

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: April 20, 2010

**Action Agenda
Item No.** 7-b

SUBJECT: Amended Article IX, Section 3.2 Reduction In Force of the Orange County
Personnel Ordinance

DEPARTMENT: Human Resources Department

PUBLIC HEARING: (Y/N)

NO

ATTACHMENT(S):

- 1) Amendment Orange County
Personnel Article IX, Section 3.2
- 2) Proposed Administrative Rules and
Regulations for Reduction In
Force

INFORMATION CONTACT:

Michael McGinnis, Human Resource
Director, 245-2550
Annette Moore, Staff Attorney, 245-2317

PURPOSE: To approve an amendment to the Orange County Personnel Ordinance Article IX, Section 3.2, Reduction In Force ("RIF").

BACKGROUND: The Orange County Personnel Ordinance was adopted it in 1985. Since its adoption, laws affecting the rights of employees and the responsibility of employers have changed significantly. The County has kept up by amending the Ordinance as some of these laws became effective. The RIF section of the Personnel Ordinance has not been changed since its inception. Amending Article IX, Section 3.2 of the Personnel Ordinance, Reduction In Force will update the language of the Ordinance to reflect not only the changes in the law, but will also provide a systematic method of implementation of a reduction In force should it become necessary. The amended language is also consistent with the majority of the language used by the State Personnel Policy and its Guidelines for Reduction in Force, which applies to some of employees.

The current language in Article IX, Section 3.2 provides the following:

In the event that a reduction in force becomes necessary, consideration will be given to the quality of each employee's past performance, the need for the services, and seniority in determining those employees to be retained. Employees who are to be laid off because of the reduction-in-force will be given at least one pay period notice of anticipated layoff.

The duties performed by an employee laid off may be reassigned to other employees already working who had positions in the appropriate classes. No permanent employee will be laid off while another person is employed on a part-time or temporary basis in the same class, unless the permanent employee is not willing to transfer to the position held by the temporary employee.

Staff is recommending the Board adopt the attached amendment to Article IX, Section 3.2 of the Personnel Ordinance.

North Carolina General Statute §153A-45 provides that in order for an ordinance to be adopted on its first reading it “must receive the approval of all the members of the board of commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board...it shall be considered at the next regular meeting of the board.” The Board then has 100 days after introduction of the ordinance to adopt the change to the ordinance.

FINANCIAL IMPACT: There is no financial impact associated with consideration of the amendment to the Orange County Personnel Ordinance.

RECOMMENDATION(S): The Manager recommends the Board approve an amendment to Article IX, Section 3.2 of the Orange County Personnel Ordinance that addresses reduction in force.

*Article IX, Section 3.2 Reduction in Force***I. ORDINANCE**

- 3.2 It is the policy of the County to maintain as stable an employment workforce as possible. In the event that the Board of County Commissioners determines a reduction in force is necessary such as for a shortfall in funds, shortage of work, abolishment of a position or other material change in duties of the organization, the County Manager, or other hiring authority, may separate an employee.
- 3.2.1 Retention of employees in the affected classes shall be based on systematic consideration, and at a minimum the following factors shall be considered: the type of appointment, the length of service, the relative efficiency, and actual or potential adverse impact on the diversity of the work force.
- 3.2.2 When a Reduction in force is necessary, the County Manager shall develop a reduction plan. The plan shall document the reasons for the reduction in force, the factors considered in deciding the particular course of action, and the specific positions scheduled for abolishment or redesign.
- 3.2.2 The duties performed by an employee laid off may be reassigned to other employees already working who hold positions in appropriate classes. No permanent employee (those who have satisfactorily completed a probationary period) will be laid off while another person is employed in the same or related class in a temporary, probationary or a trainee position, unless the permanent employee is not willing to transfer to the position held by the non-permanent employee, or the permanent employee does not have the knowledge and skills required to perform the work of the alternate position within a reasonable period of orientation and training given to any new employee.
- 3.2.3 The County Manager, or other hiring authority, shall be authorized to develop appropriate alternatives to the reduction in force to avoid possible layoffs that improve or maintain County services. Possible alternatives to the reduction in force include, but are not limited to, transfer or reassignment of employees to vacant position within the County in the same, related or lower class, separation of employees in temporary, probationary or trainee positions, eliminating overtime hours, job sharing, and reducing work hours.
- 3.2.4 Length of services is defined as length of service with Orange County and includes any time in which the employee may have been deployed on Military Leave as described in Article IV, Section 15 of this Personnel Ordinance while with Orange County.

- 3.2.5 Notice. Employees who are to be laid off because of a reduction in force will be notified in writing as soon as practicable, and in any event, they will be notified at least thirty (30) days prior to the anticipated date of the layoff.

- 3.2.6 The County Manager will develop written Administrative Regulations for the reduction in force that meets the County needs and provides for a reduction in force in a systematic manner.

II. AUTHORITY

The purpose of this rule is to implement and give effect to Article IX, Section 3.2 of the Orange County Personnel Ordinance, Workers' Compensation. These Administrative Rules and Procedures provide for consistent application of the Ordinance to ensure that Orange County employees who receive a compensable injury under the Workers' Compensation Act while on the job are provided a swift and certain remedy for their injury and to ensure limited and determinate liability for the County.

