



**BOARD OF SUPERVISORS AGENDA ITEM REPORT**

**Requested Board Meeting Date:** September 19, 2017

**Title:** Ordinance Revision of Pima County Code Chapter 2.24 Employee Merit System Application and Exemptions

**Introduction/Background:**

As explained in the attached June 22, 2017 memorandum from the County Administrator to the Board of Supervisors, Pima County Code Chapter 2.24.070 sets a self-imposed limit of 10 percent on the number of positions that can be declared exempt from the Merit System. There are several different categories of employees that do not count against the 10 percent total. The limit was originally established to comply with Arizona Revised Statute § 11-352. In July 2015, the Arizona legislature revised the statute to remove any limitations on the number of unclassified positions that may be excluded from a county's merit system. Pima County is approaching its self-imposed 10 percent limit on the number of unclassified employees. As of August 2, 2017, there were only 27 available unclassified positions that could be filled and still remain under the 10 percent cap.

**Discussion:**

A major contributor to the increase in unclassified positions in recent years has been the shift by the County Attorney's Office and in the Public Defense Services Department (PDS) from hiring attorneys into classified positions. Since 2010, those departments have hired new attorneys into unclassified positions to provide more flexibility in the recruitment, hiring and management of their departments. As attorneys in existing classified positions leave or retire, new attorneys are hired into the unclassified positions. Although the employees in attorney positions comprise only 3 percent of the workforce, they represent 31 percent of the unclassified positions subject to the 10 percent limit. While restricting the number of positions that can be unclassified remains important, the inclusion of attorneys in the count of restricted positions will soon cause difficulties in the recruitment of attorneys by the County Attorney's Office and PDS. Human Resources recommends that unclassified attorney positions be exempted from the 10 percent limitation. Human Resources also recommends that Assistant County Administrator positions be exempted similar to the exemptions for Deputy County Administrators.

**Conclusion:**

As the County Attorney and PDS continue to hire attorneys into unclassified positions, the County will exceed the self-imposed limit set under Pima County Code Chapter 2.24.070, and departments seeking to fill existing unclassified positions will be unable to do so.

**Recommendation:**

Staff recommends adoption of the proposed amendment to Pima County Code, Chapter 2.24.070 to include adding the positions of Assistant County Administrators, Attorney-Unclassified, and Administrative Attorney-Unclassified to the list of positions that are specifically exempt from the 10 percent limitation set forth in Pima County Code Chapter 2.24.070.

**Fiscal Impact:**

None

**Board of Supervisor District:**

1       2       3       4       5       All

Contact: Colin Smith

Telephone: 724-8111

Department Director Signature/Date:

Jennifer Petersen for Abulzorn Aug 20, 2017

Deputy County Administrator Signature/Date:

John Surka 8-18-17

County Administrator Signature/Date:

C. DeLuca 8/21/17




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# MEMORANDUM

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Date: June 22, 2017

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

From: C.H. Huckelberry  
County Administrator 

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

June 22, 2017

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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**

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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:	$510 - 492 = 18$

ORDINANCE NO. 2017-\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA,  
RELATING TO HUMAN SERVICES; AMENDING CHAPTER 2.24 OF THE PIMA COUNTY  
CODE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA

SECTION 1. Pima County Code Section 2.24.070 is amended to read as follows:

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. **Assistant county administrator;**
- H.I. Chief deputies to elected officials;
- I.J. Department directors;
- J.K. Deputy department directors not to exceed three in each department;
- K.L. **Employees in positions allocated as Attorney - Unclassified or Administrative Attorney - Unclassified;**
- K.M. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director;
- L.N. 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.O.** 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.P.** Employees of the sheriff's department who are covered by the law enforcement merit system.

**SECTION 2. This Ordinance is effective 30 days after the date of adoption.**

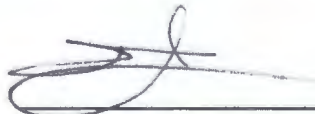
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Chair, Pima County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clerk of the Board

  
\_\_\_\_\_  
Daniel Jurkowitz  
Deputy County Attorney