



Department of Employee Relations

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March 7, 2006

To The Honorable
The Committee on Finance and Personnel
Common Council
City of Milwaukee

Dear Committee Members: Re: Common Council File Number 050095

Common Council files 050095 and 051510 authorize the creation of a task force to study pay equity in city government. While the decision to engage a task force to perform such a study and present its findings and recommendations to the Council is a matter of policy, the Department of Employee Relations wants to ensure that technical and financial considerations associated with such a decision are carefully reviewed, analyzed and understood. This communication intends to summarize important elements associated with such a process.

Background

The Equal Pay Act of 1963 prohibits pay differentials based upon sex for jobs requiring equal skill, effort, and responsibility. Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment (including compensation and pay practices) by employers on the basis of race, color, religion, sex, national origin or retaliation for having filed a discrimination case.

Wisconsin's wage discrimination statute, as enforced by the Department of Workforce Development, Equal Rights Division, is similar to the federal Equal Pay Act. These regulations prohibit gender based discrimination in the workplace by requiring equal pay for equal work. Overall jobs that have the same functions, similar working conditions, and require substantially equal skill effort and responsibility must compensate equally. Defenses that negate liability in this area include: that the differential payments are made pursuant to a seniority system; a merit system, or a system which measures earnings by quantity or quality of production, or any other factor other than gender.

Since the passage of the Equal Pay Act, many advocacy groups have argued and continue to argue that these laws have not gone far enough to remedy discrimination in compensation. Pointing to the wage differential that women on average earn about 73 cents for every dollar earned by men, some argue that government intervention is necessary to raise women's wages and eliminate gender-based wage discrimination. Equal pay for equal worth proponents argue that dissimilar jobs that are equal in terms of value or worth to the employer should be paid the same. The assumption is that dissimilar jobs may be similar in their value to the employer and when jobs are similar in value they should be paid the same, regardless of the labor market. Comparable Worth initiatives intend to address discrimination against occupations in which women predominate by requiring the government, rather than the labor market, to determine employees' wages.

Technical Considerations

To implement a comparable worth system, a reliable way must be developed to determine the "comparable value" of completely different jobs. To date, experts have failed to agree on any one system that would satisfactorily and intelligently compare truck drivers with child care workers, chemists with librarians, laborers with clerk typists, or any number of other male dominated jobs with jobs dominated by females. In order to implement a comparable worth system, the City would have to identify occupations dominated by one gender and create a value or "worth" for each evaluation criteria in order to establish "job ratings". Under such a system, wages would be set to reflect differences in the value of jobs as determined by job evaluation studies, not by market forces or collective bargaining.

From a labor relations perspective, it should be noted that in the City of Milwaukee females working in female dominated jobs are represented by three different unions: ALEASP; AFSCME, District Council 48; and Laborers International Union Local 61. These unions have the right and duty to act as the sole representative for their employees. Prior to engaging in such a study, legal and practical considerations must be addressed regarding the role of the representatives in the process.

Financial Considerations

States that have implemented comparable worth statutes for their employees include: Connecticut, Iowa, Minnesota, Montana, New York, Oregon, Washington, and Wisconsin. Seven out of the eight states discovered discrepancies in pay between males and females and remedied them by expending amounts from 1% to 4% of total payroll. Comparable worth requirements could force the City to increase pay for many different jobs and occupations while freezing pay for others, irrespective of labor market conditions or services to residents.

States' experiences in trying to implement comparable worth pay systems clearly demonstrate the complexity of the process. During the late 70's and early 80's, over 20 states conducted comparable worth job evaluation studies; however, only 2 states were able to successfully implement a comparable worth system. In a classic case of unanticipated consequences, states found that in many cases employees' rates of pay were raised above that of their immediate supervisors, necessitating further pay adjustments or a decline in morale among first-line supervisors.

Finally, it is important to note that progress made within particular states and local jurisdictions in relation to pay equity considerations has been accomplished primarily through the collective bargaining process.

Conclusion

The City of Milwaukee supports equal pay for equal work as mandated by the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964. We oppose compensation practices that discriminate based on gender.

Compensation programs should be designed to ensure fair treatment of employees but should be determined by the market and the needs of the City of Milwaukee and not dictated by the government or special interest groups. In the City, most workers have exclusive representation for bargaining wages. Representation gives workers substantial bargaining power to overcome inequities.

A review of claims in the employment discrimination arena with the City Attorney's Office during the last 10 years reveals that there have been a limited number of pay discrimination or pay inequity claims filed against the City of Milwaukee. Furthermore it is important to understand that the Seventh Circuit does not impose the concept of comparable worth on cases brought forward under the Equal Pay Act.

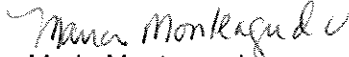
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It should be further noted that the Department of Employee Relations conducts compensation reviews of individual jobs and groups of jobs on a regular basis and recommends changes in compensation to the City Service Commission and Fire and Police Commission as warranted by internal comparisons and labor market conditions. Major studies conducted within the last ten years include all information technology positions and all office support positions. The office support study involved all unions and departments and resulted in compensation increases for about 15% of the population, 99% of whom were female. This oversight of compensation levels has contributed significantly to the City's good record in regard to equal pay claims.

The resolution authorizing the creation of this task force indicates that the City Clerk's Office and DER will provide staff assistance as needed. Given our current workload in relation to changes in the City's Management Pay Plan, it will be extremely difficult to provide the adequate support and resources to this endeavor. Careful consideration must also be given to the composition of the Task Force. The adequate knowledge and experience must be identified so that Task Force members are able to effectively address this complex issue.

Sincerely,


Maria Monteagudo
Employee Relations Director