

VETOED H-2074
OVERRIDDEN 11-23-92

LARRY PHILLIPS
PAUL BARDEN
GREG NICKELS
BRIAN DERDOWSKI
KENT PULLEN

October 14, 1992
921014.dmf

Introduced by:
Proposed No.:

92-802

10631

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ORDINANCE NO.

AN ORDINANCE providing for collective bargaining through interest arbitration for correctional officers and 911 operators and adding new sections to K.C.C. 3.16.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Purpose. The intent and purpose of this ordinance is to recognize that there exists a public policy in the State of Washington as well as King County against strikes by essential law enforcement personnel as a means of settling their labor disputes; that such essential law enforcement personnel include corrections officers employed by King County; that the uninterrupted and dedicated service of these employees is vital to the welfare and public safety of the County of King; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate means of settling disputes.

SECTION 2. Definitions. A. "Corrections officer" means any full-time, fully compensated uniformed correctional officer or sergeant who works for the Department of Adult Detention (King County Jail).

B. "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with King County.

C. "Bargaining agent" means the King County Executive.

D. "Public employer" means King County.

E. "Commission" means the Public Employment Relations Commission.

F. "Executive director" means the executive director of the Commission.

G. "911 operator" means any full-time, fully compensated Communications Specialist or Communications Specialist Supervisor who works for the Department of Public Safety.

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SECTION 3. Corrections Officers - Application of RCW 41.56.440 - 41.56.470 and RCW 41.56.480 - 41.56.490. In the furtherance of collective bargaining the provisions of RCW 41.56.440 - 41.56.470 and RCW 41.56.480 - 41.56.490 shall also be applicable to corrections officers and 911 operators as defined in this chapter.

INTRODUCED AND READ for the first time this 19th day of October, 1992

PASSED this 9th day of November, 1992

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Cynthia Sullivan
VICE Chair

ATTEST:

Gerald A. Poter
Clerk of the Council
~~Vetoed~~

APPROVED this 20th day of November, 1992

Jim Hill
King County Executive

OVERRIDDEN BY A VOTE OF 6 to 3 on November 23, 1992, Mrs. Gruger, Mr. Laing and Mr. Sims voting 'no'.

RF/TH/File

Prosecuting Attorney
King County

RECEIVED
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19 November 1992

MEMORANDUM

KING COUNTY EXECUTIVE

TO: Hon. Tim Hill
King County Executive

FM: Richard H. Holmquist *RH*
Chief Civil Deputy Prosecuting Attorney

RE: Interest Arbitration Ordinance

Members of your staff have communicated to this office your oral request that we reduce to writing our previous legal advice concerning the interest arbitration ordinance passed by the Council and presently awaiting your signature. This ordinance was initially passed by the Council and vetoed by you in September 1992, and (we understand) subsequently was reintroduced and again passed by the Council.

In your 24 September 1992 veto message to Council Chair Gruger concerning the first Council-passed ordinance, the second paragraph of the first page characterized the oral legal advice we provided to the Council by means of my testimony in open session on 14 September 1992. That characterization is essentially accurate, though additionally, I advised the Council that the unique factual circumstance here presented by a public employer itself seeking to impose binding interest arbitration outside of the normal collective bargaining process had never been before our courts. Rather, the decisions of the Washington Supreme Court on which our legal analysis rests contained language which led us to the conclusion described in your veto message (and in my testimony to the Council), but that language was rendered in somewhat different factual settings involving tests of the legality of an interest arbitration clause which was itself imposed by an arbitrator rather than through the normal collective bargaining process.

The point of this observation is simply that while we remain of the view that the better reasoned legal position is as I testified to the Council (and as your veto message described), the contrary position would be at least arguable; this is by no means a cut-and-dried or black and white issue.

