



King County

Metropolitan King County Council Government Accountability and Oversight Committee

STAFF REPORT

Agenda Item No.:	10	Date:	27 August 2013
Proposed No.:	2013-0355	Prepared by:	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

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, ____.

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

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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.

Table prepared by council staff

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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>PROBATIONARY PERIOD</p> <ul style="list-style-type: none"> ➤ Probationary period is required for career service employees who are newly hired; reemployed; promoted; transferred; and demoted ➤ Career service status obtained upon successful completion of probation ➤ 6-12 months and may not be reduced or waived ➤ If unsuccessful, may be terminated as at will; or, restoration to former position which is optional at discretion of hiring manager 	<ul style="list-style-type: none"> ➤ 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) ➤ No probationary period for laterally transferred employee (but they may be required to serve a trial service period) ➤ Probationary period discretionary for demoted employee ➤ Demoted employees not eligible for step increase upon successful completion of probation
<p>TRIAL SERVICE PERIOD</p> <p>No provisions in the code for trial service period</p>	<ul style="list-style-type: none"> ➤ Only for employees who laterally transfer in same classification or pay range without a break in service ➤ Career service status retained ➤ 6-12 months and may be reduced or waived ➤ Must successfully complete ➤ 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

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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FISCAL NOTE

Ordinance/Motion No. 00-	
Title: Trial Service Period and Probationary Period	
Affected Agency and/or Agencies:	All
Note Prepared By:	Kerry Delaney Sickle
Note Reviewed By:	T.J. Stutman

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue to:

Fund/Agency	Fund Code	Revenue Source	Current Year	1st Year	2nd Year	3rd Year
TOTAL						

Expenditures from:

Fund/Agency	Fund Code	Department	Current Year	1st Year	2nd Year	3rd Year
			0	0	0	0
TOTAL						

Expenditures by Categories

	Current Year	1st Year	2nd Year	3rd Year
	0	0	0	0
TOTAL	0	0	0	0

Assumptions: