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MINNESOTA MERIT SYSTEM

FOR: COUNTY WELFARE
HUMAN SERVICE BOARDS
COUNTY AND LOCAL EMERGENCY SERVICES
COUNTY AND LOCAL PUBLIC HEALTH

HUMAN SERVICES BUILDING
444 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55155-3822
612/296-3996

January 31, 1996

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to Salary Adjustments and Increases and the Compensation Plan under the Merit System, Minnesota Rules, parts 4670.1320 and 4670.4200-4240.

If you have any questions about the statement of need and reasonableness, please do not hesitate to contact me at 282-2649.

Sincerely,

Betty Carlson

Betty Carlson
Merit System Supervisor

Enclosure

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

IN THE MATTER OF THE PROPOSED ADOPTION OF

RULES OF THE MINNESOTA MERIT SYSTEM GOVERNING THE COMPENSATION PLAN AND SALARY ADJUSTMENTS AND INCREASES

STATEMENT OF NEED AND REASONABLENESS

I. The following considerations constitute the regulatory authority upon which the above-cited rule amendments are based:

1. Federal law requires that in order for Minnesota to be eligible to receive grant-in-aid funds for its various human services, health and public safety programs, it must establish and maintain a merit system for personnel administration. See, e.g. 42 USC §§ 4701-28.[1]

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[1] Also see sections of the United States Code and Code of Federal Regulations cited herein where the following programs have statutory or regulatory requirement for the establishment and maintenance of personnel standards on a merit basis:

Aid to Families With Dependent Children - "AFDC" [42 USC § 602(a)(5)]
Food Stamps [7 USC § 2020(e)(6)(B)]
Medical Assistance - "MA" [42 USC § 1396(a)(a)(4)(A)]
Aid to the Blind [42 USC § 1202(a)(5)(A)]
Aid to the Permanently and Totally Disabled [42 USC § 1352(a)(5)(A)]
State and Community Programs on Aging [42 USC § 3027(a)(4)]
Adoption Assistance and Foster Care [42 USC § 671(a)(5)]
Old-Age Assistance [42 USC § 302(a)(5)(A)]
Emergency Management Assistance [44 CFR § 302.4]

2. Pursuant to such congressional action the Office of Personnel Management, acting under authority transferred to the United States Civil Service Commission from the Departments of Health, Education and Welfare, Labor, and Agriculture by the Intergovernmental Personnel Act (IPA) of 1970 and subsequently transferred on January 1, 1979, to the Office of Personnel Management by the Reorganization Plan Number Two of 1978, promulgated the Standards for a Merit System of Personnel Administration codified at 5 CFR Part 900, Subpart F, which imposes on the State of Minnesota general requirements for a merit system of personnel administration in the administration of the federal grant-in-aid programs. (See, Footnote 1 Supra.)

3. Under the aforementioned grant-in-aid programs, the State of Minnesota, through its appropriate agencies, is the grantee of federal programs and administrative funds. Accordingly, the State is under an affirmative obligation to insure that such monies are properly and efficiently expended in compliance with applicable federal standards. Those standards require that in order for the agencies under the Minnesota Merit System to be eligible to receive federal grant-in-aid funds the Minnesota Merit System rules must specifically include, among other things, an active recruitment, selection and appointment program, current classification and compensation plans, training, retention on the basis of performance, and fair nondiscriminatory treatment of applicants and employees with due regard to their privacy and constitutional rights (48 Fed. Reg. 9211 (March 4, 1983) codified at 5 CFR § 900.603).

4. In conformance with 5 CFR Part 900, Subpart F, the Minnesota Legislature enacted sections 12.22 Subd. 3, 144.071 and 256.012 of Minnesota Statutes, which respectively authorize the Governor, the Commissioner of Health, and the Commissioner of Human Services to adopt necessary methods of personnel administration for implementing merit systems within their individual agencies. Collectively, the resulting programs are referred to as the "Minnesota Merit System".[2]

5. Pursuant to such statutory authority those state agencies have adopted comprehensive administrative rules which regulate administration of the Minnesota Merit System.[3]

6. The Minnesota Supreme Court has upheld the authority of the Commissioner of Human Services and by implication that of the Commissioner of Health and the Governor to promulgate personnel rules and regulations. The Court quashed a writ of mandamus brought by the Hennepin County Welfare Board against the county auditor in attempting to force payment of salaries in excess of the maximum rates established by the Director of Social Welfare.[4] State ex rel. Hennepin County Welfare Board v. Fitzsimmons, 58 N.W.2d 882, 890 (1953). The court stated:

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[2] See also Minn. Stat. §§ 393.07 subdivisions 3 and 5, 256.01 subdivisions 4 and 5, and 256.011.

