



## King County

### Metropolitan King County Council Government Accountability and Oversight Committee

#### STAFF REPORT

<b>Agenda Item No.:</b>	10	<b>Date:</b>	27 August 2013
<b>Proposed No.:</b>	2013-0355	<b>Prepared by:</b>	Nick Wagner

#### **SUBJECT**

An ordinance (1) modifying the existing county code requirements for unrepresented county employees to serve a probationary period upon reclassification or appointment to a new position and (2) creating a new, discretionary, "trial service period" to take the place of a probationary period under certain circumstances.

#### **SUMMARY**

Proposed Ordinance 2013-0355 (Att. 1 to this staff report) would amend sections 3.12.010 and 3.12.100 of the county code in a manner that:

1. Modifies the requirements for unrepresented county employees to serve a probationary period upon reclassification or appointment to a new position; and
2. Creates a new, discretionary, "trial service period" to take the place of a probationary period under certain circumstances.

Although the proposed ordinance would apply only to unrepresented county employees, the initiative for the proposed changes came from the King County Coalition of Unions, which includes most of the unions that represent county employees. According to the county's Office of Labor Relations, if the council approves the proposed ordinance, similar language is likely to be negotiated into future collective bargaining agreements with represented county employees.

#### **Update:**

Following discussions with council staff, executive staff are proposing to narrow the scope of the original ordinance to simply clarify that a probationary period is not required for employees whose current positions are being reclassified and who are not moving to new positions. Reclassification typically results from an evolution in the duties of a position to a point where they better fit a different classification. Since an employee whose position is being reclassified is continuing to perform the same duties he or she has been performing competently for some time, a probationary period is unnecessary.

A striking amendment narrowing the scope of the ordinance is Attachment 2 to this staff report. The remaining issues addressed by the original ordinance will be the subject of further analysis and discussion, and a separate ordinance addressing those issues is expected to be transmitted for council consideration at a later date.

## **BACKGROUND**

Currently, an individual is appointed to a career service position through a competitive selection process in which the last stage is the successful completion of a probationary period of six months to a year. Until the probationary period is successfully completed, the employee is “at will” and consequently may be terminated without “just cause” (though not for a reason that constitutes prohibited discrimination under applicable law). This allows the county discretion in deciding whether the new position is an appropriate fit for the employee, without potentially having to defend that decision through a grievance process and ultimately before the county Personnel Board.

Unlike a career service employee, if an “at will” employee is terminated, the employee is not entitled to use the county’s Career Support Services, which currently include:

- Career counseling and referrals to other executive branch positions for which the employee meets the minimum qualifications
- Job application, resume and cover letter assistance
- Training on the use of LinkedIn and office suite software
- A variety of workshops and other trainings, including interview training
- Access to software tutorials
- Software computer testing
- Access to a variety of community resources
- Access to various on-line assessment tools to assess skills and interests for career pathways.

In its current form, the county code could be interpreted to require a probationary period no matter whether an employee is newly-hired, is re-hired, moves to a career service position from another county position, or is reclassified in his or her current position.

In the view of the executive, as described in the transmittal letter (Att. 5), “there are two situations in which the probationary period should no longer be required because the employee is currently in career service status, has already competed in a selection process, and an additional competitive selection process is not necessary”:

1. “[W]hen an employee is promoted pursuant to a reclassification process”; or
2. “[W]hen an employee is laterally transferred to a position in the same classification or the same pay range.”

In these two situations the executive considers the requirement of a probationary period to be an undesirable barrier to employee movement from one job to another within county government.

As described by the executive in his transmittal letter (Att. 5):

The proposed amendments regarding probationary periods and trial service periods were the subject of multiple discussions with labor organizations representing County employees. Labor representatives support this legislation. In addition, agency human resources personnel are supportive of these amendments in order to lift internal barriers to job movement for employees within the County.

## **THE PROPOSED LEGISLATION**

As originally transmitted, Proposed Ordinance 2013-0355 (Att. 1) would address the situations described above as follows:

### **1. Reclassification in place**

When an employee is reclassified without leaving his or her current position (e.g., if the employee's responsibilities have evolved over time to the extent that they fit a different classification), the proposed ordinance would make clear that there is no probationary period and no period during which the employee is "at will." The employee retains his or her career service status, just as if the employee has not been reclassified. The county is not permitted to terminate the employee without "just cause," and the employee is permitted to challenge a just cause termination through the process provided in the county personnel guidelines and the county code, including a right of appeal to the county Personnel Board.

### **2. Lateral transfer**

When an employee is transferred to a new position that is either in the same classification or in a different classification within the same pay range, the proposed ordinance would substitute, in place of a probationary period, a discretionary, "trial service period" of six months to a year. During the trial service period: the employee would not be "at will"; the county would not be permitted to terminate the employee without "just cause"; and the employee would be permitted to challenge a just cause termination in the same manner as any career service employee, including a right of appeal to the Personnel Board. In addition, if the employee could not perform satisfactorily in the new position and was terminated for just cause, the employee would be permitted to use the county's Career Support Services, as described above.

### **3. Demotion**

The proposed ordinance would make no changes in the *promotion* of career service employees to new positions; they would remain subject to a mandatory probationary period, during which they would be terminable at will. Career service employees who

are *demoted* to new positions could also be required to serve a probationary period, but for them the probationary period would not be mandatory, but rather within the discretion of management. Since neither promoted nor demoted employees would have the status of career service during their probationary periods, upon unsuccessful termination of probation they would not be eligible for the county's Career Support Services.

## **ANALYSIS**

The effect of the proposed ordinance is summarized in a table, prepared by council staff, that is Attachment 4 to this staff report. Following discussions with council staff, executive staff have expressed an intention to continue working on the issues that the ordinance is designed to address. The executive is no longer requesting action on the original ordinance, though a revised ordinance may be transmitted at some point in the future.

There is one point, however, on which the executive would like the council to proceed with legislative action at this time. That is to clarify that a probationary period is not required for employees whose current positions are being reclassified and who are not moving to new positions. A striking amendment to that effect is Attachment 2 to this staff report. The proposed changes are at lines 229-239 (p. 11) and 359-364 (p. 17) of the striking amendment. As described above, the reason a probationary period is inappropriate for such employees is that they are continuing to perform the same duties that they have been performing competently for some time.

## **FISCAL IMPACT**

Since the proposed ordinance, as amended by Striking Amendment S1 (Att. 2), would merely clarify existing practice, there would be no fiscal impact.

## **AMENDMENTS**

Striking amendment S1 (Att. 2) would narrow the scope of the proposed ordinance to a clarification that a probationary period is not required for an employee whose current position is being reclassified and who is not moving to a new position.

Title amendment T1 (Att. 3) would amend the title to conform to Striking Amendment S1.

## **LEGAL REVIEW**

Both the original ordinance and the striking amendment have been reviewed by the Prosecuting Attorney's Office, Civil Division.

## **INVITED**

1. Kerry Delaney Sickle, Assistant Operations Manager, Administration, Policy, Performance, and Systems, Human Resources Division
2. Deborah Bellam, Labor Negotiator, Office of Labor Relations
3. Richard Hayes, Special Projects Manager, Administration, Policy, Performance, and Systems, Human Resources Division
4. Nancy Buonanno Grennan, Human Resources Director
5. Patti Cole-Tindall, Director of Labor Relations

## **ATTACHMENTS**

1. Proposed Ordinance 2013-0355
2. Striking Amendment S1
3. Title Amendment T1
4. Table summarizing proposed ordinance
5. Transmittal letter
6. Fiscal Note

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**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**August 26, 2013**

**Ordinance**

**Proposed No.** 2013-0355.1

**Sponsors** von Reichbauer

1 AN ORDINANCE relating to personnel policies; clarifying  
2 when a probationary period is applied to employees and  
3 establishing a discretionary trial service period for laterally  
4 transferred employees; and amending Ordinance 12014,  
5 Section 5, as amended and K.C.C. 3.12.010, and Ordinance  
6 12014, Section 13, as amended and K.C.C. 3.12.100.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 **SECTION 1. Findings:**

9 A. A career service employee is appointed to a county position as a result of a  
10 competitive selection process and that appointment is final upon the successful  
11 completion of a probationary period. The probationary period is used to determine the  
12 probationary employee's qualification for entry into career service. Achieving career  
13 service is analogous to achieving tenure. Until successful completion of the probationary  
14 period, the employee is "at-will" and may be terminated without cause.

