



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.: 7	Date: 30 July 2007
Motion No.: 2007-0402	Prepared by: Nick Wagner

SUBJECT

A motion implementing the Council's legislative directive to conduct elections entirely by mail beginning in 2008 and directing the Executive to take steps to assure that the county's voting systems meet high standards for security, accuracy, and transparency.

BACKGROUND

Previous staff reports have recounted the Council's active oversight of King County elections, including the legislation that the Council has enacted to ensure continued improvement in the conduct of elections. That information will not be repeated here except to the extent that the Council's legislative enactments have a specific bearing on the proposed motion.

A. Ordinance 15523 ("Vote-by-Mail")

One of the Council's major policy directives occurred in June of 2006, when the Council adopted Ordinance 15523, which authorized the Executive to conduct all King County elections by mail ("Vote-by-Mail") on a date in 2007 or 2008 to be determined by the director of Records, Elections, and Licensing ("REALS"), subject to certain conditions.¹

B. Ordinance 15623 (Ballot Tabulation Equipment Appropriation)

In anticipation that the transition to Vote-by-Mail would substantially increase the number of paper ballots needing to be processed by King County's central tabulation equipment, the Executive applied to the State for and obtained \$1.5 million in federal Help America Vote Act of 2002 ("HAVA") funds for upgraded ballot tabulation equipment and software. In August of 2006 the Executive transmitted to the Council a proposed supplemental capital appropriation for procurement of upgraded ballot tabulation equipment and software backed by the HAVA funds. The Council adopted the appropriation, subject to a proviso that the Executive provide, for Council review and approval, a business case supporting the proposed procurement. The Executive has transmitted the requested business case to the Council.

¹ A copy of Ordinance 15523 is Attachment 3 to this report.

SUMMARY OF THE PROPOSED LEGISLATION

Proposed Motion 2007-0402 includes the following elements:

1. Reaffirmation of the 2008 Transition to Vote-by-Mail

Sections A and B of the proposed motion reaffirm the Council's direction, in Ordinance 15523, to begin conducting all-mail elections ("Vote-by-Mail") no later than 2008 after certain conditions have been met.

2. Preference for Using Current Technology to Conduct Vote-by-Mail Elections in 2008

Section B of the proposed motion expresses the Council's "preference," in conducting all-mail elections, "to use the current equipment and software, augmented as necessary with additional equipment of the same type, additional staffing and other resources." This refers to the use of the Executive's "database-splitting" contingency plan, but supports its usage in a Vote-by-Mail environment.

3. Authorization for Executive to Continue Exploring Options for New Ballot Tabulation Equipment and Software, "Ensuring High Standards for Security, Accuracy, and Transparency"

Section C of the proposed motion authorizes the Executive "to continue working with vendors on proposals for the acquisition of new ballot tabulation equipment and software, ensuring high standards for security, accuracy, and transparency."

4. Requirement of Rigorous, Transparent Testing of Any New Technology

Section D of the proposed motion requires the Elections Section to "conduct rigorous testing of any new equipment and software under conditions similar to an actual countywide election, including the use of large numbers of realistic mail ballots that have common characteristics such as folds, tears and spindling." Section E of the proposed motion calls upon the Executive not to "commit to the final acquisition or use of new ballot tabulation equipment or software until subsection D of this motion has been satisfied."

5. Preference for Open-Source Software

Section F of the proposed motion establishes the Council's "preference for open-source software because of its transparency and security capabilities." If the County acquires "closed-source or proprietary software," the motion provides that "every effort shall be made to have a source code escrow agreement with the vendor similar to the requirement for source code escrow agreements in the state of California."

6. Requirement That the Database Capacity Limitation be Resolved

Section G of the proposed motion requires the Executive to “take all necessary steps to resolve the two gigabyte database capacity limitation of current elections equipment,” including specific steps that are enumerated in the motion.

7. Identification, As Soon As Possible, of Any Additional Resources Needed

Section H of the proposed motion asks the Executive to “identify, as soon as possible, any additional resources required to: (1) conduct all-mail elections in 2008; (2) [a]cquire, rigorously test and use new ballot tabulation equipment and software; and (3) [r]esolve and test solutions for the two gigabyte database limitation of current elections equipment.”

