ANALYSIS

This ordinance amends Title 3 – Advisory Commissions and Committees, Title 5 – Personnel, and Title 6 – Salaries, of the Los Angeles County Code, related to the Employee Relations Commission, to change requirements relating to the appointment of commissioners and to change their compensation, and to update and make other technical corrections. Its provisions shall be operative on December 1, 2013.

JOHN F. KRATTLI
County Counsel

By: _____
LESTER J. TOLNAI
Assistant County Counsel

LJT:mst

Requested: 04-12-13
Revised: 08-26-13

ORDINANCE NO. 2013-0035

An ordinance amending Title 3 – Advisory Commissions and Committees, Title 5 – Personnel, and Title 6 - Salaries of the Los Angeles County Code, relating to the Employee Relations Commission.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 3.10.020 is hereby amended to read as follows:

3.10.020 Evaluation of chief, civil service commission ~~and ERCOM~~.

In the performance management of the chief, civil service commission ~~and ERCOM~~, the executive officer, board of supervisors shall annually receive and incorporate the advice and information developed and provided by the civil service commission in the goals and expectations and, at the conclusion of the rating period, the evaluation of the employees.

...

SECTION 2. Section 5.04.030 is hereby amended to read as follows:

5.04.030 Definitions.

As used in the ordinance codified in this chapter, the following terms shall have the meanings indicated:

A. "Certified employee organizations" or "certified employee representative" means an employee organization, or its duly authorized representative, that has been certified by the employee relations commission as representing the majority of the employees in an appropriate employee representation unit.

...

L. "Management employee" means any employee having significant responsibilities for formulating and administering county policies and programs, and includes the chief executive~~administrative~~ officer, department heads, and any other employees who are so designated by the director of personnel based upon the recommendation of the department head or department heads concerned. For the purpose of this chapter, such persons shall not exceed two percent of the total number of full-time employees of the county.

M. "Management representative" means a department head as defined in Section 2.02.190 of this code, the administrative code of the county of Los Angeles, and includes the chief executive~~administrative~~ officer and the director of personnel, or any duly authorized representative of such department head or officer.

...

SECTION 3. Section 5.04.050 is hereby amended to read as follows:

5.04.050 Administration.

It is the policy of the county to provide for the orderly, systematic and coordinated administration of all matters involving employee relations. In order to implement and coordinate the policies and procedures set forth in this chapter, the county shall have authority to adopt rules and regulations not inconsistent with law, including Ordinances 9646 and 85-0032 or any other county ordinance, which shall be applicable to any or all departments, agencies or boards of the county in establishing and enforcing the employee relations program provided for herein. Nothing in this chapter shall prevent the chief executive~~administrative~~ officer from promulgating regulations governing

relations between the county and the employee organizations not certified by the commission.

SECTION 4. Section 5.04.060 is hereby amended to read as follows:

5.04.060 Availability of data.

A. To facilitate negotiations, the county shall provide to certified employee organizations concerned the published data it regularly has available concerning subjects under negotiation, including data gathered concerning salaries and other terms and conditions of employment provided by comparable public and private employers, provided that when such data is gathered on a promise to keep its source confidential, the data may be provided in statistical summaries but the sources shall not be revealed.

B. If an election for certification as the majority representative of the employees in an appropriate employee representation unit has been ordered, the chief executive~~administrative~~ officer shall provide, upon request by an employee organization which has qualified to be included on the ballot, a list of the names and departments of employees in the unit. Said list shall be provided not later than fifteen days prior to the date of said election.

...

SECTION 5. Section 5.04.100 is hereby amended to read as follows:

5.04.100 Employee relations commission -- Continued -- Membership qualifications.

A. There is continued a Los Angeles County employee relations commission, which shall implement and administer the provisions of this chapter.

