



# DIGEST

## What They Mean . . .

THE AARON-Bailer-Block committee gives the following definitions of terms used in its proposed County employee relations ordinance:

"EMPLOYEE ORGANIZATION"—any lawful organization that includes employees of the County and which has as one of its primary purposes representing such employees in their employment relations with the County.

"CERTIFIED EMPLOYEE ORGANIZATION"—an employee organization . . . that has been certified by the Employee Relations Commission as representing the majority of the employees in an appropriate employee representation unit.

"ADMINISTRATIVE EMPLOYEE"—any employee having significant responsibilities for formulating and administering County policies and programs . . . Such persons shall not exceed 2 percent of the total number of fulltime employees of the County.

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## EXPERTS' ORDINANCE STUDIED

OFFICIALS OF both the County and a score of County Employee organizations have begun mulling over the fine print in an employee relations ordinance recommended to the Board of Supervisors Thursday, July 25.

The draft ordinance is the handiwork of three labor experts with whom the Supervisors signed a \$12,000 contract March 19 to produce an ordinance that would "provide an orderly and workable system to regulate the relations between County management and its employees, or organizations representing them—a system that will be fair to all parties concerned and will recognize and adequately protect the public interest."

UCLA Prof. Benjamin Aaron, chairman of the three-man committee, presented the suggested ordinance to the Board of Supervisors, flanked by his fellow consultants, Dr. Lloyd Bailer and Howard Block.

The Board directed its executive officer, James Mize, to make copies available to all interested parties, so that they may submit written comments before August 31. The following Tuesday, September 3, the Board either will adopt the ordinance, or will set a date for a public hearing on it.

At a news conference following his presentation to the Board, Aaron said the consultant committee's draft contains some of the language of the

employee relations ordinance that director of personnel Gordon Nesvig proposed to the Supervisors last January 30 but Aaron added there are significant differences.

The committee would give much broader powers to an "Employee Relations Commission"—making it largely independent of other County officials and giving it authority over a wide variety of employee relations matters.

Aaron pointed out that the committee ordinance provides that employees shall take the initiative in forming any units to represent them. The January 30 draft gave the director of personnel the right to suggest a pattern of representation units after consulting with employee organizations.

Aaron noted that the January 30 draft also listed more items that would not be subject to negotiation. The committee draft gives the Employee Relations Commission final authority to decide what subjects are negotiable.

Similarly, Aaron said, the January 30 ordinance contained a stronger "management rights" section than appears in the committee version.

The following pages of The Digest contain excerpts of the text of the consultant committee's proposed ordinance, and from its accompanying report to the Board of Supervisors.

# GIST OF PROPOSED ORDINANCE

## What They Mean

Continued from page 1

### "CONFIDENTIAL EMPLOYEE"

—an employee who is privy to decisions of County management affecting employee relations.

### "PROFESSIONAL EMPLOYEE"

—an employee engaged in work requiring knowledge of an advanced type . . . predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work . . .

"NEGOTIATION"—performance by duly authorized representatives (of the County and a certified employee organization) of their mutual obligation to meet at reasonable times and to confer in good faith with respect to wages, hours and other terms and conditions of employment, and includes the mutual obligation to execute a written document incorporating any agreement reached . . .

Agreements on matters within the authority of the Board of Supervisors shall not be binding upon the parties until approved by the Board of Supervisors.

"IMPASSE"—a deadlock in negotiations between a certified employee organization and the County over any matters required to be negotiated, or over the scope of the subject matter of negotiations.

"FACT-FINDING"—identification of the major issues in a particular dispute, review of the positions of the parties, resolution of factual differences by one or more impartial fact-finders and, in the discretion of the fact-finders, the making of recommendations for settlement.

"MEDIATION"—the efforts of an impartial third person or persons, functioning as an intermediary, to assist the parties in reaching a voluntary resolution to an impasse.

*The following excerpts are taken from the text of the proposed employee relations ordinance that a committee of three consultants—Prof. Benjamin Aaron, Dr. Lloyd Bailer and Howard Block—presented to the Board of Supervisors July 25. The ordinance now is under study by County officials and employee organization.*

**EMPLOYEE RIGHTS.** Employees of the County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the County. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights.