15 B. A career service employee has a constitutionally-protected property right in  
16 his or her career service position that cannot be removed or reduced absent due process.  
17 In this context, that means that the employee must be given notice and an opportunity to  
18 be heard prior to suspension, demotion, or termination of employment. Entry into career  
19 service in King County also carries with it other rights, such as referral to other positions

20 upon layoff and reemployment opportunities for up to two years after separation from  
21 employment.

22 C. The probationary period has been applied in the county to employees upon  
23 initial employment, reemployment, promotion, demotion, and lateral transfer to career  
24 service positions. However, there are two situations in which the probationary period  
25 should not be applied because the employee is currently in career service status, has  
26 already competed in a selection process, and an additional competitive selection process  
27 is not necessary. This occurs when an employee is promoted under a reclassification  
28 process or when an employee is laterally transferred to a position in the same  
29 classification and/or the same pay range.

30 D. Under K.C.C. 3.12.100, a probationary period is required for an employee  
31 who is promoted to a career service position. However, the King County Code does not  
32 make a distinction between an employee who is promoted under a competitive process  
33 and an employee who is promoted under a reclassification process. An employee who is  
34 promoted under a competitive selection process should serve a probationary period. An  
35 employee who is promoted under a reclassification process should not.

36 A reclassification in the county simply recognizes that the employee has been  
37 performing the duties of a higher classification and should, therefore, be promoted to that  
38 classification. Local public jurisdictions vary on whether or not a probationary period  
39 should be required for an employee promoted under a reclassification process.

40 Under K.C.C. 3.15.030, the director of the human resources division may  
41 reclassify an employee's current position and, if the reclassification results in a  
42 promotion, assign a pay increase to the employee. A reclassification may result in a

43 promotion when there has been a gradual accretion and significant change in the duties  
44 and responsibilities of a career service employee over a period of one year. The  
45 employee already competed for his or her underlying position, thus, the employee's  
46 qualification for entry into career service had already been met. Imposing an additional  
47 probationary period on such a career service employee offers no benefit to the county and  
48 means that the employee involuntarily loses the protections of career service status.

49 E. Under K.C.C. 3.12.100, a probationary period is currently required for a career  
50 service employee who transfers to another position. This means that an employee who  
51 moves from one work unit to another, without any change in pay or classification, loses  
52 the protections of his or her career service status. Because the employee who transfers  
53 has already served a probationary period in the same classification and/or the same pay  
54 range, the employee's qualification for entry into career service has already been met.  
55 Therefore, a probationary period for a laterally transferred employee should not be  
56 required.

57 Other local public jurisdictions vary on whether a probationary period is required  
58 for an employee who laterally transfers. Some impose a trial service period as an  
59 alternative.

60 While a probationary period for a laterally transferred employee should not be  
61 required, a discretionary trial service period is prudent. When transferring to a new  
62 position in the same classification and/or same pay range, the duties and responsibilities  
63 may be similar but not identical. Therefore, an opportunity to evaluate the suitability of  
64 the employee to the new position may be appropriate. A trial service period  
65 accomplishes that goal without putting the employee at risk of losing his or her career

66 service status. Should the hiring authority determine that the employee is not suited to  
67 the new position, the employee may be restored to the former position under some  
68 circumstances or afforded post-separation assistance to attempt to match the employee  
69 with another County position, as determined by the human resources division manager.

70 F. A probationary period is currently required for a career service employee who  
71 demotes to another position. The imposition of a probationary period should be  
72 discretionary at the option of the hiring authority. When demoting to a new position in a  
73 lower pay range, an employee may or may not be well suited for position duties and  
74 responsibilities. Therefore, an opportunity to evaluate the qualifications of the employee  
75 to the new position may still be appropriate.

76 An optional probationary period accomplishes that goal. A probationary period  
77 may not be necessary depending upon the duties and responsibilities of the new position  
78 but the hiring authority may be reluctant to accept a demoted employee without a  
79 probationary option.

80 Currently, employees, including employees who are demoted, earn a step increase  
81 upon passing probation. However, a step increase upon successful completion of  
82 probation for a demoted employee is not warranted.

83 SECTION 2. Ordinance 12014, Section 5, as amended, and K.C.C. 3.12.010 are  
84 each hereby amended to read as follows:

85 For the purposes of this chapter, all words shall have their ordinary and usual  
86 meanings except those defined in this section which shall have, in addition, the following  
87 meanings. In the event of conflict, the specific definitions set forth in this section shall  
88 presumptively, but not conclusively, prevail.

89           A.1. "Administrative interns" means employees who are:

90           a. enrolled full-time during the regular school year in a program of education,

91 internship or apprenticeship; or

92           b. veterans temporarily working to gain practical workforce experience.

93           2. All administrative internships in executive departments shall be approved by

94 the manager. Administrative interns are exempt from the career service under Section

95 550 of the charter.

96           B. "Appointing authority" means the county council, the executive, chief officers

97 of executive departments and administrative offices, or division managers having

98 authority to appoint or to remove persons from positions in the county service.

99           C. "Basis of merit" means the value, excellence or superior quality of an

100 individual's work performance, as determined by a structured process comparing the

101 employee's performance against defined standards and, where possible, the performance

102 of other employees of the same or similar class.

103           D. "Board" means the county personnel board established by Section 540 of the

104 charter.

105           E. "Budgetary furlough" means a circumstance in which projected county

106 revenues are determined to be insufficient to fully fund county agency operations and, in

107 order either to achieve budget savings or to meet unallocated budget reductions, which

108 are commonly known as contras, or both, cost savings may be achieved through

109 reduction in days or hours of service, resulting in placing an employee for one or more

110 days in a temporary furlough status without duties and without pay.

111 F. "Career service employee" means a county employee appointed to a career  
112 service position as a result of the selection procedure provided for in this chapter, and  
113 who has completed the probationary period.

114 G. "Career service position" means all positions in the county service except for  
115 those that are designated by Section 550 of the charter as follows: all elected officers; the  
116 county auditor, the clerk and all other employees of the county council; the county  
117 administrative officer; the chief officer of each executive department and administrative  
118 office; the members of all boards and commissions; the chief economist and other  
119 employees of the office economic and financial analysis; the chief economist and other  
120 employees of the office of economic and financial analysis; administrative assistants for  
121 the executive and one administrative assistant each for the county administrative officer,  
122 the county auditor, the county assessor, the chief officer of each executive department  
123 and administrative office and for each board and commission; a chief deputy for the  
124 county assessor; one confidential secretary each for the executive, the chief officer of  
125 each executive department and administrative office, and for each administrative assistant  
126 specified in this section; all employees of those officers who are exempted from the  
127 provisions of this chapter by the state constitution; persons employed in a professional or  
128 scientific capacity to conduct a special inquiry, investigation or examination; part-time  
129 and temporary employees; administrative interns; election precinct officials; all persons  
130 serving the county without compensation; physicians; surgeons; dentists; medical interns;  
131 and student nurses and inmates employed by county hospitals, tuberculosis sanitariums  
132 and health departments of the county.

133 Divisions in executive departments and administrative offices as determined by  
134 the county council shall be considered to be executive departments for the purpose of  
135 determining the applicability of Section 550 of the charter.

136 All part-time employees shall be exempted from career service membership  
137 except, all part-time employees employed at least half time or more, as defined by  
138 ordinance, shall be members of the career service.

139 H. "Charter" means the King County Charter, as amended.

140 I. "Child" means a biological, adopted or foster child, a stepchild, a legal ward or  
141 a child of an employee standing in loco parentis to the child, who is:

- 142 1. Under eighteen years of age; or
- 143 2. Eighteen years of age or older and incapable of self care because of a mental  
144 or physical disability.

145 J. "Class" or "classification" means a position or group of positions, established  
146 under authority of this chapter, sufficiently similar in respect to the duties, responsibilities  
147 and authority thereof, that the same descriptive title may be used to designate each  
148 position allocated to the class.

149 K. "Classification plan" means the arrangement of positions into classifications  
150 together with specifications describing each classification.

151 L. "Compensatory time" means time off granted with pay in lieu of pay for work  
152 performed either on an authorized overtime basis or work performed on a holiday that is  
153 normally scheduled as a day off. Such compensatory time shall be granted on the basis of  
154 time and one-half.

155 M. "Competitive employment" means a position established in the county budget  
156 and that requires at least twenty-six weeks of service per year as the work schedule  
157 established for the position.

158 N. "Council" means the county council as established by Article 2 of the charter.

159 O. "County" means King County and any other organization that is legally  
160 governed by the county with respect to personnel matters.

