



## Local Government Pay Equity

Minnesota’s Pay Equity law was enacted to eliminate wage-based discrimination against women in public employment. The law requires process public entities, including townships, to eliminate any sex-based wage inequities in employee compensation.<sup>1</sup> This does not affect how an employee is paid or how much an employee is paid in comparison to other employees. Pay equity increases the fairness of the pay structure of the organization. More specifically, the Minnesota Equal Pay for Equal Work Law, created a point system for employers and local governments to fairly pay employees of what is considered equal work under those points to be paid equally. However, does not replace collective bargaining and does not address all compensation issues.

The process consists of eligible political subdivisions analyzing their pay structure, i.e. evaluating their existing jobs, for evidence of inequities, and reporting the information to the Minnesota Department of Management and Budget (MMB).

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### I. WHO IS REQUIRED TO REPORT TO MMB?

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Any political subdivision having one or more employees must submit a report to MMB.

While this law has applied to towns for some time, due to the growing difficulty of retaining elected clerks, towns are now finding that they may need to hire someone to perform the duties of the clerk. Therefore, where a town with no employees was previously not required to file, towns are discovering that in appointing a clerk, such action may require the town to file a pay equity report.

#### A. What constitutes an Employee?

Under Minnesota law “employee” can mean many things. However, for the purpose of the pay equity rule, an employee is defined as someone who works:

- An average of at least 14 hours/week or, more than 35% of a normal work week within their appropriate unit.<sup>2</sup>
- An employee does not need to be included if they average less than 14 hours/week.<sup>3</sup> They also need not be included if they are not employed more than 67 working days per calendar

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<sup>1</sup> Minnesota Statutes §§ 471.991-471.999 and Minnesota Rules Chapter 3920

<sup>2</sup> Minn. Stat. 179A.03, subd. 14 (a)(5)

<sup>3</sup> *Id.*

year or, if they are a student 22 years old, or younger, and work no more than 100 days in a calendar year.<sup>4</sup>

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## II. HOW ARE JOBS EVALUATED?

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The pay structure is analyzed by using a Job Evaluation System (“JES”), which is a system used to measure the comparable work value of work performed by each class of employees. Available JES options are:

- Use the State Job Match;
- Use or modify a JES used by another political subdivision;
- Design your own JES; or
- Purchase a JES designed by a consultant.

Regardless of what JES is used, municipalities must be prepared to explain to the state’s Pay Equity Coordinator the criteria considered in the evaluation system, how points are awarded, and the objective basis for the system. Whichever system is used, it must be updated to account for:

- New employees; and
- Any change in factors affecting the comparable work value of existing classes.

When adopting a new system, or substantially modifying the current system. The municipality must notify the commissioner of the MMB.<sup>5</sup>

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## III. HOW DOES PAY EQUITY AFFECT LABOR CONTRACTS?

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Pay equity laws directly address some issues regarding collective bargaining issues as well, for instance:

- Political subdivisions must meet and confer with the exclusive representatives of employees on the development or selection of a JES.
- A report containing results of a JES must be provided to the exclusive representatives to be used by both parties in contract negotiations.
- Pay equity does not diminish an employer’s duty to bargain in good faith.

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<sup>4</sup> *Id.* at subd. 14(a)(6).

<sup>5</sup> Minn. Stat. 471.994.

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## IV. PAY EQUITY IMPLEMENTATION REPORT

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Political subdivisions are required to file an initial Implementation Report containing the political subdivision's findings and thereafter, updated reports on a three-year basis as required by MMB.

For metropolitan townships exercising powers under Minnesota Statutes, Chapter 368, the Government Data Practices Act (Minnesota Statutes, Chapter 13) makes the information in a report public data. MMB also treats the information as public data.

### A. What Must be Included in the Report?

The following information must be included in the implementation report for the MMB:

- A list of all job classes;
- The number of employees in each class;
- An identification of each class as male-dominated, female-dominated, or balanced;
- The comparable work value of each class as determined by the JES;
- The minimum and maximum salary for each class and the amount of time in employment required to qualify for the maximum;
- Additional cash compensation; and
- Any other information requested by the commissioner.

### B. Compliance

To check for compliance, the reports are initially tested for completeness and accuracy to determine whether the jurisdiction has filed the report on time, included the correct data and supplied all required information. Once this is done, a report is analyzed, or tested, to determine whether the political subdivision complies with the pay equity requirements.

Depending on the size of the employer, the following tests for compliance may be applied:

1. **Statistical Analysis Test:** compares salary data to determine if female classes are paid consistently below male classes of comparable work value (job points). MMB has developed software that generally is applied to larger jurisdictions. This test is applied to jurisdictions that have:
2. **Alternative Analysis Test:** compares salary data to determine if female classes are paid below male classes even though the female classes have similar or greater work value. The MMB software is not used for this test. This test is used for smaller jurisdictions.
3. **Salary Range Test:** compares the average number of years it takes for individuals to move through salary ranges established for female classes compared to male classes. Only applies to jurisdictions that have a system where an established number of years to move through salary ranges exists.

4. **Exceptional Service Pay Test:** compares how often individuals in male classes receive longevity or performance pay above the normal salary range compared to how often individuals in female classes receive this type of pay. Only applies to jurisdictions that have a system that includes exceptional service pay.

To assist in preparing a Report, MMB has developed **Pay Equity Software** – which “calculates tests for compliance and identifies inequities” and a **Guide to Understanding Pay Equity Compliances**, both of which may be obtained from MMB.

## **B. What if a Town is Not in Compliance?**

If a jurisdiction is found not in compliance, a notice will be issued to the jurisdiction. The jurisdiction, if it disagrees with the notice, may notify the commissioner of MMB and will be given a defined period during which additional information may be submitted for reconsideration of the finding.

Should compliance not be achieved within the defined time period set by the commissioner, the commissioner will notify the jurisdiction and the commissioner of revenue that the jurisdiction is subject to a five percent reduction in the aid that would otherwise be payable to the jurisdiction, or to a fine of \$100 per day, whichever is greatest.<sup>6</sup>

The imposition of a penalty may be appealed with the commissioner within 30 days of the commissioner’s notification to the jurisdiction of the penalty. No penalty may be imposed while an appeal is pending.<sup>7</sup>

## **C. Maintaining Pay Equity**

Equitable pay relationships must be maintained, and additional reports submitted, as required by MMB, on an ongoing basis. MMB monitors compliance and reports to the legislature annually. The process for imposing/appealing penalties applies to jurisdictions found in compliance at one time but found not in compliance at a future date.<sup>8</sup>

If there are any questions about pay equity, or if the town needs to begin or maintain the pay equity processes, please visit <https://mn.gov/mmb/employee-relations/compensation/laws/local-gov/local-gov-pay-equity/> for more information.

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<sup>6</sup> Minn. R. 3920.1000.

<sup>7</sup> Minn. Stat. § 471.9981, subd. 7.

<sup>8</sup> Minn. R. 3920.1300.