



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 23, 2014

Ordinance 17895

Proposed No. 2014-0301.2

Sponsors von Reichbauer

1 AN ORDINANCE requiring notice of a county agency's
2 determination of an overpayment of wages and establishing
3 an adjudicative proceeding for review of an agency's denial
4 of a nonrepresented employee's challenge to an agency's
5 determination of an overpayment of wages; and amending
6 Ordinance 12014, Section 15, as amended, and K.C.C.
7 3.12.120.

8 **STATEMENT OF FACTS:**

- 9 1. State law, in RCW 49.48.200 and 49.48.210, establishes a process for
10 determining the amount of and collection of any overpayment of wages
11 received by a nonrepresented county employee.
- 12 2. The statutory process includes notice requirements and multiple steps
13 to determine the amount, if any, of the overpayment. These steps
14 include: an initial determination and notice to the nonrepresented
15 employee about the overpayment; an opportunity for the employee to
16 challenge the determination; employer review of the challenge and notice
17 to the employee of the employer's decision regarding the challenge; and
18 an opportunity for the employee to obtain review of the employer's
19 decision in an adjudicative proceeding that can be provided for by

20 ordinance. This ordinance establishes an adjudicative proceeding for that
21 review.

22 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

23 SECTION 1. Ordinance 12014, Section 15, as amended, and K.C.C. 3.12.120 are
24 each hereby amended to read as follows:

25 A. Nothing contained in this chapter shall prevent, relieve or otherwise excuse
26 any county officer or employee from the performance of any duty imposed upon him or
27 her by any other law of this county, or from the rendering of service at such times and
28 places as are necessary in order to properly perform the functions of his or her office or
29 employment.

30 B. Except as otherwise provided by ordinance, the official workday shall consist
31 of eight hours of work for all full-time regular and full-time probationary employees.
32 The lunch hour shall not be considered as part of the workday. The official workday for
33 other employees shall be determined by the director. In the case of service reductions
34 resulting in a budgetary furlough, departments may reduce work hours or county offices
35 may be closed.

36 C. Except as otherwise provided by ordinance, the official workweek shall
37 consist of five working days for all full-time regular and full-time probationary
38 employees. The official workweek for other employees shall be determined by the
39 director. In the case of service reductions resulting ~~((in))~~ from a budgetary furlough,
40 county offices may be closed, resulting in the reduction of the workweek.

41 D. The county recognizes that there is an occasional need for an employee to
42 return to work outside his or her normal workday. The personnel guidelines shall contain
43 procedures relating to call duty.

44 E. The county recognizes a responsibility for action regarding on-the-job injuries.
45 The personnel guidelines shall contain procedures relating to on-the-job injury.

46 F. A career service employee who accepts an appointment to an exempt position
47 effective on or after January 1, 1996, and which position and appointment resulted from
48 the reorganization of the executive branch as reflected in the creation of certain new
49 positions contained in Attachment A to Ordinance 12013 shall retain his or her career
50 service status and rights while holding such exempt position and have the restoration
51 rights set forth in this section. This provision is not intended to provide the career service
52 employee with a right to the exempt position. But, such employee, if selected for the
53 exempt position, could be terminated from the position only for just cause.

54 G. A career service employee who accepts a transfer or promotion to an exempt
55 position before December 1, 1979, shall, upon separation from the exempt position, be
56 allowed to re-enter career service at a position comparable in terms of responsibilities and
57 salary or wage (including normal cost-of-living increases) to the career service position
58 formerly held by the employee. A career service employee accepting such a transfer or
59 promotion on or after December 1, 1979, shall have such a right to restoration, but only
60 if:

61 1. The right to restoration is exercised within four calendar years from the
62 effective date of the transfer or promotion to an exempt position; and

63 2.a. the former appointing authority, at the appointing authority's discretion,
64 approves the restoration within the limits of available authorized positions; or

65 b. a different appointing authority, having jurisdiction over comparable
66 authorized positions, and at the different appointing authority's discretion, approves the
67 restoration within the limits of available authorized positions.

68 H. Matters involving wages and hours, including but not limited to minimum
69 wage and overtime compensation, shall be determined in accordance with applicable state
70 and federal laws and regulations.

71 I. Overtime work may be authorized by the department director where necessary
72 to maintain or perform vital county services and shall be paid in accordance with
73 appropriate state and federal law.

