

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE enacting chapter 76, Jackson County Code, 1984, relating to collective bargaining procedures, consisting of ten new sections.

ORDINANCE #4216, July 7, 2010

INTRODUCED BY Henry C. Rizzo and Dan Tarwater, County Legislators

WHEREAS, it is the declared public policy of the United States, as set forth in the original text of the National Labor Relations Act, to encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection; and,

WHEREAS, it is also the declared policy of the citizens of the State of Missouri, as expressed in the Bill of Rights contained in the Missouri Constitution they freely adopted, that employees shall have the right to organize and bargain collectively through representatives of their own choosing; and,

WHEREAS, the Missouri Supreme Court has unequivocally declared that these rights extend to public employees and that such rights include the right to bargain for an enforceable collective bargaining agreement with a public employer; and,

WHEREAS, a majority of states, having recognized the beneficial aspects of collective bargaining and the need to have a formal structure and framework within which to conduct collective bargaining, long ago enacted comprehensive public employee collective bargaining statutes; and,

WHEREAS, notwithstanding the constitutional right that Missouri's public employees enjoy to form and join unions and to bargain collectively through representatives of their own

choosing over wages, hours, and conditions of employment, the Missouri, to date, has failed to pass comprehensive legislation that provides for the exercise of these rights; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section A. Enacting Clause. Chapter 76, Jackson County Code, 1984, consisting of ten new sections to be known as sections 7600, 7601., 7602., 7603., 7604., 7605., 7606., 7607., 7608., and 7609., is hereby enacted, to read as follows:

7600. Short Title.

This chapter may be cited as the Jackson County Employee Relations Act.

7601. Scope.

This chapter shall apply to all County Employees unless specifically stated otherwise.

7602. Collective Bargaining Procedures.

The provisions of this chapter relating to collective bargaining rights and responsibilities and the procedures relating to collective bargaining shall be applicable to any Employee Organization that is recognized as the exclusive bargaining representative for a group of County Employees, whether certified by the Missouri State Board of Mediation or voluntarily recognized by the County.

7603. Policy.

The Legislature declares that it is the public policy of Jackson County, Missouri, to promote and support collective bargaining. The Legislature declares that collective bargaining, as set forth in this chapter, is the preferred manner to promote harmonious and cooperative relationships between government and its employees by permitting its public employees to organize and bargain collectively through representatives of their choosing; to provide for the health, welfare, and safety of the public by assuring effective and orderly

operations of government, including the prohibition of strikes and lockouts of its public employees; and to protect the rights of its public employees by allowing them to freely choose to join and participate in employee unions, associations, or organizations.

7604. Definitions.

7604.1 Arbitration.

Arbitration means the procedure whereby the parties involved in Impasse submit their differences to the Employee Relations Panel as set forth in this chapter.

7604.2. County Executive.

County Executive means the elected County Executive of Jackson County, Missouri.

7604.3. Employee.

Employee means any person that regularly works for the County twenty (20) or more hours per week; the term Employee does not apply to Elected Officials, Key Representatives, Confidential Employees, Students, or Interns.

7604.4 Employee Organization.

Employee Organization means any association, union, or organization in which County Employees participate and which exists for the purpose of representing County Employees in their employment relations.

7604.5 Employee Relations Panel.

The Employee Relations Panel is a tripartite panel comprised of one (1) labor representative, one (1) management representative, and one (1) neutral representative, who shall serve as the Panel's chair. The Panel is authorized to carry out the duties and functions set forth in this chapter.

7604.6 Final Decision.

Final Decision shall mean any Final Decision of the Employee Relations Panel, including decisions related to Impasse issues.

7604.7 Impasse.

Impasse means the failure of the County and an Employee Organization to reach agreement in the course of negotiations. To be recognized, Impasse must be declared as set forth in this chapter.

7604.8 Legislature.

Legislature means the elected County Legislature of Jackson County, Missouri.

7604.9 Lockout.

Lockout means refusing or preventing Employees or certain Employees from working during a labor relations dispute or Impasse.

7604.10. Strike.

Strike means a concentrated work stoppage by a group of Employees pursuant to a labor dispute or negotiations Impasse.

