



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.:	4	Date:	8 Apr 2009
Proposed Ordinance No.:	2009-0244	Prepared by:	Nick Wagner

SUMMARY

Proposed Ordinance 2009-0244 (Attachment 1, pp. 5-10 of these materials) would place on the November 2009 general election ballot a charter amendment recommended by the 2007-2008 King County Charter Review Commission (“CRC”). Currently, Charter sections 230.40, 230.50, and 800 prescribe a minimum interval of 46 days between, on the one hand, (a) the filing of signed petitions for a referendum, (b) the deadline for Council action on a proposed initiative, or (c) the adoption of a charter amendment ordinance and, on the other hand, the election in which the referendum, initiative, or charter amendment will be voted on. In effect, if the proponent of a referendum, initiative, or charter amendment wishes to have it placed on the ballot at a particular election, the Charter sets a deadline of 46 days before the election for each of those trigger events.¹

The charter amendment recommended by the CRC would provide for the deadline to be set by ordinance, rather than in the Charter itself. A companion ordinance, not yet introduced, would move the deadline from the current 46 days before the election to either 52 or 84 days before the election, depending on whether it is a special election (52 days), a primary election (84 days), or a general election (84 days), as currently provided under state law for non-charter counties.²

The CRC’s vote was 19-0 in favor of the proposed amendment, with two members absent.

Proposed Ordinance 2009-0244 is before the committee for possible action.

BACKGROUND

As councilmembers are aware from previous briefings, the CRC recommended 12 charter amendments for the Council’s consideration. (See CRC summary at p. 12 of these materials.) The CRC suggested that six of the amendments be placed on the ballot in 2008, three in 2009, and three in 2010. (See table at p. 15 of these materials.) The Council placed five of the CRC-

¹ Since the Charter allows the Council 90 days in which to decide whether to adopt an initiative or propose an alternative, the current deadline for filing signed initiative petitions, in order to be sure that the initiative will appear on the ballot in a particular election, is 136 days before the election (46 plus 90).

² The deadline for filing signed initiative petitions would be moved to 90 days before those deadlines, maintaining the Council’s 90-day window for deciding whether to adopt the initiative or propose an alternative.

proposed charter amendments on the ballot in 2008; four were approved by the voters, and one was defeated.

Of the remaining seven charter amendments recommended by the CRC, the so-called “election deadlines” charter amendment, which Proposed Ordinance 2009-0244 would place on the ballot, is the first to be taken up by the Council.

THE “ELECTION DEADLINES” CHARTER AMENDMENT

The CRC’s recommendation was made in response to a request by King County elections staff, who reported that the 46-day deadline currently provided in the Charter provided insufficient time for drafting, proof-reading, printing, and mailing the ballot and the voter pamphlet, which are only a few of the many tasks involved in preparing for an election. Elections staff suggested that the Charter be amended to require King County to conform to the deadlines prescribed by state statute for non-charter counties, which currently are 52 days before a special election and 84 days before a primary or general election. RCW 29A.04.321(3).

The CRC members supported elections staff’s goal of obtaining additional time for preparing and mailing the ballot and the voter pamphlet, but instead of recommending that the Charter be amended to conform to the state deadlines for non-charter counties, as elections staff had requested, the CRC recommended that the Charter be amended to provide that King County’s deadlines be established by ordinance instead of by charter. (*See* pp. 13-14 of these materials.) The CRC’s proposed charter amendment would permit the Council (1) to provide by ordinance for the additional time needed by elections staff, (2) to retain the flexibility to adjust the deadlines as needed in response to changed or unforeseen circumstances, and (3) to avoid being locked into whatever deadlines the state legislature might choose to adopt in the future for non-charter counties.

The wording of Proposed Ordinance 2009-0244 (pp. 5-10) differs slightly from the wording proposed by the CRC (p. 14), but the differences are only technical. The intended effect of the proposed ordinance is the same as that of the amendment recommended by the CRC. The proposed ordinance has been reviewed by both the Prosecuting Attorney’s Office and the Council’s legal counsel.

