

2/1/78

Introduced by: Tracy J. Owen
77-1072

ORDINANCE NO. 3581

AN ORDINANCE establishing procedures for the executive branch and the prosecuting attorney regarding the processing of claims and lawsuits against the county; establishing a risk management committee; defining permissible uses of the insurance fund; defining the duties of the risk manager; providing for the recovery of losses to the county; providing for the defense of county officers and employees acting within the scope of their official duties; repealing Ordinance 14, Ordinance 795, Section 1, Ordinance 1419, Sections 1 and 2, Ordinance 3219, Sections 1 through 3, and KCC 4.12.010 through 4.12.030.

PREAMBLE:

King County will apply to risks of accidental loss the risk management process which includes a systematic and continuous identification of loss exposures, the analysis of these exposures in terms of frequency and severity probabilities, the application of sound risk control procedures and the financing of risk consistent with financial resources. King County is to be protected against accidental loss or losses which, in the aggregate during any financial period, would significantly affect personnel, property, the budget or the ability of King County to continue to fulfill its responsibility to taxpayers and the public.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Purpose. The purpose of this ordinance is to establish risk management policies for the county and to define procedures for the executive and the prosecuting attorney regarding the processing and disposition of claims and claims lawsuits against the county.

SECTION 2. Definitions. As used in this ordinance, the following words and terms shall have the meanings set forth herein:

a. CAO shall mean the county administrative officer, department of executive administration, or his designee;

b. CHIEF CIVIL DEPUTY shall mean the chief deputy of the civil division, office of the king county prosecutor, or his designee;

c. CIVIL DIVISION shall mean the civil division of the office of the King County prosecutor;

d. CLAIMS LAWSUIT shall mean any lawsuit naming the county,

2/1/78

1 and/or its officers or employees while acting within the scope
2 of their official duties, as defendant(s), which lawsuit alleges
3 a tort cause of action and asks for money damages;

4 e. RISK MANAGEMENT shall mean a coordinated and continuous
5 management process to identify potential loss exposures, to
6 apply reasonable and effective risk controls and to insure that
7 the financial integrity of King County is not impaired after a
8 loss.

9 f. COMMITTEE shall mean the risk management committee
10 established by Section 5 of this ordinance;

11 g. COUNCIL shall mean the King County Council, as defined
12 by Article 2 of the King County Charter;

13 h. EXECUTIVE shall mean the King County Executive, as
14 defined by Article 3 of the King County Charter, or his
15 designee;

16 i. RM shall mean the risk manager, or his designee;

17 j. SAFETY MANAGER shall mean the manager of the office
18 of safety and workmen's compensation administration.

19 SECTION 3. Insurance Fund.

20 a. Creation. There is hereby created an Intragovernmental
21 Service Fund to be known as the Insurance Fund.

22 b. Permissible Uses. Permissible uses of the insurance
23 fund shall be limited to the following:

24 (1) Payment of claims and related costs;

25 (2) Payment of negotiated settlements and related costs;

26 (3) Payment of judgments and related costs;

27 (4) Payment of the costs of litigation, including but not
28 limited to attorney's fees and the costs of discovery and
29 witnesses;

30 (5) Payment of insurance premiums and related costs.
31
32
33

2/1/78

1 (4) The RM shall be responsible for the purchasing and
2 administration of all such insurance policies, funded self-
3 insurance programs, and related services as are consistent with
4 good risk management policy and the needs of the county. In
5 purchasing risk management policies, the RM shall obtain the
6 advice of the committee and the approval of the CAO.

7 (5) The RM shall advise all county departments, divisions,
8 and other county agencies regarding risk management and reduction
9 of risk and exposure to loss, including programs and precautions
10 for safety to reduce hazards to the public that may exist in
11 county facilities and operations. The RM shall cooperate with
12 the safety manager in areas where the safety of employees and
13 safety of the public requires coordinated programs. The RM
14 shall also be responsible for answering all insurance or funded
15 self-insurance coverage questions. Further, the RM shall be
16 responsible for the evaluation of current and future county/
17 departmental insurance coverage programs and have the authority
18 to make recommendations where such action is in the best
19 interests of the county.

20 (6) The RM shall have the power, subject to budget
21 authorizations, to contract for such outside assistance and per-
22 form such other acts as are necessary to carry out his responsi-
23 bilities in an expeditious manner.

24 (7) The RM shall have the responsibility to design
25 insurance programs, recommend the amount of reserves to be
26 established, determine and recommend the appropriate retention
27 levels.

