LOCAL GOVERNMENT PAY EQUITY

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What is Pay Equity?

Pay equity is the overall process, as governed by Minnesota law (Minnesota Statutes Sections 471.991 – 471.999 and Minnesota Rules Chapter 3920), that requires public jurisdictions to eliminate any sex-based wage inequities in employee compensation. (Pay equity does not replace collective bargaining and does not address all compensation issues).

The process consists of eligible political subdivisions analyzing their pay structure (evaluating their existing jobs) for evidence of inequities, reporting the information (currently to the Minnesota Department of Employee Relations “DOER,”) and eliminating impermissible inequities.

What are impermissible inequities?

Impermissible inequities occur when women are consistently paid less than men for jobs with similar points. The analysis is done by evaluating all jobs within the jurisdiction and assigning them points according to the level of knowledge and responsibility required to do the job. Salary adjustments must be made if it is discovered that women are consistently paid less than men for jobs with similar points.

Who is eligible, or required, to Report to DOER?

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

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 hiring a clerk, such action now requires the town to file a pay equity report.
What constitutes an Employee?

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.

- Generally, temporary or seasonal workers should also be included in a pay equity report if they work more than 728 hours in the calendar year. They need not be included if they are not employed more than 67 working days per calendar year or, if they are a student 22 years old, or younger, and work no more than 100 days in a calendar year.

Definitions

The following terms are used in the creation and analysis of the pay equity reports, and have the following meanings.

- **Class** = one or more positions that have similar duties, responsibilities, and general qualifications necessary to perform the duties, with comparable selection procedures used to recruit employees, and use of the same compensation schedule.

- **Balanced Class** = any class in which no more than 80% of the members are male and no more than 70% of the members are female.

- **Comparable Work Value** = the value of work measured by the skill, effort, responsibility, and working conditions normally required in the performance of the work.

- **Female-dominated class** = any class in which 70% or more of the members are female.

- **Male-dominated class** = any class in which 80% or more of the members are male.

How are Jobs Evaluated?

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 Job Evaluation 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.

**How Does Pay Equity affect Labor Contracts?**

• Political subdivisions must meet and confer with the exclusive representatives of employees on the development or selection of a Job Evaluation System.
• 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.

**Pay Equity Implementation Report**

Political subdivisions are required to file an initial Implementation Report containing the political subdivision’s findings and thereafter, updated reports, presumably, on a five-year basis. Until recently, reports were to be submitted on an on-going basis, every three years. However, a recent change in the law now states that political subdivisions can be required to file a report no more than once every five years. Notices were previously sent to local governments and interested parties explaining the 2003 legislative change to the reporting cycles. This letter stated that the reporting cycle had changed from once every three years to once every five years, as well as it placed a moratorium on reporting for 2004 and 2005. The complete reporting schedule is available on the DOER website.

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. DOER also treats the information as public data.

**Report forms, as well as the publication entitled Instructions for Completing Pay Equity Implementation Report may be obtained from the Department of Employee Relations (DOER).**

**What Must be Included in the Report?**

The following information must be included in the Implementation Report submitted to DOER:

• 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.

**Compliance**

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 is in compliance with the pay equity requirements.

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

- **Statistical Analysis Test** – compares salary data to determine if female classes are paid consistently below male classes of comparable work value (job points). [DOER software referenced below calculates the results for this test]. This test is applied to jurisdictions that have:
  - Six or more male classes and at least one class with an established salary range, or
  - Four or five male classes and an underpayment ratio of 80% or more (may or may not have classes with an established salary range).

- **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 (job points). The DOER software referenced below is not used for this test. This test is used for jurisdictions that have three or fewer male classes.

- **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.

- **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, DOER has developed Pay Equity Software – which “calculates tests for compliance and identifies inequities” and a Guide to Understanding Pay Equity Compliance and Computer Reports, both of which may be obtained from DOER. This software was updated in 2005 and is available to all users. DOER is also planning to do a series of comprehensive training sessions throughout the state in 2005.
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 commission of DOER and will be given a defined period of time 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. 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.

Maintaining Pay Equity

Equitable pay relationships must be maintained and additional reports submitted, as required by DOER, on an ongoing basis. DOER 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.

Resources

The source material for this presentation was based upon:

- Minnesota Statutes Sections 471.991 – 471.999 and 179A.03;
- Minnesota Rules Chapter 3920; and
- Publications and materials available from the Minnesota Department of Employee Relations.

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