161 P. "Developmental disability" means a developmental disability, as defined in  
162 RCW 71A.10.020(2), as amended, attributable to mental retardation, cerebral palsy,  
163 epilepsy, autism or other neurological or other condition of an individual found by the  
164 secretary of the Washington state Department of Social and Health Services, or the  
165 secretary's designee, to be closely related to mental retardation or to require treatment  
166 similar to that required for individuals with mental retardation, which disability originates  
167 before the individual attains age eighteen, that has continued or can be expected to  
168 continue indefinitely and that constitutes a substantial handicap for the individual.

169 Q. "Direct cost" means the cost aggregate of the actual weighted average cost of  
170 insured benefits, less any administrative cost therefor. Any payments to part-time and  
171 temporary employees under this chapter shall not include any administrative overhead  
172 charges applicable to administrative offices and executive departments.

173 R. "Director" means the manager of the human resources division\*.

174 S. "Division" means the human resources division or its successor agency\*.

175 T. "Domestic partners" are two people in a domestic partnership, one of whom is  
176 a county employee.

177 U. "Domestic partnership" is a relationship whereby two people:

- 178           1. Have a close personal relationship;
- 179           2. Are each other's sole domestic partner and are responsible for each other's  
180 common welfare;
- 181           3. Share the same regular and permanent residence;
- 182           4. Are jointly responsible for basic living expenses which means the cost of  
183 basic food, shelter and any other expenses of a domestic partner that are paid at least in  
184 part by a program or benefit for which the partner qualified because of the domestic  
185 partnership. The individuals need not contribute equally or jointly to the cost of these  
186 expenses as long as they agree that both are responsible for the cost;
- 187           5. Are not married to anyone;
- 188           6. Are each eighteen years of age or older;
- 189           7. Are not related by blood closer than would bar marriage in the state of  
190 Washington;
- 191           8. Were mentally competent to consent to contract when the domestic  
192 partnership began.

193           V. "Employed at least half time or more" means employed in a regular position  
194 that has an established work schedule of not less than one-half the number of hours of the  
195 full-time positions in the work unit in which the employee is assigned, or when viewed  
196 on a calendar year basis, nine hundred ten hours or more in a work unit in which a work  
197 week of more than thirty-five but less than forty hours is standard or one thousand forty  
198 hours or more in a work unit in which a forty hour work week is standard. If the standard  
199 work week hours within a work unit varies (employees working both thirty five and forty

200 hours) the manager, in consultation with the department, is responsible for determining  
201 what hour threshold applies.

202 W. "Employee" means any person who is employed in a career service position  
203 or exempt position.

204 X. "Executive" means the county executive, as established by Article 3 of the  
205 charter.

206 Y. "Exempt employee" means an employee employed in a position that is not a  
207 career service position under Section 550 of the charter. Exempt employees serve at the  
208 pleasure of the appointing authority.

209 Z. "Exempt position" means any position excluded as a career service position by  
210 Section 550 of the charter. Exempt positions are positions to which appointments may be  
211 made directly without a competitive hiring process.

212 AA. "Full-time regular employee" means an employee employed in a full-time  
213 regular position and, for full-time career service positions, is not serving a probationary  
214 period.

215 BB. "Full-time regular position" means a regular position that has an established  
216 work schedule of not less than thirty-five hours per week in those work units in which a  
217 thirty-five hour week is standard, or of not less than forty hours per week in those work  
218 units in which a forty-hour week is standard.

219 CC. "Furlough day" means a day for which an employee shall perform no work  
220 and shall receive no pay due to an emergency budget crisis necessitating emergency  
221 budget furloughs.

222 DD. "Furloughed employee" means an employee who is placed in a temporary  
223 status without duties and without pay due to a financial emergency necessitating budget  
224 reductions.

225 EE. "Grievance" means an issue raised by an employee relating to the  
226 interpretation of rights, benefits, or condition of employment as contained in either the  
227 administrative rules or procedures, or both, for the career service.

228 FF. "Immediate family" means spouse, child, parent, son-in-law, daughter-in-  
229 law, grandparent, grandchild, sibling, domestic partner and the child, parent, sibling,  
230 grandparent or grandchild of the spouse or domestic partner.

231 GG. "Incentive increase" means an increase to an employee's base salary within  
232 the assigned pay range, based on demonstrated performance.

233 HH. "Integrated work setting" means a work setting with no more than eight  
234 persons with developmental disabilities or with the presence of a sensory, mental or  
235 physical handicap as specified in K.C.C. 3.12.180. This definition refers to all county  
236 offices, field locations and other work sites at which supported employees work  
237 alongside employees who are not persons with development disabilities employed in  
238 permanent county positions.

239 II. "Life-giving and life-saving procedures" means a medically-supervised  
240 procedure involving the testing, sampling, or donation of blood, organs, fluids, tissues  
241 and other human body components for the purposes of donation without compensation to  
242 a person for a medically necessary treatment.

243 JJ. "Manager" means the manager of the human resources division\* or its  
244 successor agency.

245           KK. "Marital status" means the presence or absence of a marital relationship and  
246 includes the status of married, separated, divorced, engaged, widowed, single or  
247 cohabiting.

248           LL. "Part-time employee" means an employee employed in a part-time position.  
249 Under Section 550 of the charter, part-time employees are not members of the career  
250 service.

251           MM. "Part-time position" means an other than a regular position in which the  
252 part-time employee is employed less than half time, that is less than nine hundred ten  
253 hours in a calendar year in a work unit in which a thirty-five hour work week is standard  
254 or less than one thousand forty hours in a calendar year in a work unit in which a forty-  
255 hour work week is standard, except as provided elsewhere in this chapter. Where the  
256 standard work week falls between thirty-five and forty hours, the manager, in  
257 consultation with the department, is responsible for determining what hour threshold will  
258 apply. Part-time position excludes administrative intern.

259           NN. "Part-time regular employee" means an employee employed in a part-time  
260 regular position and, for part-time career service positions, is not serving a probationary  
261 period. Under Section 550 of the charter, such part-time regular employees are members  
262 of the career service.

263           OO. "Part-time regular position" means a regular position in which the part-time  
264 regular employee is employed for at least nine hundred ten hours but less than a full-time  
265 basis in a calendar year in a work unit in which a thirty-five hour work week is standard  
266 or for at least one thousand forty hours but less than a full-time basis in a calendar year in  
267 a work unit in which a forty-hour work week is standard. Where the standard work week

268 falls between thirty-five and forty hours, the manager, in consultation with the  
269 department, is responsible for determining what hour threshold will apply.

270 PP. "Pay plan" means a systematic schedule of numbered pay ranges with  
271 minimum, maximum and intermediate steps for each pay range, a schedule of assignment  
272 of each classification to a numbered pay range and rules for administration.

273 QQ. "Pay range" means one or more pay rates representing the minimum,  
274 maximum and intermediate steps assigned to a classification.

275 RR. "Pay range adjustment" means the adjustment of the numbered pay range of  
276 a classification to another numbered pay range in the schedule based on a classification  
277 change, competitive pay data or other significant factors.

278 SS. "Personnel guidelines" means only those operational procedures promulgated  
279 by the manager necessary to implement personnel policies or requirements previously  
280 stipulated by ordinance or the charter. Such personnel guidelines shall be applicable only  
281 to employees assigned to executive departments and administrative agencies.

282 TT. "Position" means a group of current duties and responsibilities assigned by  
283 competent authority requiring the employment of one person.

284 UU. "Probationary employee" means an employee serving a probationary period  
285 in a regular career service position. Probationary employees are temporary employees  
286 and excluded from career service under Section 550 of the charter.

287 VV.1. "Probationary period" means a period of time, as determined by the  
288 manager, constituting the final step in the (~~competitive screening~~) hiring process for  
289 career service (~~or for promotion from one career service position to another~~) positions  
290 filled under:

291           a. a competitive hiring process resulting in the initial hire of an employee into  
292 county employment;

293           b. a competitive hiring process resulting in the promotion of a county  
294 employee;

295           c. Reemployment into the county of a former career service employee; or

296           d. Demotion of a county employee.

297           2. An appointment to the career service ((, whether following successful  
298 completion of an initial probationary period of county employment or a promotional  
299 probationary period,)) position shall not be final unless the employee successfully  
300 completes this probationary period.

301           WW. "Probationary period salary increase" means a within-range salary increase  
302 from one step to the next highest step upon ((~~satisfactory~~)) successful completion of the  
303 probationary period. Employees who are demoted into career service positions are not  
304 eligible for a probationary period salary increase upon successful completion of the  
305 probationary period.

306           XX. "Promotion" means the movement of an employee to a position in a  
307 classification having a higher maximum salary.

308           YY. "Provisional appointment" means an appointment made in the absence of a  
309 list of candidates certified as qualified by the manager. Only the manager may authorize  
310 a provisional appointment. An appointment to this status is limited to six months.

