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A resolution/ordinance by Supervisor Lipscomb, Sr., requiring the Chief Human Resources Officer, Department of Human Resources (DHR) to: reverse the establishment of alternative pay rates for unclassified employees and to return unclassified employees to salaries that fall within the ranges authorized by the Milwaukee County Board of Supervisors (County Board); waive the requirement that the unclassified employees repay Milwaukee County for excessive pay received pursuant to the unauthorized salary ranges implemented by Chief Human Resources Officer, DHR; and directing the Chief Human Resources Officer, DHR, to report the adjusted salaries of unclassified employees to the County Board and to amend Sections 17.05 and 17.11 of the Milwaukee County Code of General Ordinances relating to determination of appropriate classification of position and budgetary provision for salary advancement and effective dates of salary increments, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, the Milwaukee County Board of Supervisors (County Board) approved an amendment to the 2014 Budget requiring the adjustment of the 903E executive pay grade table to establish the pay rate range as \$98,720 to \$120,613; the reallocation of the positions of Airport Director, Zoological Director, Chief Information Officer, Parks Director, and Corporation Counsel to pay grade 904E; and the reduction of the pay for any position currently in pay grade 903E to fall within the revised maximum of the new pay range (File No. 13-756) (hereafter “executive pay grade amendment”); and

WHEREAS, the adjusted pay ranges in the 903E pay grade table and the reallocation of certain positions to pay grade 904E, as established in the executive pay grade amendment, have not been repealed, amended, or superseded by the County Board by resolution, ordinance, or subsequent budget amendment, with the exception of County Board-authorized cost of living adjustments, and thus continue to be effective; and

WHEREAS, the Chief Human Resources Officer, Department of Human Resources, under the direction of the Milwaukee County Executive, reallocated certain unclassified employees to pay grades different than those authorized by the County Board and granted salary increases to certain unclassified employees that exceeded the pay ranges authorized by the County Board; and

WHEREAS, the County Board initiated a declaratory judgment action in Milwaukee County Circuit Court seeking a declaration that the County Board retains its authority to establish pay ranges for Milwaukee County employees; and

WHEREAS, the Milwaukee County Circuit Court issued a decision on April 26, 2017, upholding the County Board’s authority to adopt the executive pay provisions included in the 2014 Budget; and

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WHEREAS, the Milwaukee County Circuit Court’s decision is a final judgment that is immediately effective and binding, and has not been stayed by any court; and

WHEREAS, although pursuant to Section 17.22(4) of the Milwaukee County Code of General Ordinances (the Code), “Any payments made to an employe without proper authorization, or money owed to the county by the employe, shall be deducted from subsequent pay or from money otherwise due to the employe from the County,” the County Board has determined that it is appropriate as a matter of policy to hold the affected employees harmless; and

WHEREAS, the Committee of the Whole, at its joint meeting with the Committee on Finance and Audit, on May 25, 2017, recommended adoption of File No. 17-452 (vote 17-1); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board) in the exercise of its policy-making authority, expressly prohibits the creation or implementation of any proposed rate of pay, pay bands, or pay ranges for unclassified employees except as authorized or allowed by the County Board pursuant to Sections 17.05, 17.055, 17.27, and 17.28 of the Milwaukee County Code of General Ordinances (the Code); and

BE IT FURTHER RESOLVED, the Chief Human Resources Officer, Department of Human Resources (DHR), and the Milwaukee County Comptroller shall take all necessary actions to implement the pay grades authorized by the County Board in the 2014 Budget, as adjusted for budgeted cost of living increases; and

BE IT FURTHER RESOLVED, the Chief Human Resources Officer, DHR, and the Milwaukee County Comptroller shall eliminate all pay grades or pay ranges not currently authorized by the County Board, as hereto attached to this file in Exhibit 1; and

BE IT FURTHER RESOLVED, the Chief Human Resources Officer, DHR, and the Milwaukee County Comptroller shall take any positions, impacted by this elimination of pay ranges or grades, and assign them to their previously authorized pay grades, with a pay assignment, for any employee currently occupying those impacted positions, to be within the minimum and maximum limits of the authorized pay grades, and to the step at or above their current pay; and

