

INTRODUCED: 8/9/2021

REFERRED TO: Administration and Finance Committee

SPONSOR: Councillor Mascari

DIGEST: approves changes to compensation and personnel ordinances to provide that the Controller is to apply cost of living adjustment to employee salary classification schedules in annual budget ordinance and to consider corresponding compensation increases for employees not covered by a collective bargaining ordinance; clarify incentive pay program and add a bonus award program to recognize exemplary performance and service; reinstitute benefit leave for all part-time employees; waive the requirement for 2-weeks notice upon separation for a payout of benefit leave for certain employees; eliminate the payout of benefit leave when employee is terminated for gross misconduct; clarify the language of the holiday ordinance as it pertains to those employees on a non-standard schedule; and add a new section providing paid parental leave

SOURCE:

Initiated by: Office of Finance and Management

Drafted by: Office of Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____

Date: August 6, 2021

CITY-COUNTY GENERAL ORDINANCE NO. _____, 2021

PROPOSAL FOR A GENERAL ORDINANCE to make certain changes to the compensation and personnel ordinances governing some City-County employees;

WHEREAS, the city controller desires to provide for annual consideration of changes to the employee salary classification schedule and employee compensation in accordance with a formula for a cost of living adjustment (COLA); and

WHEREAS, the city controller desires to modify the incentive pay program for covered employees and add a new bonus award program; and

WHEREAS, the city controller desires to allow for flexibility in the payout of benefit leave when a two (2) week notice is not provided and to prohibit the payout of accrued benefit leave for covered City-County employees who are terminated for gross misconduct; and

WHEREAS, the city controller desires to allow part-time employees to accrue pro-rated benefit leave; and

WHEREAS, the city controller desires to make clarifying changes to the holiday ordinance provisions on leave where non-traditional work schedules or requirements are in place; and

WHEREAS, the city controller desires to provide paid parental leave to enable employees to care for and bond with a newborn or a newly adopted or newly placed child; now, therefore

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA

SECTION 1. Section 192-302 of the "Revised Code of the Consolidated City and County" hereby is amended by the addition of the language that is underscored, to read as follows:

Sec. 192-302. – Annual budget

(a) For the calendar year 2003 budgets and thereafter, for each item appropriating funds for payment for "personal services", the item shall specify the total appropriation, including fringe benefits, the number of employees authorized expressed in terms of full time equivalents, and the "salary classification schedule" under which the compensation of each employee shall be determined.

(b) In preparing the annual budget, the Controller may include compensation increases consistent with a positive cost of living adjustment (COLA) formula as set out in Sec. 192-304, for those employees not covered by a collective bargaining agreement.

SECTION 2. Section 192-304 of the "Revised Code of the Consolidated City and County" hereby is amended by the addition of the language that is underscored, to read as follows:

Sec. 192-304. - Modification of salary classification schedule.

(a) The salary classification schedule may be modified by adoption of a fiscal ordinance and such change may be included in an ordinance making additional appropriations.

(b) The Controller shall apply a cost of living adjustment (COLA) to the salary classification schedules promulgated by the human resources division in the annual budget ordinance. The COLA formula will be calculated by taking the percentage change in the Consumer Price Index for urban wage earners and clerical workers from the second quarter average of the previous year to the second quarter average for the current year with a maximum COLA of three percent (3%) per year. The Controller is authorized to waive or reduce this annual adjustment only if annual revenue projections reduce year-over-year, if applying the adjustment would result in a decrease in the salary classification schedules, or if other extenuating circumstances apply. If an annual COLA is waived for any of these reasons, the next calendar year shall include the adjustment from both the waived year and the regularly calculated year, up to the maximum permitted COLA of three percent (3%) per year. If application of the COLA formula would result in a negative adjustment in a given year, the negative COLA that would have applied in that year may be wholly or partially deducted in the following year from the adjustment that would otherwise be dictated by that following year's COLA formula.

SECTION 3. Section 291-108 of the "Revised Code of the Consolidated City and County" hereby is amended by deleting the language that is stricken-through and adding the language that is underlined, to read as follows:

Sec. 291-108. - Incentive pay programs and bonus awards.