B. The commission shall have three positions, as provided in Section 5.04.130. A member of the commission shall be appointed to a vacant position by, and serve at the pleasure of, the board of supervisors, which shall be referred to in this chapter as the "board." The members of the commission shall have expertise in the field of employee relations, shall reside in Los Angeles County and shall possess the integrity ~~and impartiality~~ necessary to protect the public interest as well as the interest of the county and its employees. The board, if it finds that the best interests of the county will be served, may waive the residency requirement for a period not to exceed one year.

SECTION 6. Section 5.04.110 is hereby amended to read as follows:

5.04.110 Employee relations commission -- Length of service -- Vacancy.

~~The provisions of this section shall become applicable to a position on the commission at the expiration of the term of the member occupying that position on the effective date of this amendment.~~

A. Each member of the commission shall serve at the pleasure of the board. The period of service for each position on the commission shall be three years from the date of appointment, except as provided in Section 5.04.130D. Members serving in Position A and Position B shall exercise their duties until a successor is appointed. The member serving in Position C shall continue to exercise his or her duties until 90 calendar days following the end of his/her term, or a successor is appointed, whichever comes first.~~this amendment becomes applicable to each position.~~

B. No member of the commission may serve more than two consecutive full periods of service as specified in subsection A. The board may, by order, extend this length of service or waive this limit for individuals or the commission as a whole.

C. A member's position on the commission shall become vacant upon his or her death, resignation, or removal by the board. In the case of such a vacancy, the board shall appoint a successor to serve for the remainder of the unexpired period of service under subsection A of this section, as provided in Section 5.04.120.

D. The provisions of Chapter 5.12 of the County Code shall not apply to the commission.

SECTION 7. Section 5.04.120 is hereby amended to read as follows:

5.04.120 Employee relations commission -- Vacancies -- Procedure.

The procedure for filling a vacancy in Position A of the commission shall be as provided in Section 5.04.130A. The procedure for filling a vacancy in Position B of the commission shall be as provided in Section 5.04.130B. The procedure for filling a vacancy in Position C of the commission shall be as provided in Section 5.04.130C ~~resulting from expiration of a commission member's period of service shall be initiated at least 30 days prior to said expiration. Each member shall exercise his or her duties until a successor is appointed. If a vacancy occurs during a period of service, the appointee to said vacancy shall exercise the duties of the position for the remainder of the period of service and until a successor is appointed~~.

SECTION 8. Section 5.04.130 is hereby amended to read as follows:

5.04.130 Employee relations commission -- Appointment of members.

Three commissioner positions are created as follows: ~~Each appointment to commission membership, shall be made from a list of three nominees, which list shall be:~~

A. Position A: The member shall be appointed from a list of two or more nominees submitted by the chief executive officer. ~~Jointly submitted by the Los Angeles County' s chief administrative officer and a committee composed of employee organizations, recognized by the county, within fourteen calendar days from commencement of the thirty-day period prior to the expiration of a regular term; or~~

B. Position B: The member shall be appointed from a list of two or more nominees submitted by a committee of certified employee organizations, as defined in Section 5.04.030A. ~~If the parties are unable to agree, within the prescribed time limit, on at least three nominees for each vacancy so occurring, the parties shall, by the last day of this prescribed period, jointly select a panel of three persons which shall select the necessary number of nominees; or~~

C. Position C: The member shall be appointed from a list of two or more nominees jointly submitted by the chief executive officer and a committee of certified employee organizations as defined in Section 5.04.030A. ~~If the parties are unable to agree, within the prescribed time limit, on at least three panel members, each party shall, by the last day of this prescribed period, select one panel member and the two~~

~~panel members thus selected shall jointly select the third panel member within three calendar days. In the event either party fails to select one such panel member within the prescribed time period, or in the event the two aforementioned panel members are unable to jointly select the third panel member, the board may select the necessary panel member or members required to bring the total number to three;~~