BE IT FURTHER RESOLVED, the Chief Human Resources Officer, DHR, shall not direct the unauthorized amounts paid to the unclassified employees as compensation in excess of that authorized by County Board policies be deducted from subsequent pay or from money otherwise due to the affected employees; and

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BE IT FURTHER RESOLVED, the Chief Human Resources Officer, DHR, shall submit to the Committee on Finance and Audit, and the Committee on Personnel, a written report showing the salary and pay grade of all unclassified employees, in compliance with County Board policies, no later than June 5, 2017; and

BE IT FURTHER RESOLVED, the Code is amended as follows in order to harmonize the ordinances with the court decision in a manner that strikes a reasonable balance of power between legislative policy, budget control, and day-to-day administrative implementation of compensation within Milwaukee County, by adopting the following:

AN ORDINANCE

The County Board of Supervisors of the County of Milwaukee does ordain as follows:

SECTION 1. Section 17.05 is amended to read as follows:

17.05. - Determination of appropriate classification of position.

The following procedure shall be utilized to ensure that all county positions are appropriately classified based upon the duties assigned to and performed by the incumbents of the position:

- (1) Creation of additional positions. Each department is limited to the total number of positions or staffing authorized in the adopted annual budget unless an increase or decrease in the number of authorized positions or staffing is approved by the county board, subject to the review of the county executive, during the year. After adoption of the annual budget, the number of authorized positions or staffing may be increased or decreased in accordance with the following procedure.
 - (a) A request to increase or decrease the number of authorized positions within a department shall be forwarded to the county board chairperson by the appropriate department head with copies provided to the director of human resources and director of the department of administration. Such request shall include information with respect to the reason for the change as well as the qualifications, duties, title and compensation expected for any additional positions. All information shall be provided in the format designated by the director of human resources and director of the department of administration and included in the administrative manual.
 - (b) The director of the department of administrative services shall review each request with respect to need and appropriateness and file a report with the committee on finance and audit. The committee on finance and audit shall report its recommendation to the county board.

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(c) The director of human resources shall review all requests for new positions or additional staffing to determine the appropriate classification and pay and file a report with the committee on personnel. The committee on personnel shall report its recommendation with respect to classification and pay to the county board.

(2) Reclassification of existing positions. A department head, appointing authority or bargaining unit representative authorized by contract may ensure that an existing position is appropriately classified by:

(a) Submitting a reclassification request with respect to an existing position to the director of human resources. All requests, except those submitted by a bargaining representative authorized by contract, shall include an updated position description, detailed information regarding the duties assigned to the position, a summary of the change in duties and other pertinent information in a format designated by the director of human resources. In the event a reclassification request is submitted by an authorized bargaining unit, the head of the department where the position is authorized shall provide the director of human resources with the above noted documents in a timely manner.

(b) The director of human resources shall review the duties assigned to the position as well as any other information provided and submit a recommendation to the requestor.

(1) In the event the requestor concurs with the recommendations of the director of human resources to reclassify a position, the recommendation shall be included on a report distributed to all county board supervisors.

(2) In the event the requestor does not concur with the recommendation of the director of human resources both parties may request or provide such additional information as may clarify the appropriate classification for the position. After reviewing the additional information, if both parties concur that a reclassification is appropriate the recommendation of the director shall be included in a report distributed to all county board supervisors.

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(3) In the event the requestor and the director of human resources cannot agree on the appropriate classification for an existing position either party may appeal to the committee on personnel within thirty (30) days of receiving notice of the director final recommendation. Both parties shall submit a written summary of the rationale for their opinion to the committee on personnel as well as any other information deemed appropriate. The decision of the county board on the committee recommendation subject to review by the county executive shall be final and if a change in classification is approved it shall be implemented the first day of the pay period following that in which a resolution adopted by the county board has been approved by the county executive and in compliance with collective bargaining agreements.

(c) All reclassification studies shall also be subject to the following:

(1) The director of human resources shall have the authority to administratively add or delete title codes and classifications from the listing of authorized classifications.

(2) The director of human resources shall have the authority to initiate a review of the classification of any authorized position if he/she feels such a review is appropriate.