COUNCIL OPTIONS

Options available to the Council include those listed below.

1. Adopt Proposed Ordinance 2009-0244 (implementing the CRC’s recommendation).

This would place on the November 2009 general election ballot an amendment allowing the Council to set the election deadlines by ordinance. A companion ordinance (contingent on voter approval of the charter amendment) would set the deadline at 84 days before a primary or general election and 52 days before all other elections (the current deadlines under state law for non-charter counties).

2. **Place on the ballot a charter amendment requiring King County to conform to the state election deadlines for non-charter counties, whatever those deadlines might be.**

This was the recommendation that King County Elections staff initially brought to the CRC.

3. **Place on the ballot a charter amendment changing the election deadlines from 46 days before all elections (the current Charter deadline) to 84 days before a primary or general election and 52 days before all other elections (the current deadlines under state law for non-charter counties).**

This is a hybrid option that was not proposed by either the CRC or the Elections staff.

4. **Take no action on the CRC’s recommendation.**

ASSESSMENT OF OPTIONS

Questions that might be considered in assessing each option include the following:

- Will it provide Elections staff with the additional time they need?
- Will it give the Council the flexibility to adjust the deadlines by ordinance in the future in response to changed or unforeseen circumstances?
- Will it prevent a future Council from adopting an ordinance setting an election deadline so early or late that it would unreasonably burden the referendum, initiative, or charter amendment process or the elections staff?
- Will it avoid locking the county into whatever deadlines the state legislature might choose to adopt in the future for non-charter counties?

Attachment 4 (p. 17 of these materials) is a table comparing the four options listed above in the context of these questions.

INVITEES

1. Charter Review Commission members
2. Sherril Huff, Director, King County Elections
3. Sandy McConnell, Elections Program Manager, King County Elections

ATTACHMENTS

Page

- | | |
|---|----|
| 1. Proposed Ordinance 2009-0244..... | 5 |
| 2. CRC Final Report excerpts | 11 |
| 3. Table summarizing CRC recommendations and Council action to date | 15 |
| 4. Election Deadlines Charter Amendment – Options and Effects..... | 17 |

[blank page]



Signature Report

April 4, 2009

Ordinance

Proposed No. 2009-0244.1

Sponsors Ferguson

1 AN ORDINANCE proposing an amendment to Sections
2 230.40, 230.50 and 800 of the King County Charter to
3 provide that deadlines for placement on the ballot of
4 referenda, initiatives and proposed charter amendments be
5 established by ordinance instead of by charter; and
6 submitting the same to the voters of the county for their
7 ratification or rejection at the November 2009 general
8 election.

9
10 SECTION 1. There shall be submitted to the voters of King County for their
11 approval and ratification or rejection, at the next general election to be held in this county
12 occurring more than forty-five days after the enactment of this ordinance, an amendment
13 to Sections 230.40, 230.50 and 800 of the King County Charter as set forth herein:

14 **230.40 Referendum.**

15 Except as provided herein, an enacted ordinance may be subjected to a
16 referendum by the voters of the county by filing with the county council prior to the
17 effective date of the ordinance petitions bearing signatures of registered voters of the

Ordinance

18 county equal in number to not less than eight percent of the votes cast in the county for
19 the office of county executive at the last preceding election for county executive. In
20 addition, except as provided herein, an enacted ordinance which pursuant to state law is
21 effective only in unincorporated areas of the county may be subjected to a referendum by
22 the voters of the unincorporated areas of the county by filing with the county council
23 prior to the effective date of the ordinance petitions bearing signatures of registered
24 voters residing in unincorporated areas of the county equal in number to not less than
25 eight percent of the votes cast at the last preceding election for county executive,
26 provided however that the number of required signatures shall be calculated based only
27 upon votes cast within areas which on the date such petitions are required to be filed are
28 unincorporated areas of the county. Each petition shall contain the full text of the
29 ordinance to be referred. After the petitions are filed, ~~(($\text{\textcircled{F}}$))~~the ordinance to be referred
30 shall be placed on the ballot at the next special, primary or general election occurring
31 ~~((more than forty five days after the petitions are filed, provided that))~~ after the minimum
32 interval between filing and election, which shall be established by ordinance, though in
33 the case of an ordinance effective only in unincorporated areas of the county, the
34 proposed ordinance shall be voted upon only by the registered voters residing in
35 unincorporated areas of the county.

