

ARTICLE IX - PERSONNEL ADMINISTRATION

Section 900. Personnel Policy.

- (a) It is the policy of the City that there shall be a comprehensive personnel system based on merit which considers diversity based upon the relevant labor pool as set forth in section 900(b). Such system shall be continued and maintained for the purpose of providing an equitable and uniform procedure for dealing with personnel matters; to serve the mutual interests of the people, the City as an employer and its employees through accepted modern concepts and practices of public personnel administration; to attract to municipal service the best and most competent person available; to assure that appointments will be based on merit and fitness as ascertained by practical competitive examination and by records of achievement; and to provide the employees security of tenure, with advancement or promotion within the service, where practicable, from among employees having appropriate qualifications, free of discrimination, subject to their adherence to established standards of performance and conduct, all as more particularly hereinafter set forth in this article.
- (b) The City shall study its workforce in comparison to the relevant labor pool to determine if there are manifest racial or gender imbalances in traditionally segregated job classifications. If the study demonstrates such manifest imbalances, the City shall adopt a remedial voluntary affirmative action plan which shall be periodically updated and in effect only until the imbalances are eliminated.

(Amended by: Stats. November 1988 and March 1996.)

Section 901. Enforcement and Administration. The provisions of this article, and of the ordinances and rules adopted to give effect thereto, shall be enforced by a Civil Service Board. The Board shall be constituted and appointed as provided in Article VI. The Board shall be responsible for the general supervision of the personnel system, without impairment of the responsibility and duty of the City Administrator, department heads and other supervisory personnel to exercise the administrative discretion vested in them by this Charter, or by ordinance.

(Amended by: Stats. November 1988 and March 2004.)

Section 902. The Competitive Service. The Council may establish departments, divisions, offices and positions of employment by ordinance, and may change or abolish the same and prescribe their powers, functions and duties. The Council may by resolution provide for temporary employment of services when required. The competitive Civil Service shall include all offices and employments in the City government except:

- (a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.
- (b) One secretary and all professional and administrative assistants in the office of the City Administrator the Mayor's secretary and an assistant and such other staff as authorized by Council; one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The City Administrator, the Mayor, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.
- (c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the Board of Port Commissioners and the action of the Civil Service Board as provided for pursuant to Article VI to hold positions peculiar to the operations of the Port as a commercial enterprise.
- (d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year; or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.
- (e) Individuals or organizations engaged by contract after a finding by the Council or the Board of Port Commissioners, as the jurisdiction may be, that the service is of a professional, scientific or technical nature and is temporary in nature, or after finding by vote of two-thirds of the members of the Council or said Board that the performance of the service by contract, regardless of nature or term, is in the public interest because of economy or better performance; provided, that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service.
- (f) Such additional positions as may be excepted upon the recommendation of the Council, approved by the Civil Service Board as provided for pursuant to Article VI.

(Amended by: Stats. November 1988 and March 2004.)

Section 903. Provisional Appointments. When there is no appropriate eligible list, provisional appointments to positions in the competitive civil service may be made pending the creation of such lists, but such provisional employment may not extend beyond the creation of the list nor in any event may such employment be renewed or extended beyond 120 days.

(Amended by: Stats. November 1988.)

Section 904. Personnel Ordinance. The Council shall by ordinance provide a modern system of personnel administration for the competitive civil service.

(Amended by: Stats. November 1988.)

Section 905. Continuation. Pending adoption of the ordinance required in Section 904, the provisions of Article IX, as the same appeared in the Charter immediately prior to the adoption of this section, shall continue in full force and effect except as the same may hereafter be changed by amendment thereof in the manner provided by law for the amendment of charter provisions. Said provisions of Article IX shall cease to have any force or effect immediately upon the adoption of the ordinance required in Section 904. The rules of the Civil Service Board shall remain effective until modified as authorized by ordinance pursuant to Article VI.

(Amended by: Stats. November 1988.)

Section 906. (Repealed by: Stats. November 2000.)

Section 907. Nepotism. The Mayor or City Council shall not appoint as an employee or officer, to receive any compensation from the City, any person who is a relative by blood or marriage within the third degree of the Mayor or anyone or more of the members of the Council, nor shall the City Administrator or any other appointing authority appoint to any such position any relative of his or of the Mayor or any member of the Council within such degree of kinship.