28 (8) The RM shall have responsibility for risk identifica-
29 tion, control, and reduction; including authority to make
30 recommendations to all county departments, divisions and agencies
31 regarding safety of the public using county facilities or services
32 The RM shall seek the advice of the safety manager and
33 cooperate and share information with the employee safety

2/1/78

1 program but shall not have responsibility for employee
2 safety.

3 c. Duties of RM Relating to Claims.

4 (1) The RM shall have the power to employ the services of
5 such claims specialists or other parties as are necessary to
6 process claims in an equitable and expeditious manner.

7 (2) The RM shall cooperate with the civil division in
8 coordinating information pertinent to claims and claims lawsuits
9 against the county.

10 (3) For motor vehicle property damage claims of five
11 thousand dollars or less, and for all other claims of two
12 thousand dollars or less, the RM shall make final disposition.

13 (4) For motor vehicle property damage claims of greater
14 than five thousand dollars, and for all other claims of greater
15 than two thousand dollars, the RM shall have the authority to
16 deny the claim. If the RM determines that such a claim should
17 be paid, then he shall recommend payment of the claim to the
18 committee.

19 (5) The RM shall review all claims over one hundred fifty
20 dollars with the civil division and shall consider the advice
21 of the civil division when taking action on a claim.

22 (6) The RM shall maintain complete histories of all claims
23 and claims litigation, insured or funded self-insurance, loss
24 histories, and investigations of claims and incident reports.
25 The RM shall be responsible to insure that complete files are
26 maintained of all claims entered against the county and all
27 incidents reported to the office of risk management sufficient
28 to document at least a five year claims history.

29 d. Reports. The RM on or before January 20 of the sub-
30 sequent year shall report to the Council the total number and
31 amount of all claims filed against the county and the number and
32 amounts of all claims paid by the county during the preceding
33

2/1/78

1 calendar year; including totals of information required in the
2 quarterly report of the insurance fund. The RM shall make an
3 annual report to the committee and the council regarding
4 insurance coverage and the level of retained risk and monthly
5 report to the committee on the status of all claims and the level
6 of reserves.

7 SECTION 5. Risk Management Committee.

8 a. Creation and Composition. There is hereby created a
9 risk management committee to be composed of the following in-
10 dividuals, or their designees: RM, safety manager, chief civil
11 deputy, and manager of the budget division. The RM shall chair
12 the committee. The safety manager shall be a nonvoting member
13 of the committee and shall serve to inform and advise the
14 committee on safety matters and coordinate employee safety
15 programs with risk identification and control functions of the
16 committee.

17 b. Duties of Committee.

18 (1) The committee shall make recommendations to the council
19 regarding risk management policy and shall cause such policy to
20 be established and kept current.

21 (2) The committee shall have the power to appoint insurance
22 brokers.

23 (3) The committee shall render advice to the RM on matters
24 concerning the purchase of insurance policies and advise on the
25 design of insurance and funded self-insurance programs.

26 (4) The committee shall review any recommendations of the
27 RM for payment of claims greater than two thousand dollars (five
28 thousand dollars for motor vehicle damage claims), and shall
29 recommend disposition of such claims to the final payment author-
30 ity, as designated by Section 8 of this ordinance.
31
32
33

2/1/78

1 (5) The committee shall meet on a regular basis, at least
2 once a month. Special meetings may be called by the chairman
3 and may be requested by any member of the committee.

4 (6) The committee shall submit an annual report to the
5 Council summarizing decisions made by the committee during the
6 year and other pertinent matters.

7 (7) The committee shall review risk identification,
8 prevention, and control concerns to advise the RM in matters
9 related to the safety of the public in county facilities and
10 operations. The RM and safety manager should, as members of the
11 committee, coordinate safety programs and share information
12 related to risk in each of their respective areas of concern.

13 SECTION 6. Role of Prosecuting Attorney.

14 a. Legal Advisor of County. This section is consistent
15 with and implements in part state law, RCW 36.27.020, which
16 makes the prosecuting attorney the legal advisor of the county.

17 b. Duties.

18 (1) The prosecuting attorney, in accordance with state
19 law, RCW 36.27.020, shall be primarily responsible for the
20 defense of all claims lawsuits against the county, or against
21 county officials or employees acting within the scope of their
22 official county duties, except where insurance or service contracts
23 provide for defense. The prosecuting attorney may contract with
24 outside counsel for legal services where appropriate, such as in
25 the defense of complex claims lawsuits.

