

# COIN v. CRONEY: SB 331 Advances in Legislature

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## The Birth of COIN

In 2012, the City of Costa Mesa adopted an ordinance aimed at making collective bargaining more transparent. Costa Mesa called its ordinance "Civic Openness in Negotiations" or COIN. Since then several other public agencies have adopted similar COIN ordinances, including Beverly Hills, Pacific Palisades, Fullerton, and Orange County. COIN ordinances generally have some or all of these features:

1. Independent Negotiator: The agency's chief negotiator is not an agency employee.
2. Costing of Contracts by Auditor-Controller: Costing of contracts must be done by independent Auditor/Controller instead of city or county budget office.
3. Disclosure of Offers/Counteroffers: All offers and counteroffers must be publicly disclosed.
4. Public Contract Approval: Approval of any contract must be done via an agenda item to allow public comments.

## The Fight Before PERB

As you can imagine, unions hate COIN. Since many public agencies have still not fully recovered from the Great Recession, unions are worried that the general public is still firmly opposed to large scale wage and benefit increases for public employees. So what is the response of unions to COIN? One response has been to attack COIN measures before PERB. In *Orange County Employees Ass'n, et. al. v. County of Orange* (PERB Case Numbers LA-CE-934, 935, and 933-M), the union argued that a COIN ordinance falls within the scope of representation and therefore is negotiable. On June 16, 2015, a PERB administrative law judge (ALJ) issued a decision in these cases finding portions of Orange County's COIN ordinance to be within the scope of representation. Specifically, the ALJ found the requirement of a 30-day waiting period after initial proposals are "sunshined" to be contrary to the MMBA's requirement of "prompt" negotiations. The ALJ also found the requirement to disclose all proposals within 24 hours to be negotiable. The ALJ likened these requirements to "ground rules" which PERB has historically held to be negotiable. I assume that the county has filed exceptions to the ALJ's proposed decision but I haven't confirmed that yet.

## The Spawn of COIN: CRONEY

The more significant response of unions to COIN measures has been in the Legislature. In the California Senate, AFSCME co-sponsored SB 331 (Mendoza), which is titled the "Civic Reporting Openness in Negotiations Efficiency Act" or CRONEY. CRONEY *only* applies to a public agency that has adopted a COIN ordinance. Under CRONEY, a public agency must have an independent auditor cost out any public contract over \$250,000, disclose all offers and counter-offers leading up to the final contract, and approve the contract in open session. Basically, it applies the requirements of COIN to all public contracts. In support of CRONEY, AFSCME asserts that, "If municipalities are contracting with private entities for public services, then taxpayers have a right to know how their money is being used in private contracts; if taxpayers are going to trust a for-profit company to provide vital services, that company should be able to prove it can be trusted." However, public agencies view SB 331 as a blatant attempt by unions to discourage the adoption of COIN ordinances by forcing public agencies to go through a new pointless process in addition to already required competitive bidding procedures.

SB 331 passed the Senate on May 22, 2015. The Assembly passed SB 331 today (9/8/15) with some minor amendments. The bill is now back in the Senate waiting for concurrence to the Assembly amendments. I fully expect the Senate to concur in the amendments and the bill to be sent to the Governor by week's end.