

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 109-2013

Meeting Date: February 12, 2013

From: MAYOR

Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.70, EMPLOYEE RELATIONS, WITH COMPREHENSIVE UPDATES SECURING LONG TERM VIABILITY AND FINANCIAL STABILITY OF EMPLOYEE AND LABOR RELATIONS.

The Municipality's current labor relations ordinance, AMC 3.70, was originally adopted in 1969 and substantially amended in 1977 and 1989. It is critically out of date in regard to current municipal operations and modern effective management techniques. In addition, the current code does not fully recognize the Assembly's ultimate responsibility to the citizens of Anchorage to effectively budget and control spending. The result is an amalgamation of nine collective bargaining agreements (CBAs), excessively complex and inconsistent personnel management systems, and rapidly increasing labor and administrative expenses, out-stripping inflation and revenue.

Similar defects in public sector collective bargaining have created a crisis nationwide in regard to public labor relations. Many municipalities and cities, as well as some states, are locked in legal and political struggles with their public employee labor unions, some with the goal of eliminating collective bargaining and terminating current contracts. That is not the course being proposed here. Through this ordinance, we hope to avoid a similar struggle in Anchorage by revising the current code to allow for the gradual reformation of Municipal labor relations to control labor and administrative costs while still recognizing current agreements and legitimate reasonable collective bargaining expectations, going forward.

Background

Public entities, unlike private corporations, are not subject to federal labor relations laws such as the National Labor Relations Act (NLRA). Public labor relations are controlled by state law. Alaska state law (PERA 23.40.010, *et seq.*) allows Municipalities to "opt out" and create their own labor relations structure. The Municipality exercised this option in 1975 and is largely free to modify its labor relations framework as local circumstances require. See, *Anchorage Municipal Employees Ass'n v. Municipality of Anchorage*, 618 P.2d 575, 581 (Alaska 1980).

Modifications to AMC 3.70

The ordinance does NOT amend, alter, or void any currently existing labor agreement during its current term. This ordinance applies to all such agreements negotiated in the future.

In recognition of sustaining effective operations and financially sound principles amendments are proposed under AMC 3.70.020. Under the ordinance, the total direct labor costs of all future contracts as a component of total operating costs will be compared to revenue projections prior to approval, and limited by increases in the CPI-U. Additional safeguards to reflect actual labor contract costs are included in AMC 3.70.130D as it requires cost projections be reported to the Assembly.

In addition, a limitation under section AMC 3.70.020H has been placed on pay enhancement provisions. This change is to provide transparency in regard to actual wages, and to recognize a clear division between increases in pay rate based on enhanced qualifications, and increases in pay rate based on performance, the latter being eliminated.

Current benefit programs today result in over 600 different types of eligibility criteria to administer employee benefit plans. The proposed amendments in AMC 3.70.020E and 3.70.130 require uniformity and consistency to those benefit programs sponsored by the Municipality. The standardization of employee benefit plans reduces the current administrative complexities of multiple plans, with inappropriate rewards, and allows greater flexibility to adjust to market conditions while efficiently providing competitive, uniform benefits to all employees.

Changes to AMC 3.70.010, 3.70.020 and 3.70.090 A2 allow the implementation of a managed competition program, a type of program which has been successfully implemented in municipalities throughout the country. Direct law enforcement and fire protection services are exempted from any managed competition program that is ultimately implemented. This ordinance change is enabling legislation. Additional provisions under Title 7, Purchasing, will be necessary to fully implement a managed competition program.

The purpose of managed competition is not to eliminate bargaining unit work, rather to make it competitive with private service sectors. Commonly, the existing bargaining unit is the successive bidder.

The ordinance is revised to clarify the impasse process resulting in a more effective process for arbitrations and strikes. Under the amended provisions of AMC 3.70.110, upon reaching impasse after mediation and fact-finding, the "last best offer" (LBO) of each party will be forwarded to the Assembly. The Assembly can approve one of the LBOs in its entirety. The ability of the union to strike and require binding interest arbitration has been eliminated and replaced with less disruptive means to resolve contract negotiation disputes.

The Alaska Superior Court has recently reaffirmed that public employees have no inherent right to strike, and the courts have repeatedly reaffirmed the power of the legislative branch to control appropriations. The proposed change is also consistent with other municipalities. The City and Borough of Juneau have given the final word

1 to their assembly in regard to labor agreements after mediation and fact-finding as
2 proposed in this ordinance since 1974.

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4 Greater transparency and consistency is also proposed under AMC 3.70.020F. The
5 ordinance standardizes rules regarding shop steward and union officer time-keeping
6 and compensation for union activity, and transfers payment obligation to the unions.

7 The requirement that the Municipality not pay for shop steward time spent
8 exclusively on union activities has been codified.

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10 AMC 3.70.050 currently establishes the impartial Employee Relations Board (ERB)
11 with the power to recognize and establish bargaining units and to resolve disputes
12 as to what positions are exempted from collective bargaining. In the proposed
13 ordinance, the ERB powers and policies are further defined and consistent with
14 other municipal boards and commissions.

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16 AMC 3.70.060, collective bargaining units, is updated with modified definitions of
17 “confidential” and “supervisory” employees along with clarifications of executive
18 staff, to provide a clear line between represented employees and management.
19 This will help avoid placement of employees in positions that subject them to
20 conflicting loyalties.

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22 AMC 3.70.100 is amended to require both parties to split the cost of mediation if it is
23 required. The purpose of this amendment is to assure that both parties come to the
24 mediation with an equal stake in the outcome. Under the current ordinance, the
25 Municipality bears the entire cost of mediation.

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27 AMC 3.70.100 and .110 are amended to limit contract continuations to 180 days.

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29 A number of changes in AMC 3.70.170 are aimed at requiring more uniformity in
30 Municipal collective bargaining agreements. Standardized holidays are noted in
31 section AMC 3.70.020G along with items in section AMC 3.70.170. This includes
32 applying FLSA (wage and hour) standards to the extent possible, and a more
33 uniform implementation of the personnel rules. As a practical matter, the differences
34 in the individual CBAs and personnel rules, and numerous different ways of
35 calculating pay, results in complex, nonstandard rules across the municipality which
36 creates additional administrative costs to maintain.

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38 To implement standardization, and to allow more flexibility in changing working
39 conditions through collective bargaining, the application of “past practice” in
40 arbitration has been limited in the ordinance.

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42 Although the Municipality currently recognizes nine bargaining units, AMC 3.70.190
43 only names five. AMC 3.70.190 is currently inconsistent and out of date, and
44 therefore, unnecessary reporting is proposed for deletion. The modified language
45 reaffirms the established collective bargaining units while maintaining flexibility for
46 future changes. Inclusion of positions in a bargaining unit will be handled through
47 the bargaining process unless identified as exempt in 3.70.

48
49 Additional revisions clarify and eliminate unused definitions and repeal
50 unnecessary, outdated section AMC 3.70.185. The ordinance also proposes
51 changes to incorporate prior assembly guidance that limits labor agreements to

three years, forbids union signatory clauses, and increases scheduling flexibility.

The intent of these revisions is to place the power of appropriation firmly with the Assembly and to apply uniform standards in specific areas ensuring all municipal employees are under the same set of rules with not favoring one group over another. It supports a relationship with the labor unions and reinforces the need to be fiscally responsible and competitive.

THE ADMINISTRATION RECOMMENDS APPROVAL.

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Concur:	George J. Vakalis, Municipal Manager
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