

MEMORANDUM

January 8, 2016

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 51-15, Non-merit employees – Salary Schedule - Established

Bill 51-15, Non-merit employees – Salary Schedule - Established, sponsored by Lead Sponsor Councilmember Leventhal and Co-sponsors Councilmembers Elrich and Rice, was introduced on December 8, 2015. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for February 4, 2016 at 9:30 a.m.

Bill 51-15 would establish a salary schedule for heads of departments and principal offices, and other non-merit employees. The Bill would require the Executive to propose a salary schedule for heads of departments and principal offices, and other non-merit employees in the Executive Branch for approval by the Council as part of the annual operating budget for the County government. The Bill would also require the Council to establish a salary schedule for non-merit employees in the Legislative Branch as part of the operating budget. Non-merit employees would be paid a salary within the appropriate salary schedule. The Bill would permit the Executive to exceed the salary schedule established for a position for an individual employee, subject to Council approval, if the Executive finds that it is necessary to attract or retain a senior leader for a specific position. The Lead Sponsor, Councilmember Leventhal explained the purpose of the Bill in a memorandum to his colleagues at ©5.

Background

The County needs a compensation system designed to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees. It is also important to ensure that the compensation system is in line with other competing organizations. The Council's Office of Legislative Oversight (OLO) recently issued Memorandum Report 2016-1, *Comparative Data on High-Level Manager Salaries*. The Report can be viewed at:

http://www.montgomerycountymd.gov/OLO/Resources/Files/2015_Reports/OLOMemorandumReport2016-1.pdf. OLO found that salaries for County non-merit employees was the highest in the Washington-Baltimore region and higher than most non-local jurisdictions surveyed. The Chief Administrative Officer's comments and the response to the CAO's comments from OLO can be viewed at:

<http://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/CombinedResponseandComments2016-1.pdf>

OLO found that the Federal government has a salary schedule for non-merit positions that are appointed by the President, typically with the advice and consent of the Senate. There are 5 levels of this Executive Schedule ranging from Cabinet Secretaries to appointed directors and deputy directors across multiple federal agencies. See the excerpt from the OLO report at ©6. OLO also found that the State of Maryland has a salary schedule for non-merit executives in State government. See the Maryland Executive Pay Plan at ©7.

Prior to 1997, each employee holding a non-merit position was paid within a salary schedule approved by the Council in the operating budget. Each department director was assigned a specific salary grade that coincided with a salary schedule. See the Appendix to OLO Memorandum Report 2016-1 showing the former salary grades for County department directors at ©8. Bill 51-15 would not mandate any specific salary schedule. It would require the Executive and Council to re-establish a salary schedule for each non-merit position. The Bill would apply to any employee who is hired or promoted to head of a department or principal office or other non-merit position after the date when this Act becomes law.

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Bill No. 51-15
Concerning: Non-merit employees --
Salary Schedule - Established
Revised: December 1, 2015 Draft No. 4
Introduced: December 8, 2015
Expires: June 8, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Leventhal
Co-Sponsors: Councilmembers Elrich and Rice

AN ACT to:

- (1) establish a salary schedule for heads of departments, principal offices, and other non-merit employees;
- (2) require certain salaries to be set under the salary schedule established for these positions; and
- (3) generally amend the law governing compensation for non-merit employees.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-104

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 1A-104 is amended as follows:**

2 **1A-104. Heads of departments and principal offices; other positions designated**
 3 **as non-merit.**

4 (a) *Names.* The head of a department or principal office is called the
 5 Director of the department or principal office, except that:

- 6 (1) the Director of Police is also called the Chief of Police;
 7 (2) the Director of the Montgomery County Fire and Rescue Service
 8 is also called the Fire Chief; and
 9 (3) the Director of the Office of the County Attorney is called the
 10 County Attorney.

11 (b) *Qualifications.*

- 12 (1) Each head of a department or principal office should be
 13 professionally qualified.
 14 (2) A person holding any other position in the Executive Branch
 15 designated by law as a non-merit position must be professionally
 16 qualified for the position under a position description established
 17 by regulation under method (1).

18 (c) *Status.* Heads of departments and principal offices, and holders of any
 19 other position in the Executive Branch designated by law as a non-merit
 20 position, are County employees but are not merit system employees.