36 An appropriation ordinance; an ordinance necessary for the immediate
37 preservation of the public peace, health or safety or for the support of county government
38 and its existing public institutions; an ordinance proposing amendments to this charter; an
39 ordinance providing for collective bargaining; an ordinance approving a collective
40 bargaining agreement; an ordinance providing for the compensation or working

41 conditions of county employees; or an ordinance which has been approved by the voters
42 by referendum or initiative shall not be subject to a referendum.

43 **230.50 Initiative.**

44 Ordinances except ordinances providing for the compensation or working
45 conditions of county employees may be proposed by filing with the county council
46 petitions bearing signatures of registered voters of the county equal in number to not less
47 than ten percent of the votes cast in the county for the office of county executive at the
48 last preceding election for county executive. In addition, an ordinance which pursuant to
49 state law is effective only in unincorporated areas of the county, except an ordinance
50 providing for the compensation or working conditions of county employees, may be
51 proposed by filing with the county council petitions bearing signatures of registered
52 voters residing in unincorporated areas of the county equal in number to not less than ten
53 percent of the votes cast at the last preceding election for county executive, provided,
54 however that the number of required signatures shall be calculated based only upon votes
55 cast within areas which on the date such petitions are required to be filed are
56 unincorporated areas of the county. Each petition shall contain the full text of the
57 proposed ordinance.

58 The county council shall consider the proposed ordinance. If the proposed
59 ordinance is not enacted within ninety days after the petitions are ~~((presented))~~ filed, it
60 shall be placed on the ballot at the next ~~((regular or))~~ special, primary or general election
61 occurring ~~((more than one hundred thirty-five days after the petitions are filed))~~ after the
62 minimum interval between filing and election, which shall be established by ordinance.

63 However, if the proposed ordinance is enacted at any time prior to the election, it shall
64 not be placed on the ballot or be voted on unless it is subjected to referendum.

65 If the county council rejects the proposed ordinance and adopts a substitute
66 ordinance concerning the same subject matter, the substitute ordinance shall be placed on
67 the same ballot with the proposed ordinance; and the voters shall first be given the choice
68 of accepting either or rejecting both and shall then be given the choice of accepting one
69 and rejecting the other, provided that in the case of an ordinance effective only in
70 unincorporated areas of the county, the proposed ordinance shall be voted upon only by
71 the registered voters residing in unincorporated areas of the county. If a majority of the
72 voters voting on the first issue is for either, then the ordinance receiving the majority of
73 the votes cast on the second issue shall be deemed approved. If a majority of those
74 voting on the first issue is for rejecting both, then neither ordinance shall be approved
75 regardless of the vote on the second issue.

76 **Section 800 Charter Review and Amendments.**

77 At least every ten years after the adoption of this charter, the county executive
78 shall appoint a citizen commission of not less than fifteen members whose mandate shall
79 be to review the charter and present, or cause to be presented, to the county council a
80 written report recommending those amendments, if any, which should be made to the
81 charter. This citizen commission shall be composed of at least one representative from
82 each of the county council districts.

83 The county council may propose amendments to this charter by enacting an
84 ordinance to submit a proposed amendment to the voters of the county at the next general
85 election occurring (~~more than forty five days after the enactment of the ordinance~~) after

Ordinance

86 the minimum interval between enactment and election, which shall be established by
87 ordinance. An ordinance proposing an amendment to the charter shall not be subject to
88 the veto power of the county executive. Publication of a proposed amendment and notice
89 of its submission to the voters of the county shall be made in accordance with the state
90 constitution and general law. If the proposed amendment is approved by a majority of
91 the voters voting on the issue, it shall become effective ten days after the results of the
92 election are certified unless a later date is specified in the amendment.

