

MOTION BY SUPERVISOR GLORIA MOLINA

April 14, 2009

Under the County's Charter, County Counsel provides advice and representation to all County officers and entities, including County agencies, boards and commissions (Art. VI, Sec. 21). Case law permits multiple representation by public law agencies when there is clear separation between attorneys performing those different functions.

However, I am concerned that even with those safeguards in place, the appearance of a conflict of interest between County Counsel's role as advisor to an administrative body such as the Civil Service Commission and County Counsel's role as an advocate for County departments involved in proceedings before that body could arise. This is most apparent when on advice of our County Counsel, this Board may have to appeal a decision made by the Civil Service Commission based on the advice provided by their advisor County Counsel.

Furthermore, County Counsel must become more directly involved in defending and arguing significant cases, particularly termination cases, which can cost the County hundreds of thousands of dollars in back-pay and compensation if lost.

MOTION

Molina \_\_\_\_\_

Ridley-Thomas \_\_\_\_\_

Yaroslavsky \_\_\_\_\_

Antonovich \_\_\_\_\_

Knabe \_\_\_\_\_

I, THEREFORE, MOVE that this Board direct:

1. The Executive Office and CEO in consultation as appropriate with County Counsel and the Executive Director of the Civil Service Commission, determine the level of need and the best structure to provide legal advice and representation to the Civil Service Commission and provide recommendations;
2. County Counsel, Department of Human Resources and the Executive Office to report back by department, on the process by which the County prepares cases, selects advocates, including outside counsel, to present cases before the Civil Service Commission. The report should identify all current advocates who represent the County before the Civil Service Commission, their level of experience and training, and a brief summary of each of the cases they have handled within the last two years including the outcomes of these cases. This report should also include a per department account of the total annual cost for each of the last two years of defending civil service cases. Those costs should specifically identify any fees and costs incurred in hiring outside counsel to defend these cases and any costs associated with lost cases such as back pay, reinstatement, or other compensation.
3. Report back to the Board on the above items by May 14, 2009.