311           ZZ. "Provisional employee" means an employee serving by provisional  
312 appointment in a regular career service. Provisional employees are temporary employees  
313 and excluded from career service under Section 550 of the charter.

314           AAA. "Recruiting step" means the first step of the salary range allocated to a  
315 class unless otherwise authorized by the executive.

316           BBB. "Regular position" means a position established in the county budget and  
317 identified within a budgetary unit's authorized full time equivalent (FTE) level as set out  
318 in the budget detail report.

319           CCC. "Salary or pay rate" means an individual dollar amount that is one of the  
320 steps in a pay range paid to an employee based on the classification of the position  
321 occupied.

322           DDD. "Section" means an agency's budget unit comprised of a particular project  
323 program or line of business as described in the budget detail plan for the previous fiscal  
324 period as attached to the adopted appropriation ordinance or as modified by the most  
325 recent supplemental appropriations ordinance. This definition is not intended to create an  
326 organization structure for any agency.

327           EEE. "Serious health condition" means an illness or injury, impairment or  
328 physical or mental condition that involves one or more of the following:

329           1. An acute episode that requires more than three consecutive calendar days of  
330 incapacity and either multiple treatments by a licensed health care provider or at least one  
331 treatment plus follow-up care such as a course of prescription medication; and any  
332 subsequent treatment or period of incapacity relating to the same condition;

333           2. A chronic ailment continuing over an extended period of time that requires  
334 periodic visits for treatment by a health care provider and that has the ability to cause  
335 either continuous or intermittent episodes of incapacity;

336           3. In-patient care in a hospital, hospice or residential medical care facility or  
337 related out-patient follow-up care;

338           4. An ailment requiring multiple medical interventions or treatments by a health  
339 care provider that, if not provided, would likely result in a period of incapacity for more  
340 than three consecutive calendar days;

341           5. A permanent or long-term ailment for which treatment might not be effective  
342 but that requires medical supervision by a health care provider; or

343           6. Any period of incapacity due to pregnancy or prenatal care.

344           FFF. "Temporary employee" means an employee employed in a temporary  
345 position and in addition, includes an employee serving a probationary period or is under  
346 provisional appointment. Under Section 550 of the charter, temporary employees shall  
347 not be members of the career service.

348           GGG. "Temporary position" means a position that is not a regular position as  
349 defined in this chapter and excludes administrative intern. Temporary positions include  
350 both term-limited temporary positions as defined in this chapter and short-term (normally  
351 less than six months) temporary positions in which a temporary employee works less than  
352 nine hundred ten hours in a calendar year in a work unit in which a thirty-five hour work  
353 week is standard or less than one thousand forty hours in a calendar year in a work unit in  
354 which a forty hour work week is standard, except as provided elsewhere in this chapter.  
355 Where the standard work week falls between thirty-five and forty hours, the manager, in  
356 consultation with the department, is responsible for determining what hour threshold will  
357 apply.

358            HHH. "Term-limited temporary employee" means a temporary employee who is  
359 employed in a term-limited temporary position. Term-limited temporary employees are  
360 not members of the career service. Term-limited temporary employees may not be  
361 employed in term-limited temporary positions longer than three years beyond the date of  
362 hire, except that for grant-funded projects capital improvement projects and information  
363 systems technology projects the maximum period may be extended up to five years upon  
364 approval of the manager. The manager shall maintain a current list of all term-limited  
365 temporary employees by department.

366            III. "Term-limited temporary position" means a temporary position with work  
367 related to a specific grant, capital improvement project, information systems technology  
368 project or other nonroutine, substantial body of work, for a period greater than six  
369 months. In determining whether a body of work is appropriate for a term-limited  
370 temporary position, the appointing authority will consider the following:

371            1. Grant-funded projects: These positions will involve projects or activities that  
372 are funded by special grants for a specific time or activity. These grants are not regularly  
373 available to or their receipt predictable by the county;

374            2. Information systems technology projects: These positions will be needed to  
375 plan and implement new information systems projects for the county. Term-limited  
376 temporary positions may not be used for ongoing maintenance of systems that have been  
377 implemented;

378            3. Capital improvement projects: These positions will involve the management  
379 of major capital improvement projects. Term-limited temporary positions may not be  
380 used for ongoing management of buildings or facilities once they have been built;

381           4. Miscellaneous projects: Other significant and substantial bodies of work may  
382 be appropriate for term-limited temporary positions. These bodies of work must be either  
383 nonroutine projects for the department or related to the initiation or cessation of a county  
384 function, project or department;

385           5. Seasonal positions: These are positions with work for more than six  
386 consecutive months, half-time or more, with total hours of at least nine hundred ten in a  
387 calendar year in a work unit in which a thirty-five hour work week is standard or at least  
388 one thousand forty hours in a calendar year in a work unit in which a forty hour work  
389 week is standard, that due to the nature of the work have predictable periods of inactivity  
390 exceeding one month. Where the standard work week falls between thirty-five and forty  
391 hours, the manager, in consultation with the department, is responsible for determining  
392 what hour threshold will apply; and

393           6. Temporary placement in regular positions: These are positions used to back  
394 fill regular positions for six months or more due to a career service employee's absence  
395 such as extended leave or assignment on any of the foregoing time-limited projects.

396           All appointments to term-limited temporary positions will be made by the  
397 appointing authority in consultation with the manager before the appointment of term-  
398 limited temporary employees.

399           JJJ. "Trial service period" means a period of time, as determined by the manager,  
400 served by a career service employee who laterally transfers to a different career service  
401 position in the same classification or in the same pay range. The purpose of a trial  
402 service period is to determine an employee's suitability for the position to which the

403 employee has transferred. Appointment to the position shall not be final unless the  
404 employee successfully completes the trial service period.

405 KKK. "Volunteer for the county" means an individual who performs service for  
406 the county for civic, charitable or humanitarian reasons, without promise, expectation or  
407 receipt of compensation from the county for services rendered and who is accepted as a  
408 volunteer by the county, except emergency service worker volunteers as described by  
409 chapter 38.52 RCW. A "volunteer for the county" may receive reasonable reimbursement  
410 of expenses or an allowance for expenses actually incurred without losing his or her  
411 status as a volunteer. "Volunteer for the county" includes, but is not limited to, a  
412 volunteer serving as a board member, officer, commission member, volunteer intern or  
413 direct service volunteer.

414 ~~((KKK.))~~ LLL. "Volunteer intern" means volunteers who are also enrolled full-  
415 time during the regular school year in a program of education, internship or  
416 apprenticeship who are receiving scholastic credit or scholastic recognition for  
417 participating in the internship.

418 ~~((LLL.))~~ MMM. "Work study student" means a student enrolled or accepted for  
419 enrollment at a post-secondary institution who, according to a system of need analysis  
420 approved by the higher education coordinating board, demonstrates a financial inability,  
421 either parental, familial or personal, to bear the total cost of education for any semester or  
422 quarter.

423 SECTION 3. Ordinance 12014, Section 13, as amended, and K.C.C. 3.12.100 are  
424 each hereby amended to read as follows:

425           A. There shall be a probationary period during which time a probationary  
426 employee shall be evaluated by the appointing authority to determine qualification for  
427 entry into career service. The probationary period shall be determined by the director, but  
428 shall be not less than six months or more than one year of actual service~~((,))~~. The  
429 probationary period shall not be subject to reduction or waiver and shall be served by  
430 those employees who ~~((have been newly hired, reemployed, transferred to a different~~  
431 ~~position, or promoted or demoted.))~~ are:

- 432           1. Newly hired into a career service position under a competitive hiring process;
- 433           2. Promoted into a career service position under competitive hiring process; or
- 434           3. Reemployed into a career service position having been a former career  
435 service employee within the last two years.

436           B. The imposition of a probationary period for employees demoted into career  
437 service positions is discretionary and, when imposed, shall not be more than one year of  
438 actual service and is subject to reduction or waiver at the option of the hiring authority.

439           C. A furloughed employee's probationary period shall not be extended as a result  
440 of a budgetary furlough.

441           ~~((B:))~~ D. A probationary employee may be separated from county service at any  
442 time during the probationary period without right of appeal to the personnel board.

443           E. Notwithstanding any other provisions of this section, an employee who does  
444 not successfully complete the probationary period in a position to which ~~((he or she))~~ the  
445 employee had been promoted ~~((or transferred))~~ may be restored to his or her former  
446 position if such a position still exists and is vacant. Such a restoration is not mandatory,  
447 but is optional at the discretion of the former appointing authority within the limits of

448 available authorized positions. Such a restoration shall include restoration of the  
449 employee's former salary and all other benefits to which ~~((he or she))~~ the employee  
450 would have been entitled if the promotion ~~((or transfer))~~ had not occurred.