93 SECTION 3. The clerk of the council shall certify the proposition to the manager
94 of the elections division, in substantially the following form, with such additions,
95 deletions or modifications as may be required by the prosecuting attorney:

96 Shall Sections 230.40, 230.50 and 800 of the King County Charter be
97 amended to provide that deadlines for placement on the ballot of referenda,
98

Ordinance

98 initiatives and proposed charter amendments be established by ordinance
99 instead of by charter?
100

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

APPROVED this ____ day of _____, _____.

Attachments None



**2007-2008 King County
Charter Review Commission**

Final Report and Recommendations



*Recognizing Forty Years of
Good Governance*

King County, Washington

May 2008

COW Materials, Page 11

PROPOSED AMENDMENTS

- **Anti-Discrimination:** Prohibit discrimination based on disability, sexual orientation, and gender identity or expression in county employment and contracting.
- **Budget Timeline:** Provide the County Council with an additional 20 days to review the Executive's proposed budget, providing a total of 65 days for review.
- **Charter Amendment by Citizen Initiative:** Clarify the process by which citizens may amend the charter through initiative, and increase the signature threshold to 20 percent.
- **Commission Procedures:** Clarify the Commission appointment and confirmation process, and require the County Council to review all charter review commission recommendations and decide at an open public meeting how to proceed on each recommendation.
- **Elections Deadlines:** Authorize the county to establish deadlines by ordinance for submitting local ballot measures to the Elections Division.
- **Elected Officials and Collective Bargaining:** Require the Executive to provide for increased involvement of separately elected county officials, including the Sheriff, in collective bargaining.
- **Open Space Protection:** Establish additional protection for over 100,000 acres of open space properties in which the county owns an interest.
- **Qualifications:** Permit the council to establish additional qualifications for separately elected officials who head charter-based departments.
- **Regional Committees:** Reduce the number of County Councilmembers on regional committees, establish a vice-chair position to be filled by a non-Council member; and increase the authority of committees to initiate legislation and, in the case of the Regional Policy Committee, to adopt its own work program, including new subject matter which involves regional policies or plans.
- **Unincorporated Areas Representation:** Designate a high-level position within the Office of the Executive to represent the interests of rural and urban unincorporated area residents, and amend the Charter Preamble to reflect the county's commitment to unincorporated areas.

The Commission also recommended two non-substantive, technical amendments:

- **Budget Allotments:** Remove the outdated requirement that county agencies submit estimates of spending to the Executive.
- **Transitory Provisions:** Remove obsolete charter language pertaining to the county's transition to a home rule charter government and consolidation with Metro.

Specific to the Sheriff’s concerns, the Commission encourages the Council to consider the recommendations in the Blue Ribbon Panel report and its subsequent Progress Report. The Commission agrees that there is a need to improve the current system. The remedies suggested by the Commission are different from those put forward by the Blue Ribbon Panel, partly due to the different charges of the Commission (broad) and the Blue Ribbon Panel (focused). The Commission believes that the recommendations of both bodies can be used by the Council to create a more functional and responsive County government.

Minority Report Summary (6 signatories): The collective bargaining amendment for elected officials is a compromise that places in the County Charter a matter that should be governed by “good faith” conduct of the elected officials of King County. The appropriate place to prescribe management rules of conduct between elected officials and the branches of County government is the King County Code, not the Charter. This amendment is a step back for King County governance to a pre-charter time when the county and its leadership were fragmented. See page 39 for the full minority report.

Final vote: | Yes – 12 | No – 5 | Abstain – 0 | Absent – 4 |

Elections Deadlines

Charter Section – Sections 230.40, 230.50, and 800

Subcommittee – Governmental Structure

Amendment Language – See page 31

The Commission recommends an amendment to change the deadlines for placing initiatives, referenda, and proposed charter amendments on the ballot from 45 days before the election to a deadline to be specified by county ordinance. The Elections Division brought it to the Commission’s attention that the current deadline does not provide sufficient time for the production of election materials, especially ballots and voter pamphlets.