(3) After adoption of the annual budget no departmental appropriation shall be increased because of the findings of a reclassification review unless a fund transfer is approved by the county board subject to county executive review. The director of human resources shall have the responsibility and the authority to reclassify any position to an existing or new classification providing that the department of administration has certified that sufficient funds are available within the then existing appropriation of the department within which the position is being reclassified. In the event sufficient funds are not available to cover the cost of reclassifying an existing position, it shall be the department head's responsibility to submit a request for fund transfer. In the event the fund transfer is not approved, the department head shall restructure the duties of the position to ensure that the existing classification is appropriate. On a monthly basis, the department of administration shall be provided with a copy of the reclassification request and a report from the department of human resources which includes the existing and new hourly salary rate for each reclassified position.

(4) An employe who holds a position which is reclassified to a higher pay range shall receive an increase to the next rate in the new pay range which is higher than the rate of pay received in the old pay range or as otherwise approved by the committee on personnel subject to county board and county executive action.

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- (5) A vacant position reclassified to a classification in a lower pay range shall be implemented the first day of the first pay period following the meeting of the committee on personnel in the event no action was taken on the specific recommendation contained in the informational report submitted to committee by the director of human resources. When a filled position is reclassified to a classification in a lower pay range, the incumbent shall be placed on the layoff/recall list for an indefinite time period, without bumping rights, for the higher classification or a comparable classification if the classification is unique and the reclassification shall not be implemented until the position becomes vacant or the incumbent is relocated. In the event the incumbent refuses an offer to be relocated, the position shall be reclassified to the classification in the lower pay range the first day of the first pay period following his/her refusal to be relocated.
- (6) The effective date of a reclassification shall determine the date upon which an employe who occupied the position shall become eligible to receive salary increments until the maximum rate of pay for the range is achieved.
- (7) Monthly while a reclassification is pending, the director of human resources shall provide a report to the committee on personnel which lists all position reclassifications which the director intends to approve, along with a fiscal note for each. This report shall be distributed to all county supervisors and placed on the committee agenda for informational purposes. If a county supervisor objects to the decision of the director within seven (7) working days of receiving this report the reclassification shall be held in abeyance until resolved by the county board, upon recommendation of the committee, and subsequent county executive action. If no county supervisor objects, the reclassification shall be implemented the first day of the first pay period following the meeting of the committee and in compliance with collective bargaining agreements. In the event the county board takes no action on a reclassification, after receipt of a recommendation from the committee, the reclassification shall be implemented the first day of the first pay period following action by the county executive or, in the event of a veto, final county board action and in compliance with collective bargaining agreements.
- (8) The procedures provided in this section shall not be used to provide a higher pay range for an employee whose position is in the unclassified service pursuant to Wis. Stat. §§ 63.03(2)(t), (2)(y), and (3)(a). Because most of these non-classified positions are single-incumbent classifications within departmental management groups, a reclassification of such an employee to a classification with a higher pay range is, in effect, a reallocation. As a matter of county policy, the movement of an employee who is unclassified pursuant to Wis. Stat. §§ 63.03(2)(t), (2)(y), and (3)(a) must be processed as a reallocation pursuant to section 17.055.

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SECTION 2. Section 17.11 is amended to read as follows:

17.11. - Budgetary provision for salary advancement; effective date of salary increments.

- (1) Provision shall be made in the annual budget for anticipated salary increases due to progress of employes through their salary range.
- (2) For the purpose of considering length of service in connection with salary increments within established ranges of compensation, such increments shall be made effective as of the first day of the biweekly pay period beginning after the required period of service was completed in accordance with schedules adopted and established by the county board.
- (3) Notwithstanding (1), funds appropriated in the annual budget shall not be used to fund a salary increase for an employee in the unclassified service pursuant to Wis. Stat. §§ 63.03(2)(t) or 63.03(3)(a), unless authorized by the county board. The director of human resources shall provide a report to the committee on personnel that lists proposed salary increases for employees in the unclassified service pursuant to Wis. Stat. §§ 63.03(2)(t), (3)(y), or 63.03(3)(a) along with a fiscal note for each. This report shall be distributed to all county supervisors and placed on the committee on personnel agenda for its recommendation to authorize the expenditure of funds for the salary increases of the unclassified employees for the remainder of the fiscal year. The decision of the county board on the committee's recommendation, subject to review by the county executive, shall be final.

SECTION 3. The provisions of this ordinance shall be effective upon passage and publication.

jmj
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