



Legislation Text

File #: 2011-0388, **Version:** 2

AN ORDINANCE relating to personnel policies, providing continuity of benefits and leave accruals, and military leave differential pay for King County employees who enter active duty in the Armed or Uniform Services; and amending Ordinance 12014, Section 26, as amended, and K.C.C. 3.12.260, and Ordinance 9967, Section 2, as amended, and K.C.C. 3.12.262.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. In response to the terrorist attacks on September 11, 2001, the United States initiated military action requiring activation of the Armed Forces and members of the National Guard, including employees of King County.

B. King County employees called to active duty provide a valuable service to King County, the region and the nation by serving their country.

C. In consideration of the service King County employees provide to King County, the region, and the nation, the King County executive signed Executive Order No. PER 18-4 (AEO) on October 5, 2001, effective September 25, 2001. The executive order provided for (1) continuation of medical, dental, vision, and life insurance benefits to eligible employees and their families if the employees were ordered to or volunteered for active duty or active duty training in any branch of the Armed Forces, the National Guard, or the United States Public Health Service; (2) a paid leave of absence from their county position at their regular rate of pay, less the amount of any military pay to which they were entitled, for employees ordered to active duty if they were members of the reserves of any branch of the Armed Forces or the National Guard, on or before September 11,

2001; and (3) leave without pay for employees who enlisted in the Armed Forces or the Armed Forces Reserves after September 11, 2011.

D. Also in consideration of public employee service in the military, state law, RCW 38.40.060, provides for twenty-one days of paid military leave of absence from work per year for public employees who are members of the Armed Forces, the National Guard, or the Armed Forces Reserves, so that they can attend required military duty, training, or drills.

E. The federal Uniform Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. Chapter 43, was enacted to minimize the disruption to the lives of persons serving in the military and to provide guidance for employers. USERRA largely regulates the reemployment of service members and affords protection to them against discrimination related to their service. While USERRA does not require an employer to provide military leave differential pay, where an employer adopts a policy of providing the pay, USERRA protects the employee's rights under that policy.

F. Since the time that the 2001 Executive Order was signed, the United States has become engaged in multiple military conflicts, and numerous county employees have volunteered for or have been ordered to active duty, including active military training duty.

G. It is the current policy of King County to support to the extent possible those employees in the Armed Forces, including the National Guard, and the United States Public Health Service Commissioned Corps who volunteer for or are ordered to active duty. On May 24, 2010, the King County council issued a proclamation pledging continued support for King County employees who serve in the National Guard and the Armed Forces Reserves.

H. In consideration for the service of King County employees while serving in the military, providing continuity of benefits and compensation for county employees who volunteer for or are called to active duty in the Armed Forces or the United States Public Health Service Commissioned Corps is consistent with the King County Strategic Plan by promoting King County as an employer of choice and furthering the goal of

developing and empowering its employees.

SECTION 2. Ordinance 12014, Section 26, as amended, and K.C.C. 3.12.260 are each hereby amended to read as follows:

A. A leave of absence ~~((for active military duty or active military training duty shall be granted to eligible employees in accordance with applicable provisions of state and/or federal law; provided, that a request for such leave shall be submitted to the appointing authority in writing by the employee and accompanied by a validated copy of military orders ordering such active duty or active training duty))~~ shall be granted, in accordance with applicable provisions of state or federal law, to any employee who voluntarily or upon demand by the Washington state or the United States government leaves his or her position with the county, either to determine his or her physical fitness to enter or to actually enter active duty or training in the United States Armed Forces, including without limitation the Washington National Guard, the United States Air National Guard, the United States Army National Guard, and the United States Coast Guard, or the United States Public Health Service Commissioned Corps. The leave of absence shall continue until the conclusion of the employee's active duty service.

B. Employees are required to give their employing county agency advance notice of the need for military leave, preferably in writing, though oral notification is sufficient. Notice should be provided as soon as is reasonable under the circumstances, and, if feasible to do so, service members should provide thirty days advance notice; however, advance notice is not required if prevented by military necessity or otherwise impossible or unreasonable under the circumstances, to the extent provided in federal law and regulations. Written notice should be accompanied by a validated copy of the military orders ordering the active duty or active training duty. Oral notice should be supplemented as soon as is reasonable with a validated copy of the military orders.

C. An employee who (1) is eligible for benefits under K.C.C. 3.12.040, (2) volunteers or is ordered to serve in the Armed Forces or the United States Public Health Service Commissioned Corps, or to receive

associated training that requires a leave of absence from the employee's county position, and (3) has exhausted annual military leave provided pursuant to state and federal law or a collective bargaining agreement, shall be granted a paid leave of absence from the employee's county position at the employee's regular base rate of pay less the amount of military pay to which the employee is entitled. The paid leave of absence shall continue until the conclusion of the employee's active duty service in the Armed Forces or the United States Public Health Service Commissioned Corps. This section applies only to employees who volunteer or are ordered to serve in the Armed Forces or the United States Public Health Service Commissioned Corps no later than December 31, 2012, or whatever later date the Council might designate by ordinance.

D. Receipt of the pay provided for in the preceding section is contingent upon the employee providing the employing county agency with supporting documentation verifying (1) the employee's rank, (2) that the employee is on active duty, and (3) the amount of military pay to which the employee is entitled.

SECTION 3. Ordinance 9967 Section 2, as amended, and K.C.C. 3.12.262 are each hereby amended to read as follows:

A. ~~((Any employee eligible for leave and insured benefits who upon demand by the United States Government vacates his or her position with the county either to determine his or her physical fitness to enter, or to actually enter upon active duty or training in the Washington National Guard, the United States Armed Services, or the United States Public Health Service shall receive medical, dental and life benefits for the time period commencing with the beginning of an employee's military leave of absence and continuing until active duty has been completed. These employees shall continue to receive the medical, dental and life benefits that they received prior to separation from county employment.))~~ An employee who is eligible for benefits under K.C.C. 3.12.040 and who volunteers or is ordered to serve in the Armed Forces or the United States Public Health Service Commissioned Corps, or to receive associated training that requires a leave of absence from the employee's county position, shall continue to receive medical, dental, vision, and life insurance benefits, and shall continue to accrue vacation and sick leave, until the conclusion of the employee's active duty service in

the Armed Forces or the United States Public Health Service Commissioned Corps.

B. Receipt of medical, dental, vision, and life insurance benefits and leave accruals is contingent upon the employee providing his or her employing county agency with supporting documentation verifying that the employee is on active duty. The documentation shall be provided by the employee upon commencing military leave, annually in September and upon leaving military service.

SECTION 4. This ordinance authorizes and ratifies prior acts of the executive in granting special additional military leave and benefits after September 11, 2001, and provides specific legislative authorization for such leave and benefits.

SECTION 5. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 6. This ordinance is not retroactive, except to the extent provided in Section 4.