(a) Incentive pay program

Each department director and each county official responsible for hiring and fixing the salaries in each county office or agency may develop a program which would provide compensation adjustments consistent with incentives for productivity and such other measures of success in delivery of programs and services that include specific goals, including measures of success as may be determined by the department director or appropriate county official. Exceptional or above-average performance of an employee's regular duties is not considered to meet the qualifications of an incentive pay program. The incentive pay program will be evaluated over a twelve (12) month period of time (January through December). Each incentive pay program developed must be reviewed and approved for consistency, objectivity and availability of funding by the human resources division of the office of finance and management and the office of corporation counsel. Incentive pay program submission approval and payout requests must be received by the human resources division, the office of finance and management, and the office corporation counsel no later than February 1 of the program year. Upon approval by the aforementioned offices, evaluation of the payout will begin no earlier than January of the year following completion of the program. Payouts shall not exceed \$2,000 per employee, occur no sooner than February and no later than April of the year following the completion of the program, and be disbursed in the same manner as the employee's regular paycheck.

(b) Bonus awards

Each department director and each county official responsible for hiring and fixing the salaries in each county office or agency may provide a bonus award to an employee who has demonstrated exceptional meritorious performance and service that produced a measurable outcome, during the course of their regular duties, worthy of recognition and/or celebration. Examples include: completing a significant project ahead of schedule with results which exceeded expectations, creating a solution to a problem and/or providing exceptional customer service, or continuing to deliver exceptional service when there was unusually high volume. Bonus awards may be provided to active employees with at least six (6) months of employment, in amounts between \$100 to \$2,500. The department's bonus award program and criteria must be documented and records maintained by the department or agency and approved for budget availability by the office of finance and management. An individual employee may not receive more than \$2,500 per calendar year and will receive the bonus amount in the same manner as the employee's regular paycheck. The human resources division is authorized to develop guidance for administration of bonus awards.

SECTION 4. Section 291-203 of the "Revised Code of the Consolidated City and County" hereby is amended by deleting the language that is stricken-through and adding the language that is underlined, to read as follows:

Sec. 291-203. – Benefit leave

- (a) *Accrual schedule for city employees and applicable county offices whose employees normally are scheduled to work a forty-hour week.*
- (1) Employees with less than five (5) continuous years of employment shall accrue benefit leave monthly at the rate of fourteen and sixty-six hundredths (14.66) hours per month.
 - (2) Employees who have completed five (5) continuous years of employment but less than ten (10) continuous years of employment shall accrue benefit leave monthly at the rate of eighteen (18) hours per month.
 - (3) Employees who have completed ten (10) years of continuous employment but less than fifteen (15) years of continuous employment shall accrue benefit leave monthly at the rate of twenty-one and thirty-three hundredths (21.33) hours per month.
 - (4) Employees who have completed at least fifteen (15) years of continuous employment shall accrue benefit leave at the rate of twenty-four and sixty-six hundredths (24.66) hours per month.
 - (5) Benefit leave can only accrue if the employee works, or is on a paid leave of absence, or is receiving worker's compensation (or any combination of the three (3)) for more than half of the month.
- (b) *Accrual schedule for applicable county offices whose employees are normally scheduled to work a thirty-seven-and-one-half-hour week.*
- (1) Employees with less than five (5) continuous years of employment shall accrue benefit leave monthly at the rate of thirteen and seventy-five hundredths (13.75) hours per month.
 - (2) Employees who have completed five (5) continuous years of employment but less than ten (10) continuous years of employment shall accrue benefit leave monthly at the rate of sixteen and eight hundred seventy-five thousandths (16.875) hours per month.
 - (3) Employees who have completed ten (10) continuous years of employment but less than fifteen (15) continuous years of employment shall accrue benefit leave monthly at the rate of twenty (20) hours per month.
 - (4) Employees who have completed at least fifteen (15) continuous years of employment shall accrue benefit leave monthly at the rate of twenty-three and one hundred twenty-five-thousandths (23.125) hours per month.
 - (5) Benefit leave can only accrue if the employee works, is on a paid leave of absence, or on worker's compensation for more than half of the month.
- (c) *Charging benefit leave.* Benefit leave shall be charged at the rate the employee is scheduled to work.

