



**King County**

**Metropolitan King County Council  
Labor Policy Committee**

**STAFF REPORT**

<b>Agenda Item:</b>		<b>Name:</b>	Patrick Hamacher
<b>Proposed No.:</b>	LP2020-004	<b>Date:</b>	November 10, 2020

**SUBJECT**

Labor Policy 2020-004 would implement a number of changes to existing labor policies and add several new policies.

**SUMMARY**

This is before the Committee as a result of the Labor Policies Workgroup that was formed as a result of Motion 15428 that was adopted at the County’s Labor Summit on June 26, 2019. The workgroup consisted of equal numbers of representatives from the County and from Labor.

This LP would add six new policies related to:

1. Guiding Principles
2. Purpose
3. Being a Model Employer
4. Union and Guild Organizing
5. Safety
6. Standardization and Impacts to Business Systems

This LP would also amend existing labor policies related to:

1. Equity and Social Justice (currently called Diversity in the County’s Workforce)
2. Community Workforce Agreements (currently called Project Labor Agreements)
3. Employee Performance and Accountability (currently Performance Evaluations)
4. Best Run Government (currently called Continuous Improvement)
5. Mediation and Grievance Settlement Pilot (currently called Mediation Settlement Pilot)
6. Binding Interest Arbitration
7. Timeliness of Organized Labor Contract Negotiations
8. Compensation
9. Overtime

## **BACKGROUND**

Under the King County Charter and King County Code, the County Council is charged with setting policy for collective bargaining and the Executive serves as the County's bargaining agent. The County Council, through adoption of labor policies, sets broad policy goals for bargaining and the Executive has the role of implementing those policies through partnership with labor and the negotiation of collective bargaining agreements.

The Council, at its Labor Summit on June 26, 2019 passed Motion 15428 that called for formation of a labor policies workgroup that was tasked with reviewing the existing policies and recommending new and revised policies. The workgroup consisted of:

### **Labor Representatives:**

- Dustin Frederick, PSEU
- Michael Gonzales, Teamsters 174
- Denise Cobden, PROTEC17
- Suzette Dickerson, Council 2
- Maria Williams, Teamsters 117
- Patrick Brady, ATU 587
- Lorelei Walker formerly PROTEC17

### **Council and Executive Representatives:**

- Councilmember Dembowski
- Councilmember Kohl-Welles
- Councilmember McDermott
- Megan Pederson, Director Office of Labor Relations
- Whitney Abrams, Chief People Officer
- Jay Osborne, Director of Human Resources

## **ANALYSIS**

The analysis section will be divided into two sections covering 1) new labor policies and 2) changes to existing labor policies. The items are listed in the order they appear in the labor policy legislation and are not ordered by any other priority.

### ***New Labor Policies***

**LAB 1-001 Guiding Principles.** The current labor policies do not include guiding principles. The addition of Lab 1-001 would add the following language as guiding principles for labor relations:

The guiding principles underlying King County's relationship with its employees shall be based upon the Reverend Dr. Martin Luther King, Jr.'s assertion, in his speech to striking Memphis sanitation workers on March 18, 1968, that "All labor has dignity" and "that whenever you are engaged in work that serves humanity and is for the building of humanity, it has dignity, and it has worth." King County's

Labor Policies and contracts will reflect the values of dignity and worth as guiding principles.

**LAB 1-002 Purpose.** The current labor policies do not include a statement of purpose. The addition of this labor policy would add the following statement of purpose:

Labor policies establish the policies for matters related to the compensation and working conditions of King County employees. Nothing in the policies changes the legally mandated bargaining obligations of the county and organized labor with respect to the subjects contained in the policies. Further, existing collective bargaining agreements between the parties supersede any changes in labor policies made after the effective date of the agreements.

**LAB 1-003 Model Employer.** This labor policy would add the goal that King County be a model employer. Specifically the following language would be added to the labor policies:

King County is committed to being an employer of choice. The county aims to provide a competitive total compensation package, including high-value and holistic benefits that support and meet the needs of a diverse workforce, and ensure a supportive working environment and access to growth and development opportunities.

**LAB 1-004. Union and Guild Organizing.** While the County has supported union and guild organizing over the years, there is not a specific labor policy supporting that position. This new labor policy would add the following language regarding labor organizing:

The county recognizes and supports a union or guild's right to represent and organize employees. As a matter of practice and principle, the county shall expeditiously respond to representation inquiries. For purposes of labor policies, the term "organized labor" shall mean the employees of King County who are represented by labor unions and guilds as well as the representatives of those employees.

