

ORDINANCE NO. 4131

AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING SUBSECTIONS 13.0613(e)(2), 13.0613(e)(3) AND 13.0613(m) OF THE SAN BERNARDINO COUNTY CODE, RELATING TO COMPENSATION OF EXEMPT EMPLOYEES.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Subsection 13.0613(e)(2) of the San Bernardino County Code is amended, to read:

**13.0613 Exempt Group Working Conditions.**

(e) Leave Provisions.

(2) Vacation Leave.

(A) Definition. Vacation is a right, earned as a condition of employment, to a leave of absence with pay for the recreation and well-being of the employee. If an employee has exhausted sick leave, vacation leave may be used for sick leave purposes upon a special request of the employee and with the approval of the appointing authority.

(B) Accumulation. Employees in regular positions scheduled to work eighty (80) hours per pay period shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation allowance shall be available for use on the first day following the pay period in which it is earned, provided an employee has worked six (6) pay periods from the employee's benefit date. Employees in regular positions paid less than eighty (80) hours per pay period or job shared positions shall receive vacation leave accumulation on a pro-rata basis.

Length of Service from Benefit Date	Annual Vacation Allowance
After 1,600 through 8,320 service hours	80 hours
Over 8,320 and through 18,720 service hours	120 hours
Over 18,720 service hours	160 hours

1                   There shall be no limitation on vacation leave accruals until  
2 calendar year 2011. Effective pay period 1 of 2011, the maximum vacation leave  
3 accrual balance that may be carried over to a future calendar year shall be four  
4 hundred eighty (480) hours. However, the maximum vacation leave accrual balance  
5 that may be carried over into a future calendar year for an employee with a balance of  
6 more than four hundred eighty (480) hours at the end of calendar year 2010 shall be  
7 such employee's vacation leave balance at the end of pay period 26 of calendar year  
8 2010. Thereafter, the employee's maximum vacation accrual balance for those  
9 employees with a balance greater than four hundred eighty (480) hours at the end of  
10 calendar year 2010 shall be adjusted annually at the end of each calendar year, and  
11 shall never be increased. Any vacation leave accrual balance in excess of the  
12 employee's maximum leave accrual balance at the end of the calendar year shall be  
13 cashed out and paid in accordance with section 13.0613(e)(2)(E)(II).

14                   (C) Administration.

15                   (I) Vacation periods should be taken annually  
16 with the approval of the appointing authority at such time as will not impair the work  
17 schedule or efficiency of the department but with consideration given to the well-being  
18 of the employee.

19                   (II) The minimum charge against accumulated  
20 vacation leave shall be fifteen (15) minutes. Vacation leave shall be compensated at  
21 the employee's base rate of pay, except as otherwise provided in this Plan.

22                   (III) When a fixed holiday falls within a vacation  
23 period, the holiday time shall not be charged against an employee's earned vacation  
24 benefits.

25                   (IV) Employees not planning to return to County  
26 employment at the expiration of a vacation leave, except those retiring, shall be  
27 compensated in a lump sum payment for accrued vacation and shall not be carried on  
the payroll. Retiring employees may elect to use vacation leave to enhance retirement  
benefits or be compensated in a lump sum payment for accrued vacation leave.

1 (D) Prior Service. New employees hired into the County  
2 in regular positions who have been employed by a public jurisdiction or private sector in  
3 a comparable position or a position which has prepared such employees for an  
4 assignment to a position in the Exempt Group may receive credit for such previous  
5 experience in the former agency(s) in determining their vacation accrual rate. Such  
6 determination as to the comparability of previous experience and amount of credit to be  
7 granted rests solely with the Director of Human Resources or designee. Requests for  
8 prior service credit should be made at the time of hire or as soon as possible thereafter  
9 but in no event later than one year from the employee's hire date.

10 (E) Conversion of Vacation Leave to Cash.

11 (I) Elective Conversion. An employee may sell  
12 back vacation leave at the base hourly rate of the employee as hereinafter provided,  
13 upon approval of the appointing authority. Eligible employees may exercise these  
14 options under procedures established by the Director of Human Resources or  
15 designee. In lieu of cash, the employee may designate that part or all of the value of  
16 vacation leave to be sold back is allocated to a deferred income plan if such a plan is  
17 approved by the County and credit for vacation leave is allowed under the plan.

18 In order to sell back vacation leave prior to  
19 termination or retirement, an employee may exercise the following options:

20 Option 1. Future Accruals. An employee  
21 must make an irrevocable election during the month of December, specifying the  
22 number of hours to be sold back from the next calendar year's vacation leave accrual.  
23 Such election must be made in increments of not less than ten (10) hours and may not  
24 exceed one hundred sixty (160) hours. All designated hours remaining at the end of  
25 the pay period 25 will automatically be converted into cash in the last period of the  
26 calendar year.

27 Option 2. Existing Accruals. Existing accruals  
may be cashed out in whole hour increments with a minimum cash out of ten (10)  
hours and will be subject to a ten percent (10%) penalty.