8. Report to Council by 1 December 2007

Section I of the proposed motion require the Executive to report to the Council, by 1 December 2007, on (1) “[t]he feasibility of implementing the council’s preferred course of action as stated in subsection B of this motion, to conduct all-mail elections in 2008 using current equipment, augmented with additional equipment [of the same type], staff and resources”; (2) “[t]he status of certification, testing and acquisition of new ballot tabulation equipment and software, including the steps taken and planned for ensuring high security standards, accuracy, transparency and staff training”; and (3) “[h]ow the two gigabyte database capacity limitation has been resolved.”

9. Post-Election Audits to Full Extent Permitted by Law

Section J of the proposed motion establishes a policy that King County “shall implement the most rigorous, verifiable hand-tabulation audit procedures allowed by state law.”

10. King County’s 2008 State Legislative Agenda

Section K of the proposed motion provides that “[t]he county legislative agenda for 2008 shall include a request that Washington state law be revised to permit counties the size of King County to adopt by ordinance customized procedures for conducting routine, random, post-election audits of election results, at one percent of ballots cast, allowing procedures that are more thorough and statistically valid in assuring the accuracy of election results than the procedures prescribed by state law for other counties.”

AMENDMENT

Amendment A1 (Attachment 2 to this report) would revise Section K as follows:

The county legislative agenda for 2008 ~~shall~~ should include a request that Washington state law be revised to permit individual counties ~~the size of King County~~ to adopt by ordinance customized procedures for conducting routine, random, post-election audits of election results, ~~at one percent of ballots cast,~~

allowing procedures that are ~~more~~ at least as thorough and statistically valid in assuring the accuracy of election results ~~than~~ as the procedures prescribed by state law for other counties.

The proposed changes would: (1) clarify that the motion establishes the Council's intent to add this issue to the County's 2008 state legislative agenda, rather than beginning the process of putting together the agenda, which will be taken up later this year in consultation with the Executive; (2) clarify that the Council does not intend that the option to adopt customize auditing procedures be limited to King County; (3) delete the provision setting the percentage of ballots to be audited at one percent; and (4) make non-substantive wording changes in the last three lines of the motion.

INVITED

1. Kurt Triplett, Chief of Staff, King County Executive
2. Sherril Huff, Director, REALS, DES
3. Bill Huennekens, Vote-by-Mail Transition Manager, REALS, DES
4. Laird Hail, Information Systems Manager, REALS, DES
5. Garth Fell, Assistant Superintendent for Ballot Processing and Delivery, REALS, DES

ATTACHMENTS

1. Proposed Motion 2007-0402
2. 2007-0402 Amendment A1
3. Ordinance 15523



Signature Report

July 27, 2007

Motion

Proposed No. 2007-0402.1

Sponsors Constantine, Patterson, Phillips
and Gossett

1 A MOTION reaffirming the council's decision to hold all-
2 mail elections beginning in 2008 after certain conditions
3 have been met, establishing the council's preference to
4 conduct all-mail elections using the current elections
5 equipment, and allowing the executive to continue working
6 with vendors on proposals for the purchase of new ballot
7 tabulation equipment and software.

8
9 WHEREAS, Ordinance 15523, approved on June 29, 2006, authorized vote-by-
10 mail elections in 2007 or 2008 after certain conditions had been met, and

11 WHEREAS, a new elections facility has been acquired and is being improved to
12 meet the needs of elections operations, and

13 WHEREAS, a director of records, elections and licensing services has been
14 appointed by the executive and confirmed by the council, and

15 WHEREAS, a plan for regional voting centers and ballot drop boxes will soon be
16 transmitted to the council for approval, and

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17 WHEREAS, the executive transmitted to the council recommendations for the
18 purchase of new ballot tabulation equipment and software, and

19 WHEREAS, it is not yet certain that new ballot tabulation equipment and
20 software can be certified or successfully installed and tested in time for the 2008
21 elections;

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

23 A. All-mail elections should begin in 2008 as authorized by Ordinance 15523.

24 B. The council hereby establishes its intent to conduct all-mail elections in 2008,
25 starting as early as the April 2008 election, and its preference to use the current
26 equipment and software, augmented as necessary with additional equipment of the same
27 type, additional staffing and other resources.

