

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

235



FROM: Human Resources Department

SUBMITTAL DATE:
July 24, 2014

SUBJECT: Introduction and Adoption of Ordinance 780.3 deleting the sunset date relating to the formulation for the Compensation and Benefits for the Board of Supervisors [District- All] [On-Going Cost - \$23,283] [Source of Funds - Department Budget]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce Ordinance 780.3, an Ordinance of the County of Riverside Amending Ordinance No. 780 Establishing Compensation and Benefits for Board of Supervisors (Attachment A); and
2. Adopt Ordinance 780.3, An Ordinance of the County of Riverside Amending Ordinance No. 780 Establishing Compensation and Benefits for the Board of Supervisors, at the next Board meeting.

BACKGROUND:

Summary

The Riverside County Board of Supervisors is required by state law, California Constitution, Article XI, Section 1 and as advised by the Fair Political Practices Commission (Attachment B), to establish its own compensation and to do so by Ordinance.

Michael T. Stock
Asst. County Executive Officer/
Human Resources Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 17,014	\$ 23,283	\$ 0	\$ 23,283	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 17,014	\$ 23,283	\$ 0	\$ 23,283	

SOURCE OF FUNDS: Department Budget	Budget Adjustment: No
	For Fiscal Year: 2014/15

C.E.O. RECOMMENDATION:

Approved

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Departmental Concurrence

- Positions Added
- Change Order
- A-30
- 4/5 Vote

BACKGROUND:

Summary (continued)

On June 23, 1998, the Executive Officer established the Blue Ribbon Salary Review Committee, at the direction of the Board of Supervisors, to make recommendations to the Board regarding the salary and benefits for the members of the Board of Supervisors.

On September 1, 1998 (agenda item 3.5), the Blue Ribbon Salary Review Committee's recommendation that the salary for members of the Board of Supervisors is to be based on a formula of 80% of the salary of a Superior Court Judge was approved.

On August 29, 2006, agenda item 3.41 was approved by the Board of Supervisors which amended Ordinance 780, An Ordinance of the County of Riverside Establishing Compensation and Benefits for the Board of Supervisors, by implementing the Blue Ribbon Salary Review Committee's recommendation regarding salaries and benefits for members of the Board of Supervisors. The current Ordinance doesn't allow any increases to members of the Board of Supervisors past December 2010.

The recommended motion is to amend Ordinance 780 to remove the sunset date clause and properly reflect benefits provided Board of Supervisors consistent with County Department Heads.

Impact on Residents and Businesses

No impact on residents or businesses.

SUPPLEMENTAL:

Additional Fiscal Information

Costs associated with the above recommended actions will be borne by the Board of Supervisors budgets.

Effective July 1, 2013, the California Department of Human Resources, increased Superior Court Judges annual salaries by 1.4%. Effective July 1, 2014, the California Department of Human Resources again increased Superior Court Judges annual salaries by 1.83%. Prior to July 1, 2013, Superior Court Judges last received an increased in July 2007, which was the last salary increase for members of the Board of Supervisors.

ATTACHMENTS (if needed, in this order):

- A.** Ordinance 780.3, An Ordinance of the County of Riverside Amending Ordinance No. 780 Establishing Compensation and Benefits for the Board of Supervisors
- B.** Letter from the Fair Political Practices Commission dated March 4, 2014

ORDINANCE NO. 780.3

AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 780 ESTABLISHING COMPENSATION
AND BENEFITS FOR THE BOARD OF SUPERVISORS

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

Section 1. Section 2 of Ordinance No. 780 is amended to read:

“Section 2. BASE SALARY

Members of the Board of Supervisors shall be paid an annual base salary rate which is determined to be equal to eighty percent (80%) of the annual salary prescribed by law for Judges of the Superior Court of the County of Riverside. Thereafter, the annual base salary rate of each Supervisor shall be increased at such times and in such percentages as increases granted by law to Judges of the Superior Court of the County of Riverside, to maintain a base salary of eighty (80%) of said Judges’ annual salary.”