The proposed amendment would allow the Council to specify a deadline that appropriately reflects the time necessary to process such ballot measures in a timely way (state law currently provides 84 days). This revised deadline would allow more time to prepare and mail election materials such as notices, ballots, and voters’ pamphlets, without affecting the amount of time allowed for citizens to gather signatures on initiatives or for the Council to consider ballot initiative language.

Final vote: | Yes – 19 | No – 0 | Abstain – 0 | Absent – 2 |

Open Space Protection

Charter Section – New Section 897

Subcommittee – Rural/Local Issues

Amendment Language – See page 31

The Commission recommends providing additional, charter-based protection to certain open space properties in which King County holds an interest (either owns or owns the development rights to). The Open Space Amendment (OSA) would create a list of high conservation value county properties as an appendix to the Charter. These lands would be permanently protected from sale, transfer, or conversion to a different use than was authorized at the time of their acquisition. There would be no change in how residents currently use these spaces.

ed, to the county council a written report recommending those amendments, if any, which should be made to the charter. Appointees shall be subject to confirmation by a majority of the county council. This citizen commission shall be composed of at least one representative from each of the county council districts. The county council shall consider the commission's report and recommendations and decide at an open public meeting how to proceed on each of the commission's recommended charter amendments.

Elected Officials and Collective Bargaining

Section 890 Employee Representation.

The county council (~~(may)~~) shall enact an ordinance providing for collective bargaining by the county with county employees covered by the personnel system. If an ordinance providing for collective bargaining is enacted, it shall not be subject to the veto power of the county executive; and it shall designate the county executive as the bargaining agent of the county. Any such ordinance shall provide for the effective participation in bargaining by those separately elected officials who head departments that are subject to this charter. Language controlling working conditions (including work rules, shift schedules, discipline and termination) in any collective bargaining agreement covering employees of such a separately elected county official must be consented to by that official prior to the bargaining agent agreeing to such language, proposing its inclusion in a bargaining agreement or sending the bargaining agreement to the county council for ratification. If the executive and separately elected official are unable to resolve a conflict that arises regarding such language, they shall report this in writing to the council, which shall provide guidance on how to proceed in further negotiations concerning the matter in conflict. Any agreement reached as a result of negotiations by the county bargaining agent with county employees shall not have the force of law unless enacted by ordinance.

Elections Deadlines

230.40 Referendum

... After the petitions are filed, the ordinance to be referred shall be placed on the ballot at the next special or general election occurring more than forty-five days after the petitions are filed after the minimum time established by ordinance for presentation of referendum measures to the county officer responsible for conducting elections, provided that in the case of an ordinance effective only in unincorporated areas of the county, the proposed ordinance shall be voted upon only by the registered voters residing in unincorporated areas of the county. ...

230.50 Initiative

... If the proposed ordinance is not enacted within ninety days after the petitions are ~~presented~~ filed, it shall be placed on the ballot at the next ~~regular~~ general or special election occurring after the minimum time established by ordinance for presentation of initiative measures to the county officer responsible for conducting elections, occurring more than one hundred thirty-five days after the petitions are filed or at an earlier election designated by the county council. ...

800 Charter Review Commission

... The county council may propose amendments to this charter by enacting an ordinance to submit a proposed amendment to the voters of the county at the next general election occurring more than forty-five days after the enactment of the ordinance occurring after the minimum time established by ordinance for presentation of proposed charter amendments to the county officer responsible for conducting elections. ...

Open Space Protection

New Section 897. High Conservation Value Properties.

