County Employees -
The Role of Professional Staff in a Political Organization

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County Employees – Professional Staff in a Political Environment

Presenters

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*Presentation Approach – Broad Topical Survey*

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**Today - Issues/Topics**

- Laws/Statutes/Rulings
- Contracts
- Org. Goals & Objectives
- Past Practices
- Organizational Culture
- Common Sense
- Doing the *Right Thing*
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Presentation Outline

I. Counties as Public Sector Employers
II. Federal/State Regulatory Parameters
III. Unions and Labor Relations
IV. County Board Role in Personnel Matters
V. Tools of the Trade
VI. Other Factors in HR Management
VII. Emerging Trends/Topics
1. Counties as Public Sector Employers

What defines a personnel organization?

- % of budget for Personnel
- Type of Services Provided
- Laws and rules applicable only to the public sector

What makes Public Sector organizations so unique?

- Two bottom lines – Financial and Functional
- Ownership, Transparency, and Accountability
1. Counties as Public Sector Employers

- Elected County Board of Commissioners
- County Officers (elected or appointed)
  - Sheriff (appointed Chief Deputy)
  - County Attorney
  - County Auditor
  - County Treasurer
  - County Recorder
- Elected Officials: Not Employees
  - MGDPA treatment
I. Counties as Public Sector Employers

County Employees - Groupings:

- Statutorily Appointed Positions
  - Coordinator/Administrator/Manager - M.S. § 375 - 375A
  - Personnel Director / Purchasing Director
  - County Engineer – M.S. § 163.07
  - County Surveyor (where applicable) - M.S. § 389.011
  - County Assessor (where applicable) - M.S. § 273.052
  - Veterans’ Service Officer M.S. § 197.60
1. Counties as Public Sector Employers

County Employees - Groupings:

- Statutorily - Appointed Positions/Functions
  - County Coroner/Medical Examiner
  - Agricultural Inspector
  - Ditch Inspector
  - Community Health Services Administrator / Human Services Director
  - Planning Director/CAO – Including: Zoning Admin, Sanitary Inspector, Building Official
I. Counties as Public Sector Employers

County Employees - Groupings:

- Department Directors & Senior Management
- Non-Represented Groups
- Represented Groups (unions)

Not County Employees:

- Independent Contractors (20 factor & 6 factor tests)
- JPA Employees and “others”
II. Major Legal/Regulatory Parameters

Wages & Hours –

- Federal Fair Labor Standards Act –
  - Minimum Wage, Overtime, Compensatory Time
  - Classification of Employees as Exempt or Non-Exempt
- Minnesota Fair Labor Standards Act
- State Minimum wage
- Many positions are exempt from this law and follow only federal
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Workplace Safety & Health – OSHA and MNOSHA

- Significant state and federal safety rules, inspections and reporting requirements for categories of jobs and industries

Whistleblower Act – M.S. §181.931
Family and Medical Leave Act (FMLA)

- 12 weeks off annually for serious health condition or self, spouse, child, or parent
- 12 weeks for birth or adoption, foster care;
- any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;”
- 26 weeks off annually to care for a covered military servicemember with a serious injury or illness who is the employee’s spouse, child, parent or next of kin
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Minnesota

- Pregnancy and Parenting Leave
- Sick Leave and Care for Relatives
- School Conference Leave
Anti-Discrimination Laws: State and Federal

▪ Title VII of the Civil Rights Act of 1964
  ▪ Prohibits discrimination on the basis of race, race, color, religion, sex, or national origin.

▪ Minnesota Human Rights Act
  ▪ Prohibits discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, familial status, disability, sexual orientation, or age in employment and public services.
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Anti-Discrimination Laws: State and Federal

- Age Discrimination in Employment Act
- Equal Pay Act
- Pregnancy Discrim. Act & Minn. Pregnancy Accommodation Act
- Americans with Disabilities Act
II. Major Legal/Regulatory Parameters (cont.)

Veterans Rights

- USERRA - Reinstatement after military service
- Minnesota Veterans Preference Act Hiring
  - 100-point system for all open competitive positions (excludes Department Heads, Chief Deputy and Confidential Assistant)
  - 10 points added for honorably discharged veteran or 15 points for veteran with service related disability.
  - Points added to assist in getting to the interview but employer may hire any finalist
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Veterans Rights

- **Minnesota Veterans Preference Act – Discharge**
  - Written Notice of Charges of incompetence of misconduct
  - 30 days for veteran to request a hearing
  - Hearing before arbitrator, or civil service/merit at the election of the veteran in those counties that have civil service/merit in place
  - Must continue to pay until the conclusion of the hearing
  - Failure to give notice – 6 year statute of limitations

- **Minnesota Military Leave statute**
  - 15 days paid leave M.S § 192.26
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II. Major Legal/Regulatory Parameters (cont.)

