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.

<table>
<thead>
<tr>
<th>Length of Service from Benefit Date</th>
<th>Annual Vacation Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>After 1,600 through 8,320 service hours</td>
<td>80 hours</td>
</tr>
<tr>
<td>Over 8,320 and through 18,720 service hours</td>
<td>120 hours</td>
</tr>
<tr>
<td>Over 18,720 service hours</td>
<td>160 hours</td>
</tr>
</tbody>
</table>
There shall be no limitation on vacation leave accruals until calendar year 2011. Effective pay period 1 of 2011, the maximum vacation leave accrual balance that may be carried over to a future calendar year shall be four hundred eighty (480) hours. However, the maximum vacation leave accrual balance that may be carried over into a future calendar year for an employee with a balance of more than four hundred eighty (480) hours at the end of calendar year 2010 shall be such employee’s vacation leave balance at the end of pay period 26 of calendar year 2010. Thereafter, the employee’s maximum vacation accrual balance for those employees with a balance greater than four hundred eighty (480) hours at the end of calendar year 2010 shall be adjusted annually at the end of each calendar year, and shall never be increased. Any vacation leave accrual balance in excess of the employee’s maximum leave accrual balance at the end of the calendar year shall be cashed out and paid in accordance with section 13.0613(e)(2)(E)(II).

(C) Administration.

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

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

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

(IV) Employees not planning to return to County employment at the expiration of a vacation leave, except those retiring, shall be 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.
(D) Prior Service. New employees hired into the County in regular positions who have been employed by a public jurisdiction or private sector in a comparable position or a position which has prepared such employees for an assignment to a position in the Exempt Group may receive credit for such previous experience in the former agency(s) in determining their vacation accrual rate. Such determination as to the comparability of previous experience and amount of credit to be granted rests solely with the Director of Human Resources or designee. Requests for prior service credit should be made at the time of hire or as soon as possible thereafter but in no event later than one year from the employee’s hire date.

(E) Conversion of Vacation Leave to Cash.

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

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

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

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

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

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

13.0613 Exempt Group Working Conditions.

(e) LEAVE PROVISIONS.

(3) Holiday Leave.

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

<table>
<thead>
<tr>
<th>January 1</th>
<th>November 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Monday in January</td>
<td>Thanksgiving Day</td>
</tr>
<tr>
<td>Third Monday in February</td>
<td>Day after Thanksgiving</td>
</tr>
<tr>
<td>Last Monday in May</td>
<td>December 24</td>
</tr>
<tr>
<td>July 4</td>
<td>December 25</td>
</tr>
<tr>
<td>First Monday in September</td>
<td>December 31</td>
</tr>
<tr>
<td>Second Monday in October</td>
<td></td>
</tr>
</tbody>
</table>

(B) Floating Holidays. Employees in regular positions shall be entitled to a total of eight hours floating holiday time annually provided that the employee is not on unpaid leave for the entire pay period and is actively on the payroll for the pay period where the floating holiday time is to accrue. Eight hours floating 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
off for accrued holidays to meet the needs of the service but with consideration given to
the well-being of the employee. Employees in regular positions budgeted less than 80
hours per pay period or job-shared positions shall receive floating holiday accruals on a
pro-rata basis.

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

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

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

(F) When a fixed holiday falls on a Saturday, the previous Friday will be observed as the fixed holiday except that when the preceding Friday is also a fixed holiday, the preceding Thursday will be observed as the fixed holiday. When a fixed holiday falls on a Sunday, the following Monday will be observed 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.
(I) Elective Conversion. An employee may sell back holiday time at the base hourly rate of the employee as hereinafter provided, upon approval of the appointing authority. Eligible employees may exercise this option under procedures established by the Director of Human Resources. In lieu of cash, the employee may designate that part or all of the value of holiday time to be sold back is allocated to a deferred income plan if such a plan is approved by the County and credit for holiday time is allowed under the plan.

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

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

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

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

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

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

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

13.0613 Exempt Group Working Conditions.

(m) ADMINISTRATIVE LEAVE.

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

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

Effective pay period 1 of each year, an employee in a regular position will be provided with eighty (80) hours of Administrative Leave time for the employee’s use. Employees hired after the beginning of pay period 1 shall receive a prorated number of hours. Except as provided below, if any Administrative Leave time is unused at the end of pay period 26 (or 27, when applicable), it shall be forfeited and shall not be converted to cash.
Commencing in calendar year 2011, each employee shall have one opportunity during the employee’s employment and prior to retirement or separation, to convert Administrative Leave to cash. In order to exercise the employee’s one opportunity to cash out Administrative Leave prior to separation of employment or retirement, an employee may exercise the following options:

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

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

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

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

This provision shall not apply to elected officials.

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

GARY C. OVITT, Chairman
Board of Supervisors
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

LAURA H. WELCH, Clerk of the Board of Supervisors

STATE OF CALIFORNIA ) ss.
COUNTY OF SAN BERNARDINO )

I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the 7th day of December, 2010 at which meeting were present Supervisors: 
Mitzelfelt, Rutherford, Derry, Ovitt, Gonzales and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES: SUPERVISORS: Mitzelfelt, Rutherford, Derry, Ovitt, Gonzales

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

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.

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

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

By: KENNETH C. HARDY Deputy County Counsel

Date: 11/18/10