**LAB 1-005 Safety.** The addition of this new labor policy would add a general labor policy regarding employee safety. To this point, safety issues have not been handled globally, but instead addressed in each labor contract depending on the work. This new labor policy would add the following language:

King County is committed to promoting a respectful, safe and healthy workplace for its employees, and shall comply with all applicable health and safety regulations. In addition to being subject to the standards developed under the law, the county shall work to assist and encourage individual departments, divisions, offices and other agencies in their efforts to provide respectful, safe and healthy working conditions and work to standardize procedures, processes and communications regarding safety issues.

**LAB 1-060 Standardization and Impacts to Business Systems.** This new labor policy would add a goal of standardizing personnel policies throughout the County. The identified goal of this labor policy is to further equity and fiscal responsibility. The proposed language would read as follows:

To further the county's values of equity and fiscal responsibility, it shall be the policy of King County to standardize personnel rules, policies and practices across the county to the extent possible. The county will partner with employees and their bargaining representative to identify opportunities for standardization.

#### *Amendments to Existing Labor Policies*

LAB 1-020 is a labor policy currently titled **Diversity in the County's Workforce**. The changes, included below, would rename the labor policy to "Equity and Social Justice" and acknowledges that the Community is best served by a diverse and culturally competent workforce that values public service. The specific proposed changes read as follows:

~~((**Diversity in the County's work force:** It shall be the policy of King County to acknowledge the worth of cultural and ethnic diversity in building and maintaining an effective work force.))~~ **Equity and Social Justice:** King County values diversity, equity, well-being and belonging in our workplace and workforce. King County further acknowledges that the community is best served by a culturally, ethnically and racially diverse workforce that brings varied perspectives, beliefs and values to public service.

**LAB 1-030 Project Labor Agreements.** The County has a policy to use Project Labor Agreements (PLAs) on large capital projects. However, the County has since pursued the addition of Community Workforce Agreements, programs aimed at hiring workers from the surrounding areas of a project when possible, to its capital program. The policy notes that an easy way of thinking about the difference between the two types of programs is that a PLA with a "priority hire" component becomes a CWA. This amended labor policy would add the concepts of CWAs to the labor policies and would read as follows:

**Project Labor Agreements**~~((. The county shall explore the use of a project labor agreement (PLA) for county projects when appropriate. PLAs may be considered for projects that have a complex scope, a multi-year schedule, a budget of significant size, and/or a clear public benefit. When a PLA is implemented, the general contractor and relevant trade unions shall execute the PLA in a form acceptable to the county.))~~ **and Community Workforce Agreements:** The county supports project labor agreements ("PLAs"), which are intended to ensure the peaceful settlement of labor disputes and grievances so that large-scale public works projects are completed without delays due to strikes or lockouts. A PLA that includes the additional provision for "priority hiring" is known as a community workforce agreement ("CWA"). The Priority Hire program provides local construction workers living in economically disadvantaged areas of the county with access to participate in King County construction projects. The county intends to use CWAs in county-funded public works projects meeting

certain criteria established by the executive, including, but not limited to, having construction costs estimated at or above a specific threshold. For large-scale federally funded projects, the county intends to use either a CWA or a PLA depending on what is allowed by the respective federal agencies.

**LAB1-031 Employee Performance Evaluations.** The County has long had a labor policy requiring performance evaluations of employee work. This labor policy is proposed to be amended to rename “Employee Performance and Accountability” and reframe the focus to also include employee development as opposed to only focusing on performance. The labor policy is proposed to be amended as follows:

**Employee Performance ((Evaluations)) and Accountability:** It shall be the policy of King County ~~((that))~~ to promote ongoing employee development and accountability through effective communication of job requirements and workplace expectations, coaching and employee feedback. This includes employee performance evaluations that shall be conducted at least annually as part of a systematic and equitable employee performance management system. These evaluations shall be maintained in employee personnel files. Employee performance evaluations shall be an element in a comprehensive employee performance management system ~~((that shall include employee development and))~~. Subject to the collective bargaining process, performance evaluations can be considered in determining incentive compensation, promotions and demotions ~~((if agreed to by the union through the collective bargaining process))~~.

