



Legislation Text

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AN ORDINANCE addressing income inequality through a requirement that a living wage be paid to county employees and to the employees of certain county contractors.

STATEMENT OF FACTS:

1. This ordinance has its foundation in the King County Strategic Plan. One of the eight goals of the Strategic Plan is to "encourage a growing and diverse King County economy and vibrant, thriving and sustainable communities." The first listed objective toward achieving that goal is to "support a strong, diverse, and sustainable economy." One measure of progress toward achieving that goal is the "percent of jobs paying a living wage." Another Strategic Plan goal that would be advanced by the payment of a living wage is to "provide opportunities for all communities and individuals to realize their full potential." Finally, being paid a living wage is "fair and just," which is one of the guiding principles of the Strategic Plan.
2. According to The Self-Sufficiency Standard for Washington State 2011, a report prepared for the Workforce Development Council of Seattle-King County, the Washington state minimum wage is insufficient to meet the basic needs of working families. The current minimum wage for Washington state, which is \$9.32 per hour as of July 2014, is less than the 2011 "self-sufficiency standard" for a single adult by between twelve percent and thirty-four percent, depending on the individual's specific location within King County.
3. According to a report published by the Alliance for a Just Society on May 2014, the 2012

living wage for a single adult in King County was \$17.55 per hour. By that measure, the current state minimum wage is forty-seven percent less than what a living wage was two years ago.

4. According to the Economic Policy Institute, from the 1940s to the 1970s real hourly compensation of nonsupervisory production workers increased at roughly the same rate as worker productivity, but between 1973 and 2011, while productivity increased by about eighty percent, median real hourly compensation increased by only about eleven percent.

5. According to the U.S. Department of Labor, minimum wage workers are disproportionately women and people of color, and it is an aim of King County's equity and social justice initiative to eliminate disparities that inhibit all residents from the ability to make a sufficient income to purchase the basic necessities to support them and their families.

6. Employees who are paid less than a living wage are more likely to be eligible for and rely upon government programs for assistance, including programs such as subsidized food, housing, health care, bus fare and utilities, resulting in an indirect and unintended taxpayer subsidy to their employers.

7. The benefits of a living wage are not limited to the worker who receives it. Evidence suggests that payment of a living wage tends to improve employee performance and productivity and to reduce employee turnover and absenteeism and that the effects of paying a living wage extend beyond the employees who receive it, in that the additional money that a living wage puts into the pockets of low-wage workers is likely to be spent, especially in the areas where they live, which tends to promote growth and job creation.

8. The county has an interest in protecting the public health, safety and welfare of its residents by establishing certain compensation requirements for its own employees and for the employees of firms that enter into service contracts with the county.

9. According to the National Employment Law Project, legislation requiring employers to pay a

living wage has been adopted in more than one hundred twenty-five cities and counties across the nation, including about half of the twenty-five largest cities by population.

10. On May 19, 2014, the metropolitan King County council unanimously adopted Motion 14131, which established as a policy of King County "that a living wage should be paid to county employees and to the employees of persons, businesses, organizations and other entities that receive procurement contracts, tax exemptions or credits, or other financial benefits from the county."

11. To explore the implications of implementing the living wage policy set forth in Motion 14131, the council asked the executive to make written recommendations to the council suggesting provisions that should or should not be included in an ordinance implementing the living wage policy and requested the assistance of the county executive in assessing the costs, benefits and other consequences of adopting a living wage ordinance setting a minimum level of compensation for all county employees and for the employees of persons, businesses, organizations and other entities receiving or applying for county procurement contracts, county tax exemptions or credits or other financial benefits from King County.

12. In response to Motion 14131 the county executive has submitted recommendations and information to the council, and the council has considered the executive's submittal and has determined that a living wage ordinance would be in the best interest of the county and would advance the adopted policy set forth in Motion 14131.

13. This ordinance is intended to promote improved quality and reliability of the services procured for the county and provided to county residents by promoting higher productivity and retention of employees working on county service contracts.