26 (2) The civil division shall provide legal advice to the
27 RM regarding the disposition of all claims against the county.

28 (3) The civil division shall keep the RM advised of the
29 current status and progress of all claims litigation.

30 (4) The civil division shall direct any recommendations
31 for settlement of claims lawsuits to the authority designated
32 by Section 9 of this ordinance as having final settlement
33 authority. In recommending settlement of claims lawsuits, the

2/1/78

3584

1 civil division shall consult, in conjunction with the risk
2 management office, with the department, division or other
3 county agency most involved with the litigation and/or named
4 as a party to the lawsuit.

5 (5) In reviewing contract clauses involving indemnity,
6 hold harmless or insurance matters, the civil division shall
7 seek the advice of the RM.

8 (6) The civil division shall resolve any and all questions
9 relating to the following issues:

10 (a) Whether a county official or employee acted within the
11 scope of his official county duties; and

12 (b) Whether, for purposes of the issues raised by a
13 particular claims lawsuit, a person is in fact a county official
14 or employee.

15 SECTION 7. Duties of County Agencies.

16 a. Cooperation. All county departments, divisions and
17 other county agencies are hereby directed to cooperate fully with
18 the RM and civil division in all matters including investigation
19 involving disposition of claims and the settlement and defense
20 of claims lawsuits. All departments, divisions and other county
21 agencies are hereby directed to provide such information as
22 requested and to otherwise assist the RM and civil division in
23 the defense of claims lawsuits. When deemed necessary by the
24 chief civil deputy or deputy prosecutor assigned to the case,
25 such assistance may include, but not be limited to, the
26 providing of testimony and exhibits for use in litigation.
27 Any request for information by the office of risk management
28 shall be considered a request by the civil division.

29 b. Forbidden Acts. Except as specifically directed by
30 the RM or civil division, no county department, division or other
31 county agency, and no county official or employee, acting
32 individually or collectively, may engage in the following acts:

2/1/78

1 (1) Negotiate or otherwise affect the settlement of a
2 claim or claims lawsuit against the county;

3 (2) Make an admission of liability involving a claim
4 or claims lawsuit against the county;

5 (3) Discuss with persons who are not county employees
6 incidents which could reasonably lead to claims or claims
7 lawsuits against the county; or

8 (4) The CAO through the RM shall cause to be prepared
9 such information as is necessary and the implementation of
10 such methods of dissemination, as are required, to inform
11 county employees of their responsibilities in relation to
12 good risk management policy.

13 c. Reporting Accidents. County departments, divisions
14 and other county agencies shall report immediately to the RM
15 the circumstances of any accident involving county vehicles
16 or other county property.

17 SECTION 8. Procedure for Handling Claims.

18 a. Place for Filing. The place for filing claims against
19 the county shall be the office of the clerk of the council,
20 in accordance with the state law, RCW 36.45.

21 b. Period and Requisites. All claims against the county
22 shall be filed within the period specified by state law, RCW
23 36.45.010, from the time damage occurred or injury was sus-
24 tained. The requisites of the claim shall comply with state
25 law, RCW 36.45.020.

26 c. Transmittal. The clerk of the council shall initiate
27 the processing of claim by transmitting the original of the
28 claim to the RM within three days of filing. The clerk of the
29 council shall within the same time period send a copy of the
30 letter of transmittal to the civil division.

2/1/78

d. Disposition.

(1) For motor vehicle property damage claims of five thousand dollars or less, and for all other claims of two thousand dollars or less, the RM shall be the final payment authority and shall make final disposition by either granting or denying such claim.

(2) For motor vehicle property damage claims of greater than five thousand dollars, and for all other claims of greater than two thousand dollars, the RM shall either deny the claim or recommend payment of the claim to the committee. If the committee recommends payment of the claim, the Executive shall recommend payment to the Council: Payment shall not be made on individual claims unless approved by the Council; PROVIDED THAT, if the Council, upon receipt of the Executive's recommendation, fails to commence consideration thereof within fifteen working days, the recommendation shall be deemed to have been approved by the Council.