451 F. There may be a trial service period served by those career service employees  
452 who laterally transfer to a different career service position in the same classification or in  
453 the same pay range without a break in service. During the trial service period, a laterally  
454 transferred employee shall be evaluated by the appointing authority to determine  
455 suitability for the position. The employee retains his or her career service status during  
456 the trial service period. The trial service period is discretionary and, when imposed, shall  
457 not be more than one year of actual service and is subject to reduction or waiver at the  
458 option of the hiring authority. A furloughed employee's trial service period shall not be  
459 extended as a result of a budgetary furlough.

460 1. An employee serving a trial service period may be separated for cause from  
461 the employee's position at any time during the trial service period.

462 2. Notwithstanding any other provisions of this section, an employee who does  
463 not successfully complete the trial service period may be restored to his or her former  
464 position if such position still exists and is vacant; or afforded a separation process to  
465 attempt to match the employee with another county position, as determined by the human  
466 resources division manager. Such a restoration is not mandatory, but is optional at the  
467 discretion of the former appointing authority within the limits of available authorized  
468 positions. Such a restoration shall include restoration of the employee's former salary  
469 and all other benefits to which the employee would have been entitled if the transfer had  
470 not occurred.

471            **SECTION 4. Severability.** If any provision of this ordinance or its application to  
472 any person or circumstance is held invalid, the remainder of the ordinance or the  
473 application of the provision to other persons or circumstances is not affected.  
474

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Larry Gossett, Chair

ATTEST:

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Anne Noris, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Dow Constantine, County Executive

**Attachments:** None

Aug. 27, 2013

**S1**

nw

Sponsor: von Reichbauer

Proposed No.: 2013-0355

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2013-0355, VERSION**

2 **1**

3 On page 1, beginning on line 7, strike everything through page 22, line 475, and insert:

4 " BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Findings:**

6 A. A county employee is appointed to a career service position as a result of a  
7 competitive selection process, and the appointment is final upon the successful  
8 completion of a probationary period. The probationary period is used to determine  
9 whether the probationary employee is qualified for the position. Until the employee has  
10 successfully completed the probationary period, the employee is "at will" and may be  
11 terminated without cause.

12 B. The probationary period has been applied to county employees upon initial  
13 employment, reemployment, and movement to a different career service position.  
14 However, when an employee's current career service position is reclassified (for  
15 example, because of a change in the duties associated with the position), the probationary  
16 period should not be applied, because the employee has already competed in a  
17 competitive selection process and demonstrated proficiency in the position.

18 C. Section 3.12.100 of the county code does not make clear that whereas a  
19 probationary period is required for an employee who moves to a different career service  
20 position through a promotion, demotion or transfer, a probationary period is not required  
21 for an employee whose promotion or demotion results from reclassification of the  
22 employee's current career service position, or whose position is reclassified without any  
23 resulting change in pay range. The proposed ordinance is intended to clarify that  
24 distinction.

25 SECTION 2. Ordinance 12014, Section 5, as amended, and K.C.C. 3.12.010 are  
26 each hereby amended to read as follows:

27 For the purposes of this chapter, all words shall have their ordinary and usual  
28 meanings except those defined in this section which shall have, in addition, the following  
29 meanings. In the event of conflict, the specific definitions set forth in this section shall  
30 presumptively, but not conclusively, prevail.

31 A.1. "Administrative interns" means employees who are:

- 32 a. enrolled full-time during the regular school year in a program of education,  
33 internship or apprenticeship; or
- 34 b. veterans temporarily working to gain practical workforce experience.

35 2. All administrative internships in executive departments shall be approved by  
36 the manager. Administrative interns are exempt from the career service under Section  
37 550 of the charter.

38 B. "Appointing authority" means the county council, the executive, chief officers  
39 of executive departments and administrative offices, or division managers having  
40 authority to appoint or to remove persons from positions in the county service.

41 C. "Basis of merit" means the value, excellence or superior quality of an  
42 individual's work performance, as determined by a structured process comparing the  
43 employee's performance against defined standards and, where possible, the performance  
44 of other employees of the same or similar class.

45 D. "Board" means the county personnel board established by Section 540 of the  
46 charter.

47 E. "Budgetary furlough" means a circumstance in which projected county  
48 revenues are determined to be insufficient to fully fund county agency operations and, in  
49 order either to achieve budget savings or to meet unallocated budget reductions, which  
50 are commonly known as contras, or both, cost savings may be achieved through  
51 reduction in days or hours of service, resulting in placing an employee for one or more  
52 days in a temporary furlough status without duties and without pay.

53 F. "Career service employee" means a county employee appointed to a career  
54 service position as a result of the selection procedure provided for in this chapter, and  
55 who has completed the probationary period.

56 G. "Career service position" means all positions in the county service except for  
57 those that are designated by Section 550 of the charter as follows: all elected officers; the  
58 county auditor, the clerk and all other employees of the county council; the county  
59 administrative officer; the chief officer of each executive department and administrative  
60 office; the members of all boards and commissions; the chief economist and other  
61 employees of the office economic and financial analysis; the chief economist and other  
62 employees of the office of economic and financial analysis; administrative assistants for  
63 the executive and one administrative assistant each for the county administrative officer,

64 the county auditor, the county assessor, the chief officer of each executive department  
65 and administrative office and for each board and commission; a chief deputy for the  
66 county assessor; one confidential secretary each for the executive, the chief officer of  
67 each executive department and administrative office, and for each administrative assistant  
68 specified in this section; all employees of those officers who are exempted from the  
69 provisions of this chapter by the state constitution; persons employed in a professional or  
70 scientific capacity to conduct a special inquiry, investigation or examination; part-time  
71 and temporary employees; administrative interns; election precinct officials; all persons  
72 serving the county without compensation; physicians; surgeons; dentists; medical interns;  
73 and student nurses and inmates employed by county hospitals, tuberculosis sanitariums  
74 and health departments of the county.

75 Divisions in executive departments and administrative offices as determined by  
76 the county council shall be considered to be executive departments for the purpose of  
77 determining the applicability of Section 550 of the charter.

78 All part-time employees shall be exempted from career service membership  
79 except, all part-time employees employed at least half time or more, as defined by  
80 ordinance, shall be members of the career service.

81 H. "Charter" means the King County Charter, as amended.

82 I. "Child" means a biological, adopted or foster child, a stepchild, a legal ward or  
83 a child of an employee standing in loco parentis to the child, who is:

- 84 1. Under eighteen years of age; or
- 85 2. Eighteen years of age or older and incapable of self care because of a mental  
86 or physical disability.

87 J. "Class" or "classification" means a position or group of positions, established  
88 under authority of this chapter, sufficiently similar in respect to the duties, responsibilities  
89 and authority thereof, that the same descriptive title may be used to designate each  
90 position allocated to the class.

91 K. "Classification plan" means the arrangement of positions into classifications  
92 together with specifications describing each classification.

93 L. "Compensatory time" means time off granted with pay in lieu of pay for work  
94 performed either on an authorized overtime basis or work performed on a holiday that is  
95 normally scheduled as a day off. Such compensatory time shall be granted on the basis of  
96 time and one-half.

97 M. "Competitive employment" means a position established in the county budget  
98 and that requires at least twenty-six weeks of service per year as the work schedule  
99 established for the position.

100 N. "Council" means the county council as established by Article 2 of the charter.

101 O. "County" means King County and any other organization that is legally  
102 governed by the county with respect to personnel matters.

103 P. "Developmental disability" means a developmental disability, as defined in  
104 RCW 71A.10.020(2), as amended, attributable to mental retardation, cerebral palsy,  
105 epilepsy, autism or other neurological or other condition of an individual found by the  
106 secretary of the Washington state Department of Social and Health Services, or the  
107 secretary's designee, to be closely related to mental retardation or to require treatment  
108 similar to that required for individuals with mental retardation, which disability originates

109 before the individual attains age eighteen, that has continued or can be expected to  
110 continue indefinitely and that constitutes a substantial handicap for the individual.

111 Q. "Direct cost" means the cost aggregate of the actual weighted average cost of  
112 insured benefits, less any administrative cost therefor. Any payments to part-time and  
113 temporary employees under this chapter shall not include any administrative overhead  
114 charges applicable to administrative offices and executive departments.