Hatch Act – Amended in 2012

- The Hatch Act restricts local government employees whose positions are funded in whole or in part by federal funds from engaging in coercive conduct of a partisan political nature, or otherwise using their government positions to advance partisan political positions.

Constitutional Rights

- Free Speech on matter of public concern
- Due Process
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Data Practices & Privacy –

- Data Practices Act M.S. Chapter 13
  - Responsible Authority for Data
  - Data Classifications – numerous and specific
  - Policies and Procedures
  - Liability and Attorneys fees for violations

Records Retention Act/Official Records Act

- Governmental entities must keep records of official business
- Records of official business cannot be destroyed except as provided on an adopted schedule.
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HIPAA - covered entities must comply with requirements for protected health information

Drivers Privacy and Protection Act (DPPA)

- Many counties and cities sued for employees looking at drivers license data allegedly without proper purpose
- $2500 liquidated damages and attorneys fees
II. Major Legal/Regulatory Parameters (cont.)

Local Government Pay Equity Act

- Counties must develop a job evaluation system in order to determine the comparable work value of the work performed by each class of its employees.

- Counties must develop and maintain a system of equitable compensation relationships between female-dominated, male-dominated classes of employees.
III. Unions & Labor Relations

Public Employment Labor Relations Act (PELRA) M.S. §179A

- County Board is the employer.
- Obligation to Negotiate in Good Faith over terms and conditions of employment
- Inherent managerial rights of employer
- Potential to bargain away management rights
- Salary and benefits
- Leaves, discipline, grievance procedures, pay grades and steps; discipline procedures, etc.
III. Unions & Labor Relations

Administering Labor Contracts – Ongoing relationships

- Consistency
- Reviewing and following contract terms
- Responding to grievances
III. Unions & Labor Relations – Typical Staffing

County Attorney
- County Attorney - Elected
- Attorneys – Non-Rep/Rep
- Legal Assist. – Non-Rep/Rep
- Office Support - Represented

Sheriff’s Office
- Sheriff - Elected
- Chief Deputy - Appointed
- Captains/Sergeants - Non-Rep/Rep
- Deputies – Represented
- Office Support - Represented

Supervisors - Non-Rep/Rep
- Jailers - Represented
- Dispatchers - Represented

Bailiffs/Security – Non-Rep/Rep
III. **Unions & Labor Relations – Essential Facts**

- Number of County Employees (FTE, Total, Seasonal)
- Number of Unions/Labor Agreements
- Major Units/Employees

**Typical % Budget**

- Public Safety: 25%
- Highway/Public Works: 25%
- Health & Human Services: 25%
- General Government: 20%
- Other: 10%

**Typical % Employees**

- Public Safety: 30%
- Highway/Public Works: 25%
- Health & Human Services: 15%
- General Government: 25%
- Other: 5%
IV. County Board Role in Personnel Matters

Q: What is the role of the County Board and of Individual Commissioners in HR matters?

- Organizational Cheerleaders
- Board of Directors
- Appellate/Review Board
- Operational Managers
- Line Supervisors
- Other?
IV. County Board Role in Personnel Matters (cont.)

Formal Role:

- Authority to Hire / Fire / Appoint / Promote / Discipline
  - Hiring Constraints -
    - Veteran’s Preference, Merit System, Interviewing, Testing/Scoring, Equal Employment Opportunity, background checks, etc.

- Performance/Discipline Constraints –
  - Labor Agreements, Policies, Past Practice, Progressive Discipline, investigations (Tennessen/Garrity) Public/Closed Hearing, FMLA/ADA rights, etc.
IV. County Board Role in Personnel Matters (cont.)

Formal Role:

- Authority to Hire / Fire / Appoint / Promote / Discipline
  - Termination Constraints –
    - *Just Cause, Loudermill Hearing, Veterans’ Preference, Whistleblower, ADA, and other laws*
- Personnel / Labor Relations / HR Committee
  - Authority delegated by Board to negotiate agreements, policies/procedures, personnel actions
  - Adoption of policies and approval of final agreements go to Board
IV. County Board Role in Personnel Matters (cont.)

Formal Role:

- County HR Staff, County Attorney & Outside Counsel
- What matters: County size, budget, organization, expertise, issues

Q: How do I respond to “I don’t work for you”?