- (d) *Eligibility for accrual.*
- (1) Those employees who are starting to work on or before the fifteenth day of the month shall have their accounts credited with the appropriate benefit leave time on the first day of the month following the month in which they were hired.
 - (2) Those employees who are starting to work after the fifteenth day of the month shall have their accounts credited with the appropriate benefit leave time on the first day of the second month following the month in which they were hired.
 - (3) Employees who have been terminated or who have resigned from city or county employment will receive credit for benefit leave for the month they left employment only if they worked past the fifteenth day of the month.
- (e) *Use of benefit leave.* The final right to approve use of benefit leave shall rest with the office, department, division, bureau or commission involved in order to preserve efficiency and provide the necessary service.
- (f) *Part-time employees.* Part-time employees, ~~who are scheduled to work at least 1320 hours in a calendar year,~~ shall be entitled to benefit leave; however, leave accrual and pay for these employees shall be prorated based upon the average hours scheduled worked during the previous six (6) months of employment.
- (g) *When benefit leave does not accrue.* No benefit leave shall accrue while an employee is on any leave without pay status. No temporary/seasonal or part-time/temporary employee is eligible to accrue benefit leave or pay.
- (h) *Benefit leave carryover.*
- (1) For city and county employees paid on a biweekly basis: Benefit leave shall be taken within the calendar year in which it is accumulated or it shall be lost. However, up to a maximum of one hundred sixty hours (160) (one hundred fifty (150) where appropriate) of benefit leave may be carried over from one (1) calendar year to the next calendar year, provided the officials retain the right to schedule such carryover at their discretion in order to maintain the efficiency of the operation involved. In addition, an employee who is required by management to work during a period which the employee had been previously scheduled to take benefit leave and who is unable due to the demands of his/her position to reschedule the benefit leave for that calendar year may be allowed, with the approval of the mayor or the appropriate elected official or agency head, to carry over an additional eighty (80) hours (seventy-five (75) where appropriate) of benefit leave, subject to such restrictions as may be imposed by the mayor or the appropriate elected official or agency head. Benefit leave in excess of the maximum carryover amount shall be added to an employee's short term disability leave bank, if that bank is not at maximum accrual.
 - (2) For city employees covered by the current master agreement between the city and the American Federation of State, County and Municipal Employees: Benefit leave shall be taken within the calendar year in which it is accumulated or it shall be lost. However, up to a maximum of the number of hours which the employee can accrue in a calendar year may be carried over from one (1) calendar year to the next calendar year, provided the officials retain the right to schedule such carryover at their discretion in order to maintain the efficiency of the operation involved. In addition, an employee who is required by management to work during a period which the employee had been previously scheduled to take benefit leave and who is unable due to the demands of his/her position to reschedule the benefit leave for that calendar year may be allowed, with the approval of the mayor, to carry over an additional eighty (80) hours of benefit leave, subject to such restrictions as may be imposed by the mayor. Benefit leave in excess of the maximum carryover amount shall be added to an employee's short term disability leave bank, if that bank is not at maximum accrual.
- (i) *Two weeks' notice.* Two (2) weeks' notice must be given upon voluntary resignation in order to receive payment for accrued benefit leave. The city department or county agency may waive this requirement for good cause determined in consultation with the human resources division. The maximum payment for accrued benefit leave shall be ten (10) weeks in 2021, eight (8) weeks in year 2022, and six (6) weeks in year 2023 and every year thereafter.

- (j) *Termination, separation prior to six (6) months of employment.* Employees who are terminated or separate employment prior to the completion of six (6) months of employment will not be paid for accumulated, unused benefit leave.
- (k) *Termination for gross misconduct.* Employees who are terminated for gross misconduct will not be paid for accumulated, unused benefit leave. Gross misconduct shall include:
- (1) the filing of criminal charges against an employee;
 - (2) working or reporting to work in a state of intoxication caused by the employee's use of alcohol or a controlled substance;
 - (3) battery on another individual while on City-County property or during working hours;
 - (4) theft or embezzlement;
 - (5) fraud.
- (kl) *Employees transferred from noncity or noncounty entities.* Any person who becomes an employee as a result of a transfer of the duties of his/her former employer to the city or county may, upon the approval of the appropriate official, use his/her most recent hire date with the former employer for the purpose of determining benefit leave accrual.
- (lm) *Advance use of benefit leave.* Employees of Marion County offices and agencies (including Marion County courts) may not use or be paid for benefit leave hours before such hours are accrued. However, an elected official or agency who wishes to allow employees to use benefit leave up to one (1) week in advance may request permission to do so from the Marion County job classification and compensation board. The board may grant permission to the elected official to allow up to one (1) week use of benefit leave under such circumstances as the board deems advisable. Any benefit leave so advanced which remains outstanding upon an employee's termination shall be collected or withheld from the employee's final pay.

SECTION 5. Section 291-206 of the Revised Code of the Consolidated City and County" hereby is amended by deleting the language that is stricken-through and adding the language that is underlined, to read as follows:

Sec. 291-206. - Holidays.