21 (d) *Special reinstatement rule.* A person who was a merit system employee
 22 of the Police Department when appointed as an Assistant Chief of
 23 Police may return to the merit system in the Department at the same
 24 rank that the person last held in the merit system. The person must elect
 25 to return to the merit system within 10 days after leaving the Assistant
 26 Chief position, by notifying the Chief Administrative Officer in writing.
 27 If the previous rank was abolished, the person must be assigned to the

28 closest equivalent rank, and must receive the salary and benefits that
 29 would apply if the person had remained in the merit system at the
 30 previous rank and the rank still existed.

31 (e) Salaries. The Executive must design a compensation system to attract
 32 and retain highly competent senior leaders as heads of departments and
 33 principal offices, and other non-merit employees in the Executive
 34 Branch. Each of these employees must be paid a salary within a salary
 35 schedule proposed by the Executive and approved by the Council in the
 36 Operating Budget of the Montgomery County Government. The salary
 37 schedule may contain a provision permitting the Executive to exceed the
 38 salary schedule established for a position for an individual employee,
 39 subject to Council approval, if the Executive finds that it is necessary to
 40 attract or retain a senior leader for a specific position. The Council must
 41 establish a salary schedule for non-merit positions in the Legislative
 42 Branch as part of the Operating Budget of the Montgomery County
 43 Government.

44 **Sec. 2. Effective Date.**

45 This Act must apply to any employee who is hired or promoted to head of a
 46 department or principal office or other non-merit position after the date when this Act
 47 becomes law.

48 *Approved:*

49 _____
 Nancy Floreen, President, County Council

_____ Date

LEGISLATIVE REQUEST REPORT

Bill 51-15

Non-merit employees – Salary Schedule - Established

DESCRIPTION: The Bill would require the Executive to propose a salary schedule for heads of departments and principal offices, and other non-merit employees in the Executive Branch for approval by the Council as part of the annual operating budget for the County government. The Bill would also require the Council to establish a salary schedule for non-merit employees in the Legislative Branch as part of the operating budget.

PROBLEM: Salaries for non-merit employees are not controlled by a salary schedule established by the Executive and the Council.

GOALS AND OBJECTIVES: To establish a salary schedule for all non-merit County employees designed to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees.

COORDINATION: CAO, Office of Human Resources

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Not applicable



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

GEORGE LEVENTHAL
COUNCILMEMBER
AT-LARGE

MEMORANDUM

December 1, 2015

TO: Councilmembers
FROM: George Leventhal *GL*
SUBJECT: Bill on Compensation for Senior Non-Merit Employees

On December 8, I plan to introduce a bill on compensation for senior non-merit county employees. The bill would require the Executive to propose and the Council to approve a salary schedule for non-merit employees in the Executive Branch. It would also require the Council to establish a salary schedule for non-merit employees in the Legislative Branch.

It is important, as the bill text states, for the county to have a "compensation system to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees...." As the recent OLO report made clear, compensation for our senior non-merit employees is in fact highly competitive. My concern is that since 1997, when County Executive Duncan abolished the salary schedule for these employees, there has been a steady upward drift in compensation with no apparent framework. This has had an impact on the county's entire salary structure.

The bill is prospective; it would apply only to employees hired for non-merit positions after the bill becomes law. Also, the bill authorizes the Executive to exceed the salary schedule, subject to Council approval, "if the Executive finds that it is necessary to attract or retain a senior leader for a specific position."

The common-sense approach in this bill will enable us to attract and retain outstanding employees while meeting our obligations to the taxpayers. This approach is especially important in our current tight fiscal situation, including the possibility of a significant tax increase. I would welcome you as a co-sponsor of this bill.

Comparative Data on High-Level Manager Salaries

2. Federal Government

The US Office of Personnel Management (OPM) publishes average salary data for federal employees,² and Table 8 summarizes average salary data and salary schedules as of March 2015 for:

- **Executive Schedule** – positions that are appointed by the President, typically with the advice and consent of the Senate. Includes five levels ranging from Cabinet secretaries (Level I) to appointed directors, deputy directors, etc. (Level V) across multiple federal agencies.
- **Senior Executive Service (SES)** – high-level management and supervisory positions across multiple federal agencies just below Presidential appointees.
- **GS-13, GS-14, GS-15** – career position grades on the federal general salary schedule. The Montgomery County Office of Human Resources *Personnel Management Review* reports that these grades are comparable to the MLS series in the County.³

For the SES and GS series positions, OLO included the average salary nationwide as well as the weighted average for positions in DC, Maryland, and Virginia only. Additionally, the salary schedule shown for the GS positions includes the DC region locality pay differential. The maximum salaries for federal Executive Schedule and SES employees are lower than the average director salary in Montgomery County.