**EMPLOYER RIGHTS.** It is the exclusive right of the County to determine the mission of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the County to direct its employees, take disciplinary action for proper cause, relieve its employees from duty because of lack of work or for other legitimate reasons, and determine the methods, means and personnel by which the County's operations are to be conducted; *provided, however,* that the exercise of such rights does not preclude employees or their representatives from conferring or raising grievances about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.

**SCOPE OF CONSULTATION AND NEGOTIATION.** All matters affecting employee relations, including those that are *not* subject to negotiation, are subject to *consultation* between management representatives and the duly authorized representatives of affected employee organizations . . .

The scope of negotiation between management representatives and

the representatives of certified employee organizations includes wages, hours, and other terms and conditions of employment within the employee representation unit.

Negotiation shall not be required on any subject preempted by Federal or State law or by County Charter, nor shall negotiation be required on employee or employer rights as defined (herein) . . .

### EMPLOYEE RELATIONS COMMISSION

There is hereby established a Los Angeles County Employee Relations Commission consisting of three members, appointed by the Board of Supervisors, which shall implement and administer the provisions of this ordinance. 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 consultant committee's report to the Board of Supervisors says: "The method of selecting the first committee is a critical point. . . We have concluded that we should ourselves assume the principal responsibility for designation of the first list of nominees to be submitted to the Board of Supervisors.*

*("Initially we would submit a list of seven nominees to the Los Angeles County Management Council and to a committee of organizations representing County employees, the composition of the latter to be determined by those organizations themselves. The Council and the committee would each have the right to strike a maximum of two nominees from our original list, but the substitution of other nominees for those stricken could be done only by mutual agreement between the Council and the committee. In the*

event that some nominees were stricken from the original list and were not replaced by an equal number of nominees jointly agreed upon by the council and the committee, we would submit enough new nominees to bring the list to seven. Without further reference to the interested groups, we would then submit the list to the Board of Supervisors, which would select three commission members from that list. . . .

"As each vacancy on the commission occurs, we recommend that a replacement be appointed by the Board of Supervisors from a list of three nominees. Preferably, this list should be jointly agreed to by the management council and the committee of employee representatives; failing this, the parties should seek to agree on a person or persons to prepare a list of nominees for their consideration. But should they be unable to reach agreement on either of those alternatives, we recommend that the council and the committee each select one person, that the two persons thus selected jointly name a third, and that this three-man panel submit the names of three nominees to the Board of Supervisors."

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. Each member shall receive \$150 per day for each day spent in the performance of his duties. . . .

A member of the commission may be removed by the Board of Supervisors for continued neglect of duties or malfeasance in office. . . .

The commission shall have the following duties and powers:

- 1) To determine in disputed cases or otherwise to approve appropriate employee representation units.
- 2) To arrange for and supervise the determination of certified employee representatives for appropriate units by means of elections, or such other method as the commission may approve with mutual con-

sent of the parties involved. The results of such elections or other approved representation determination procedures shall be certified by the commission.

- 3) To decide contested matters involving certification or decertification of employee organizations.
- 4) To act upon requests for mediation, fact-finding or arbitration of disputes. . . .
- 5) To investigate charges of unfair employee relations practices or violations of this ordinance, and to take such action as the commission deems necessary to effectuate the policies of this ordinance, including, but not limited to, the issuance of cease and desist orders.
- 6) To establish and maintain an adequate list of impartial mediators, fact-finders and arbitrators and to appoint same (when needed). . . .
- 7) To conduct investigations, hear testimony, and take evidence under oath at hearings on any matter subject to its jurisdiction. . . .
- 12) To resolve impasses over the scope of negotiations. . . .

The commission is a separate agency of the County. . . Subject to approval of the Board of Supervisors, the commission shall have authority to appoint such staff as it deems appropriate for the discharge of its functions.

The County shall provide appropriate office facilities. . . and supplies for the commission and such staff as it may appoint. . . .

#### EMPLOYEE REPRESENTATION UNITS

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 director of personnel 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 or overlapping employee representation units.