**LAB 1-050 Continuous Improvement.** In 2010 the County added a labor policy surrounding the “continuous improvement” policies the County was pursuing at the time. The focus has since shifted to a model the Executive describes as “Best Run Government.” The proposed changes to this labor policy are largely technical and reflect the change in focus between the two initiatives, but are included below:

~~((Continuous Improvement))~~ **Best-Run Government:** It shall be the policy of King County to promote a culture of continuous improvement, innovation and fiscal responsibility. Our interest is to partner with the county's workforce to identify opportunities to improve ~~((productivity and identify))~~ the way ~~((to contain the))~~ the county does business, including building capacity and addressing cost growth ~~((of future costs. We will seek employee collaboration on cost reduction, service improvement and problem solving))~~.

**LAB 3-010 Mediation Settlement Pilot.** The County has encouraged alternative dispute resolution like mediation for many years. There is a proposed update to this concept to also involve grievances through labor disputes. This labor policy is proposed to be updated to be inclusive of grievances and to include a pilot project.

*Potential Issue:* the proposed labor policy includes a two-year pilot project related to handling of disputes and using a cost-benefit analysis. While the pilot project itself may have merit, this proposed labor policy would only be applicable to the County as the employer. Including the language in this proposed labor policy will not in and of itself stand the pilot program up or make it binding on the unions and guilds. To be

enforceable, this pilot program provision will need to be negotiated and formalized into the various labor agreements.

Labor Policy 3-010 is proposed to be amended as follows:

**Mediation and Grievance Settlement Pilot:** The county encourages (~~(, but does not mandate,)~~) alternative dispute resolution, such as voluntary mediation, as preferable to an adversarial process or litigation for resolving conflicts and grievance. Additionally, upon request by either organized labor or management, the parties will mediate a matter, preferably through King County Office of Alternative Dispute Resolution (recognizing the ADR office is not appropriate for all matters), subject to the relevant provisions of the governing collective bargaining agreement.

For two years following adoption of these policies, any grievance brought by organized labor regarding a compensation item will undergo a cost/benefit analysis to determine the most resource-efficient resolution and absent a legal impediment, the most resource-efficient resolution will be given consideration in the county's efforts to settle grievances in the most cost-effective manner possible.

The term "resource" will be construed broadly to include not only direct financial expenditures, including but not limited to compensation demand of the grievant, costs associated with arbitration, including the arbiter, consultants and arbitration witnesses, and the total cost-estimate for all county employee staff hours expended during, the grievance process, including but not limited to those of the office of labor relations, the prosecuting attorney's office and the affected department, but also the potential future cost to the county of establishing a precedent that encourages future grievances on the same or related topics.

The parties shall assess the efficacy of the pilot after two years based on whether the additional work of doing an assessment added value to the grievance settlement process from the perspective of organized labor and management. If all parties (that is, the executive, council and organized labor) agree that the pilot added value, the parties shall consider making it permanent.

**LAB3-020 Binding Interest Arbitration.** The binding interest arbitration policy is proposed to be updated to read simply that binding interest arbitration should only be extended to employees who are guaranteed that right under state law. A prior trial project is proposed to be eliminated. The revised policy would read as follows:

**Binding Interest Arbitration:** It shall be the policy of King County that binding interest arbitration only be extended to those represented groups of county employees who are eligible for interest arbitration under state law(~~(, except as otherwise provided in county labor policy.~~

~~*On a trial basis and subject to the following conditions, the county council supports allowing the county's bargaining agents to negotiate binding interest arbitration for court protection officers (operationally referred to as "King County Sheriff Marshals"). It is understood that such a concession by the county would be made in exchange for a corresponding concession or concessions by the court protection officers in collective bargaining. Any interest arbitration provision*~~

~~in a collective bargaining agreement with court protection officers should, by its explicit terms, provide that neither the issue of whether to include an interest arbitration provision in a subsequent collective bargaining agreement nor the terms of any such provision are subject to interest arbitration. The county's bargaining agents may, in their discretion, negotiate the inclusion in any interest arbitration provision of terms such as: (1) whether interest arbitration must be preceded by mediation; (2) the process for selecting an arbitrator; (3) the scope of the issues to be arbitrated; (4) the form of interest arbitration (for example, conventional vs. "final offer"); (5) the criteria to be used by the arbitrator in reaching a decision, such as the designation of comparable jurisdictions; and (6) the procedures to be followed in arbitration. This paragraph is effective only until one interest arbitration with court protection officers has been conducted, whereupon the council shall review the facts and circumstances of the arbitration. The county's bargaining agents should attempt to negotiate a requirement that the arbitrator consider the county's obligation to protect and advance the interests and welfare of county residents and the financial ability of the county to do so)).~~