7605. Exclusions.

The following Employees shall be excluded from the provisions of this chapter:

7605.1 Elected Officials.

Elected Officials and persons appointed to fill vacancies in elected offices, and members of any board or commission, who are not otherwise covered Employees.

7605.2. Key Representative.

Key Representative includes chief administrative officers, directors, or chief executive officers of the County, or any division or department thereof, as well as the officer's or director's deputy, first assistant, and any senior level management

or supervisory employee that reports directly to an officer or director of the County.

7605.3 Confidential Employee.

Confidential Employee means a person who works in the County's Human Resources or Personnel Office and who has access to proprietary or confidential information, and who works in a close and continuous relationship with County officers or directors who are involved in negotiating in behalf of the County.

7605.4 Students and Interns.

Students or Interns working as part-time County Employees twenty (20) hours per week or less.

7606. Liberal Construction and Interpretation with Respect to Other Laws.

This chapter shall be liberally construed to affect the public policy of Jackson County to promote and support collective bargaining. Moreover, this chapter preempts all County ordinances, executive orders, legislation, or rules adopted by the County or agents thereof, which are contrary to this chapter's provisions.

7607. Employee Relations Panel.

The Employee Relations Panel is a tripartite panel comprised of one (1) labor representative, one (1) management representative, and one (1) neutral, to be appointed pursuant to this section. The neutral representative shall serve as the chair of the Panel. Panel members may not be Employees of the County or an Employee Organization.

7607.1 Appointment of the Panel.

For purposes of hearings before the Panel, other than arbitrations, the labor representative shall be appointed by the County Executive from a list of three (3) names submitted by the Greater Kansas City AFL-CIO; for purposes of arbitrations, the labor representative shall be appointed by the County Executive from a list of three (3) names submitted by the Employee Organization involved in the declared

Impasse. It shall be the responsibility of the County Executive to appoint the management representative of the Panel. Upon being appointed, the labor representative and management representative shall meet and agree upon the names of three (3) individuals who are qualified to serve as the neutral. The three (3) names shall be submitted to the County Executive, from which the County Executive shall appoint one to serve as the third member of the Panel. The appointed neutral shall act as the chair of the Panel.

7607.2 Powers and Duties of the Employee Relations Panel.

a. Rulemaking.

The Panel shall have the authority to promulgate and adopt rules necessary to carry out its duties.

b. Impasse Procedures.

If after negotiating for six (6) months or more, all issues between County bargaining representatives and a recognized Employed Organization have not been resolved, either party may declare Impasse. After declaration of an Impasse, either party may request the assistance of a mediator or may have the matter submitted to arbitration before the Panel. If mediation is invoked, the parties shall request a mediator from the Federal Mediation and Conciliation Service (FMCS). Once invoked, the mediation process shall proceed for a period of at least thirty (30) days before the matter may be submitted to arbitration. Once a party has requested arbitration, a Panel shall be comprised as set forth above, with additional proviso that the selected neutral must be recognized as an arbitrator by the FMCS or the American Arbitration Association (AAA). Within fifteen (15) days of the request for arbitration, the Panel shall be appointed and within fifteen (15) days thereafter the Panel shall schedule the arbitration hearing. At hearing the Panel shall consider all relevant evidence, including the submissions of

the parties that shall include each party's proposed complete agreement, including the party's last, best offer on Impasse items. In addition to the evidence, the submissions of the parties and other relevant factors, the Panel shall also consider the following enumerated factors: 1) past collective bargaining agreements, including the bargaining that led to such agreements; 2) comparisons of wages, hours, and conditions of employment of other similarly situated employees; 3) the interest and welfare of the public; and 4) the ability of the County to finance economic adjustments and the effect of such adjustments on the normal and standard delivery of services. Nothing herein precludes the parties from mutually agreeing to alternative means or methods to resolve their Impasse.

c. Final Impasse Decision.