14. At the request of the executive, to allow an opportunity for the county to resolve any issues that might arise during implementation of this ordinance, the initial scope of this ordinance is

limited to service contracts in the amount of at least one hundred thousand dollars and excludes the following: contracts between a contract-awarding authority and another general purpose government, such as the federal government, a state government, another county, a city, a town or any other public entity; contracts that the county enters into as the administrator of grants received from a third party; contracts for public works; architectural and engineering contracts; and collective bargaining agreements.

15. This ordinance does not: establish any generally applicable county minimum wage; affect the wages paid by any business or individual that chooses not to contract with the county to provide services covered by this ordinance; or affect the wages paid to employees of a county contractor when they are not providing services under a contract with the county.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The purpose of this ordinance is to address income inequality by ensuring that tax dollars are used in a way that benefits the interests of the county as a whole by creating jobs that keep workers and their families out of poverty. This ordinance therefore requires the county and its contractors and subcontractors to pay their employees a wage that is intended to enable a worker to meet basic needs and avoid economic hardship. This ordinance is also intended to promote improved quality and reliability in the services procured for the county and provided to county residents by promoting higher productivity and retention of employees working on county service contracts.

SECTION 2. Sections 3 through 12 of this ordinance should constitute a new chapter in K.C.C. Title 3.

NEW SECTION. SECTION 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Actuarial value" means the percentage of total average costs for covered benefits that a health benefits package will cover.

B. "Bonuses" means non-discretionary payments in addition to hourly, salary, commission or piece-rate

payments paid under an agreement between the employer and employee.

C. "Commissions" means a sum of money paid to an employee upon completion of a task, usually selling a certain amount of goods or services.

D. "Compensation" means wages together with the money paid by the employer towards an individual employee's health benefits plan.

E. "Contract" means a mutually binding legal relationship or any modification thereof obligating the county to pay a contractor one hundred thousand dollars or more to provide professional services, technical services or services as defined in K.C.C 2.93.030 to the county. "Contract" does not include: a contract between a contract-awarding authority and another general purpose government, such as the federal government, a state government, another county, a city, a town or any other public entity; a contract that the county enters into as the administrator of grants received from a third party; a contract for public works; an architectural or engineering contract; or a collective bargaining agreement.

F. "Contract-awarding authority" means the county officer, department, commission, employee or board authorized to enter into or to administer contracts on behalf of the county.

G. "Contractor" means any person that enters into a contract with the county, or negotiates the extension of an existing contract with the county, after the effective date of this ordinance, or that is a subcontractor performing services under such a contract.

H. "Division" means the finance and business operations division of the department of executive services.

I. "Director" means the manager of the finance and business operations division of the department of executive services, or the manager's designee.

J. "Employee" means any person who performs work on a full-time, part-time, temporary or seasonal basis, including employees, temporary workers, contracted workers, contingent workers and persons made available to work through services of a temporary services, staffing or employment agency or similar entity.

K. "Employer" means any individual, partnership, association, corporation, business trust or person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

L. "Health benefits plan" means a silver or higher level essential health benefits package, as defined in 42 U.S.C. Sec. 18022, or an equivalent plan that is designed to provide benefits that are actuarially equivalent to seventy percent of the full actuarial value of the benefits provided under the plan, whichever is greater.

M. "Hourly minimum compensation" means the minimum compensation due to an employee under this chapter for each hour worked during a pay period.

N. "Hourly minimum wage" means the minimum wage due to an employee under this chapter for each hour worked during a pay period.

O. "Person" means any individual, partnership, corporation, limited liability company, sole proprietorship, association, joint adventure, estate, trust and other entity, group or combination acting as a unit, and the individuals constituting the group or unit.

P. "Piece-rate" means a price paid per unit of work.

Q. "Rate of inflation" means the Consumer Price Index annual percent change for urban wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months before each September 1 as calculated by the United States Department of Labor.

