



MEMORANDUM

Date: June 22, 2017

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator *CHH*

Re: **10 Percent Limitation on the Number of Unclassified Positions, Pima County Code Chapter 2.24.070**

Pima County Code, Chapter 2.24.070, sets a limit on the number of positions that can be declared exempt from our Merit System at 10 percent of the total number of County appointive officers and employees (Attachment 1). The positions exempt from the Merit System are essentially the unclassified positions.

In 2010, Pima County Ordinance 2010-42 raised the previously established limit from 5 percent to 10 percent to mirror a change to A.R.S. §11-352, which raised the limit from 5 percent to 10 percent (with allowable exclusions) of the positions that any county may exclude from its merit system (Attachment 2). In July 2015, the Arizona Legislature further revised A.R.S §11-352 to remove any limitations on the number of positions a county may exclude from its merit system (Attachment 3).

Since that time, Pima County has continued to follow Pima County Code 2.24.070 with respect to the 10 percent limitation even though such is no longer required by statute. We are quickly approaching that limit for positions excluded from our Merit System and will soon be unable to hire additional unclassified personnel. Recent reports from our Human Resources Department indicate we have only 18 unclassified positions that may be filled and still remain under the 10 percent cap imposed by the Pima County Code (Attachment 4).

The largest contributor to the increase in unclassified positions in recent years has been the conversion of all Classification Code 3115, Attorney, positions to Classification Codes 7660, Attorney–Unclassified or 7662, Administrative Attorney–Unclassified positions. This process has been ongoing since approximately 2010 to provide more flexibility to the County Attorney and the Public Defense Services Director in the recruitment, hiring and management of their large number of attorneys. Attorney positions are being converted from classified service to unclassified service through normal attrition as current attorneys leave their classified service position and new attorneys are hired into unclassified positions.

The Honorable Chair and Members, Pima County Board of Supervisors
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As of June 13, 2017, we have approximately 217 attorney positions, of which 156 are unclassified and 61 are classified. Thus, although representing only 3 percent of the total 5,108 employees subject to the limitation, attorneys in unclassified positions disproportionately comprise 31 percent of the unclassified positions counted against the 10 percent limit.

Although the Arizona statute has been amended and the 10 percent limitation is no longer required, I recommend Pima County continue with the restriction in general, but I believe it is appropriate to exclude the attorney classifications from this restriction.

In order to resolve the pending approach to the 10 percent cap, I have requested our Human Resources Department draft a proposed change to Pima County Code Chapter 2.24 to add unclassified attorney positions to the categories of positions exempted from the 10 percent limit. Such will allow sufficient room under the cap to continue to enable the County Attorney and the Public Defense Services Director to hire attorneys into unclassified positions. The Human Resources Department will present the proposed changes in the near future.

Finally, it is important to note that Pima County remains committed to maintaining our current Merit System and the organizational efficiencies, protections and due process this system provides for the vast majority of County employees,

CHH/mjk

Attachments

c: Tom Burke, Deputy County Administrator for Administration
Allyn Bulzomi, Director, Human Resources

Copy of A.R.S. 11-352

Dated 7/24/2014

ATTACHMENT 1

11-352. Adoption of limited county employee merit system by resolution; precinct committeemen

A. Any county may by resolution of the board adopt a limited county employee merit system. This system may be applied to county-appointed officers and employees. Elected officers shall not be included in such a merit system.

B. Notwithstanding any other law, rule or ordinance, a county employee may serve in the office of precinct committeeman.

Copy of A.R.S. 11-352

Dated 6/13/2017

ATTACHMENT 2

11-352. Adoption of limited county employee merit system by resolution; removal of certain administrative positions by resolution

A. Any county may by resolution of the board adopt a limited county employee merit system for all county appointive officers and employees. Elected officers shall not be included in such a merit system.

B. Any county may by resolution of the board remove certain administrative positions from the county employee merit system. The positions that may be removed from the county employee merit system are:

1. County manager.
2. Deputy county manager.
3. Assistant county manager.
4. Chief deputies to elected officials.
5. Department directors.
6. Deputy directors, not to exceed three in each department.
7. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director.
8. An administrative position declared exempt after August 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ten per cent of the total number of county appointive officers and employees.

C. Any employee who was included as a covered employee in the county employee merit system at the time the employee assumed the employee's present position and whose position becomes exempt under subsection B may elect to remain included under the merit system, but if terminated the employee must be afforded the opportunity to accept another vacant position within the merit system for which the employee is qualified.

**Copy of Pima County
Code of Ordinance
2.24.070**

Dated 6/15/2017

ATTACHMENT 3

2.24.070 - Application and exemptions.

The merit system shall apply to all positions and employees of the county government except the following:

- A. Persons who perform services for which payment is made on a fee, contract or claim basis;
- B. Volunteers;
- C. Members of boards, commissions and committees appointed by the board;
- D. Elected officials;
- E. County administrator;
- F. Chief deputy county administrator;
- G. Deputy county administrator;
- H. Chief deputies to elected officials;
- I. Department directors;
- J. Deputy department directors not to exceed three in each department;
- K. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director;
- L. An administrative position declared exempt after August 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ten percent of the total number of county appointive officers and employees.
- M. Employees of the superior court, justice courts and clerk of superior court who are covered by the judicial merit system and juvenile court who are covered by the juvenile court merit system;
- N. Employees of the sheriff's department who are covered by the law enforcement merit system.

(Ord. 2010-42, 2010; Ord. 2000-81, 2000; Ord. 1986-140 (part), 1986; Ord. 1985-67 (part), 1985)

Available Unclassified Positions
as of June 13, 2017

ATTACHMENT 4

Available Unclassified Positions
As of 6/13/2017

Total number of County employees including intermittent, excluding Courts/Justice Courts and Law Enforcement Officers under the Law Enforcement MSRs:	5102
Ordinance 2000-81, Section 2.24.070 allows for up to 10% to be unclassified:	510
Current number of unclassified employees excluding elected officials:	603
Certain categories of unclassified employees are exempted from being counted in accordance with paragraphs A-K:	111
Number of current unclassified employees counted against authorized total:	$603 - 111 = 492$
Number of available unclassified positions that could be filled and still remain under 10% cap:	$510 - 492 = 18$