In the determination of appropriate employee representation units,

the following factors, among others, are to be considered:

- 1) Which unit will assure employees the fullest freedom in the exercise of rights granted under this ordinance.
- 2) The community of interest of the employees.
- 3) The history of employee relations in the unit, among other employees of the County, and in similar public employment.
- 4) The effect of the unit on the efficient operation of the public service and sound employee relations.
- 5) Whether management officials at the level of the unit have the power to agree or make effective recommendations to other administrative authority or the legislative body with respect to the terms and conditions of employment subject to negotiation.

In the establishment of employee representation units, professional employees shall not be included in a unit with nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit; supervisory employees shall not be included in a unit with nonsupervisory employees unless such supervisory employees are in the same classification with the nonsupervisory employees . . . administrative and confidential employees shall not be included in the same unit with nonadministrative or nonconfidential employees.

The commission shall conduct a hearing on each contested employee representation unit after giving the employee organizations concerned and the director of personnel reasonable notice. . . . The commission shall make the decision on the appropriate unit . . . .

#### CERTIFICATION OF EMPLOYEE ORGANIZATIONS

Following notice and hearing, the commission shall adopt rules and regulations governing the certification and decertification of employee organizations. Only employee organizations that have been certified as majority representatives of appropriate employee representation

## GIST OF PROPOSED ORDINANCE

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units shall be entitled to negotiate on wages, hours, and other terms and conditions of employment for such units. This shall not preclude other employee organizations, or individual employees, from conferring with management representatives on employee relations matters of concern to them.

### PROCEDURAL RIGHTS AND OBLIGATIONS

Subject to appeal to the commission, the director of personnel 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.

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

### GRIEVANCES

. . . 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 . . . (including) final and binding arbitration of unresolved grievances . . . The fees and expenses of arbitrators shall be shared equally by the parties involved. The commission shall establish rules for the selection of arbitrators . . .

Nothing in this section shall be deemed to supersede the authority of the Civil Service commission. However, nothing contained herein shall preclude the Civil Service commission from adopting rules permitting it, in its discretion, to decline jurisdiction over appeals by employees who have expressly consented to have their grievances resolved under a negotiated grievance or arbitration procedure.

### UNFAIR EMPLOYEE RELATIONS PRACTICES

It shall be an unfair employee relations practice for the County:

- 1) To interfere with, restrain, or

coerce employees in the exercise of the rights recognized or granted in this ordinance;

- 2) To dominate or interfere with the formation of any employee organization or contribute financial support to it . . .

- 3) To refuse to negotiate with representatives of certified employee organization on negotiable matters.

It shall be an unfair employee relations practice for *employee* organizations or their representatives or members:

- 1) To interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this ordinance;

- 2) To refuse to negotiate with County officials on negotiable matters when the employee organization involved has been certified as the majority representative . . .

It shall be an unfair employee relations practice for either the County or a certified employee organization to fail or refuse to cooperate with the commission or with any mediators or fact-finders designated by it.

If the commission's decision is that the County has engaged in an unfair employee relations practice the commission shall direct the County 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 other party, which may then resort to its legal remedies.

If the decision is that an employee organization or its representatives or members have engaged in an unfair employee relations practice . . . 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 director of personnel, who may then take appropriate action, subject, however, to appeal to the commission by the affected party.

## RESOLUTION OF IMPASSES ON AGREEMENT TERMS

If the appropriate management representatives and the representatives of a certified employee organization fail to reach agreement as the result of negotiations on the terms of an initial renewed collective agreement, the dispute may be submitted to the commission.

The commission shall consider requests for mediation, fact-finding, or arbitration . . . The commission may institute mediation or fact-finding on its own motion. The commission may invoke arbitration only by mutual consent of the parties . . .

### ADMINISTRATION

Nothing in this ordinance shall prevent the director of personnel from promulgating regulations governing relations between the County and employee organizations not certified by the commission . . .

The enactment of this ordinance shall not be construed as making the provisions of Section 923 of the California Labor Code (the right to strike) applicable to employees of the County.

County of Los Angeles

## D I G E S T

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