

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Tavaglione

SUBMITTAL Date: 10/3/2005

SUBJECT: Ordinance 761.1

RECOMMENDED MOTION: Direct the County Executive Office to review ordinance 761.1 and return to the Board in 30 days with a recommendation.

BACKGROUND: It has come to my attention that the current language in Ordinance 761.1 may be unfairly burdensome to some classes of employees and is not clear in other sections as to who may or may not be covered by this ordinance. While it seems appropriate for Board members and Department Heads, it does not seem reasonable for Board members staff and the County Librarian to be restricted by this ordinance. The ordinance should clarify what is meant by an "Assistant to an Agency or Department Head". Also it may be appropriate to notice employees restricted by this ordinance at the time they are hired for these positions.



John Tavaglione
Supervisor,
Second District

Attachment: Ordinance 761.1

ORDINANCE NO. 761.1

AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 761 CONCERNING DISQUALIFICATION OF FORMER OFFICERS AND EMPLOYEES AND PENALTIES FOR VIOLATION

The Board of Supervisors of the County of Riverside Ordains as follows:

Section 1. Title and Legislative Intent.

This ordinance shall be known as and may be cited as "The Ethics in Riverside County Government Act." The legislative intent of the Board of Supervisors in enacting this ordinance is to protect the county and public from the potential conflict of interest and harm which may occur when former officials and employees use their former County positions or take with them information which is not readily available to or accessible by the public or press upon leaving county government and thereafter attempt to use such information or influence for private economic advantage or gain. It is the declared intent of the Board of Supervisors that the provisions of Code of Civil Procedure Section 1021.5 should be applicable to private enforcement of this ordinance.

Section 2. Definitions.

Unless the contrary is stated or is clearly apparent from the context, the definitions set forth in this section shall govern the interpretation of this ordinance.

- (a) **"Administrative Agency"** means every county office, department, division, agency, bureau, board and commission, but does not include the courts or any agency in the judicial branch of government.
- (b) **"Administrative, Legislative, Quasi-Judicial or Other Proceeding"** means any proceeding, application, request for approval, ruling, enactment, amendment or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in any administrative agency action or proceeding and includes, but is not limited to, administrative adjudicatory proceedings, or proceedings involving the issuance, amendment, awarding or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.
- (c) **"Person"** means an individual, partnership, limited partnership, trust, estate, association, corporation, or other entity.
- (d) **"Represent"** means to make a formal or informal appearance, communicate either orally or in writing, act as an agent or attorney for, advise, aid, counsel, consult or assist in representation of any person.

Section 3. Representation by former official or employee before administrative agency; appearance or communication; prohibition.

No Member of the Board of Supervisors, Supervisor's Administrative Assistant, Supervisor's Legislative Assistant, Supervisor's Senior Administrative Assistant, Agency or Department Head, or Assistant to an Agency or Department Head, or County Librarian shall for compensation represent, for a period of one (1) year after leaving county office or employment, any person other than the County of Riverside before any administrative agency, officer or employee thereof, for the purpose of influencing an administrative, legislative or quasi-judicial action or proceeding.

Section 4. Exemptions From the Prohibition of Section 3.

The prohibitions contained in Section 3. of this ordinance shall not apply:

- (a) To prevent any former official or employee designated therein from making or providing a statement, which is based on his or her special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or
- (b) To prevent any former official or employee designated therein from communicating solely for the purpose of furnishing information if the administrative agency to which the communication is directed, makes findings in writing that (1) the designated former official or employee has outstanding and otherwise unavailable qualifications; (2) the designated former official or employee is acting with respect to a particular matter which requires

- such qualifications and (3) the public interest would be served by the participation of the designated former official or employee; or
- (c) To any former official or employee designated therein who has left County employment or service for other government employment or service as long as he or she is employed or serves in that capacity.

Section 5. Exclusion of Violator; Petition; Hearing.

Upon the petition of any interested person or party or resident of Riverside County, the court, administrative agency, or hearing officer serving in an administrative capacity for the county, in any judicial, quasi-judicial administrative, legislative or other proceeding may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this ordinance from further participation, or from assisting or counseling any other participant in the proceeding.

Section 6. Criminal Penalty.

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, the penalty shall be a fine of not more than (\$1,000.00) and/or by imprisonment for a period not to exceed one year.

Section 7. Civil Action.

In addition to the relief provided in Sections 5. and 6. hereof, any interested person or party or resident of Riverside County may initiate a civil action to prevent violation of this ordinance and to enforce this ordinance.

If a person in such civil action is found to be in violation of this ordinance, such person shall be required by the court to pay any compensation received back to the payor and shall also pay a civil fine in an amount not to exceed one thousand dollars (\$1,000.00) for a first violation and in an amount not to exceed ten thousand dollars (\$10,000.00) for a second or additional violation. Such civil fines shall be payable to the county treasurer.

Any person initiating civil action pursuant to this section shall file a copy of the complaint with the Clerk of the Board of Supervisors within the (10) calendar days of filing with the court.

Section 8. Ordinance Application Prospective.

The requirements imposed by this ordinance shall not apply to any person who left county service prior to the effective date of this ordinance except that any such person who returns to the county service on or after the effective date of this ordinance shall thereafter be covered hereby.

Section 9. This Ordinance shall take effect thirty (30) days after the date of adoption.

ADOPTED: 11-26-96

AMENDED: 7-15-97 (Eff. 8-14-97)