115 R. "Director" means the manager of the human resources division\*.

116 S. "Division" means the human resources division or its successor agency\*.

117 T. "Domestic partners" are two people in a domestic partnership, one of whom is  
118 a county employee.

119 U. "Domestic partnership" is a relationship whereby two people:

120 1. Have a close personal relationship;

121 2. Are each other's sole domestic partner and are responsible for each other's  
122 common welfare;

123 3. Share the same regular and permanent residence;

124 4. Are jointly responsible for basic living expenses which means the cost of  
125 basic food, shelter and any other expenses of a domestic partner that are paid at least in  
126 part by a program or benefit for which the partner qualified because of the domestic  
127 partnership. The individuals need not contribute equally or jointly to the cost of these  
128 expenses as long as they agree that both are responsible for the cost;

129 5. Are not married to anyone;

130 6. Are each eighteen years of age or older;

131           7. Are not related by blood closer than would bar marriage in the state of  
132 Washington;

133           8. Were mentally competent to consent to contract when the domestic  
134 partnership began.

135           V. "Employed at least half time or more" means employed in a regular position  
136 that has an established work schedule of not less than one-half the number of hours of the  
137 full-time positions in the work unit in which the employee is assigned, or when viewed  
138 on a calendar year basis, nine hundred ten hours or more in a work unit in which a work  
139 week of more than thirty-five but less than forty hours is standard or one thousand forty  
140 hours or more in a work unit in which a forty hour work week is standard. If the standard  
141 work week hours within a work unit varies (employees working both thirty five and forty  
142 hours) the manager, in consultation with the department, is responsible for determining  
143 what hour threshold applies.

144           W. "Employee" means any person who is employed in a career service position  
145 or exempt position.

146           X. "Executive" means the county executive, as established by Article 3 of the  
147 charter.

148           Y. "Exempt employee" means an employee employed in a position that is not a  
149 career service position under Section 550 of the charter. Exempt employees serve at the  
150 pleasure of the appointing authority.

151           Z. "Exempt position" means any position excluded as a career service position by  
152 Section 550 of the charter. Exempt positions are positions to which appointments may be  
153 made directly without a competitive hiring process.

154 AA. "Full-time regular employee" means an employee employed in a full-time  
155 regular position and, for full-time career service positions, is not serving a probationary  
156 period.

157 BB. "Full-time regular position" means a regular position that has an established  
158 work schedule of not less than thirty-five hours per week in those work units in which a  
159 thirty-five hour week is standard, or of not less than forty hours per week in those work  
160 units in which a forty-hour week is standard.

161 CC. "Furlough day" means a day for which an employee shall perform no work  
162 and shall receive no pay due to an emergency budget crisis necessitating emergency  
163 budget furloughs.

164 DD. "Furloughed employee" means an employee who is placed in a temporary  
165 status without duties and without pay due to a financial emergency necessitating budget  
166 reductions.

167 EE. "Grievance" means an issue raised by an employee relating to the  
168 interpretation of rights, benefits, or condition of employment as contained in either the  
169 administrative rules or procedures, or both, for the career service.

170 FF. "Immediate family" means spouse, child, parent, son-in-law, daughter-in-  
171 law, grandparent, grandchild, sibling, domestic partner and the child, parent, sibling,  
172 grandparent or grandchild of the spouse or domestic partner.

173 GG. "Incentive increase" means an increase to an employee's base salary within  
174 the assigned pay range, based on demonstrated performance.

175 HH. "Integrated work setting" means a work setting with no more than eight  
176 persons with developmental disabilities or with the presence of a sensory, mental or

177 physical handicap as specified in K.C.C. 3.12.180. This definition refers to all county  
178 offices, field locations and other work sites at which supported employees work  
179 alongside employees who are not persons with development disabilities employed in  
180 permanent county positions.

181 II. "Life-giving and life-saving procedures" means a medically-supervised  
182 procedure involving the testing, sampling, or donation of blood, organs, fluids, tissues  
183 and other human body components for the purposes of donation without compensation to  
184 a person for a medically necessary treatment.

185 JJ. "Manager" means the manager of the human resources division\* or its  
186 successor agency.

187 KK. "Marital status" means the presence or absence of a marital relationship and  
188 includes the status of married, separated, divorced, engaged, widowed, single or  
189 cohabiting.

190 LL. "Part-time employee" means an employee employed in a part-time position.  
191 Under Section 550 of the charter, part-time employees are not members of the career  
192 service.

193 MM. "Part-time position" means an other than a regular position in which the  
194 part-time employee is employed less than half time, that is less than nine hundred ten  
195 hours in a calendar year in a work unit in which a thirty-five hour work week is standard  
196 or less than one thousand forty hours in a calendar year in a work unit in which a forty-  
197 hour work week is standard, except as provided elsewhere in this chapter. Where the  
198 standard work week falls between thirty-five and forty hours, the manager, in

199 consultation with the department, is responsible for determining what hour threshold will  
200 apply. Part-time position excludes administrative intern.

201 NN. "Part-time regular employee" means an employee employed in a part-time  
202 regular position and, for part-time career service positions, is not serving a probationary  
203 period. Under Section 550 of the charter, such part-time regular employees are members  
204 of the career service.

205 OO. "Part-time regular position" means a regular position in which the part-time  
206 regular employee is employed for at least nine hundred ten hours but less than a full-time  
207 basis in a calendar year in a work unit in which a thirty-five hour work week is standard  
208 or for at least one thousand forty hours but less than a full-time basis in a calendar year in  
209 a work unit in which a forty-hour work week is standard. Where the standard work week  
210 falls between thirty-five and forty hours, the manager, in consultation with the  
211 department, is responsible for determining what hour threshold will apply.

212 PP. "Pay plan" means a systematic schedule of numbered pay ranges with  
213 minimum, maximum and intermediate steps for each pay range, a schedule of assignment  
214 of each classification to a numbered pay range and rules for administration.

215 QQ. "Pay range" means one or more pay rates representing the minimum,  
216 maximum and intermediate steps assigned to a classification.

217 RR. "Pay range adjustment" means the adjustment of the numbered pay range of  
218 a classification to another numbered pay range in the schedule based on a classification  
219 change, competitive pay data or other significant factors.

220 SS. "Personnel guidelines" means only those operational procedures promulgated  
221 by the manager necessary to implement personnel policies or requirements previously

222 stipulated by ordinance or the charter. Such personnel guidelines shall be applicable only  
223 to employees assigned to executive departments and administrative agencies.

224 TT. "Position" means a group of current duties and responsibilities assigned by  
225 competent authority requiring the employment of one person.

226 UU. "Probationary employee" means an employee serving a probationary period  
227 in a regular career service. Probationary employees are temporary employees and  
228 excluded from career service under Section 550 of the charter.

229 VV. "Probationary period" means a period of time, as determined by the  
230 ~~((manager)) director, ((constituting the final step in the competitive screening process for~~  
231 ~~career service or for promotion from one career service position to another. An~~  
232 ~~appointment to the career service, whether following successful completion of an initial~~  
233 ~~probationary period of county employment or a promotional probationary period, shall~~  
234 ~~not be final unless the employee successfully completes this probationary period.)) for~~  
235 assessing whether an individual is qualified for a career service position to which the  
236 employee has been newly appointed or has moved from another position, whether  
237 through promotion, demotion or transfer. An individual's appointment or transfer to a  
238 career service position is not final unless the employee successfully completes the  
239 probationary period.

240 WW. "Probationary period salary increase" means a within-range salary increase  
241 from one step to the next highest step upon satisfactory completion of the probationary  
242 period.

243 XX. "Promotion" means the movement of an employee to a position in a  
244 classification having a higher maximum salary.

245 YY. "Provisional appointment" means an appointment made in the absence of a  
246 list of candidates certified as qualified by the manager. Only the manager may authorize  
247 a provisional appointment. An appointment to this status is limited to six months.

248 ZZ. "Provisional employee" means an employee serving by provisional  
249 appointment in a regular career service. Provisional employees are temporary employees  
250 and excluded from career service under Section 550 of the charter.

251 AAA. "Recruiting step" means the first step of the salary range allocated to a  
252 class unless otherwise authorized by the executive.

253 BBB. "Regular position" means a position established in the county budget and  
254 identified within a budgetary unit's authorized full time equivalent (FTE) level as set out  
255 in the budget detail report.

256 CCC. "Salary or pay rate" means an individual dollar amount that is one of the  
257 steps in a pay range paid to an employee based on the classification of the position  
258 occupied.

259 DDD. "Section" means an agency's budget unit comprised of a particular project  
260 program or line of business as described in the budget detail plan for the previous fiscal  
261 period as attached to the adopted appropriation ordinance or as modified by the most  
262 recent supplemental appropriations ordinance. This definition is not intended to create an  
263 organization structure for any agency.

