

ORDINANCE No. 14-005

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADDING SECTION 1-3-21 TO THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE TO REQUIRE CIVIC OPENNESS IN NEGOTIATIONS (COIN)

WHEREAS, the Board of Supervisors of the County of Orange finds that civic openness during labor negotiations is essential to good government; and

WHEREAS, Government Code section 3500 *et seq.* is known as the "Meyers- Milius-Brown Act" ("the Act"); and

WHEREAS, Government Code section 3500 provides in pertinent part that the purpose and intent of the Act is "to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed"; and

WHEREAS, the Board of Supervisors finds that the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed is enhanced by the transparency of those methods of communication; and

WHEREAS, the County of Orange (County), as a public agency, owes a duty to its residents of transparency in its decision-making; and

WHEREAS, the Board of Supervisors finds that public information and knowledge is enhanced by virtue of employees and public agencies undertaking their duties and obligations pursuant to the Act in an open and transparent manner; and

WHEREAS, the Board of Supervisors finds that the communication between the County and its employees required by the Act regarding changes in wages, hours and other terms and conditions of employment would benefit from public scrutiny; and

WHEREFORE, the Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Section 1-3-21 is hereby added to the Codified Ordinances of Orange County and shall be titled "Civic Openness in Negotiations (COIN)."

SECTION 2. Section 1-3-21 is hereby added to the Codified Ordinances of Orange County to read as follows:

Sec. 1-3-21. Civic Openness in Negotiations (COIN)

(a) Applicability.

- (1) This Ordinance shall apply to labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500 *et seq.*), where either a recognized employee organization or the County, through their respective representatives, propose changes in wages, hours, or any other terms or conditions of employment. This Ordinance shall not apply to any labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act that have commenced prior to the date of adoption of the Ordinance and until the current contracts are expired.
- (2) In an effort to avoid inherent conflicts of interest, the principal representative negotiating on behalf of the County (herein "principal negotiator") shall not be an employee of the County and shall have a demonstrated expertise, to the sole satisfaction of the Board of Supervisors, in negotiating labor and employment agreements on behalf of public entities. The use of such a principal negotiator as described herein may only be waived by a majority vote of the Board of Supervisors. The Chief Human Resources Officer or his or her designee(s) will be present during negotiations and participate in the negotiations with the principal negotiator.
- (3) This Ordinance shall not prevent the negotiation of ground rules applicable to any labor contract negotiations undertaken pursuant to the Meyers-Milias-Brown Act and is not intended to revise or nullify any agreed-upon ground rules established for negotiations that have commenced as of the date of the adoption of this Ordinance. Consistent with the Meyers-Milias-Brown Act, the parties may, but are not required to, negotiate preliminary procedural matters governing the conduct of negotiations including, but not limited to, the time and place for bargaining, the order of issues to be discussed, the signing of tentative agreements, the requirement of package bargaining, or the use of supposals. A "supposal" is an agreement by the parties to seek resolution of meet and confer disputes by means of exchanging hypothetical settlement provisions. These hypothetical settlement provisions are designed to explore the feasibility of reaching agreement on disputed issues. By definition, a "supposal" does not constitute a "proposal", "offer", or "counter offer as those terms are used by the PERB, by the Meyers-Milias-Brown Act, or by the courts. Instead, a supposal is a tool allowing the parties to explore informally and without binding impact, possible settlement options without incurring the legal impact of a "proposal", "offer" or "counter offer."

(b) Independent Economic Analysis.

- (1) In order to implement the requirements of this Sec. 1-3-21, the Auditor-Controller of the County shall initially prepare an Independent Economic Analysis (hereinafter "report") which describes and summarizes the fiscal costs to the County of the benefit and pay components currently provided to members' of recognized employee organizations in comparison to the costs of each term and condition of employment offered in negotiations, including the costs of each term and condition of employment proposed in a supposal, if a supposal is used. The report will itemize the annual and cumulative costs that would or may result from adoption or acceptance of any initial

meet and confer proposal to be considered by the Board of Supervisors. The report shall provide all relevant data upon which the report is based.

- (2) The report shall be completed and made available for review by the Board of Supervisors and the public at least thirty (30) calendar days before consideration by the Board of Supervisors of an opening proposal to be presented to any recognized employee organization regarding negotiation of an amended, extended, successor, or original memorandum of understanding.
- (3) The report shall be regularly updated by the Auditor-Controller to itemize the annual and cumulative costs that would or may result from adoption or acceptance of each meet and confer proposal (hereinafter referred to as "update"). These itemizations shall display the fiscal impacts of each employee association and county proposal. Each report and update shall be prepared in the following format, including all benefit and/or pay aspects of each MOU. The particular categories of pay / benefits listed are provided as examples only. The actual pay / benefit categories may vary depending on the particular bargaining unit. Each report and update shall provide the total compensation calculations for each compensation element and compare them to the prior year, as well as to the prior proposals made in the particular negotiation to which the report and updates apply. Additionally, each report and update shall include the computation of a best estimate of the absolute amount and the change from the currently computed pension unfunded actuarial accrued liability and the retiree medical unfunded actuarial accrued liability. The Auditor-Controller may add additional information as they deem appropriate.