The clerk of the council shall maintain the list of inventoried high conservation value properties set forth as Appendix A to this charter. The inventory may include only properties in which the county owns a fee simple interest or a lesser interest. No inventoried county property interest shall ever be conveyed, relinquished, or converted to a different use than was authorized at the time of acquisition, as evidenced by deed, easement, covenant, contract or funding source requirements, except that this section shall not prevent: the conveyance of an inventoried property interest to another government, the conveyance of an inventoried property interest under the lawful threat or exercise of eminent domain; the grant of an easement, license, franchise or use agreement for utilities or other activities compatible with use restrictions in place at the time of acquisition; or the use of an inventoried property interest for habitat restoration, flood control, low-impact public amenities or regionally significant public facilities developed for purposes related to the conservation values of the property, road or utility projects, or emergency projects necessary to protect public health, welfare or safety. This section shall not affect any contractual obligations entered into as part of the county's acquisition of an inventoried property interest.

See page 53 for the proposed inventory of high conservation value properties, Appendix A to the Charter.

Proposed Charter Amendments and Related Ordinances

Proposed Amendments and Other Charter Review Commission (CRC) Recommendations	Ordinance	Voter Action Nov '08	CRC suggested action date		
			2008	2009	2010
CRC charter amendment recommendations					
Anti-discrimination	16204	Passed	X		
Regional committees	16205	Passed	X		
Qualifications of elected officials	16206	Passed	X		
Budget timeline	16208	Passed	X		
Charter amendment by citizen initiative	16221	Failed		X	
Open space protection¹			X		
Elected officials and collective bargaining			X		
Unincorporated areas representation				X	
Election deadlines				X	
Commission procedures (confirmation of appointments to CRC; requirement of public Council action on CRC recommendations)					X
Budget allotments					X
Transitional provisions					X
Other CRC recommendations	Motion				
Study Instant Runoff Voting (a/k/a Ranked Choice Voting)	12854 ²	n/a		X	
Support expansion of King County Library System board	12909 ³	n/a	X		

¹ Five councilmembers, by letter dated 2 September 2008 (copy attached), informed the CRC that the Council would decide in 2009 whether to place the remaining CRC-recommended charter amendments on the 2009 or 2010 general election ballot.

² Motion 12854 asked the Citizens Elections Oversight Committee to study IRV and report back to the Council by January 2010.

³ Motion 12909 included expansion of the KCLS board as part of item number 1 in King County's 2009 Statement of State Policy.

[blank page]

Election Deadlines Charter Amendment – Options and Effects

	EFFECTS	Deadline in days, at least initially¹	Provides sufficient time for elections staff?	Allows Council flexibility to make adjustments by ordinance?²	Prevents future Council from setting unreasonably early or late deadline?	Avoids binding County to actions of state legislature?
1	Set deadlines by ordinance (CRC recommendation).	52/84 ³	✓	✓	⁴ x	✓
2	Conform to state-mandated deadlines for non-charter counties.	52/84	✓	x	✓	x
3	Set interval by charter at 84 days and 52 days.	52/84	✓	x	✓	✓
4	Take no action.	46/46 ⁵	x ⁶	x	✓	✓

✓ = Yes **x** = No

¹ In the case of initiatives and referenda, this is the interval between the filing of the signed petitions and the election. In the case of charter amendments proposed by the Council, this is the interval between enactment of the charter amendment ordinance and the election.

² For example, future improvements in election technology might allow a later deadline, or increased concern about the security of election equipment and procedures might require an earlier deadline.

³ That is, 52 days before a special election; 84 days before a primary or general election. If Option 1 were chosen, it is assumed that there would be a companion ordinance setting these time intervals.

⁴ There are at least two possible scenarios: the Council could set an early or late deadline for all initiatives, referenda, and charter amendment ordinances, or for only a subset of these—conceivably, for a particular initiative, referendum, or charter amendment ordinance.

⁵ These are the deadlines currently prescribed in the Charter.

⁶ In proposing charter amendments last year, the Council provided sufficient time for elections staff by voluntarily enacting the charter amendment ordinances well in advance of the charter deadlines; however, this does not address the problem regarding initiatives and referenda, and the Council is not bound to follow this practice in the future.