

BILL NO. G-13-05-14

GENERAL ORDINANCE NO. _____

**AN ORDINANCE AMENDING §40.01 OF CHAPTER 40:
COLLECTIVE BARGAINING OF THE CITY OF FORT
WAYNE, INDIANA, CODE OF ORDINANCES**

WHEREAS, the implementation of property tax caps by the Indiana General Assembly has resulted in a loss of \$53 million in revenue to the City of Fort Wayne; and

WHEREAS, the loss of revenue has created a sustained and unprecedented fiscal crisis that threatens to severely compromised the City's ability to continue to provide essential services necessary to maintain the public welfare; and

WHEREAS, the recent enactment of the Affordable Care Act has substantially changed the system for the provision of health insurance, which will require employers to comply with federal regulations that are not yet fully developed, including the obligation to provide health insurance to seasonal employees who work a sufficient number of hours for coverage by the Act.

WHEREAS, the use of seasonal employees should not be restricted by long-term contracts so as to allow for effective and flexible utilization;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

SECTION 1. §40.01 APPLICATION. of Chapter 40: Collective Bargaining of the City of Fort Wayne, Indiana, Code of Ordinances is amended as follows:

§ 40.01 APPLICATION.

1 (A) This section shall apply to all non- confidential, non-supervisory, and non-
2 seasonal employees of the city and its utilities (other than those represented
3 by the PBA, the FOP, and IAFF Local 124 who are subject to a different
4 section). This section shall apply to the City of Fort Wayne and all of its
5 boards, commissions, authorities, divisions and departments.

6 (B) The following definitions shall apply to this section:

7 (1) **CONFIDENTIAL EMPLOYEE.** This is an employee:

8 (a) Who works in the city's personnel office;

9 (b) Who has access to confidential or discretionary information
10 that may be used by the city in negotiating a collective
11 bargaining agreement under this section;

12 (c) Who works in a close and continuing working relationship
13 with:

14 1. An individual holding elective office; or

15 2. Individuals who represent the city in negotiations
16 under this section;

17 (d) Whose:

18 1. Functional responsibilities; or

19 2. Knowledge;

20 concerning employee relations makes the employee's
21 membership in an employee organization incompatible
22 with the employee's duties; or

23 (e) Who is the personal secretary of:

1 1. A division or department head; or

2 2. An individual holding elected office.

3
4 (f) Who works in the city's Communications Department.

5 1. No union contract presented to Council for approval
6 after the effective date of this provision shall contain a
7 provision that prevents the city from participating in a
8 nonunion multiple political subdivision communications
9 department or county public safety communications
10 system and computer facilities district, that requires the
11 terms of the union contract to apply to the operation of,
12 and the city's participation in, a multiple political
13 subdivision communications department or county public
14 safety communications system and computer facilities
15 district, or that requires the city to provide employment
16 for individuals whose jobs may be eliminated as the
17 result of the city's participation in a joint communications
18 department or a county public safety communications
19 system and computer facilities district.

20 (2) **PROFESSIONAL EMPLOYEE.** Any employee engaged in work
21 (a) predominantly intellectual and varied in character as opposed to
22 routine mental, manual, mechanical, or physical work; (b) involving the
23 consistent exercise of discretion and judgment in its performance; (c)
24 of such a character that the output produced or the result
25 accomplished cannot be standardized in relation to a given period of
26 time; (d) requiring knowledge of an advanced type in a field of science
27 or learning customarily acquired by a prolonged course of specialized
28 intellectual instructions and study in institution of higher learning or a
29 hospital as distinguished from a general academic education or form
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1 an apprenticeship or from training in the performance of routine
2 mental, manual, or physical processes.

3 (3) **SAFETY EMPLOYEE.** A member of either the city's police or fire
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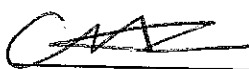
5 (4) **SUPERVISORY EMPLOYEE.** An individual having authority in the
6 interest of the city, or its utilities, to hire, transfer, suspend, lay off,
7 recall, promote, discharge, assign, reward, or discipline other
8 employees, or responsibility to direct other employees, or to adjust
9 employee grievances, or effectively to recommend such action, if the
10 exercise of the authority is not of a merely routine or clerical nature,
11 but requires the use of independent judgment.('74 Code, § 20-16(a))
12 (Ord. S-20-87, passed 1-27-87; Am. Ord. G-16-92, passed 4-24-92;
Am. Ord. G-22-96, passed 9-24-96)

13 (5) **SEASONAL EMPLOYEE.** Any employee who is not employed on
14 a year round basis, but rather has been hired for periodic seasonal
15 needs.

16 **SECTION 2.** That this Ordinance shall be in full force and effect from
17 and after its passage and any and all necessary approval by the Mayor.
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20 _____
21 Council Member

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23 APPROVED AS TO FORM AND LEGALITY

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25 _____
26 Carol Helton, City Attorney