Table 8. Federal Government Manager Average Salary Data, 2015

Position	Actual Average Salary	Salary Schedule	
		Minimum	Maximum
Executive Schedule			
Level I (n=18)	\$198,450	–	\$203,700
Level II (n=43)	\$179,846	–	\$183,300
Level III (n=95)	\$166,509	–	\$168,700
Level IV (n=251)	\$158,434	–	\$158,700
Level V (n=18)	\$149,494*	–	\$148,700
All Executive Schedule (n=426)	\$163,720	–	–
Senior Executive Service			
United States (n=7,862)	\$170,572	–	–
DC, MD, and VA only (n=5,994)	\$171,351	\$121,956	\$183,300
General Salary Scale (GS) 15			
United States (n=61,405)	\$150,966	–	–
DC, MD, and VA only (n=40,963)	\$151,715	\$126,245	\$158,700
General Salary Scale (GS) 14			
United States (n=122,741)	\$124,363	–	–
DC, MD, and VA only (n=63,738)	\$126,530	\$107,325	\$139,523
General Salary Scale (GS) 13			
United States (n=250,038)	\$102,990	–	–
DC, MD, and VA only (n=79,256)	\$104,291	\$90,823	\$118,069

*The OPM database does not indicate why the actual average is higher than the maximum.

² The OPM data covers most Executive Branch agencies except for several intelligence offices and agencies (CIA, NSA, etc.), White House and Office of the Vice President staff, and the U.S. Postal Service.

http://www.fedscope.opm.gov/datadefn/abouttehri_sdm.asp

³ http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2015/150423/20150423_GO2-CountyGovernment.pdf, p.36

STATE OF MARYLAND					
Executive Pay Plan - Salary Schedule					
Annual Rates Effective January 1, 2015					
Grade Profile	Scale		Minimum	Midpoint	Maximum
EPP 0001	ES4	9904	\$79,953	\$93,277	\$106,604
EPP 0002	ES5	9905	\$85,902	\$100,252	\$114,600
EPP 0003	ES6	9906	\$92,333	\$107,785	\$123,236
EPP 0004	ES7	9907	\$99,275	\$115,923	\$132,569
EPP 0005	ES8	9908	\$106,773	\$124,711	\$142,646
EPP 0006	ES9	9909	\$114,874	\$134,203	\$153,532
EPP 0007	ES10	9910	\$123,618	\$144,451	\$165,281
EPP 0008	ES11	9911	\$133,069	\$155,522	\$177,977
EPP 0009	EX91	9991	\$153,027	\$204,947	\$256,866

CALCULATING BI-WEEKLY SALARY:

Annual Salary x .038143 = Bi-Weekly Salary

Bi-Weekly Salary x 26.071428 - must equal at least the annual salary, adding a penny until it does.

MONTGOMERY COUNTY GOVERNMENT

APPOINTED CLASSES

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	<u>GRADE</u>
7905	County Attorney	39
7910	County Health Officer	39
7911	Director, Addiction, Victim, and Mental Health Services	36
7915	Director, Department of Transportation	39
7917	Director, Department of Police	39
7920	Director, Office of Finance	39
7921	Director, Office of Management & Budget	39
7922	Director, Department of Environmental Protection	36
7927	Director, Department of Fire & Rescue Services	39
7930	Director, Department of Public Libraries	36
7935	Director, Department of Liquor Control	39
7940	Director, Department of Correction and Rehabilitation	36
7945	Director, Department of Facilities and Services	36
7946	Personnel Director	36
7947	Director, Department of Family Resources	39
7950	Director, Department of Recreation	36
7952	Director, Department of Housing and Community Development	36
7954	Director, Office of Economic Development	35
7958	Director, Office of Planning Policies	35
7959	Director, Office of State Affairs	35