Section 2. Section 3 of Ordinance No. 780 is amended to read:

“Section 3 BENEFITS:

In addition to the base salary established in Section 2 above, each supervisor shall receive the following benefits:

A. Benefits Provided in Riverside County Flexible Benefits Program – In the County of Riverside Flexible Benefits Program as established in the Management Resolution.”

Section 3. This amendment shall become effective 60 days after adoption.

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST:

CLERK OF THE BOARD:

By: _____
Deputy

(SEAL)

ATTACHMENT B

March 4, 2014

Pamela J. Walls
County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501-3674

Re: Your Request for Advice
Our File No. C-14-001

Dear Ms. Walls:

This letter responds to your request for advice regarding the conflicts-of-interest provisions under Government Code section 1090 et seq.¹ Because the Fair Political Practices Commission (“the Commission”) does not act as a finder of fact when it renders assistance (*In re Oglesby* (1975) 1 FPPC Ops. 71), this letter is based on the facts presented.

Please note that after forwarding your request to the Attorney General’s Office and the Riverside District Attorney’s Office, we did not receive a written response from the Attorney General’s office, and the Riverside District Attorney declined to offer any written communication. (See Section 1097.1(c)(4).) Finally, we are required to advise you that the following advice is not admissible in a criminal proceeding against any individual other than the requestor. (See Section 1097.1(c)(5).)

QUESTION

Are either Government Code Section 1090 or the Political Reform Act (the “Act”)² implicated when the Riverside County Board of Supervisors vote to amend an ordinance that will impact their own salaries?

¹ All further statutory references are to the Government Code, unless otherwise indicated.

² The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

CONCLUSION

No. The California Constitution mandates that county supervisors set their own salaries by ordinance, and that duty is not limited by Section 1090 or the Act.

FACTS

You are County Counsel for Riverside County and write on behalf of the County Board of Supervisors. County Ordinance No. 780 ties the salary rate of Riverside County Supervisors to 80% of a Superior Court Judge's annual salary. Supervisor salaries are increased at such times and in such percentages as any increases granted by law to Superior Court Judges.

On November 27, 2013, the Judicial Council announced a judicial salary increase effective July 1, 2013. Under the terms of Ordinance No. 780, the salaries of the Riverside County Supervisors would have automatically increased but for a provision in that ordinance that states: "Said adjustments shall be made through and including December 2010; no further salary adjustments shall be made subsequent to that date."

Riverside County's Human Resource Department is contemplating returning a proposed amendment to Ordinance No. 780, which would delete the provision prohibiting salary increases after December 2010. The County Supervisors would vote on this change, and would effectively be voting to allow for continued automatic increases to their own compensation. Ordinance No. 780 states that the "Riverside County Board of Supervisors is required by state law to establish its own compensation and to do so by ordinance."

ANALYSIS

Article XI, section 1, subdivision (b) of California's Constitution, which applies directly to county governments, states in part: "Except as provided in subdivision (b) of Section 4 of this article, *each governing body shall prescribe by ordinance the compensation of its members*, but the ordinance prescribing such compensation shall be subject to referendum." (Emphasis added.) The voters amended this constitutional provision in 1970 to take the power to set county salaries from the hands of the legislature and give it to the counties themselves. (*Meldrim v. Bd. of Supervisors* (1976) 57 Cal.App.3d 341, 343.) In *Meldrim*, the court explained that by allowing the boards themselves to vote on their salaries by ordinance, the public that they serve would have the opportunity to comment on any change in an open meeting. (*Ibid.*) Should the voters object to the salaries, or any changes thereto, the issue is subject to referendum.

Under the cited provision of the California Constitution, "the members of the governing body of the county have the right and the duty to prescribe the compensation of the members." (*Id.* at p. 346.) Given this clear constitutional mandate, neither Section 1090 or the Act are implicated when a county board of supervisors votes to change their salaries because it is well-

established that³ “[c]onstitutions trump statutes.” (See, e.g. *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Com.* (2012) 209 Cal. App. 4th 1182, 1189, citing *Delaney v. Superior Court* (1990) 50 Cal.3d 785, 800–801, fn. 11.)

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Heather M. Rowan
Senior Counsel, Legal Division

HMR:jgl

³ Because it is inapposite to this decision whether voting on an ordinance is a “contract” under Section 1090, we do not analyze that issue here.