264 EEE. "Serious health condition" means an illness or injury, impairment or  
265 physical or mental condition that involves one or more of the following:

266 1. An acute episode that requires more than three consecutive calendar days of  
267 incapacity and either multiple treatments by a licensed health care provider or at least one

268 treatment plus follow-up care such as a course of prescription medication; and any  
269 subsequent treatment or period of incapacity relating to the same condition;

270           2. A chronic ailment continuing over an extended period of time that requires  
271 periodic visits for treatment by a health care provider and that has the ability to cause  
272 either continuous or intermittent episodes of incapacity;

273           3. In-patient care in a hospital, hospice or residential medical care facility or  
274 related out-patient follow-up care;

275           4. An ailment requiring multiple medical interventions or treatments by a health  
276 care provider that, if not provided, would likely result in a period of incapacity for more  
277 than three consecutive calendar days;

278           5. A permanent or long-term ailment for which treatment might not be effective  
279 but that requires medical supervision by a health care provider; or

280           6. Any period of incapacity due to pregnancy or prenatal care.

281           FFF. "Temporary employee" means an employee employed in a temporary  
282 position and in addition, includes an employee serving a probationary period or is under  
283 provisional appointment. Under Section 550 of the charter, temporary employees shall  
284 not be members of the career service.

285           GGG. "Temporary position" means a position that is not a regular position as  
286 defined in this chapter and excludes administrative intern. Temporary positions include  
287 both term-limited temporary positions as defined in this chapter and short-term (normally  
288 less than six months) temporary positions in which a temporary employee works less than  
289 nine hundred ten hours in a calendar year in a work unit in which a thirty-five hour work  
290 week is standard or less than one thousand forty hours in a calendar year in a work unit in

291 which a forty hour work week is standard, except as provided elsewhere in this chapter.  
292 Where the standard work week falls between thirty-five and forty hours, the manager, in  
293 consultation with the department, is responsible for determining what hour threshold will  
294 apply.

295 HHH. "Term-limited temporary employee" means a temporary employee who is  
296 employed in a term-limited temporary position. Term-limited temporary employees are  
297 not members of the career service. Term-limited temporary employees may not be  
298 employed in term-limited temporary positions longer than three years beyond the date of  
299 hire, except that for grant-funded projects capital improvement projects and information  
300 systems technology projects the maximum period may be extended up to five years upon  
301 approval of the manager. The manager shall maintain a current list of all term-limited  
302 temporary employees by department.

303 III. "Term-limited temporary position" means a temporary position with work  
304 related to a specific grant, capital improvement project, information systems technology  
305 project or other nonroutine, substantial body of work, for a period greater than six  
306 months. In determining whether a body of work is appropriate for a term-limited  
307 temporary position, the appointing authority will consider the following:

308 1. Grant-funded projects: These positions will involve projects or activities that  
309 are funded by special grants for a specific time or activity. These grants are not regularly  
310 available to or their receipt predictable by the county;

311 2. Information systems technology projects: These positions will be needed to  
312 plan and implement new information systems projects for the county. Term-limited

313 temporary positions may not be used for ongoing maintenance of systems that have been  
314 implemented;

315           3. Capital improvement projects: These positions will involve the management  
316 of major capital improvement projects. Term-limited temporary positions may not be  
317 used for ongoing management of buildings or facilities once they have been built;

318           4. Miscellaneous projects: Other significant and substantial bodies of work may  
319 be appropriate for term-limited temporary positions. These bodies of work must be either  
320 nonroutine projects for the department or related to the initiation or cessation of a county  
321 function, project or department;

322           5. Seasonal positions: These are positions with work for more than six  
323 consecutive months, half-time or more, with total hours of at least nine hundred ten in a  
324 calendar year in a work unit in which a thirty-five hour work week is standard or at least  
325 one thousand forty hours in a calendar year in a work unit in which a forty hour work  
326 week is standard, that due to the nature of the work have predictable periods of inactivity  
327 exceeding one month. Where the standard work week falls between thirty-five and forty  
328 hours, the manager, in consultation with the department, is responsible for determining  
329 what hour threshold will apply; and

330           6. Temporary placement in regular positions: These are positions used to back  
331 fill regular positions for six months or more due to a career service employee's absence  
332 such as extended leave or assignment on any of the foregoing time-limited projects.

333           All appointments to term-limited temporary positions will be made by the  
334 appointing authority in consultation with the manager before the appointment of term-  
335 limited temporary employees.

336 JJJ. "Volunteer for the county" means an individual who performs service for the  
337 county for civic, charitable or humanitarian reasons, without promise, expectation or  
338 receipt of compensation from the county for services rendered and who is accepted as a  
339 volunteer by the county, except emergency service worker volunteers as described by  
340 chapter 38.52 RCW. A "volunteer for the county" may receive reasonable  
341 reimbursement of expenses or an allowance for expenses actually incurred without losing  
342 his or her status as a volunteer. "Volunteer for the county" includes, but is not limited to,  
343 a volunteer serving as a board member, officer, commission member, volunteer intern or  
344 direct service volunteer.

345 KKK. "Volunteer intern" means volunteers who are also enrolled full-time during  
346 the regular school year in a program of education, internship or apprenticeship who are  
347 receiving scholastic credit or scholastic recognition for participating in the internship.

348 LLL. "Work study student" means a student enrolled or accepted for enrollment  
349 at a post-secondary institution who, according to a system of need analysis approved by  
350 the higher education coordinating board, demonstrates a financial inability, either  
351 parental, familial or personal, to bear the total cost of education for any semester or  
352 quarter.

353 SECTION 3. Ordinance 12014, Section 13, as amended, and K.C.C. 3.12.100 are  
354 each hereby amended to read as follows:

355 A. There shall be a probationary period during which time a probationary  
356 employee shall be evaluated by the appointing authority to determine qualification for entry  
357 into the career service. The probationary period shall be determined by the director, but  
358 shall be not less than six months or more than one year of actual service, and shall be

359 served by those employees who have been newly hired((,)) or reemployed ((, ~~transferred to~~  
360 ~~a different position, or promoted or demoted~~)) or have moved from another career service  
361 position, whether through promotion, demotion or transfer. A furloughed employee's  
362 probationary period shall not be extended as a result of a budgetary furlough. A career  
363 service employee whose current position is reclassified does not serve a probationary  
364 period upon reclassification.

365 B. A probationary employee may be separated from county service at any time  
366 during the probationary period without right of appeal to the personnel board.  
367 Notwithstanding any other provisions of this section, an employee who does not  
368 successfully complete the probationary period in a position to which he or she had been  
369 promoted or transferred may be restored to his or her former position. Such restoration is  
370 not mandatory, but is optional at the discretion of the former appointing authority within  
371 the limits of available authorized positions. Such restoration shall include restoration of the  
372 employee's former salary and all other benefits to which he or she would have been entitled  
373 if the promotion or transfer had not occurred.

374 SECTION 4. Severability. If any provision of this ordinance or its application to  
375 any person or circumstance is held invalid, the remainder of the ordinance or the  
376 application of the provision to other persons or circumstances is not affected."

377 **EFFECT: Narrows the scope of the original ordinance to clarification that a**  
378 **probationary period is not required for an employee whose current position is being**  
379 **reclassified and who is not moving to a new position.**

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Aug. 27, 2013

**T1**

nw

Sponsor: von Reichbauer

Proposed No.: 2013-0355

1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2013-0355, VERSION 1**

2 On page 1, beginning on line 1, strike lines 1 through 6, and insert:

3 " AN ORDINANCE relating to personnel policies;  
4 clarifying that a probationary period is not applied to  
5 employees whose positions are reclassified; and amending  
6 Ordinance 12014, Section 5, as amended and K.C.C.  
7 3.12.010, and Ordinance 12014, Section 13, as amended  
8 and K.C.C. 3.12.100."

9 **EFFECT: Amends the title to conform to Striking Amendment S1.**

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## Summary of Proposed Ordinance 2013-0355

Employee status	Career Service?	Position	Classification	Pay Range	Current Code	Proposed
Newly-hired	Not career service	New	New	New	Mandatory probationary period	No change
Reemployed	Former career service	New	New	New	Mandatory probationary period	No change
Promoted	Career service	New	New	New	Mandatory probationary period	No change
Demoted	Career service	New	New	New	Mandatory probationary period	Discretionary probationary period
Transferred (same classification)	Career service	New	Same	Same	Mandatory probationary period	Discretionary, trial service period
Transferred (new classification in same pay range)	Career service	New	New	Same	Mandatory probationary period	Discretionary, trial service period
Reclassified	Career service	Same	New	New	Mandatory probationary period	No probationary or trial service period

**Probationary period – termination for any non-prohibited reason.**

**Trial service period – termination only for cause.**

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July 23, 2013

The Honorable Larry Gossett  
Chair, King County Council  
Room 1200  
C O U R T H O U S E

Dear Councilmember Gossett:

This letter transmits an ordinance that will enable King County to clarify when agencies require County employees who are newly hired, reemployed, promoted, demoted, or laterally transferred to serve a probationary period. It also establishes an option for agencies to apply a discretionary trial service period for career service employees who laterally transfer into another career service position in the same job classification or into another classification with the same pay.

