



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**April 9, 2013**

**Motion 13886**

**Proposed No.** 2013-0162.1

**Sponsors** Patterson, Hague, Dembowski and  
Gossett

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



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Larry Gossett, Chair

ATTEST:



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Anne Noris, Clerk of the Council

**Attachments:** None