74 J. If a county agency or the benefits, payroll and retirement operations section of
75 the finance and business operations division has determined that an overpayment of
76 wages to a nonrepresented employee has occurred, the agency or the benefits, payroll and
77 retirement operations section of the finance and business operations division shall
78 provide written notice to the nonrepresented employee consistent with state law.

79 K. The following adjudicative process is available, subject to subsection K.1.
80 though 12. of this section, after a decision regarding a nonrepresented employee's
81 challenge to an initial determination of an overpayment of wages:

82 1. A nonrepresented county employee who is dissatisfied with the decision
83 regarding the employee's challenge to the overpayment determination must submit to the
84 manager of the benefits, payroll and retirement operations section of the finance and

85 business operations division a written request for an adjudicative proceeding consistent
86 with RCW 49.48.210;

87 2. The request must comply with RCW 49.48.210;

88 3. A county agency's determination concerning an overpayment to a
89 nonrepresented employee shall be final if the nonrepresented employee fails to request an
90 adjudicative proceeding in the manner prescribed by RCW 49.48.210;

91 4. The manager of benefits, payroll and retirement operations section of the
92 finance and business operations division shall log the date and time of the request and
93 forward the request to the the agency and to the manager of the finance and business
94 operations division, who shall be responsible for the adjudicative proceeding;

95 5. Within forty-five business days of receipt of the nonrepresented employee's
96 written request for an adjudicative hearing, the manager of the finance and business
97 operations division shall conduct an adjudicative hearing to review the decision regarding
98 the challenge to the overpayment determination and to determine the final amount of the
99 overpayment, if any, received by the nonrepresented employee. However, the manager
100 of the finance and business operations division may, under extenuating circumstances,
101 schedule the adjudicative hearing at a time that is more than forty-five days after the
102 receipt of the request for a hearing. The manager of the finance and business operations
103 division shall set the time and place of the hearing and give not less than fifteen business
104 days advance written notice to all parties; notice to the nonrepresented employee shall be
105 by certified mail, return receipt requested;

106 6. At the hearing, evidence may be presented by the nonrepresented employee,
107 the agency and the benefits, payroll and retirement operations section of the finance and

108 business operations division, but any documents must be provided to the other parties at
109 least five business days before the hearing;

110 7. If the nonrepresented employee fails to attend or participate in the hearing,
111 upon a showing of valid service, the manager of the finance and business operations
112 division may enter an administrative order declaring the amount claimed, in the notice
113 sent to the employee after the employer's review of the employee's challenge to the
114 overpayment determination, to be assessed against the employee and subject to collection
115 action by the employer as provided in RCW 49.48.200;

116 8. Within thirty business days after the hearing, the manager of the finance and
117 business operations division shall issue an administrative order that determines the final
118 amount of the overpayment, if any, received by the nonrepresented employee. The
119 manager of the finance and business operations division shall send a copy of the
120 administrative order, by certified mail, return receipt requested, to the nonrepresented
121 employee at the employee's last known address, to the agency and to the manager of
122 benefits, payroll and retirement operations section of the finance and business operations
123 division; however, the manager of the finance and business operations division may,
124 under extenuating circumstances, issue an administrative order more than thirty days after
125 the hearing;

126 9. The administrative order issued by the manager of the finance and business
127 operations division shall be final;

128 10. Once a final administrative order determining the final overpayment amount
129 owed by the nonrepresented employee has been entered, a payroll deduction to recover
130 the overpayment may begin as authorized by state law;

131 11. Nothing in this section precludes an agency or the benefits, payroll and
132 retirement operations section of the finance and business operations division from
133 entering into a voluntary agreement with a nonrepresented employee to repay any
134 overpayment of wages, consistent with state law; and

135 12. The manager of the finance and business operating division may recuse
136 himself or herself from conducting an adjudicative hearing, at his or her discretion, to

137 avoid any real conflict of interest. If this occurs, the county administrative officer, or the
138 county administrative officer's designee, shall assume responsibility for the hearing.
139

Ordinance 17895 was introduced on 9/8/2014 and passed by the Metropolitan King County Council on 9/22/2014, by the following vote:

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

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 2 day of OCTOBER 2014.



Dow Constantine, County Executive

Attachments: None

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KING COUNTY COUNCIL