~~D. The panel thus selected shall submit to the board of supervisors, within seven calendar days of appointment, at least three nominees for the vacancy involved. As soon thereafter as practical, the board shall fill the vacancy by selecting from among the three nominees so submitted to it;~~

D~~E.~~ In the event the board of supervisors is appointing more than one commissioner at a time, notwithstanding the provisions of section 5.04.110A, such appointments shall be for different periods of time in order to maintain the staggering of terms designed to preserve the commission' s continuity.~~;~~

E~~F~~. The board of supervisors creates the position of employee relations commission chairman emeritus to honor a member of the commission for distinguished service. The chairman emeritus shall have all the rights and duties of a member of the commission except that he may vote only when less than three commissioners vote on an issue.~~;~~

F~~G~~. Appointments to the position of chairman emeritus of the employee relations commission may only be made by the board of supervisors upon the joint recommendation of the chief executive officer and a committee of employee organizations recognized by the county. Appointment to chairman emeritus requires that

the nominee must have held the position of chairman of the Los Angeles County Employee Relations Commission for two consecutive terms.

SECTION 9. Section 5.04.140 is hereby amended to read as follows:

5.04.140 Employee relations commission -- Meetings.

The commission shall meet regularly at least once each month and shall meet at other times upon the call of the chairman. Two members shall constitute a quorum and the votes of two members are required for action; provided, that at meetings held for exclusive purpose of conducting mediation, or fact-finding, ~~or arbitration~~ in connection with the resolution of disputes as provided in Section~~s 5.04.230 and~~ 5.04.250 of this chapter, or at meetings held for the exclusive purpose of investigating an unfair employee relations practice charge, that one member shall constitute a quorum and the vote of a majority of the members attending shall be required for action. ~~Commencing in 1971, at its first meeting in July,~~ ~~T~~the chairman of the commission shall be elected annually by the members of the commission.

SECTION 10. Section 5.04.160 is hereby amended to read as follows:

5.04.160 Employee relations commission -- Powers and duties.

The commission shall have the following duties and powers:

A. To determine in disputed cases or otherwise to approve appropriate employee representation units;

...

D. To act upon requests for mediation, fact-finding or arbitration of disputes as provided in Sections 5.04.230 and 5.04.250 of this chapter;

E. To investigate charges of unfair employee relations practices or violations of this chapter, and to take such action as the commission deems necessary to effectuate the policies of this chapter, including, but not limited to, the issuance of cease and desist orders;

F. To establish and maintain an adequate list of impartial mediators~~,~~ and fact-finders, who shall have expertise in the field of employee relations, ~~and arbitrators,~~ and to appoint same as provided for in Section~~s 5.04.230 and~~ 5.04.250 of this chapter;

...

SECTION 11. Section 5.04.190 is hereby amended to read as follows:

5.04.190 Employee relations commission -- Office, staff and supplies.

The county shall provide appropriate office facilities, reference periodicals and books, equipment and supplies for the commission, and such staff as may be reasonably necessary to support the commission in carrying out its functions~~it may appoint~~. The county also shall provide recording and transcription services for all public hearings conducted by the commission.

SECTION 12. Section 5.04.200 is hereby amended to read as follows:

5.04.200 Employee representation units -- Establishment procedures.

A. A petition for certification as the majority representative of employees in an appropriate employee representation unit may be filed with the commission by an employee organization. The chief executive~~administrative~~ officer may file such a petition with the commission in the event that two or more employee organizations formally

claim to represent a majority of the employees in the same overlapping employee representation unit.

...

SECTION 13. Section 5.04.220 is hereby amended to read as follows:

5.04.220 Activity of organizations on county property -- Payroll deductions.

A. Subject to appeal to the commission, the chief executive~~administrative~~ officer shall have the right to promulgate rules and regulations governing the activity of certified employee organizations on county property, including procedures for conferring with management, use of bulletin boards and other county facilities, and solicitation of membership.

B. Payroll deduction may be made for membership dues to employee organizations in accordance with applicable law and county rules.

