



King County

Metropolitan King County Council Budget and Fiscal Management Committee

STAFF REPORT

Agenda Item:	26	Name:	Greg Doss
Proposed No.:	2016-0399	Date:	October 25-27, 2016

SUBJECT

An ordinance that authorizes certain county departments and agencies to absorb transaction processing costs for electronic payments.

SUMMARY

State Law authorizes counties to accept various forms of electronic payments and requires that customers bear the costs of electronic payments unless the county legislative authority determines it is in the best interests of the county to absorb those costs¹.

The county departments listed in Section 8 of the proposed ordinance are currently absorbing the costs of electronic payment (e-payment) fees, or would soon be absorbing the costs of an e-payment fee that is proposed as part of the Executive's 2017-18 Proposed Budget. This legislation would provide the necessary legal affirmation of the County's intent to absorb these costs. The new and existing fees accrue across several County funds and are budgeted in various departments throughout the Executive's 2017-18 Proposed Budget.

The ordinance also makes the necessary changes to the King County Code to be in alignment with the amendments to RCW 36.29.190 that took effect June 28, 2016. These amendments prohibit a government from charging e-payment fees that exceed the direct costs that would be incurred by the County to accept a specific form of electronic payment. This change means that County departments and agencies would not be permitted to charge additional "convenience" costs.

BACKGROUND

The Executive has indicated that there is now significant interest by both customers and departments to use electronic payments for the majority of financial transactions within the County. To this end, the Finance and Business Operations Division (FBOD) updated an Executive Policy regarding the acceptance of electronic payments which became effective March 3, 2016. The policy reiterates that any department or agency proposing

¹ RCW 36.29.190

to absorb costs associated with electronic payment fees must receive Council approval. The policy also describes criteria for evaluating whether a department or agency should be allowed to absorb costs associated with electronic payment processing fees. One or more of these criteria were applied to the various electronic payment applications listed in Section 8.

State and County statutes regarding electronic payment fees:

Electronic payment fees are governed by a combination of Washington State laws and King County Code. State law draws a distinction between fees for non-tax and tax electronic payments. For the myriad of non-tax payments, RCW 36.29.190 specifically indicates “a payer using electronic payment must pay the transaction processing cost” for an e-payment in an amount determined by the treasurer unless the County legislative authority finds that it is in the best interest of the County not to charge the payer the cost of processing the transaction for a specific category of nontax payment. For tax related payments, which include the payment of real and personal property taxes, State law mandates that counties pass on the costs of transactions to the taxpayer. Counties cannot absorb fees for the payment of taxes².

KCC 4A.601.030 also requires that transaction fees generally be passed on to customers and that agencies wishing to absorb fees must receive the approval of the Council. In such cases, the agency must submit to the Budget Office, FBOD and the Council an Electronic Fee Business Case that describes any combination of the service or services and product or products for which the electronic payment option is to be offered, assesses the benefits of absorbing the transaction costs associated with these payments, projects the annual fiscal impact of absorbing transaction costs over a three-year horizon, documents legal or contractual obligations that would be affected by acceptance of electronic payments and adequately cites or includes as attachments any documentation supporting its business analysis. The code encourages the Executive to submit these business analyses as part of the annual budget.

The 2016 Washington State legislature amended RCW 36.29.190 and if the customer must pay the costs for processing electronic payments, they may not exceed the direct costs that would be incurred by the County to accept a specific form of electronic payment. This change means that County departments and agencies would not be permitted to charge additional “convenience” costs or “surcharges” to customers that exceeded the actual transaction processing costs of an electronic payment, unless authorized by a different state law. This proposed ordinance amends the County Code to ensure compliance with state law.

Council Proviso:

During the 2015/2016 Biennial Budget discussions, Councilmembers expressed interest in making sure that the e-payment components of several disparate technology projects were being coordinated with FBOD’s e-payment process. The members were specifically interested in ensuring that the County achieved economies of scale by using, when possible, the same back-end vendor /payment processor. Council

² There are additional state statutes that include provisions for certain specific fees, such as fees involving court related costs, vehicle operators, and vehicle and vessel certificates, and health records.

members also expressed interest in making sure that electronic payment charges were not unreasonable relative to other retail transactions and that the County achieves cost recovery for e-payment fees when and where it is appropriate. To this end, the Council adopted a proviso in the 2015/2016 Biennial Budget Ordinance (17941, Section 117, Proviso P1).

