for titles tested under this program. For information regarding the Management Test Battery, please refer to our website <http://www.state.nj.us/csc/seekers/about/steps/step7.html>

NOTE: As of December 1, 2013, applications must be completed and submitted by 4:00 pm on the closing date.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. **YOU MUST COMPLETE YOUR APPLICATION IN DETAIL.** Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c 26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES (i.e. Police, Fire, Corrections and Sheriff).
6. **SAVE ON POSTAGE! GO PAPERLESS! RECEIVE IMMEDIATE CONFIRMATION THAT YOUR APPLICATION HAS BEEN RECEIVED!** You can now file an application for this examination on-line. Visit the Civil Service Commission website at <http://info.csc.state.nj.us/epoa>. Select the promotional announcement and click on the link, "Click Here to file Online" at the top of the announcement. You can now complete and submit your application and payment on-line to the Civil Service Commission and you will receive an immediate receipt confirmation!

DPF-256A * Revised 03/09