R. "Schedule 1 employer" means an employer that employ more than 500 employees in the United States, regardless of where those employees are employed in the United States.

"Schedule 2 employer" means an employer that employ 500 or fewer employees, regardless of where those employees are employed in the United States.

"Subcontractor" means any person or other entity, not an employee, that enters into a contract (and that employs employees for that purpose) with a contractor or subcontractor to assist the contractor or subcontractor in performing a contract with the county.

S. "Wage" means compensation due to an employee by reason of employment, payable in legal tender

of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as may be permitted by rules of the director. "Wages" include commissions, piece-rate and bonuses. An employer payment toward a health benefits plan does not constitute a "wage."

NEW SECTION. SECTION 4. Scope.

A. An employee is covered by this chapter for each hour the employee is performing work under a contract with the county. An employee who is not covered by this chapter is still included in determining the size of the employer.

B.1. For the purposes of determining whether an employer is a Schedule 1 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be considered a single employer under this chapter. Separate entities are considered an integrated enterprise and a single employer under this chapter if a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

- a. The degree of interrelation between the operations of multiple entities;
- b. The degree to which the entities share common management;
- c. Centralized control of labor relations; and
- d. The degree of common ownership or financial control over the entities.

2. There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, are considered separate employers for purposes of this section as long as: the separate legal entities operate substantially in separate physical locations from one another; and each separate legal entity has partially different ultimate ownership. The determination of employer schedule for the current calendar year is calculated based upon the average number of employees employed per calendar week during the preceding calendar year for any and all weeks during which at least one employee worked for compensation. For an employer that did not have any employees during the previous calendar year, the employer schedule is calculated based upon the average number of employees employed per calendar week during the first ninety calendar days of the current year in which the

employer engaged in business.

C. The director may issue a special certificate authorizing an employer to pay a wage less than the minimum wage but above the Washington state minimum wage, as defined in RCW 49.46.020. The special certificates shall only be available for the categories of workers listed in RCW 49.46.060 and defined in chapter 296-128 WAC, and are subject to such limitations as to time, number, proportion and length of service as the director shall prescribe. Before issuance, an applicant for a special certificate must secure a letter of recommendation from the Washington state Department of Labor and Industries stating that the applicant has a demonstrated necessity in accordance with chapter 296-128 WAC.

D. The county's human resources director shall establish by rule the minimum wage for employees under the age of eighteen years, but any percentage of the hourly rate established by rule shall not be lower than the percentage applicable under state statutes and regulations.

NEW SECTION. SECTION 5. The county shall pay its employees at a rate no less than the hourly minimum wage for Schedule 1 employers, except for short-term temporary employees who are employed in social service programs designed to help youth gain basic work training skills.

NEW SECTION. SECTION 6.

A. Beginning April 1, 2015, and ending January 1, 2016, Schedule 1 employers shall pay each employee an hourly minimum wage of at least eleven dollars. Beginning January 1 of each year thereafter, Schedule 1 employers shall pay any employee an hourly minimum wage as follows:

Year	Hourly Minimum Wage
2016	\$13.00
2017	\$15.00

Beginning January 1, 2018, the hourly minimum wage paid by a Schedule 1 employer to any employee shall be increased annually on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter.

B. Schedule 1 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 1 employer is in compliance with all applicable law. Where an employee is paid on a commission or piece-rate basis, wholly or partially, the amount earned on that basis in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for that period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. If an employee is paid a bonus, the amount of the bonus in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for that period shall be computed on the hours worked in that period resulting in no less than the applicable hourly minimum wage. Beginning January 1, 2016, and ending January 1, 2019, Schedule 1 employers that pay toward an individual employee's health benefits plan shall pay the employee an hourly minimum wage as follows:

Year	Hourly Minimum Wage
2016	\$12.50
2017	\$13.50
2018	\$15.00

Beginning January 1, 2019, payment by the employer of health benefits for employees shall no longer affect the hourly minimum wage paid by a Schedule 1 employer.