**LAB4-010 Timeliness of Organized Labor Contract Negotiations.** The timeliness of contract negotiations has long been an issue confronting the county. While the ultimate duration of time during a negotiation is often a result of the complexity of the issues, the Council has expressed an interest in reducing the amount of time to complete negotiations and then also reduce the amount of time between tentative agreement and ultimate Council approve of the agreements. Labor policy 4-010 is proposed to be amended as follows:

**Timeliness of Organized Labor Contract Negotiations:** It shall be the goal of King County to complete negotiations with its collective bargaining units prior to the expiration of any agreement ~~((in effect subject to the concurrence of the Union as party to the agreement and individual circumstances pertaining to any given contract))~~, recognizing that the implementation of changes to benefits and/or wages requires significant lead time, and in an effort to avoid retroactive payments, and the associated costs and administrative burden. In order to implement this policy, and if both parties agree, the Executive shall work with the county's collective bargaining units to make whatever scheduling adjustments may be necessary to allow sufficient time for negotiations to commence, be concluded and for mutual approval to be secured.

**LAB3-010 Compensation.** There are two proposed changes to the compensation labor policy. Section B in this labor policy has a number of factors the Executive should consider when determining whether or not to make changes to compensation. There are two proposed changes. The first, in subsection B.v adds that pay should be examined for discrepancies in pay based upon race, gender or other protective class. The second, in subsection B.vi adds that pay should be examined for job classes that historically underrepresented or underserved communities. There is also a change propose for subsection B.ii that would add a criteria that the Executive examine the impacts to service based on wage changes.

The entirety of proposed changes to LAB3-010 related to compensation would read as follows:

**Compensation:**

A. Changes in wages shall be fiscally responsible, fair, and reasonable with respect to total compensation.

B. When determining whether a change in wages is warranted, and when negotiating the amount of any such change, the executive shall consider the following factors: i. economic conditions, including inflation or deflation, in the region,

county,

ii. impacts to services based on revenue and cost forecast((€)) for the

iii. comparable market compensation, ((and))

iv. the status of county reserves,

v. the wage gap between similarly employed employees irrespective of of race, gender or other protected class consistent with the law, and

vi. external wage disparities that exist for occupations in the local market historically held by underrepresented and underserved communities.

C. If a cost of living adjustment is determined to be warranted, it shall be linked to a specific Bureau of Labor Statistics Index, such as up to 90 percent of the calculated average of the 12 monthly percentage changes of the All-Cities CPI-W between July of the previous year and June of the current year.

D. The executive shall bargain in good faith with the goal of including provisions in collective bargaining agreements that allow bargaining to be reopened on total compensation and other contract terms when significant shifts in economic and fiscal conditions occur during the term of the proposed agreement, as defined by mutually-agreed upon objective measures, such as a swing in the King County unemployment rate of more than 2 percentage points compared with the previous year or a deviation of more than 7 percent, net of inflation from the previous year in actual sales tax revenues collected.

**LAB5-020 Overtime.** The labor policy related to overtime is proposed to be changed to incorporate a technical change that overtime policy be administered in accordance with the fair labor standards act. The entirety to the change to LAB5-020 would read as follows:

**Overtime:** Subject to the county's collective bargaining obligations and applicable law, the county executive shall pursue as a goal in collective bargaining an agreement that is supportive of the following:

A. Overtime should be required or permitted only when necessary-for example, for continuity or cost-effectiveness of operations-and not as a substitute for efficient scheduling or adequate staffing.

B. In assigning and administering overtime, managers should continue to give appropriate consideration to the health and safety of employees and the public, the quality and productivity of services, and the need to maintain an appropriate staffing level for operations.

C. To reduce unemployment, the county should hire or recall employees in preference to paying current employees to work overtime if doing so is cost-effective, taking into consideration all applicable costs, such as training, benefits



and equipment.

D. Job classifications that are not required by law to be compensated on an hourly basis should be compensated on a salaried basis whenever possible.

E. Vacations, compensatory time off and other forms of scheduled leave should be coordinated to minimize the use of overtime to cover for employees who are on leave.

F. Administering overtime pay in accordance with the Fair Labor Standards Act.

## **INVITED**

- Megan Pederson, Director Office of Labor Relations
- Whitney Abrams, Chief People Officer
- Jay Osborne, Director of Human Resources
- Dustin Frederick, PSEU
- Michael Gonzales, Teamsters 174
- Denise Cobden, PROTEC17
- Suzette Dickerson, Council 2
- Maria Williams, Teamsters 117
- Patrick Brady, ATU 587

## **ATTACHMENTS**

1. Proposed Labor Policy LP2020-004