28 C. Notwithstanding the policy statement in subsection B of this motion, and
29 recognizing that the current elections equipment and software will soon need to be
30 replaced, the executive is authorized to continue working with vendors on proposals for
31 the acquisition of new ballot tabulation equipment and software, ensuring high standards
32 for security, accuracy, and transparency.

33 D. The elections section shall conduct rigorous testing of any new equipment and
34 software under conditions similar to an actual countywide election, including the use of
35 large numbers of realistic mail ballots that have common characteristics such as folds,
36 tears and spindling. The process and results of such testing shall be observable and
37 verifiable by the council, the public and the press.

38 E. The county shall not commit to the final acquisition or use of new ballot
39 tabulation equipment or software until subsection D. of this motion has been satisfied.

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40 F. The council hereby establishes its preference for open-source software because
41 of its transparency and security capabilities. If closed-source or proprietary software is
42 acquired by the county, every effort shall be made to have a source code escrow
43 agreement with the vendor similar to the requirement for source code escrow agreements
44 in the state of California.

45 G. Recognizing that the acquisition and use of new ballot tabulation equipment
46 and software for the 2008 elections may prove impossible or inadvisable, the executive
47 shall take all necessary steps to resolve the two gigabyte database capacity limitation of
48 current elections equipment including but not limited to the following steps
49 recommended by the Office of the Secretary of State:

50 1. Define alternative ways to split the elections database such as sorting ballots
51 and then tabulating them on separate computers or alternatively ballots could be tabulated
52 on one computer until its capacity is reached then the remaining ballots could be
53 tabulated on a second computer;

54 2. Use standard features of the current equipment to integrate the separate
55 databases and to construct a single unified report;

56 3. Define procedures for printing reports from the separate databases and using
57 these separate reports to verify the accuracy of the combined report;

58 4. Work with the Secretary of State to audit the database splitting and
59 reintegration procedures including the generation of reports.

60 H. The council requests that the executive identify, as soon as possible, any
61 additional resources required to:

62 1. Conduct all-mail elections in 2008;

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- 63 2. Acquire, rigorously test and use new ballot tabulation equipment and
64 software; and
- 65 3. Resolve and test solutions for the two gigabyte database limitation of current
66 elections equipment.
- 67 I. By December 1, 2007, the executive shall report to the council on:
- 68 1. The feasibility of implementing the council's preferred course of action as
69 stated in subsection B. of this motion, to conduct all-mail elections in 2008 using current
70 equipment, augmented with additional equipment, staff and resources;
- 71 2. The status of certification, testing and acquisition of new ballot tabulation
72 equipment and software, including the steps taken and planned for ensuring high security
73 standards, accuracy, transparency and staff training; and
- 74 3. How the two gigabyte database capacity limitation has been resolved.
- 75 J. The county shall implement the most rigorous, verifiable hand-tabulation audit
76 procedures allowed by state law.
- 77 K. The county legislative agenda for 2008 shall include a request that
78 Washington state law be revised to permit counties the size of King County to adopt by
79 ordinance customized procedures for conducting routine, random, post-election audits of
80 election results, at one percent of ballots cast, allowing procedures that are more thorough

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81 and statistically valid in assuring the accuracy of election results than the procedures
82 prescribed by state law for other counties.

83

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None

July 30, 2007

A1

nw

Sponsor: Constantine

Proposed No.: 2007-0402

1 **AMENDMENT TO PROPOSED MOTION 2007-0402, VERSION 1**

2 On page 4, line 77, delete "shall" and insert "should".

3 On page 4, line 78, insert "individual" after "permit" and delete "the size of King
4 County".

5 On page 4, line 80, delete "at one percent of ballots cast, ".

6 On page 4, line 80, delete "more" and insert "at least as".

7 On page 5, line 81, delete "than" and insert "as".

8 **EFFECT:** The amendment would: (1) clarify that the motion establishes the
9 Council's intent to add this issue to the County's 2008 state legislative agenda,
10 rather than beginning the process of putting together the agenda, which will be
11 taken up later this year in consultation with the Executive; (2) clarify that the
12 Council does not intend that the option to adopt customize auditing procedures be
13 limited to King County; (3) delete the provision setting the percentage of ballots to
14 be audited at one percent; and (4) make non-substantive wording changes in the last
15 three lines of the motion.
16