We trust this memorandum is responsive to the request we understand you have made to us.

cc: Pat Steel, Rick Rafael



King County Executive
TIM HILL

King County Courthouse
516 Third Avenue, Room 400
Seattle, Washington 98104-3271
(206) 296-4040
FAX (206) 296-0194

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KING COUNTY COUNCIL

November 20, 1992

The Honorable Audrey Gruger, Chair
King County Council
Room 402
C O U R T H O U S E

Dear Councilmember Gruger:

I am returning the attached Ordinance 10631 which I have vetoed. This ordinance, passed by the King County Council on October 19, 1992, is identical to Ordinance 10549 which I vetoed on September 24, 1992.

I refer you to my veto message of September (attached) for the details of my reasons for opposing this legislation, but to summarize, I remain convinced that extending binding interest arbitration to correctional officers and emergency operators is bad public policy, would result in added expenditures of millions of dollars in the County's budget and would abrogate Executive responsibilities as outlined in the voter-approved County Charter to an outside arbitrator.

The exceptional bargaining status of binding interest arbitration is granted in state law specifically to sworn police officers, firefighters and paramedics because of the unique role they serve in our public safety system. Over the years, several attempts have been made in the State Legislature to extend binding interest arbitration to other public employee groups, but they have failed.

I value highly the work of our correctional officers and 911 operators, just as I do the work of all County employees. But I believe our current collective bargaining process is the appropriate forum in which to settle labor issues, not the political arena.

Since the beginning of my second term, Public Safety Employees Local 519, which represents the correctional officers and 911 operators, has actively lobbied the County Council on a variety of collective bargaining issues. In 1991, I established the King County Labor Policy Committee comprised of the Executive and two Council members to provide us with the opportunity to discuss labor issues.



The Honorable Audrey Gruger
November 20, 1992
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You and Councilmember Ron Sims, members of that committee, together with Councilmember Bruce Laing, have voted against this legislation. I concur and have vetoed it.

Sincerely,



Tim Hill
King County Executive

Attachment

cc: King County Councilmembers
 ATTN: Cal Hoggard, Program Staff Director
 Jerry Peterson, Administrator
 Jim Yearby, Director, Office of Human Resource Management
 Art Wallenstein, Director, Department of Adult Detention
 Jim Montgomery, Sheriff-Director, Department of Public Safety
 Pat Steel, Chief Financial Officer
 ATTN: Michael Gedeon, Budget Supervisor
 Craig Soper, Budget Supervisor
 Richard Holmquist, Chief Civil Deputy Prosecuting Attorney



King County Executive
TIM HILL

King County Courthouse
516 Third Avenue, Room 400
Seattle, Washington 98104-3271

(206) 296-4040
FAX (206) 296-0194

September 24, 1992

The Honorable Audrey Gruger
Chair, King County Council
Room 402
C O U R T H O U S E

Dear Councilmember Gruger:

I am returning the attached Ordinance 10549 which I have vetoed. This ordinance, passed by the King County Council on September 14, 1992, would impose binding interest arbitration as a means for determining new collective bargaining agreements for correctional officers and 911 operators. For compelling legal, financial, and public policy reasons, I believe enacting this ordinance is detrimental to King County's labor policy and long-term fiscal position.

In response to a request by Councilmember Ron Sims, the Prosecuting Attorney's Office reviewed this proposed ordinance. The Chief Civil Deputy Prosecuting Attorney presented his office's legal analysis in testimony before the Council on September 14, 1992. The Prosecutor advised that Washington State Supreme Court decisions have held that a public employer such as King County cannot act unilaterally to impose a binding interest arbitration provision; it can only come as a result of agreement between the parties within a normal collective bargaining process. For this reason, the Prosecutor believes a legal challenge to this proposed ordinance would very likely succeed.

Binding interest arbitration has been addressed repeatedly by the Washington State Legislature, which has carefully crafted state law to extend it only to police, firefighters and paramedics. The positions of sworn police officer, firefighter and paramedic are so critical to public safety that the Legislature specifically granted this dispute resolution tool to them. It has not granted that same benefit to correctional officers and 911 operators.