- (a) *Designated.* The following are designated as city and county holidays for full-time and part-time employees:
- New Year's Day (January 1st);
 - Martin Luther King Day (third Monday of January);
 - President's Day (third Monday of February);
 - Memorial Day (last Monday of May);
 - Juneteenth Observed (June 19th);
 - Independence Day Observed (July 4th);
 - Labor Day (first Monday of September);
 - Indigenous People's Day (second Monday of October);
 - Veteran's Day (November 11th);
 - Thanksgiving Eve, close at Noon (fourth Wednesday of November);
 - Thanksgiving Day (fourth Thursday of November);
 - Friday after Thanksgiving;
 - Day before Christmas Eve, close at Noon (December 23rd);
 - Christmas Eve (December 24th);
 - Christmas Day (December 25th);
 - New Year's Eve, close at Noon (December 31st);
 - Floating Holiday. This floating holiday shall be taken on a day of the employee's choosing with the approval of the employee's supervisor. Such approval shall not be unreasonably withheld. The floating holiday must be taken as a full work day. It shall be taken once each year and will not carry over from year to year and will not be paid out upon the employee's separation.
 - Primary Election Day; and
 - General Election Day in years with state and municipal elections;

provided; however, that nothing in this ordinance shall prevent the offices of the county clerk, county prosecutor and the courts from designating holidays recognized by the judicial branch.

~~(c) Days celebrated as holidays in Monday-through-Friday operations.~~

- ~~(1) In Monday-through-Friday operations, when any of these holidays occur on Sunday, the Monday succeeding shall be designated as the legal holiday. When any holiday occurs on Saturday, the Friday preceding shall be designated as the legal holiday.~~
- ~~(2) Holiday pay for unworked holiday. Employees shall receive holiday pay at the employee's regular straight time rate for each of the designated holidays, if the employee is normally scheduled to work on the day that has been designated as a holiday.~~
- ~~(3) a. If a holiday is observed on a day of the week when an employee is not normally scheduled to work due to his/her participation in a voluntary flex time plan, the employee shall receive a maximum eight-hour (seven and one-half hour where applicable) compensatory day off, which shall be scheduled with the approval of his/her supervisor. An employee who separates employment shall not receive pay for any unused compensatory days.
b. If a holiday is observed on a day of the week when an employee is not normally scheduled to work due to a work schedule implemented by the city, the employee shall observe his/her next regularly scheduled day as a holiday and shall receive holiday pay for the number of hours he/she would have been regularly scheduled to work on that day.~~
- ~~(4) Pay for working on a holiday. Eligible employees shall be paid time and one-half in addition to holiday pay for any and all time authorized for work on the day designated as the holiday or compensatory time and one-half off as the case may be.~~
- ~~(5) Eligibility for holiday pay. To be eligible, the employee must work the full scheduled workday before and the full scheduled workday following the holiday, unless the employee is on a paid leave of absence or is receiving worker's compensation. In Monday-through-Friday operations, there shall be no duplication or pyramiding of holiday pay for holidays falling on Saturday or Sunday but which are observed on other days.~~
- ~~(6) Failure to report for scheduled work. Any employee scheduled for work on a day designated as a holiday, who fails to report for work or absents himself or herself for that day, shall not be eligible for holiday pay or compensatory time off as the case may be. Regardless of whether the absence is approved or not, any employee scheduled to work on a holiday, who fails to work that holiday, must use paid leave time to be paid for that day.~~
- ~~(7) Temporary employees. Temporary/seasonal and part-time/temporary employees do not receive holiday pay.~~

(b) Days celebrated as holidays in Monday-through-Friday operations.

- (1) In Monday-through-Friday operations, when any of these holidays occur on Sunday, the Monday succeeding shall be designated as the legal holiday. When any holiday occurs on Saturday, the Friday preceding shall be designated as the legal holiday. Otherwise, employees shall observe the actual holiday.
- (2) Holiday pay for unworked holiday. Employees shall receive holiday pay at the employee's regular straight time rate for each of the designated holidays, if the employee is normally scheduled to work on the day that has been designated as a holiday.
- (3) An employee who is required to work on the actual holiday shall be paid time and one-half in addition to holiday pay for all time authorized for work on the day designated as the holiday, or compensatory time and one-half off as determined by the department or agency.

(c) Days celebrated as holidays in continuing operations.

- (1) In continuing seven-day-a-week operations, employees will observe the actual holiday, if possible, and will receive the employee's regular straight time rate for each of the designated holidays, if the employee is normally scheduled to work on the day that has been designated as a holiday.
- (2) If the holiday is observed on a day of the week when an employee is not normally scheduled to work, the employee shall observe the employee's next regularly scheduled work day as a holiday and receive holiday pay at the employee's regular straight time rate.

- (3) An employee who is required to work on the actual holiday shall be paid time and one-half in addition to holiday pay for all time authorized for work on the day designated as the holiday, or compensatory time and one-half off as determined by the department or agency.