(Amended by: Stats. November 1988 and March 2004.)

Section 908. Social Security. Provisions for an employee retirement system shall not be construed to prevent the City and its employees from participating in any state or national social security system to the extent permitted by law for public employees.

(Amended by: Stats. November 1988.)

Section 909. Authority to Join Pension System. Notwithstanding the provisions of Section 1209 the City, by and through its Council, may join or arrange for reciprocity of membership in, or continue as a contracting agency in, any retirement or pension system or systems existing or hereafter created under state or federal law to or in which municipalities and municipal officers or employees are eligible, either for all such officers and employees, or for less than all on the basis of a reasonable classification, provided that no employee or officer or classification thereof shall be unreasonably omitted from all systems referred to in this section or in Section 908 of this Charter.

(Amended by: Stats. November 1988.)

Section 910. Arbitration for Uniformed Members of the Police and partments.

- (a) It is hereby declared to be the policy of the voters of the City to endeavor to establish and maintain, without labor strife and dissension, wages, hours, and other terms and conditions of employment for the uniformed members of the Police and Fire Departments which are fair and comparable to similar private and public employment. To such purpose, the voters of the City hereby recognize the efficiency of and adopt the principle of binding arbitration as an equitable alternative means to arrive at a fair resolution of terms of wages, hours, and other terms and conditions of employment for such employees when the parties have been unable to resolve these questions through negotiations.
- (b) Pursuant to the public policy hereinabove declared, the City or the recognized employee organization for the uniformed members of the Police and Fire Departments may, as the result of an impasse after meeting and conferring in good faith on matters within the scope of representation as required by applicable State law, refer any such matters which are unresolved to binding arbitration under the provisions of this Section; except that the Charter provisions concerning the Police and Fire Retirement System and such other provisions of this Charter which specifically govern wages, hours and other terms and conditions of employment of uniformed members of the Police and Fire Departments shall not be subject to change by arbitration. In any such arbitration, the arbitrator is directed to take into consideration the City's purpose and policy to create and maintain wages, hours and other terms and conditions of employment which are fair and comparable to similar private and public employment and which are responsive to changing conditions and changing costs and standards of living. The arbitrator shall also consider: the interest and welfare of the public; the availability and sources of funds to defray the cost of any changes in wages; hours and conditions of employment; and all existing benefits and provisions relating to wages, hours and terms and conditions of employment of the uniformed members of the Police and Fire Departments, whether contained in this Charter or elsewhere.
- (c) Any unresolved dispute or controversy arising under the provisions of this Section, or any unresolved dispute or controversy pertaining to the interpretation or application of any negotiated agreement covering uniformed members of the Police and Fire Departments shall be submitted to an impartial arbitrator. Representatives designated by the City and representatives of the recognized employee organization affected by the dispute or controversy shall select the arbitrator. In the event that said parties cannot agree upon the selection of the arbitrator within five days from the date of any impasse, then the California State Conciliation Service shall be requested to nominate five (5) persons, all of whom shall be qualified and experienced as labor arbitrators. If the representatives of the recognized employee organization and the City cannot agree on one

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of the five to act as arbitrator, they shall strike names from the list of said nominees alternately until the name of one nominee remains who shall thereupon become the arbitrator. The first party to strike a name from the list shall be chosen by lot. Every effort shall be made to secure an award from the impartial arbitrator within thirty (30) calendar days after submission of all issues to him.

- (d) The arbitration proceedings herein provided shall be governed by Sections 1280, et seq., of the California Code of Civil Procedure. The arbitrator's award shall be submitted in writing and shall be final and binding on all parties. The City and the affected employee organization shall take whatever action is necessary to carry out and effectuate the award. The expenses of arbitration, including the fee for the arbitrator's services, shall be borne equally by parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.
- (e) Nothing herein shall be construed to prevent the parties from submitting controversies or disputes to mediation, fact-finding or other reasonable method to finally resolve the dispute should the City and the recognized employee organization in the controversy or dispute so agree. An impasse may be declared by either the City or the recognized employee organization in the event the parties fail to reach an agreement on matters within the scope of representation after meeting and conferring in good faith as required by applicable State law, or after other mutually agreed-upon settlement methods fail to result in agreement between the parties.

(Added by: Stats. 1973. Amended by: Stats. November 1988.)