In October 2015, The Council heard in response to the proviso Motion 2015-0243, which was accompanied by an Executive report that provided updated policies and procedures for fees involving electronic payments. The Council chose to not act on the proviso pending review of the attached ordinance 2016-0399.

Analysis:

King County Code requires the Finance Director to approve the use of transaction fees for electronic payments and the methodology used in calculating it. Like an agency's request to absorb e-payment fees, this requirement is also managed by requiring the submission of an Electronic Payments Business Case assessment by the agency requesting to implement new or substantially changed electronic payments systems for customers. The Executive indicates that no changes to this requirement are planned and that FBOD will continue to look for ways to strengthen it in the future. Further, FBOD will retain lead responsibility for the oversight and management of the Electronic Payment Fee Policies and Procedures.

The Executive reports that the agencies below are currently absorbing or will soon absorb the cost of transaction fees for electronic payments. These agencies are reflected in Section 8 of the Proposed Ordinance:

- A. The Department of Executive Services, Records and Licensing Services Division, for payments for animal shelter, care and control and pet licensing purposes, including all fees, donations and penalties in K.C.C. 11.04.035;
- B. District Court for court-related fees, fines and other charges;
- C. The Department of Natural Resources and Parks, Parks and Recreation Division, for park services and facilities usage provided to the public (equipment and facility rentals, class registration);
- D. The Department of Natural Resources and Parks, Wastewater Treatment Division, for sewage capacity charges (wastewater capacity charges);
- E. The Department of Natural Resources and Parks, Solid Waste Division, for municipal solid waste fees (trash disposal fees);
- F. The Department of Public Health for public health environmental permits and community health clinic fees (clinic fees and permits);
- G. The Department of Permitting and Environmental Review for permitting and environmental review permit fees;
- H. The Department of Information Technology for geographic information system course fees; and
- I. The department of transportation, transit division, and the water taxi division, for public transportation fares (bus, marine and rail services).

The Executive has provided a more complete listing of transaction fees, and total revenue collected, by agency in (**Attachment 2**).

Recommended fee and cost recovery principles for electronic payments; and Recommended policies for determining the need for and granting exceptions to electronic fee payment policies:

Cost Recovery Principles and Framework:

The Executive has adopted an Electronic Payments Management Plan and has indicated that it identifies business practices and a fee absorption framework that will create less confusion for customers. The principles require agencies to use a Service Fee pricing structure with the payment channel that best meets consumer needs. A full list of the principles can be found in the Electronic Payments Management Plan (**Attachment 3**).

Electronic Payment Fee Policy – Granting Exceptions

Consistent with current County Code and policies, an agency wishing to absorb fees must make a case for this approach as part of a business case analysis. The Executive's policies and procedures include the following evaluation criteria:

1. The agency has average transaction amounts that are very low and adding on a fee would likely be a major barrier for customer adoption.
2. The agency can demonstrate strong customer adoption rates by absorbing fees, with increasing payments generating revenues or reducing administrative costs that more than offset the cost of absorbing fees.
3. The agency has a pricing structure for its products/services and the prices will be set to recover the costs of an electronic transaction.
4. The agency is influenced strongly by Equity and Social Justice Considerations due to the population demographic that the agency predominantly serves.
5. An agency, with appropriate approvals, joins a regional, cooperative, State or Federal Business Application which requires the absorption of Service Fees for electronic payments.
6. The agency has a Council adopted budget that includes the cost of absorbing fees.

ATTACHMENTS

1. Proposed Ordinance 2016-0399
2. King County Acceptance of Electronic Payments
3. Electronic Payments Management Plan

INVITED

1. Dwight Dively, Director, Office of Performance, Strategy and Budget
2. Ken Guy, Director, Finance & Business Operations