(d) Days celebrated as holidays when employee is on a compressed or alternate work schedule.

(1) Employees shall observe the actual holiday, if possible, and shall receive holiday pay at the employee's regular straight time rate for the number of hours the employee would have been regularly scheduled to work on that day.

(2) If a holiday is observed on a day of the week when an employee is not normally scheduled to work, the employee shall observe the employee's next regularly scheduled work day as a holiday and shall receive holiday pay for the number of hours the employee would have been regularly scheduled to work on that day.

(3) An employee who is required to work on the actual holiday shall be paid time and one-half in addition to holiday pay for all time authorized for work on the day designated as the holiday, or compensatory time and one-half off as determined by the department or agency.

(e) Eligibility for holiday pay. To be eligible, the employee must work the full scheduled workday before and the full scheduled workday following the holiday, unless the employee is on a paid leave of absence. In Monday-through-Friday operations, there shall be no duplication or pyramiding of holiday pay.

(f) Failure to report for scheduled work. Any employee scheduled for work on a day designated as a holiday, who fails to report for work or absents himself or herself for that day, shall not be eligible for holiday pay or compensatory time off as the case may be. Regardless of whether the absence is approved or not, any employee scheduled to work on a holiday, who fails to work that holiday, must use paid leave time to be paid for that day.

(g) Temporary employees. Temporary/seasonal and part-time/ temporary employees do not receive holiday pay.

SECTION 6. Section 291-217 is added as a new section of the "Revised Code of the Consolidated City and County" by adding the language below:

291-217. - Parental Leave

(a) *Leave generally.* Eligible employees will be entitled to up to six (6) weeks of paid parental leave, depending on length of employment, following the birth of an employee's child or the placement of a child with an employee in connection with adoption. This leave will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable. This policy will be in effect for births or adoptions of children occurring on or after January 1, 2022.

(b) *Eligibility.*

- (1) Employees must meet the following criteria to be eligible for six (6) weeks of parental leave:
 - (A) Have been employed by the City for at least twelve (12) months
 - (B) Have worked at least 1,250 hours during the twelve (12) consecutive months immediately preceding the date the leave would begin; and
 - (C) Be a full- or part-time, regular employee (temporary employees and seasonal employees are not eligible for this benefit).
- (2) Employees must meet the following criteria to be eligible for four (4) weeks of parental leave:
 - (A) Have been employed by the City for at least six (6) months; and
 - (B) Have worked at least 625 hours during the six (6) consecutive months immediately preceding the date the leave would begin; and
 - (C) Be a full- or part-time, regular employee (temporary employees and seasonal employees are not eligible for this benefit).
- (3) Employees must meet the following criteria to be eligible for two (2) weeks of parental leave:
 - (A) Have been employed by the City for at least three (3) months; and
 - (B) Have worked at least 312.5 hours during the three (3) consecutive months immediately preceding the date the leave would begin; and

- (C) Be a full- or part-time, regular employee (temporary employees and seasonal employees are not eligible for this benefit).
- (4) in addition, employees must meet one of the following criteria:
 - (A) Have given birth to a child; or
 - (B) Be the legal or biological parent of a child, recently born or adopted, if that child is age 17 or younger.
 - (C) The child must live in the same residence as the employee requesting the parental leave.

(c) Employees will be entitled to this paid parental leave no more than once in a rolling twelve (12)-month period, regardless of whether more than one birth or adoption event occurs within that twelve (12)-month time frame.

(d) *Pay.* Each week of paid parental leave is compensated at the employee's regular, straight-time weekly pay. Paid parental leave will be paid on the employee's regularly scheduled pay dates.

(e) *When taken.* Upon approval by the human resources division, paid parental leave may be taken at any time during the six (6)-month period immediately following the birth or adoption of a child with the employee. Paid parental leave may not be used or extended beyond this six (6)-month time frame.

(f) Paid parental leave is separate from other leave time and shall not be deducted from an employee's short-term disability or benefit leave accrual balance.

(g) Employees must take paid parental leave in one continuous period of leave. Any unused paid parental leave will be forfeited at the end of the eligible six (6)-month time frame.

(h) Upon separation for any reason, the employee will not be paid for any unused paid parental leave for which the employee was eligible.

(i) *Implementation.* The human resources division is authorized to develop additional guidance and make decisions consistent with the intent of this leave.

SECTION 7. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 8. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 9. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2021, at _____ p.m.

ATTEST:

Vop Osili
President, City-County Council

SaRita Hughes
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2021.

SaRita Hughes
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2021.

Joseph Hogsett, Mayor