



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 9, 2013

Motion 13886

Proposed No. 2013-0162.1

Sponsors Patterson, Hague, Dembowski and
Gossett

1 A MOTION relating to the implementation timeframe for
2 reorganizing public defense services in King County.

3 WHEREAS public defense services are mandated by the United States
4 Constitution, the Washington State Constitution and state law, and

5 WHEREAS the Sixth Amendment of the United States Constitution and Article I,
6 Section 22 of the Washington State Constitution guarantee assistance of counsel to every
7 citizen accused of a matter where loss of liberty is possible, and

8 WHEREAS since the 1970s King County has contracted with private, nonprofit
9 corporations for the provision of most indigent public defense services, and

10 WHEREAS these corporations were viewed by the county as independent
11 contractors and these corporations' employees therefore did not receive King County
12 benefits nor were they enrolled in the Public Employees' Retirement System, and

13 WHEREAS, in January 2006, a class action lawsuit was filed against King
14 County, alleging that the employees of these corporations were county employees and
15 that King County had a duty to enroll them in the Public Employees' Retirement System,
16 and

17 WHEREAS, in February 2009, a Pierce county superior court judge ruled that the
18 county had exercised such control over the corporations that they were effectively county

19 agencies and their employees were employees of the county for purposes of enrollment in
20 the Public Employees' Retirement System, and

21 WHEREAS, in August 2011, the Washington Supreme Court affirmed the trial
22 court's decision in a five to four decision and the county's motion for reconsideration was
23 denied, and

24 WHEREAS, in March 2012, the trial court entered an order requiring King
25 County to enroll the current employees of the public defense firms in the Public
26 Employees' Retirement System, which the county did, and

27 WHEREAS, on March 18, 2013, the King County council adopted Ordinance
28 17537 approving a proposed settlement agreement that would recognize the current
29 employees of the public defense firms as county employees on July 1, 2013, and

30 WHEREAS, the King County executive transmitted Proposed Ordinance 2013-
31 0108, which would create a Department of Public Defense with two divisions, and

32 WHEREAS, the King County executive has indicated that he plans to begin
33 taking steps to implement the new structure, including the hiring of two division
34 directors, as early as April 2013 contingent on the King County council's approval of the
35 proposed structure, and

36 WHEREAS, the King County council is committed to a thoughtful process for
37 analyzing and considering the legal, fiscal, and policy issues of the proposal in order to
38 ensure that the new public defense structure is consistent with best practices, such as the
39 American Bar Association's ten principles of a public defense delivery system, and

40 WHEREAS, the council is committed to continue to include in its process close
41 and collaborative consultation with indigent public defense corporations, employees, and
42 others with interest and expertise in public defense services, and

43 WHEREAS, it might be impracticable for the council to act before May 2013 in
44 light of the need for the council to fully analyze and explore potential options, and

45 WHEREAS, in coordination with enactment of an ordinance organizing the
46 structure of delivery of public defense services sufficient time and care will be necessary
47 to implement the structure and also ensure the continuous delivery to all persons of their
48 constitutionally-guaranteed right to assistance of counsel;

49 NOW, THEREFORE, BE IT MOVED by the Council of King County:

50 The King County council requests that the executive work with the council to
51 develop an interim plan to cover the timeframe between June 30, 2013, and full
52 implementation of an ordinance organizing the structure of delivery of public defense

53 services. The King County executive should consider the possibility that the interim
54 timeframe might need to continue through December 31, 2013, or thereafter.
55

Motion 13886 was introduced on 4/1/2013 and passed by the Metropolitan King
County Council on 4/8/2013, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Dunn, Mr. McDermott and Mr.
Dembowski
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: None