1 (II) Automatic Conversion. Commencing with  
2 calendar year 2011, at the end of the last pay period of the calendar year, an employee  
3 shall automatically have any vacation leave accruals in excess of the employee's  
4 maximum vacation leave accrual balance converted to cash. Such automatic vacation  
5 leave cash out shall be paid in pay period 1 of the next calendar year.

6 At termination of employment, all existing vacation  
7 leave accruals shall be converted to cash and paid to the employee.

8  
9 SECTION 2. Subsection 13.0613(e)(3) of the San Bernardino County Code is  
10 amended, to read:

11 **13.0613 Exempt Group Working Conditions.**

12 (e) LEAVE PROVISIONS.

13 (3) Holiday Leave.

14 (A) Fixed Holidays. All employees in regular positions  
15 except as modified in Subdivision (i) shall be entitled to the following holidays:

16 January 1	November 11
17 Third Monday in January	Thanksgiving Day
18 Third Monday in February	Day after Thanksgiving
19 Last Monday in May	December 24
20 July 4	December 25
21 First Monday in September	December 31
22 Second Monday in October	

23 (B) Floating Holidays. Employees in regular positions  
24 shall be entitled to a total of eight hours floating holiday time annually provided that the  
25 employee is not on unpaid leave for the entire pay period and is actively on the payroll  
26 for the pay period where the floating holiday time is to accrue. Eight hours floating  
27 holiday time shall be accrued during the first pay period prior to the third Monday in  
January.

Floating holidays accrued shall be available for use on the  
first day following the pay period in which they are accrued, with the approval of the  
appointing authority. Appointing authorities have the right to schedule employees' time

1 off for accrued holidays to meet the needs of the service but with consideration given to  
2 the well-being of the employee. Employees in regular positions budgeted less than 80  
3 hours per pay period or job-shared positions shall receive floating holiday accruals on a  
4 pro-rata basis.

5 (C) There shall be no limitation on holiday leave accruals  
6 until calendar year 2011. Effective pay period 1 of 2011, the maximum holiday leave  
7 accrual balance that may be carried over to a future calendar year shall be 112 hours.  
8 However, the maximum holiday leave accrual balance that may be carried over into a  
9 future calendar year for an employee with a balance of more than 112 hours at the end  
10 of calendar year 2010 shall be such employee's holiday leave balance at the end of  
11 pay period 26 of calendar year 2010. Thereafter, the employee's maximum holiday  
12 accrual balance for those employees with a balance greater than 112 hours at the end  
13 of calendar year 2010 shall be adjusted annually at the end of each calendar year, and  
14 shall never be increased. Any holiday leave accrual balance in excess of the  
15 employee's maximum holiday leave accrual balance at the end of the calendar year  
16 shall be cashed out and paid in accordance with section 13.0613(e)(3)(G)(II).

17 (D) When a fixed holiday falls within a vacation period,  
18 the holiday time shall not be charged against all employee's earned vacation benefits.

19 (E) Whenever an employee is required to work on a fixed  
20 holiday or the fixed holiday falls on an employee's regularly scheduled day off, the  
21 employee shall accrue, on an hour-for-hour basis, up to a total of eight hours floating  
22 holiday time.

23 (F) When a fixed holiday falls on a Saturday, the  
24 previous Friday will be observed as the fixed holiday except that when the preceding  
25 Friday is also a fixed holiday, the preceding Thursday will be observed as the fixed  
26 holiday. When a fixed holiday falls on a Sunday, the following Monday will be observed  
27 as the fixed holiday except that when the following Monday is also a fixed holiday, the  
following Tuesday will be observed as the fixed holiday.

(G) Conversion of Holiday Leave to Cash.

1 (I) Elective Conversion. An employee may sell  
2 back holiday time at the base hourly rate of the employee as hereinafter provided, upon  
3 approval of the appointing authority. Eligible employees may exercise this option under  
4 procedures established by the Director of Human Resources. In lieu of cash, the  
5 employee may designate that part or all of the value of holiday time to be sold back is  
6 allocated to a deferred income plan if such a plan is approved by the County and credit  
7 for holiday time is allowed under the plan.

8 In order to sell back holiday time prior to termination  
9 or retirement, an employee may exercise the following options:

10 Option 1. Future Accruals. An employee  
11 must make an irrevocable election during the month of December, specifying the  
12 number of hours to be sold back from the next calendar year's holiday time accrual.  
13 Such election must be made in increments of not less than eight hours and may not  
14 exceed the annual amount to be accrued for the next calendar year. All designated  
15 hours remaining at the end of pay period 25 will automatically be converted into cash in  
16 the last pay period of the calendar year.

17 Option 2. Existing Accruals. Existing accruals  
18 may be cashed out in whole hour increments with a minimum cash out of eight hours  
19 and will be subject to a ten percent penalty.

20 (II) Automatic Conversion. Commencing with  
21 calendar year 2011, at the end of the calendar year, an employee shall automatically  
22 have any holiday leave accruals in excess of the employee's maximum holiday leave  
23 accrual balance converted to cash. Such automatic holiday leave cash out shall be  
24 paid in Pay Period 1 of the next calendar year.