[3] Minn. R. 9575.0010-1580, 7520.0100-1200, and 4670.0100-4300.

[4] "Director of Social Welfare" was the former title of the Commissioner of Human Services.

It is clear that the Director of Social Welfare was clearly right in adopting and promulgating a merit plan which included initial, intervening, and maximum rates of pay for each class of position of the county welfare board system included within the plan and that the plan so adopted was binding upon all county welfare boards within the state. .... In our opinion the federal and state acts, properly construed, provide that the Federal Security Administrator as well as the Director of Social Welfare shall have authority to adopt rules and regulations with respect to the selection, tenure of office, and compensation of personnel within initial, intervening, and maximum rates of pay but shall have no authority or voice in the selection of any particular person for a position in the state welfare programs nor the determination of his tenure of office and individual compensation.

7. The above cited proposed rule amendments are promulgated in accordance with the provisions of applicable Minnesota statutes and expressly guarantee the rights of public employers and Minnesota Merit System employees in conformance with the terms of the state's Public Employment Labor Relations Act (Minn. Stat. §§ 179A.01-179A.25).

II. The justifications establishing the need for and the reasonableness of the specific substantive provisions of the proposed amendments to the rules, all of which concern the Minnesota Merit System operation, are as follows:

A. Salary Adjustments and Increases

Minnesota Rules, part 4670.1320

An amendment is proposed to part 4670.1320 providing for a recommended general salary adjustment of 2% for all non-bargaining unit Merit System employees on Merit System professional and administrative, health services support, clerical and building maintenance salary schedules for 1996. The amendment is necessary not only because it changes the recommended general salary adjustment percentage in these rule parts from that adopted for 1995 but also because there is a need to provide competitive salary adjustments in 1996 for employees covered by the Health Merit System rules. The amendment is also reasonable based on a review of adjustments to salary levels by employers with similar and competing types of employment and trends in the Twin City Consumer Price Index (TCCPI).

Merit System rules require that the annual recommended general salary adjustment for employees be based on salary adjustments granted by employers with similar and competing types of employment and trends in the TCCPI. Obviously, for the Merit System, employers with similar and competing types of employment means other public employers. Traditionally, other employers the Merit System has looked to in developing a recommended general salary adjustment are the State of Minnesota and other counties with their own personnel systems which are separate and apart from the Merit System.

The State of Minnesota has negotiated a contract with AFSCME Council 6 representing approximately 18,000 state employees providing across-the-board salary adjustments of 2.5% effective July 1, 1995.

Several other jurisdictions have reported settlements for 1995 and 1996. Beltrami County has settled for 1% effective January 1, 1995 and 2% effective July 1, 1995. Blue Earth County settled for 2.5% in 1995. Hennepin County settled for 2% effective 12/25/94. Itasca County has settled for 3% effective January 1, 1996. Washington County has settled for 2% in 1995. Ramsey County has settled for 2% effective January 1, 1996 and 1% effective November 1, 1996.

As indicated previously, proposed annual employee salary adjustments must also be based on the trends in the TCCPI. The United States Department of Labor's Bureau of Labor Statistics calculates changes in the index for all urban consumers (covering approximately 80% of the total population) twice a year. For the first half of 1994 to the first half of 1995, the index increased 2.5%. The Bureau has also published the Employment Cost Index, which is a measure of the increase in wages and salaries for specific groups of employees, one group being state and local public sector employees. From the period of June, 1994 to June, 1995, the employment cost index increased 2.9%. Further, the Bureau of Labor Statistics has reported that during the first half of 1995, wage settlements entered into by state and local governments averaged 2% increases during the first year and 2.3% annually over the duration of the agreement.

Given the information presently available regarding across-the-board salary adjustments agreed to by competing employers for 1995 and 1996 as well as other measures of salary progression and increases in various consumer price indices as indicated, it is reasonable to recommend that salaries of Merit System employees not covered by the terms and conditions of a collective bargaining agreement be increased by 2% in 1996.

It should be emphasized that the recommended general salary adjustment of 2% is simply that, a recommendation. It lacks the binding effect of a negotiated collective bargaining agreement. Agencies, even those where there is no collective bargaining agreement, are not required to adopt the Merit System recommended general adjustment but have the flexibility, under Merit System rules, to adopt a different salary adjustment (or no adjustment at all) for agency employees. Under whatever salary adjustment is finally adopted by an agency, the only salary increases that agencies are required to make are those necessary to bring the salaries of individual employees up to the new minimum salary rate for their classification on the Merit System compensation plan adopted by the agency for that classification.