- Collective vs. individual oversight, state or federally funded employees
- “Who signs the paycheck”
IV. County Board Role in Personnel Matters

Informal Role:

- Interacting with staff & handling of complaints / issues
  - Rule #1 - Everything you are told will be deemed as notice to “The Employer”
  - Rule #2 – Nothing you say is confidential
  - Rule #3 – One side of the story is just that
  - Refer v. Own
  - Employer vs. Friend or Advocate
  - Constituent vs Employee

Q: How do I handle anonymous/confidential complaints?
IV. County Board Role in Personnel Matters

Informal Role:

- "Chain of communication/command" in personnel matters
  - Getting the complete picture, S-T vs. L-T view, morale, risk mgt.

- Strategic HR management in highly effective organizations
V. Some Tools of the Trade

▪ The Personnel Policy Manual
  ▪ Just having one is not enough
  ▪ Review and train
  ▪ Update

Q: What Happens When Things Go Wrong?
  ▪ Grievances, Mediation/Arbitration, Litigation, Strikes
  ▪ Red Flags - Whistleblower/ADA/Age/Gender/Protected Classes
V. Some Tools of the Trade

- Annual Budgets/Workplans
  - Salary as only 65% of the cost (benefits – 35%)
  - Staffing configurations - PT vs. FT, Contracting for Services
  - Personnel Budgeting - Grades, Steps, Longevity, Banding, Bonuses, Merit, PFP, etc.)

- Budgetary Constraints
  - Workers Compensation, PERA & Pay Equity
  - Lean Budgeting (shorting staff, no slack)
  - Market Comparisons, Compression
  - Classification/Compensation Studies
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V. Some Tools of the Trade

▪ Budget-related Labor Actions
  ▪ Hiring / Promotion Freezes
  ▪ Employee Furloughs and Lay-offs

▪ Personnel Evaluations – A “One-Way Street”?
  ▪ Goals/Performance-Based – Tied to Reward Structure?
  ▪ Coaching/PIPs/Progressive Discipline
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V. Some Tools of the Trade

▪ Communication Tools
  ▪ Annual Report, CAFR, Budget Award
  ▪ AMC & other Industry Awards
  ▪ L-R/Insurance Committee
  ▪ Media Relations

Q: What the heck is OPEB?
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V. Tools of the Trade - Achieving Accountability

Strategic:
- Strategic/Issue Plans
- Policies & Procedures
- Annual Budgets
- Workplans (Annual)
  - Team/Employee Goals
- HR Initiatives
- Specific Board Actions

Tactical:
- Org Process/Response
  - Team/Employee Role/Action
- Department/HR staff
- Coach/PIP/Annual P.E.
- Action / Discipline
- Board / Committee
  - Formal Direction
  - Formal Action
VI. Other Factors in HR Management

- Public Benefit Rule - What, no Holiday parties or retirement gifts?

Q: Why can’t Commissioners accrue certain benefits?
VI. Other Factors in HR Management

▪ The Role of a Bureaucracy ("Rubber Band" analogy)
  ▪ Pros & Cons (continuity, representational, NEO)

▪ The Role of Professional Associations - (ICMA, PEA, APA, etc.)
VII. Emerging Topics/Trends

- Generational Issues:
  - Hiring Millennials
  - Hiring Retirees
  - Work Schedules

“Don’t think of me as a 54 year old job applicant. Think of it as getting two 27 year olds for the price of one!”

“I think I’m most interested in hearing about the part of your resume titled ‘Stuff I Totally Rocked.’”
VII. Emerging Topics/Trends

- Technology-related Issues:
  - Telecommute/Remote Work (MNDPA flag)
  - Social Media Usage

- Creation of Public Data (cameras, texts, blogs, posts)
VII. **Emerging Topics/Trends**

▪ **Old Topics Re-Emerging:**
  - Nepotism
  - Diversity
  - Ethics/Conflict of Interest Issues
  - Government as the Problem not the Solution

“Many of our employees could be classified as the walking dead. That should be noted in our Diversity Profile.”
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**Summary**

When Things Go Right:

*Productivity, positive recruitment and retention, high employee morale, customer service & satisfaction*

“Employee morale is at an all-time high. We must be paying them too much.”
GRIEVANCES

Summary

When Things Go Wrong:

Grievances, low morale, employee turnover, low productivity, customer complaints, negative media, mediation/arbitration, litigation, labor unrest

(. . . but sometimes these things happen, no matter what we do or how well we do it!)
References/Additional Information

Association of MN Counties (www.amc.org)
- Salaries & Benefits Survey

MN Counties Intergovernmental Trust (www.mcit.org)
- Personnel & Employment – Risk Management
- Resource Library – Employment (40+ Articles)
- Training & Education - Specialized Consultation

League of MN Cities (www.lmc.org)
Questions or Comments?