SECTION 14. Section 5.04.230 is hereby amended to read as follows:

5.04.230 Grievances.

A. A grievance is any dispute concerning the interpretation or application of this chapter, or of a written agreement between the county and a certified employee organization, or of rules or regulations governing personnel practices or working conditions. A dispute over the terms of an initial or renewed collective agreement does not constitute a grievance.

B. The county and any certified employee organization may negotiate a procedure for handling grievances arising within the unit for which such organization has been certified.

C. The county and a certified employee organization may negotiate an agreement providing for final and binding arbitration of unresolved grievances, subject to such limitations on the scope of arbitrable grievances as the parties may deem appropriate or as may be required by law. Arbitrations conducted under such provisions shall be governed by the appropriate sections of the California Code of Civil Procedure. The fees and expenses of arbitrators shall be shared equally by the parties involved. The processes for these arbitrations shall be established by agreement of the parties. The commission shall establish rules for the ~~selection of arbitrators~~ requests for arbitration, and shall provide to the parties a list of arbitrators, from which they may select an arbitrator, from the California State Mediation and Conciliation Service, or other independent association of arbitrators that the parties jointly request. The commission shall provide such lists for any arbitration requests authorized by this chapter. ~~It shall also establish a standard rate of compensation for such arbitrators, subject to approval by the board of supervisors~~.

...

SECTION 15. Section 5.04.240 is hereby amended to read as follows:

5.04.240 Unfair employee relations practices designated -- Corrective action.

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E. If the commission decides that the county has engaged in an unfair employee relations practice or had otherwise violated this chapter or any rule or regulation issued thereunder, the commission shall direct the county to take appropriate corrective action.

1. Such order shall be binding on the county, unless it requires action by the board of supervisors to make appropriations adjustments, transfers or revisions as provided by Section 29000 et seq. of the Government Code, or the adoption of a county ordinance by the board of supervisors. If the county fails to take action to comply with a binding order of the commission within such reasonable time as the commission may specify, an aggrieved party may petition the Superior Court for a writ of mandate to enforce the order.

2. If the commission's decision and order requires action by the board of supervisors as set forth above, the chief executive~~administrative~~ officer shall submit the appropriate documents and materials to the board of supervisors to enable it to take such action. If the board of supervisors does not take action within such reasonable time as the commission may specify, the commission shall so notify the other parties. An aggrieved party may then seek judicial relief from the Superior Court for enforcement of the commissions's order to the extent that compliance with such order is required by state law, or by this chapter or any valid rule or regulation issued thereunder. Notwithstanding the failure of the board of supervisors to take such action, the Superior Court shall have jurisdiction to exercise its independent judgment on the evidence in light of the whole record and in its discretion to take additional evidence and to issue a writ of mandamus enforcing the commission's order on a finding by the Superior Court that the county has committed an unfair employee relations practice in violation of state law, or this chapter.

F. If the decision is that an employee organization or its representatives or members have engaged in an unfair employee relations practice, or have otherwise violated this chapter or any rule or regulation issued thereunder, the commission shall direct the offending party to take appropriate corrective action. If compliance with the commission's decision is not obtained within the time specified by the commission, it shall so notify the chief executive~~administrative~~ officer who may then take appropriate action, subject, however, to appeal to the commission by the affected party.

SECTION 16. Section 5.04.250 is hereby amended to read as follows:

5.04.250 Impasse resolution procedures.

A. If the appropriate management representatives and the representatives of a certified employee organization reach an impasse, the matter may be submitted to the commission by either party.

B. The commission shall consider all requests for mediation, fact-finding or arbitration under this section. If the commission concludes that there has been insufficient effort between the parties to resolve the impasse, it may deny the request and remand the matter to the parties for further consideration. If the commission concludes that such further consideration would not result in settlement, it may in its discretion attempt to mediate the dispute, or it may appoint one or more mediators or fact-finders to assist the parties. The commission may institute mediation or fact-finding on its own motion, on initial/successor memorandum of understanding. The commission may invoke arbitration only by mutual consent of the parties. The processes for these arbitrations shall be established by agreement of the parties.

