



COUNTY OF ORANGE
BOARD OF SUPERVISORS

ROBERT E. THOMAS HALL OF ADMINISTRATION
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MEMORANDUM

2015 DEC 4 AM 10:32
CLERK OF THE BOARD
COUNTY OF ORANGE

December 4, 2015

TO: Clerk of the Board
FROM: Chairman Todd Spitzer
Supervisor Andrew Do

SUBJECT: Amendment of Ordinances Pertaining to Office of Independent Review

#S50C

Please add a supplemental item of business to the December 8, 2015, Board meeting agenda.
The title of the agenda item should read:

Chairman Spitzer and Supervisor Do – Consider first reading of “An ordinance of the County of Orange, California, Amending Title 1, Division 2, Article 18 of the Codified Ordinances of the County of Orange pertaining to the Office of Independent Review”; make California Environment Quality Act finding, and set second reading and adoption for 12/15/15, 9:30 a.m. – All Districts

Please include the following three documents as attachments to this item of business:

1. Agenda Staff Report for Amendment of Ordinances Pertaining to Office of Independent Review;
2. Final Proposed Ordinance (Attachment A to the ASR);
3. Amendments to OIR Ordinance (track changes redline) (Attachment B to the ASR)

Thank you.

Attachments [3]

cc: Members of the Board of Supervisors
Frank Kim, CEO
Mark Denny, COO
Leon J. Page, County Counsel



AGENDA STAFF REPORT

S50C

MEETING DATE: 12/08/15
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Chairman Todd Spitzer (714) 834-3330
 Supervisor Andrew Do (714) 834-3110
DEPARTMENT CONTACT PERSON(S): Leon Page, County Counsel (714) 834-3300

SUBJECT: Amendment of Ordinances Pertaining to Office of Independent Review

CEO CONCUR N/A	COUNTY COUNSEL REVIEW Approve Ordinance to form <i>Leon Page</i>	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** **Annual Cost:** N/A
Staffing Impact: N/A **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source:

Prior Board Action: 11/10/15 #35, 8/25/15 #78, 2/26/08 #59

RECOMMENDED ACTION(S):

1. Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to review under CEQA.
2. Read title of the Ordinance.
3. Order further reading of the ordinance be waived.
4. Consider the matter.
5. Direct that the Ordinance be placed on the agenda of the next regularly scheduled Board meeting for adoption.
6. At the next regularly scheduled meeting, consider the matter, and adopt the Ordinance.

SUMMARY:

The recommended amendments to Article 18 of Division 2 of Title 1 of the Codified Ordinances of the County of Orange will amend the jurisdiction of the Office of Independent Review ("OIR") to additionally include oversight and review of the Probation Department, Office of the District Attorney, Office of Public Defender, and the Social Services Agency, and enhance the reporting obligations of the OIR to the Board of Supervisors.

BACKGROUND INFORMATION:

On February 26, 2008, the Board adopted County Ordinance 08-004 establishing the OIR. The purpose of the OIR is to monitor, assist, oversee and advise the Orange County Sheriff-Coroner in the investigation of: (1) selected internal and citizen complaints in which it is alleged that peace officers and custodial officers employed by the County in the Sheriff-Coroner Department committed certain actions or inactions in the performance of their duties; and (2) selected incidents of death or serious injury occurring to persons while in the custody of employees of the Sheriff-Coroner Department.

On July 24, 2015, the Board conducted a special meeting to receive testimony, discuss, and analyze the OIR oversight model and other oversight models. On August 25, 2015, the Board approved a short-term Special Counsel Services agreement with Michael Gennaco through December 31, 2015, for the purpose of assisting the County in developing ordinances, policies and model for independent oversight of Orange County law enforcement agencies. The County's agreement with Stephen Connolly to serve as Executive Director of the Office of Independent Review expires on December 31, 2015.

On November 10, 2015, the Board directed County Counsel and Special Counsel Michael Gennaco to prepare amendments to the OIR ordinances to amend the jurisdiction of the OIR to additionally include oversight and review of the Probation Department, Office of the District Attorney, Office of Public Defender, and the Social Services Agency, and enhance the reporting obligations of the OIR to the Board of Supervisors.

The proposed amendments:

- Provide that the OIR is to review systemic issues and specific incidents which may identify systemic issues with regard to the performance and operations of the Sheriff-Coroner Department, Probation Department, Office of the District Attorney, Office of the Public Defender and the Social Services Agency ("relevant County Departments") not only the Sheriff-Coroner Department;
- Provide that the Executive Director and all staff of the OIR are employees of the County of Orange;
- Provide that the Executive Director and staff attorneys shall have the same access to confidential records as the Office of County Counsel;
- Simplify the process by which the Executive Director of the OIR is selected by the Board of Supervisors;
- Require the OIR to provide (1) periodic status reports to the Board of Supervisors and relevant County Department heads, and (2) regular feedback to the Board regarding ongoing and completed projects;
- Authorize the OIR to (1) conduct substantive, systemic audits of relevant County Department functions; (2) work with County Counsel, County Risk Management and relevant Department heads to review specific incidents implicating significant risk and/or liability to the County and participate in the development of corrective actions; (3) review County and/or relevant County Department policies and to recommend reforms consistent with evolving best practices; (4) facilitate interdepartmental referrals of complaints or allegations regarding County employees and/or systems; (5) in cooperation with the Sheriff-Coroner, coordinate and enhance the presence of jail monitors to report to OIR; and (6) in cooperation with the relevant County Department heads, provide ongoing legal counsel and advice for internal inquiries and investigations into alleged performance issues and/or misconduct of employees;

- Provide that no review or critique by the OIR of a completed internal investigation or the conclusions of an internal investigation may be used as the basis for taking punitive action against an employee; and
- Provide that the OIR is not authorized to affect the wages, hours, or working conditions of any County employee represented by a recognized employee organization, as defined under Government Code section 3501, subdivision (b).

FINANCIAL IMPACT:

To be determined.

STAFFING IMPACT:

To be determined.

REVIEWING AGENCIES: N/A

ATTACHMENT(S):

Attachment A – Proposed Ordinance Amending Title 1, Division 2, Article 18 of the Codified Ordinances
Attachment B – Amendments to Title 1, Division 2, Article 18 of the Codified Ordinances (redline)