REPORT FORMAT

BENEFIT/PAY	ASSOCIATION				
	VALUE OF BENEFIT/PAY	EXISTING COST TO County	PROJECTED COST TO County	PENSIONABLE	NON-PENSIONABLE
[Examples of possible benefit/pay elements]					
Base Salary Pension/Retirement Benefit					
Bilingual Pay					
Class A/B License Pay					
Shift Differential Pay					
Shift Differential Pay - A/M					
Emergency Med Dispatch Pay					
Canine Care Pay					
Motor Officer Assignment Pay					
Motor Training Officer Assign Pay					
POST Advanced Certificate Pay					
POST Intermediate Certificate Pay					
Uniform Pay-Patrol					
Investigator II Certification Pay					
Instructor II Certification Pay					
Instructor III Certification Pay					
Public Education Officer Certification Pay					
Driver/Operator Certification Pay					
Rescue Specialist Certification Pay					
Confined Space Oper Tech Certification Pay					
Others as deemed necessary					

(c) Civic Openness in the Meet and Confer Process.

- (1) Under Government Code section 3505 of the Meyers-Milias-Brown Act, as it currently exists, a governing body of a public agency, or the agency's designated agent, must meet and confer in good faith with representatives of recognized employee organizations before making any changes in wages, hours and other terms and conditions of employment. Under Government Code section 54957.6, the Board of Supervisors can meet in closed session with its designated representatives to discuss these negotiations, review its position in negotiations, and instruct its designated representatives on how to proceed in upcoming negotiations.

- (2) The Board of Supervisors shall report out from such closed session any and all prior formal offers, formal counteroffers and supposals made by either the County or by representatives of the recognized employee organization which were communicated to the County during the closed session. The report shall be made in a timely manner without undue delay. For purposes of this section an "offer" is a formal proposal regarding wages, hours or other term or condition of employment made by the parties in negotiation sessions. A "counteroffer" is a proposal regarding wages, hours or other terms or conditions of employment made in response to an offer. A "supposal" is used as defined in subdivision (a)(3) above.
- (3) The report out of closed session shall also include the release of a list of names of all persons in attendance during the negotiation sessions, the date of the sessions, the length of the sessions, the location where the sessions took place and any pertinent facts regarding the negotiations that occurred in a particular session, including, without limitation, all formal offers and counteroffers made both by the County and the recognized employee organization.
- (4) Board of Supervisor representatives shall have a duty to advise the Board of Supervisors during any such closed session of offers, counteroffers, information provided, and/or statements of position discussed by the employee organization and County representatives participating in the meet and confer process since the last such closed session.
- (5) This section shall not mandate publication of Board-directed future proposals, the analytical thought process utilized by the Board of Supervisors in addressing issues subject to the meet and confer process, or the content or substance of any discussions subject to the deliberative process or attorney-client privileges. It is the intent of this Ordinance that, except as specifically stated, such privileges are not waived by any provision of this Ordinance.
- (6) Notwithstanding the provisions of this Subsection (c)(1)-(5), the County shall disclose to the Board of Supervisors and to the public any and all offers, counteroffers and supposals made by: (a) the County to representatives of the recognized employee organization; and (b) representatives of the recognized employee organization to the County. Such disclosure shall be made within twenty-four (24) hours of the making of such offer or counteroffer. The terms "offer", "counteroffer", and "supposal" shall have the same meanings ascribed to them in Section 1-3-21(c)(2) above.

(d) Adoption of Memorandum of Understanding.

Excepting the resolution of any meet and confer impasse, the rendering of a final Board of Supervisors determination regarding adoption of a memorandum of understanding shall only be undertaken after the matter has been heard at a minimum of two (2) board meetings wherein the public has had the opportunity to review and comment on the matter. Not less than seven (7) days prior to the first board meeting where the matter shall be heard, the County shall post on its website the memorandum of understanding under consideration for adoption, along with any final report and updates made by the Auditor-Controller pursuant to subsection (b) herein.

(e) Inconsistencies.

Any provision of the Codified Ordinances of Orange County or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

(f) Severability.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this Ordinance are declared to be severable.

(g) Publication.

This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the Orange County Reporter, a newspaper of general circulation, printed and published in the County of Orange or, in the alternative, the Clerk of the Board may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the Clerk of the Board five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the Clerk of the Board shall cause to be published the aforementioned summary and shall post in the office of the Clerk of the Board a certified copy of this Ordinance together with the names and members of the Board of Supervisors voting for and against the same.

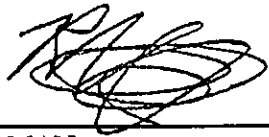
THE FOREGOING was **PASSED** and **ADOPTED** by the following vote of the Orange County Board of Supervisors on August 05, 2014, to wit:

AYES: Supervisors: JOHN M.W. MOORLACH, TODD SPITZER, JANET NGUYEN
PATRICIA BATES

NOES:

EXCUSED: SHAWN NELSON

ABSTAINED:

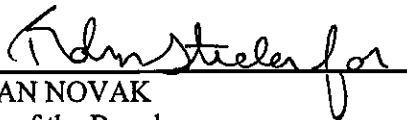


CHAIRMAN

STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, SUSAN NOVAK, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Ordinance was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.



SUSAN NOVAK
Clerk of the Board.
County of Orange, State of California

Ordinance No.: 14-005
Agenda Date: 08/05/2014
Item No.: 25



I certify that the foregoing is a true and correct copy of the Ordinance adopted by the Board of Supervisors, Orange County, State of California

Susan Novak, Clerk of the Board of Supervisors

By: _____
Deputy