Ordinance 10549 extends binding interest arbitration to correctional officers and 911 operators on the grounds that they are essential personnel whose uninterrupted service is vital to



The Honorable Audrey Gruger
September 24, 1992
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the welfare and public safety of King County. I agree their services are essential, but there are mechanisms for dispute resolution currently available to correctional officers and 911 operators in negotiating their labor agreement, as there are to all county employees in essential jobs.

The financial implications of extending binding interest arbitration to these County employees are substantial without significant additional benefit to the public. The King County Council recently approved the Facility Program Plan for the Regional Justice Center. Included in the Council review was a detailed financial plan for the operation and maintenance of the center. King County can afford to operate the South King County Regional Justice Center only if it exercises discipline over all costs of County operations.

King County's history with binding interest arbitration has shown that the resulting salaries are higher on average by 1.5% than those of employees not subject to binding interest arbitration. If this trend were to continue over the next five years, the County would spend an additional \$3.3 million in salaries and benefits for the correctional officers. Interest arbitration for 911 operators would add another \$760,000 to the County's costs over the same period. Given the current economic outlook, this additional financial burden would lead to further layoffs in law, safety, justice and human services agencies over and above the significant reductions expected for the 1993 budget and experienced in the 1992 adopted budget.

Make no mistake, binding interest arbitration is a formula for uncontrolled costs because it turns over to an arbitrator, whose focus does not include a balancing of scarce resources, the ability to significantly increase government costs. Moreover, the elected County Council and Executive would abdicate their responsibility for financial decision making under such a scenario.

Proponents have argued that providing binding interest arbitration to correctional officers and 911 operators will significantly enhance labor-management harmony with the affected bargaining groups. I value highly the difficult work performed by the correctional officers and the 911 operators. However, I believe there are other avenues available to the County to promote strong, effective labor-management relationships without a mechanism that would give to an arbitrator the power to make public policy and financial decisions best left with elected officials.

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Negotiation is a lengthy process and can be frustrating for both parties. In lieu of creating another adversarial dimension to our negotiating process, I believe we should explore nontraditional bargaining strategies that focus on problem-solving rather than win/lose negotiations. I am committed to exploring new bargaining techniques in the upcoming labor negotiations with Local 519 that will assure a rapid, effective, and harmonious process. In the end, after all, the best labor agreement is one which is negotiated in good faith by both parties to that agreement.

Finally, the collective bargaining process as established by Charter and ordinance is clearly in the province of duties established for the King County Executive and has served the citizens of King County well for the past quarter century. The County and its citizens are not well-served by a process which encourages labor groups to seek more beneficial settlements by a direct appeal to King County Councilmembers.

To avoid the specter of such appeals, I established in 1991, with the concurrence of the Council, the King County Labor Policy Committee. That Committee reviewed this legislation before it passed the County Council and concluded by majority vote that Ordinance 10549 was not in the best interests of the County. That advice and the advice of the Prosecuting Attorney were both rejected by 5-3 majority of the County Council.

King County is very fortunate to benefit from the dedication and skills of our correctional officers and 911 operators. Furthermore, I believe these employees should be justly compensated through a negotiation process which takes into account the compensation of similar employees in comparable markets as well as the economic outlook of the County. I do not believe binding interest arbitration is necessary to achieve fair compensation for these employees.

I refuse to abdicate my responsibility to make tough and publicly accountable decisions concerning compensation of public employees. Since Ordinance 10549 fails on policy, legal and

ne Honorable Audrey Gruger
September 24, 1992
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financial grounds, I have vetoed it and hereby return it to the King County Council for further deliberation.

Sincerely,



Tim Hill
King County Executive

Enclosure

cc: King County Councilmembers
 ATTN: Cal Hoggard, Program Staff Director
 Jerry Peterson, Administrator
Jim Yearby, Director, Office of Human Resource Management
Art Wallenstein, Director, Department of Adult Detention
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