SECTION 9. Procedure for Handling Lawsuits.

a. Service of Process. Service of process on the clerk of the council shall constitute service on the county for purpose of state law, RCW 4.28.080.

b. Service on Officer or Employee. Any county official or employee who is served with a summons and/or complaint in a claims lawsuit against the county or against any of its officials or employees acting in their official capacities shall immediately deliver such process to the clerk of the council.

c. Distribution. The clerk of the council, upon accepting service of the summons and/or complaint shall within one day deliver copies of such process to the civil division. The civil division shall docket the lawsuit and send a copy of the process to the office of risk management for comments.

d. Defense. The prosecuting attorney shall defend, or provide for the defense, of all self-insured claims lawsuits

2/1/78

252

1 against its officials or employees acting within the scope of
2 their official duties.

3 e. Settlement. Final authority for settlement of self-
4 insured lawsuits shall be as follows:

5 (1) The RM, acting with the advice of the civil division,
6 may authorize settlements of five thousand dollars or less
7 for motor vehicle property damage, and two thousand or less
8 for all other damages;

9 (2) The CAO, acting with the advice of the civil division,
10 may authorize settlements of greater than five thousand dollars
11 but less than fifty thousand dollars for motor vehicle property
12 damage, and greater than two thousand dollars but less than
13 fifty thousand dollars for all other damages;

14 (3) The Executive, acting with the advice of the civil
15 division, may authorize settlements of fifty thousand dollars
16 or greater.

17 SECTION 10. Defense of County Officers and Employees.

18 a. Purpose. The purpose of this section is to protect
19 county officers, employees and their marital communities from
20 personal liability for acts committed by such officers and
21 employees within the scope of their official county duties.

22 b. Determinations of Scope and Status. The civil division
23 shall determine any and all questions relating to the following
24 issues:

25 (1) Whether acts performed by a county officer or employee
26 were within the scope of that person's official county duties;
27 and

28 (2) Whether, for purposes of the issues raised by a
29 claims lawsuit, a particular person is in fact a county
30 official or employee.

31 c. Responsibility for Defense. Where a county officer,
32 employee or the marital community of such officer or employee is

2/1/78

1 sued in a claims lawsuit for an act or alleged act falling within
2 the scope of the officer's or employee's official duties, the
3 prosecuting attorney shall be responsible for defense of that
4 person or community in accordance with the procedures specified
5 in Sections 6 and 9 of this ordinance.

6 d. Exclusions. This section shall not apply where a
7 claims lawsuit is covered by insurance or where a claims lawsuit
8 arises out of a county officer's or employee's use of his
9 personal vehicle.

10 e. Possible Conflicts. Where a possible conflict exists
11 between the county and a county official or employee, acting
12 within the scope of his official county' duties, and where both
13 are named as parties in the same claims lawsuit, the prosecuting
14 attorney may decline to represent that person and his marital
15 community. In such cases where the prosecuting attorney declines
16 representation, the county shall be responsible for payment of
17 reasonable attorney's fees and costs incurred in the defense of
18 the County official or employee.

19 SECTION 11. Recovery of Losses.

20 a. Actions for Recovery. The RM and civil division shall
21 be responsible for bringing all actions, including claims and
22 lawsuits, for recovery of losses to the county arising out of
23 the acts of others. Such losses may include property damages or
24 losses which impact on the county as a result of personal
25 injuries to county officers or employees. In addition, the civil
26 division may join the county as a party with any third party in
27 a lawsuit involving recovery of loss to the county.

28 b. Allocation of Recoveries. Any moneys recovered
29 (excluding costs of recovery) by the RM or civil division on
30 account of losses to the county shall be paid to the budget unit
31 or department which has expended funds and/or materials as a re-
32 sult of the loss. Any moneys in excess of those so expended shall
33

2/1/78

1 be transferred to the insurance fund.

2 SECTION 12. Repealer. Ordinance 14, Ordinance 795,
3 Section 1, Ordinance 1419, Sections 1 and 2, Ordinance 3219,
4 Sections 1 through 3, and KCC 4.12.010 through 4.12.030 are
5 each repealed.

6 SECTION 13. Severability. Should any section, sub-
7 section, paragraph, sentence, clause or phrase of this
8 ordinance be declared unconstitutional or invalid for any
9 reason, such decision shall not affect the validity of the
10 remaining portions of this ordinance.

11 INTRODUCED AND READ for the first time this 21st day
12 of November, 1977.

13 PASSED this 6th day of February, 1978.

14 KING COUNTY COUNCIL
15 KING COUNTY, WASHINGTON

16 Burned Stuen
17 Chairman

18 ATTEST:

19 Dorothy M. Owen
20 Deputy Clerk of the Council

21 APPROVED this 16th day of February, 1978.

22 [Signature]
23 King County Executive