A career service employee is appointed to a County position as a result of a competitive selection process and that appointment is final upon the successful completion of a probationary period. The probationary period is used to determine the probationary employee's qualification for entry into career service. Achieving career service is analogous to achieving tenure. Until successful completion of the probationary period, the employee is "at-will" and may be terminated without cause.

A career service employee has a constitutionally-protected property right in his or her career service position that cannot be removed or reduced absent due process. In this context, that means that the employee must be given notice and an opportunity to be heard prior to suspension, demotion, or termination of employment. Entry into career service in King County also carries with it other rights, such as referral to other positions upon layoff and reemployment opportunities for up to two years after separation from employment.

The probationary period has been applied in the County to employees upon initial employment, reemployment, promotion, demotion, and lateral transfer to career service positions. However, there are two situations in which the probationary period should no longer be required because the employee is currently in career service status, has already competed in a selection process, and an additional competitive selection process is not necessary. This occurs when an employee is promoted pursuant to a reclassification process or when an employee is laterally transferred to a position in the same classification or the

The Honorable Larry Gossett  
July 23, 2013  
Page 2

same pay range. The proposed changes are depicted in the chart appended to this letter as Attachment A. These proposed changes are consistent with a number of other public sector organizations with similar career or civil service protections.

The legislation furthers the goals of the King County Strategic Plan by strengthening our quality workforce in providing career service employees more internal job opportunities without risking loss of their career service status. At the same time, the legislation preserves the required probationary period to determine an employee's qualification for entry into career service.

The proposed amendments regarding probationary periods and trial service periods were the subject of multiple discussions with labor organizations representing County employees. Labor representatives support this legislation. In addition, agency human resources personnel are supportive of these amendments in order to lift internal barriers to job movement for employees within the County.

Thank you for your consideration of this important legislation. If you have any questions, please feel free to contact Kerry Delaney Sickle, Human Resources Senior Manager, Human Resources Division, at 206-477-3241.

Sincerely,

Dow Constantine  
King County Executive

Enclosures

cc: King County Councilmembers  
ATTN: Michael Woywod, Chief of Staff  
Anne Noris, Clerk of the Council  
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County  
Executive Office (KCEO)  
Patti Cole-Tindall, Director, Office of Labor Relations, KCEO  
Dwight Dively, Director, Office of Performance, Strategy and Budget  
Caroline Whalen, County Administrative Officer, Department of Executive  
Services (DES)  
Nancy Buonanno Grennan, Director, Human Resources Division (HRD), DES  
Kerry Delaney Sickle, Human Resources Senior Manager, HRD, DES

## Attachment A – Proposed Changes to Probationary Period Requirements

CURRENT CODE REQUIREMENTS	PROPOSED CHANGES
<p><b>PROBATIONARY PERIOD</b></p> <ul style="list-style-type: none"> <li>➤ Probationary period is required for career service employees who are newly hired; reemployed; promoted; transferred; and demoted</li> <li>➤ Career service status obtained upon successful completion of probation</li> <li>➤ 6-12 months and may not be reduced or waived</li> <li>➤ If unsuccessful, may be terminated as at will; or, restoration to former position which is optional at discretion of hiring manager</li> </ul>	<ul style="list-style-type: none"> <li>➤ Clarify that probationary period only applies to promotions via a competitive process (meaning that promotions via a reclassification are not subject to probationary period and career service status retained)</li> <li>➤ No probationary period for laterally transferred employee (but they may be required to serve a trial service period)</li> <li>➤ Probationary period discretionary for demoted employee</li> <li>➤ Demoted employees not eligible for step increase upon successful completion of probation</li> </ul>
<p><b>TRIAL SERVICE PERIOD</b></p> <p>No provisions in the code for trial service period</p>	<ul style="list-style-type: none"> <li>➤ Only for employees who laterally transfer in same classification or pay range without a break in service</li> <li>➤ Career service status retained</li> <li>➤ 6-12 months and may be reduced or waived</li> <li>➤ Must successfully complete</li> <li>➤ If unsuccessful, may be terminated under just cause for performance (at which time per companion policy, they will have referral rights via Career Support Services); or restoration to former position which is optional at discretion of hiring manager</li> </ul>

Additional background:

**Employees who are promoted pursuant to a reclassification process:**

A probationary period is required for an employee who is promoted to a career service position; however, the code does not make a distinction between an employee who is promoted pursuant to a competitive process and an employee who is promoted pursuant to a reclassification process. An employee who is promoted pursuant to a competitive selection process should serve a probationary period. An employee who is promoted pursuant to a reclassification process should not.

A reclassification in the County simply recognizes that the employee has been performing the duties of a higher classification and should, therefore, be promoted to that classification. Local public jurisdictions vary on whether or not a probationary period should be required for an employee promoted pursuant to a reclassification process.

The Director of the Human Resources Division may reclassify an employee's current position and, if the reclassification results in a promotion, assign a pay increase to the employee. A reclassification may result in a promotion when there has been a gradual accretion and significant change in the duties and responsibilities of a career service employee over a period of one year. The employee already competed for his or her underlying position, thus, the employee's qualification for entry into career service had already been met. Imposing an additional probationary period on such a career service employee offers no benefit to the County and means that the employee involuntarily loses the protections of career service status.

The proposed legislation, if adopted, will:

- Amend the definition section of K.C.C. 3.12.010 by clarifying that a “probationary period” is required to be served by employees promoted pursuant to a competitive process while deleting the application to all promotions (effectively, deleting the requirement to reclassification promotions).
- Amend K.C.C. 3.12.010 by clarifying that a “probationary period” is required to be served by employees promoted pursuant to a competitive process while deleting the application to all promotions (effectively, deleting the requirement to reclassification promotions)

#### **Employees who are laterally transferred to another position:**

A probationary period is currently required for a career service employee who transfers to another position. This means that an employee who moves from one work unit to another, without any change in pay or classification, loses the protections of his or her career service status. Because the employee who transfers has already served a probationary period in the same classification and/or the same pay range, the employee's qualification for entry into career service has already been met. Therefore, a probationary period for a laterally transferred employee should not be required.

Other local public jurisdictions vary on whether a probationary period is required for an employee who laterally transfers. Some impose a “trial service period” as an alternative.

While a probationary period for a laterally transferred employee should not be required, a discretionary trial service period is prudent. When transferring to a new position in the same classification and/or same pay range, the duties and responsibilities may be similar but not identical. Therefore, an opportunity to evaluate the suitability of the employee to the new position may be appropriate. A trial service period accomplishes that goal without putting the employee at risk of losing his or her career service status. Should the hiring authority determine that the employee is not suited to the new position, the employee may be restored to the former position under some circumstances or afforded post-separation assistance to attempt to match the employee with another County position, as determined by the Human Resources Division Manager.

The proposed legislation, if adopted, will:

- Amend K.C.C. 3.12.010 by adding a definition for “trial service period”
- Amend K.C.C. 3.12.100 by deleting the probationary service requirement for employees who transfer to a different position, and adding the option for an appointing authority to impose a trial service period requirement for career service employees who laterally transfer

### **Employees who are demoted to another position:**

A probationary period is currently required for a career service employee who demotes to another position. The imposition of a probationary period should be discretionary at the option of the hiring authority. When demoting to a new position in a lower pay range, an employee may or may not be well suited for position duties and responsibilities. Therefore, an opportunity to evaluate the qualifications of the employee to the new position may still be appropriate.

An optional probationary period accomplishes that goal. A probationary period may not be necessary depending upon the duties and responsibilities of the new position but the hiring authority may be reluctant to accept a demoted employee without a probationary option.

Currently, employees, including employees who are demoted, earn a step increase upon passing probation. However, a step increase upon successful completion of probation for a demoted employee is not warranted.

The proposed legislation, if adopted, will:

- Amend the definition section of K.C.C. 3.12.010 by clarifying that “probationary period salary increase” does not apply to employees who are demoted into another position
- Amend K.C.C. 3.12.100 by adding the option for an appointing authority to impose a probationary period requirement for all County employees who demote into a career service position

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