25 Upon retirement or termination, employees shall be  
26 compensated for any unused accrued holiday time at the then current base rate.

27 (H) Grandfathered Holiday Time. An employee  
promoted from the Safety Management and Supervisory Unit to the Exempt group who  
has any grandfathered holiday time at the time of promotion, will be allowed to retain

1 such grandfathered holiday time. Such time may be used or compensated at the time  
2 of retirement or separation under the same terms and conditions as are applicable to  
3 Safety Management and Supervisory Unit employees.

4  
5 SECTION 3. Subsection 13.0613(m) of the San Bernardino County Code  
6 is amended, to read:

7 **13.0613 Exempt Group Working Conditions.**

8 (m) ADMINISTRATIVE LEAVE.

9 Effective pay period 1 of each year, an employee in a regular position will  
10 be provided with eighty (80) hours of Administrative Leave time for the employee's use.  
11 Employees hired after the beginning of pay period 1 shall receive a prorated number of  
12 hours. Such Administrative Leave may be cashed out at the employee's then current  
13 base rate of pay in increments of one (1) hour upon the approval of the appointing  
14 authority during the calendar year. Any Administrative Leave accrual balances in effect  
15 at the end of the last pay period paid in the calendar year will automatically be paid at  
16 employee's then current base rate of pay. Employees may designate that cash outs of  
17 Administrative Leave be allocated to the County's 401(k) Plan or Section 457 Deferred  
18 Compensation Plan. Upon termination of employment, unused Administrative Leave  
19 will be paid at the current base rate of pay. This provision shall not apply to elected  
20 officials.

21 Effective pay period 1 of 2011, the following provision shall replace the  
22 preceding paragraph:

23 Effective pay period 1 of each year, an employee in a regular position will  
24 be provided with eighty (80) hours of Administrative Leave time for the employee's use.  
25 Employees hired after the beginning of pay period 1 shall receive a prorated number of  
26 hours. Except as provided below, if any Administrative Leave time is unused at the  
27 end of pay period 26 (or 27, when applicable), it shall be forfeited and shall not be  
converted to cash.

1 Commencing in calendar year 2011, each employee shall have one  
2 opportunity during the employee's employment and prior to retirement or separation, to  
3 convert Administrative Leave to cash. In order to exercise the employee's one  
4 opportunity to cash out Administrative Leave prior to separation of employment or  
5 retirement, an employee may exercise the following options:

6 Option 1. Future Accruals. An employee must make an  
7 irrevocable election during the month of December, specifying that hours are to be sold  
8 back from the next calendar year's Administrative Leave accrual. Such election must  
9 be made in the increment of eighty (80) hours. All designated hours remaining at the  
10 end of the pay period 25 will automatically be converted into cash in the last period of  
11 the calendar year.

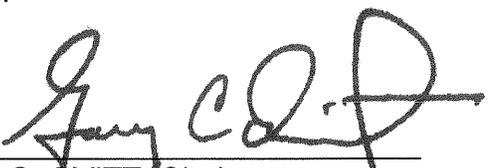
12 Option 2. Existing Accruals. An existing accrual balance (up to 80  
13 hours) may be cashed out at one time, and will be subject to a ten percent (10%)  
14 penalty.

15 Submission of an irrevocable election to cash out future accruals or a  
16 request to cash out existing accruals with penalty shall constitute an employee's one  
17 opportunity to cash out administrative leave, regardless of the actual number of hours  
18 that are converted to cash.

19 Employees may designate that cash outs of Administrative Leave as  
20 permitted herein be allocated to the County's 401(k) Plan or Section 457 Deferred  
21 Compensation Plan.

22 This provision shall not apply to elected officials.

23 SECTION 4. This ordinance shall take effect immediately upon adoption,  
24 pursuant to Government Code section 25123(f).

25  
26  
27  
  
\_\_\_\_\_  
GARY C. OVITT, Chairman  
Board of Supervisors

1 SIGNED AND CERTIFIED THAT A COPY  
2 OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

3 LAURA H. WELCH, Clerk of the  
4 Board of Supervisors

5 *Laura H. Welch*

6 STATE OF CALIFORNIA )  
7 COUNTY OF SAN BERNARDINO ) ss.

8 I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San  
9 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
10 Supervisors of said County and State, held on the 7th day of December, 2010 at  
which meeting were present Supervisors: \_\_\_\_\_

11 Mitzelfelt, Rutherford, Derry, Ovitt, Gonzales

12 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,  
to wit:

13 AYES: SUPERVISORS: Mitzelfelt, Rutherford, Derry, Ovitt, Gonzales  
14 NOES: SUPERVISORS: None  
15 ABSENT: SUPERVISORS: None

16 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
official seal of the Board of Supervisors this 7th day of December, 2010.

17 LAURA H. WELCH, Clerk of the  
18 Board of Supervisors of the  
19 County of San Bernardino,  
State of California

20 *J. Ramirez*  
21 Deputy

22 Approved as to Form:  
23 RUTH E. STRINGER, County Counsel

24 By: *Kenneth C. Hardy*  
25 KENNETH C. HARDY  
26 Deputy County Counsel

27 Date: 11/10/10