In making its Final Decision, the Panel must select the most reasonable of the two parties' last best offers. The determination of the Final Decision of the Panel shall be by majority vote of the members of the Panel. No more than thirty (30) days from the conclusion of the arbitration hearing, the Panel shall issue its Final Decision to the Employee Organization, the County Executive, the Legislature, and the Prosecuting Attorney or Sheriff, if applicable, which decision shall be advisory only on both parties. The Legislature may then adopt the decision of the Panel by resolution, only with concurrence of the County Executive and the Prosecuting Attorney or Sheriff if applicable.

d. Expenses.

The County and the Employee Organization shall pay the fees and expenses of the Panel member it selected. The fee and expenses of the neutral and all other costs of the arbitration shall be shared equally by the County and the Employee Organization.

7608. Duties of the County and Employee Organizations.

The County and Employee Organizations have a duty to bargain collectively in good faith. Among other things, the duty to bargain in good faith includes, at a minimum, the following: the parties shall meet a reasonable times; the parties shall negotiate in regard to wages, other compensation, hours, and conditions of employment, with the intent to reach agreement; and the parties shall reduce agreements to writing and execute a collective bargaining agreement incorporating any agreement that is reached. The duty to bargain in good faith does not require the County or the Employee Organization to agree to any specific proposal or to make any specific concession.

7608.1 Prohibited Practices for the County.

It shall be a prohibited practice for the County or any agent or representative of the County to engage in any of the following:

a. Refusal to Bargain in Good Faith.

Refusal to negotiate in good faith with a recognized Employee Organization.

b. Interference, Restraint, or Coercion.

Interference with, restraint, harassment, or coercion of any Employee in the exercise of the rights granted under this chapter.

c. Domination or Interference.

Any attempt to dominate or interfere with the administration of an Employee Organization.

d. Discrimination, Discipline, or Discharge.

Discrimination against, discipline, or discharge of any Employee because of participation in an Employee Organization or the exercise of any rights related thereto.

e. Denial of Rights.

Willful demand of any Employee's rights provided for under this chapter.

f. Refusal to Participate in Procedures.

Refusal to participate in good faith in any of the procedures set forth in this chapter.

g. Lockouts.

Engaging in a Lockout.

7608.2 Prohibited Practices for an Employee Organization.

It shall be a prohibited practice for an Employee Organization or any agent or representative of the organization to engage in any of the following:

a. Refusal to Bargain in Good Faith.

Refusal to negotiate in good faith with the County.

b. Interference, Restraint or Coercion.

Interference with, restraint, harassment, or coercion of any Employee in the exercise of the rights granted under this chapter.

c. Domination or Interference.

Any attempt to dominate or interfere with an Employee's exercise of his or her rights with respect to selecting a bargaining representative, as provided for under this chapter.

d. Discrimination.

Discrimination against any Employee because of exercise of any rights provided under this chapter.

e. Denial of Rights.

Willful denial of any Employee's rights provided for under this chapter.

f. Refusal to Participate in Procedures.

Refusal to participate in good faith in any of the procedures set forth in this chapter.

g. Strikes and Work Stoppages.

Engaging in or sponsoring a Strike, engaging in picketing in support of such a Strike, engaging in any illegal work stoppage or picketing intended to substantially interfere with or impede the operation of County government, provided that lawful informational picketing shall not be considered as substantially impeding or interfering with the operation of County government.

7609. Enforcement.

The County, an Employee, or an Employee Organization may seek enforcement of the provisions of this chapter in Circuit Court. Proceedings against a party may be commenced by filing a petition alleging a violation of this chapter in Circuit Court. Such petition must be filed within ninety (90) days of the alleged violation. In the event that the court finds that there was a violation, it may order the offending party to comply with applicable provision(s) of this chapter. Failure of a party to thereafter comply shall be treated as contempt, for which the court may order the legal and/or equitable remedy it deems appropriate.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Chief Deputy County Counselor



Acting County Counselor

I hereby certify that the attached Ordinance, Ordinance #4216 introduced on July 7, 2010 was duly ~~passed~~ on WITHDRAWN JUL 07 2010, 2010 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____ Nays _____
Abstaining _____ Absent _____

WITHDRAWN JUL 07 2010

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4216.

Date

Michael D. Sanders, County Executive