Another important point is that, under Merit System rules, Merit System compensation plan adjustments do not apply to employees in a formally recognized bargaining unit. In those agencies in which the employees are covered by a collective bargaining unit, employee compensation is the product of negotiation between the appointing authority and the employee's exclusive representative. In these agencies, the only employees subject to Merit System compensation plans are those in positions that are excluded from the bargaining unit by virtue of being supervisory or confidential in nature.

B. Compensation Plan

Minnesota Rules, parts 4670.4200-4240

Amendments proposed to these parts specifically recommend adjustments to the minimum and maximum salaries for all Merit System classes of positions covered by the Health Merit System rules. Merit System rules require that Merit System compensation plans be adjusted annually to reflect changes in the level of salary rates in business and government for similar and competing types of employment and to achieve equitable compensation relationships between classes of positions based on their comparable work value. Amendments to these parts are necessary to provide Merit System agencies with salary ranges for all classes that are competitive in terms of salary rates being offered by competing employers for comparable work elsewhere in the public and private sector and also to comply with the provisions of Minnesota Statutes, sections 471.991-999 requiring the establishment of equitable compensation relationships between classes of positions based on their comparable work value as determined by a formal job evaluation system.

The Merit System reviewed current compensation plans for competing employers such as the State of Minnesota and the counties of Hennepin, Ramsey, St. Louis, Beltrami, Dakota, Anoka, Blue Earth, Olmsted, Scott, Washington and Itasca to determine their salary levels and consider them in proposing amendments changing the minimum and maximum salaries of Merit System comparable classifications for 1996.

Proposed amendments to parts 4670.4200-4240 adjust the minimum and maximum salaries for all of the Merit System classes by 2%, the same percentage adjustment that is being recommended as a general salary adjustment for employees in all Merit System classifications. That kind of adjustment provides that employees will remain on the same salary step in their new salary range as they were on their previous salary range. This is reasonable in terms of the practice in other public jurisdictions of adjusting salary ranges by the same percentage amount as the general salary adjustment granted to all employees of the jurisdiction. This proposed adjustment is reasonable in light of the Merit System review of current salary ranges for comparable kinds of work in other public jurisdictions and by changes in general economic growth factors. It is necessary in order to maintain a competitive compensation plan providing equitable and adequate compensation for use by Merit System agencies covered by the plan.

III. The information required by Minnesota Statutes, section 14.131 follows:

1. Local and county agencies must compensate non-union employees within the minimum and maximum salaries established by the rules. As a result, the only mandated cost to local and county agencies involves the adjustment of salaries to the 1996 proposed minimum rates for their classifications. An agency may adopt a different adjustment from that recommended by the Merit System as long as employees are at least paid at or above minimum and at or below the maximum rates of pay for their classifications. Employees whose salaries are already within the proposed 1996 ranges for their classifications need not receive an adjustment. Employees covered by collective bargaining agreements are exempt from this provision.

2. There are no costs to local and county health agencies or the state in complying with the amendments proposed to parts 4670.1320 and 4670.4200-4240. No non-union health agency employees are currently paid below the proposed Merit System 1996 minimum salaries. As a result, none of the agencies are required to increase employees' salaries by the amount recommended in parts 4670.1320 and 4670.4200-4240.

3. The agency has determined that there are no methods that are less costly or less intrusive for achieving the purpose of the proposed rule. The proposed 2% adjustment to the ranges and the recommended 2% adjustment for incumbents not covered by collective bargaining agreements is reasonable in light of the settlements and amounts granted by other jurisdictions. Additionally, there is no mandated cost to the counties or the state.

4. The agency has determined that there are no alternative methods for achieving the purpose of the proposed rule. The proposed rule is necessary in order to adjust the minimum and maximum salaries for all classifications and to implement proposed salary adjustments for incumbents who are not covered by the terms of a collective bargaining agreement.

5. The probable costs of complying with the proposed rule are outlined in #2 above.

6. There are no differences between the proposed rule and existing federal regulations. In fact, the Standards for a Merit System of Personnel Administration (5 CFR Part 900) require that the agency ensure that there be adequate and equitable compensation for those employees whose positions are funded in part by certain federal grant-in-aid programs. The proposed rule is necessary in order to achieve compliance with federal regulations.

The foregoing authorities and comments are submitted in justification of the final adoption of the above-cited rule amendments.

The agency will mail the notice of rule amendments and a copy of the proposed rules to all local and county health and human services agencies covered by the Merit System, county board chairpersons, and the various unions and other organizations representing local and county employees so that agency management and employees are given proper notification of the proposed changes.

If this rule goes to public hearing, it is anticipated that there will be no expert witnesses called to testify on behalf of the agency. The small business considerations in rulemaking, Minnesota Statutes, Section 14.115, do not apply to these rule amendments.

Dated: 1/8/96

ANNE BARRY
Commissioner