C. The following constitute the jurisdictional and procedural requirements for the implementation of mediation, fact-finding or arbitration on initial/successor memorandum of understanding:

...

4. Arbitration of the terms of initial or renewed collective agreements shall be permitted only by written request of the parties to the dispute and the scope or such arbitration shall be subject to such limitations as may be set forth in said written request. The processes for these arbitrations shall be established by agreement of the parties.

D. The fees and expenses, if any, of mediators, fact-finders and arbitrators shall be shared equally by the parties involved. Standard rates of compensation for mediators and~~,~~ fact-finders ~~and arbitrators~~ shall be determined by the commission, subject to approval by the board of supervisors. The county shall furnish meeting space and recording and transcribing services when requested for such proceedings.

E. The following constitute the procedural requirements for the implementation of mediation and fact-finding on County Charter amendments or other matters subject to referendum:

...

7. The fees and expenses, if any, of mediators, fact-finders and arbitrators shall be shared equally by the parties involved. Standard rates of compensation for mediators and~~,~~ fact-finders ~~and arbitrators~~ shall be determined by the commission, subject to approval by the board of supervisors. The county shall furnish

meeting space and recording and transcribing services when requested for such proceedings.

F. All other negotiations not included in subsections C and E: No time limit on length of total process; however, mediation is limited to five consecutive business days and, in the event fact-finding is requested by either party, such request must be filed within 10 business days of impasse or the conclusion of mediation, and said fact-finding is limited to 15 business days for hearing and 30 business days in which the report must be received by the parties, for a total of 45 business days for the fact-finding process.

1. The fees and expenses, if any, of mediators, fact-finders and arbitrators shall be shared equally by the parties involved. Standard rates of compensation for mediators and~~,~~ fact-finders ~~and arbitrators~~ shall be determined by the commission, subject to approval by the board of supervisors. The county shall furnish meeting space and recording and transcribing services when requested for such proceedings.

...

SECTION 17. Section 6.44.150 is hereby amended to read as follows:

6.44.150 Employee relations commission.

~~Each member of the Los Angeles County employee relations commission (Item No. 9411) shall be entitled to receive the following per diem compensation for meetings of the commission actually attended, not exceeding 10 meetings in any calendar month:~~

A. Each member of the Los Angeles County Employee Relations Commission (Item No. 9411) shall be compensated $200.00 per hour, not to exceed $4,000 per calendar month, for all services rendered as a commissioner, or in any other capacity, for the Employee Relations Commission.~~$112.00 total compensation from all sources for each meeting of the commission held for the exclusive purpose of conducting mediation, fact-finding, or arbitration in connection with the resolution of disputes as provided in Sections 5.04.230 and 5.04.250 of this code.~~

B. In the performance management of the Chief, Employee Relations Commission (Item No. 1107), and any other staff assigned to the Employee Relations Commission, the Executive Officer, Board of Supervisors, shall annually receive and incorporate the advice and information developed and provided by the Employee Relations Commission in the goals and expectations and, at the conclusion of the rating period, the evaluation of the employees.~~$225.00 for each meeting of the commission held for all other purposes.~~

SECTION 18. The provisions of this ordinance shall be operative on December 1, 2013.

[310020LSBCEO]

SECTION 19. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Chairman

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of September 24, 2013 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	Mark Ridley-Thomas
	Zev Yaroslavsky		
	Don Knabe		
	Michael D. Antonovich		

~~Effective Date:~~

Operative Date: December 1, 2013

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By
Deputy

APPROVED AS TO FORM:
JOHN F. KRATTLI
County Counsel

By
Richard D. Weiss
Chief Deputy County Counsel

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