NEW SECTION. SECTION 7. A. Beginning April 1, 2015, and ending January 1, 2016, Schedule 2 employers shall pay each employee an hourly minimum wage of at least ten dollars. Schedule 2 employers may meet the applicable hourly minimum wage requirement through a payment of the minimum wage, but only if the Schedule 2 employer is in compliance with all applicable law. Beginning January 1, 2016, and each year thereafter through January 1, 2025, Schedule 2 employers shall pay each employee an hourly minimum wage that is the lower of:

1. The applicable hourly minimum wage for Schedule 1 employers; or

2. The hourly minimum wage shown in the following schedule:

Year	Hourly Minimum Wage
2016	\$10.50
2017	\$11.00
2018	\$11.50
2019	\$12.00
2020	\$13.50
2021	\$15.00
2022	\$15.75
2023	\$16.50

B. Beginning January 1, 2025, and January 1 of every year thereafter, the hourly minimum wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

NEW SECTION. SECTION 8.

A. Beginning April 1, 2015, and ending January 1, 2016, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00. Beginning January 1, 2016, 2017, 2018, 2019, 2020 and 2021, Schedule 2 employers shall pay each employee an hourly minimum compensation that is the lower of:

- a. the applicable hourly minimum wage for Schedule 1 employers; or
- b. the hourly minimum compensation shown in the following schedule:

Year	Hourly Minimum Compensation
2016	\$12.00
2017	\$13.00
2018	\$14.00

2019 \$15.00

2020 \$15.75

2. Beginning January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages, including applicable commissions, piece-rate and bonuses, and money paid by an employer towards an individual employee's health benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

C. Beginning January 1, 2025, minimum compensation is not applicable.

NEW SECTION. SECTION 9. A contract-awarding authority shall not execute a contract with a contractor unless the contract includes provisions requiring the contractor to comply with the applicable provisions of this chapter and containing appropriate remedies for the breach of the contracts as prescribed by section 11 of this ordinance.

NEW SECTION. SECTION 10.

A. The executive may waive this chapter if any of the following applies:

1. The award of a contract or amendment to a contract is necessary in an emergency, as defined in K.C.C. 12.52.010;

2. The contract is for a proprietary purchase under K.C.C. 2.93.070;

3. There are no contractors capable of responding to the county's requirements that can comply with this chapter;

4. The county is purchasing through a cooperative or joint purchasing agreement; or

5. Application of this chapter would:

a. result in an increased cost to the county that would make it necessary to reduce services to county

residents; or

b. otherwise have a material, adverse impact on the county.

B. A request for a waiver of this chapter must be made to the executive by the contract-awarding authority in a manner prescribed by the executive by administrative rule.

C. The executive shall provide an annual written report to the council regarding any waivers granted under this section, including a description of the relevant facts and an explanation of the reason for each waiver. The executive must file the report in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff to the budget and fiscal management committee or its successor.

NEW SECTION. SECTION 11. The executive shall:

A. Adopt public and administrative rules in accordance with this chapter establishing standards and procedures for effectively carrying out this chapter;

B. Determine when and how any notice and opportunity to cure a violation of this law should be afforded;

C. Determine and impose appropriate sanctions or remedies, or both, and procedures for administrative review, for violation of this chapter by contractors, including but not limited to:

1. Disqualification of the contractor from bidding on or being awarded a county contract for up to two years;

2. Remedies allowable by contract including, but not limited to, liquidated damages and termination of the contract;

3. Remedial action after a finding of noncompliance, as specified by rule; and

4. Other appropriate civil remedies and sanctions allowable by law; and

D. Administer other requirements specified by this chapter or that are necessary to implement the purposes of this chapter.

NEW SECTION. SECTION 13. This ordinance applies to any contract entered into on or after the earlier of:

A. The date the executive adopts public and administrative rules establishing standards and procedures for implementing this chapter; or

B. January 1, 2015.

SECTION 14. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.