III. PURPOSE

It is the policy of the County to maintain as stable an employment workforce as possible. However, whenever the Board of County Commissioners determines that positions are no longer required or funds will not support certain positions, the Board may authorize the County Manager, or other hiring authority, to separate employees. As a result, the County Manager, or other hiring authority, may develop Reduction in Force Plan that includes appropriate alternatives to avoid possible layoffs. Retention of employees in classes affected shall be based on systematic consideration.

IV. ADMINISTRATIVE RULES AND REGULATIONS

- A. A Reduction in Force ("RIF") occurs when management determines the following:
 - 1. The need exists to consolidate, reorganize, or abolish programs or organizational units with a resulting loss of one (1) or more permanent positions;
 - 2. The need exists to redesign the duties and responsibilities of a permanent position so materially that the changed classification and qualifications render the incumbent unqualified for the redesigned position; or
 - 3. The abolishment of positions is required by the Orange County Board of Commissioners.
- B. Alternatives to the Reduction in Force. The County Manager, or other hiring authority, shall consider all feasible alternatives to a RIF separation of employees prior to separating employees in permanent position including, but not limited to separation of employees in temporary, probationary or trainee positions, reassignment or transfer of employees into to vacant positions within the County in the same, related or lower class; eliminating overtime hours, job sharing and reducing work hours.
- C. Reassignment or Transfers. When management reassigns or transfers a position to another program, work unit and/or Department with no subsequent change in classification or salary grade, the employee currently in the position will be reassigned or transferred with the position. Position reassignments or transfers are not considered RIF, and are, therefore, excluded from the provisions of the policy.

D. Reduction Plan. If after all alternatives are considered a RIF is still necessary, other than when the reduction of specific positions is mandated by the Board of Commissioners, the County Manager shall develop a Countywide RIF Plan. The Plan shall document the reasons for the RIF, the factors considered in deciding a particular course of action, and the specific positions scheduled for abolishment or redesign of positions. The following factors may be addressed in the development of a reduction plan:

1. Impact on Program Objectives
2. Impact on Service Delivery
3. Funding Sources and Budget guidelines
4. Potential adverse impact on employees protected under state and federal equal employment opportunity provisions
5. Possible redistribution of staff and other resources
6. Composition of the affected work force
7. Economy and efficiency

E. Department RIF Plan. Department Directors shall provide a plan that identifies potential programs, work units, positions or classes of position that may be reduced to assist the County Manager in developing the Countywide RIF Plan. Once programs and position to be reduced are identified, the Department Directors with affected positions, using the criteria in Section F below, shall provide a recommendation to the County Manager of which employees will be retained and which will be laid off. The RIF Plan will be forwarded to the Human Resources Director for further review. The Department RIF Plan shall include the following elements:

1. A copy of the reduction plan,
2. A list of the employees scheduled for separation and their appointment status; and
3. The anticipated effective date(s) of such separations.

F. Separation of Employees. Implementation of a reduction plan requires the involuntary separation of employees with permanent appointments, the following factors shall be considered:

1. Type of appointment shall be the first determining factor when separating employees. No employee with a permanent employee appointment in an affected classification shall be separated while there are employees who are either temporary, probationary or trainees in their initial six months of training working in the same classification any place in the Department or work unit implementing the RIF.
2. Length of service shall be applied after type of appointment and shall be defined as total county service according to this Personnel Ordinance. An employee with less seniority shall be separated before a more senior employee in the same classification unless there is a documented material difference in the employee's relative efficiency. When the length of service of two (2) or more employees in the affected classification is

equal, separation decisions shall be based on relative efficiency as defined below.

3. Relative efficiency shall be determined from the review and comparison of employees' performance evaluations on record for the last completed work cycle and from any formal disciplinary action brought against the employee during the preceding 12 months.

- G. The Human Resources Department will review the RIF Plan with the list of affected employees and determine if there is any potential adverse impact on employees protected under state and federal equal opportunity provisions. The Director of the Human Resource Department shall notify the County Manager, or other hiring authority, of any potential adverse impact on employees.

- H. Notice to Employees. After the Board of County Commissioners approves the RIF Plan, the Human Resources Department shall give all affected employees scheduled for separation written notice of the reduction in force at least thirty days in advance of the date of separation. In the case of career state employees, such notice shall include information on their priority consideration status and applicable appeal rights. The notice shall include the anticipated effective date of separation. The employee notice shall be given as soon as possible but not less than 30 calendar days before the scheduled separation date. The Department Director of the affected employees shall also receive a copy of the notice. Concurrent with or subsequent to presenting the notice to the employee, the appropriate Department Director shall discuss with the employee scheduled for separation the reasons for the action and the employee's rights and responsibilities under this policy.

- I. Vacation Leave. An employee may elect, subject to approval by the County Manager, to exhaust vacation leave after their last day of work or be paid in a lump sum for the balance not to exceed 240 hours. If an employee had over 240 hours of vacation leave at the time of reduction in force, the excess leave shall be reinstated if the employee is reemployed within one year.

- J. Sick Leave. Employees separated due to reduction-in-force shall be informed that their sick leave shall be reinstated if employed in the County within five years.

- K. Appeal of RIF Separation. The sole issue in an appeal of a RIF separation is whether the separation is based on alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, political affiliation, or handicapping condition. Such an appeal may be made either through the County's Grievance Procedures

This Policy will be effective: _____

Frank W. Clifton, County Manager