Signature Report

July 27, 2007

Ordinance 15523

Proposed No. 2006-0191.2

Sponsors Patterson, Ferguson and Phillips

1 AN ORDINANCE authorizing the conduct of vote-by-mail
2 elections and directing the director of the records, elections
3 and licensing services division to conduct all primary,
4 special and general elections in King County entirely by
5 mail ballot beginning on a date in 2007 or in 2008 to be
6 determined by the director only after certain conditions are
7 met.

8
9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 **SECTION 1. Findings:**

11 A. The number of King County voters who vote by absentee ballot currently
12 fluctuates between approximately seventy and eighty percent in any given election.

13 B. In the 2005 primary, 81.73 percent of the ballots cast in King County were
14 cast by mail.

15 C. Nearly sixty percent of all registered voters in King County are currently
16 registered to automatically vote by absentee ballot.

17 D. The current dual system of conducting elections by mail and polls in King
18 County requires five hundred twenty-eight polling locations and close to four thousand
19 poll workers for a countywide election, plus a full scale mail ballot processing operation
20 and facility.

21 E. In 2005, the Washington state Legislature amended Title 29A RCW to allow
22 counties the option of conducting all elections by mail.

23 F. As of April 2006, thirty-four of the thirty-nine counties in Washington state
24 have adopted legislation to authorize all mail voting.

25 G. Conducting all elections in King County by mail will allow the county to
26 focus resources and systems to gain efficiencies and increase security by limiting
27 dependency on human interaction and ballot handling.

28 SECTION 2. The director of the records, elections and licensing services division
29 is directed to conduct all King County elections entirely by mail ballot in accordance with
30 state law beginning on a date in 2007 or in 2008 determined by the director only after the
31 following conditions have been met:

32 A. A new director of records, elections and licensing services and a
33 superintendent of elections have been appointed by the executive and confirmed by the
34 council;

35 B. The director and elections section staff have completed the cultural change
36 and management training recommended by the citizens' election oversight committee and
37 the independent task force on elections; and

38 C. The executive has transmitted and the council has approved by motion a plan
39 with cost estimates for regional voting centers and ballot drop boxes. The plan shall be

40 filed in the form of an original and ten copies with the clerk of the council, who will
41 retain the original and will forward copies to each councilmember and to the lead staff of
42 the committee-of-the-whole.

43 SECTION 3. There shall be an electronic tracking system established for tracking
44 ballots so that voters can, through use of the Internet, follow the movement of their
45 ballots as they move from King County to the voter and back to King County for
46 counting and crediting the voter for voting.

47 SECTION 4. Prior to implementation of vote-by-mail elections, the executive
48 shall transmit to the council a report that identifies the estimated capital and operating
49 cost of regional voting centers and drop boxes, including staffing costs for temporary
50 workers and sheriff deputies that may be needed at regional voting centers and in the
51 transport of ballots, a map identifying the location of regional voting centers and drop
52 boxes and security measures that will be put in place for regional voting centers and drop
53 boxes. Implementation of vote-by-mail shall not occur until the council has approved the
54 report by motion. The report shall be filed in the form of an original and ten copies with

Ordinance 15523

55 the clerk of the council, who will retain the original and will forward copies to each
56 councilmember and to the lead staff of the committee-of-the-whole.

57

Ordinance 15523 was introduced on 5/1/2006 and passed as amended by the
Metropolitan King County Council on 6/19/2006, by the following vote:

Yes: 5 - Mr. Phillips, Mr. Ferguson, Mr. Gossett, Ms. Patterson and Mr.
Constantine

No: 4 - Mr. von Reichbauer, Ms. Lambert, Mr. Dunn and Ms. Hague

Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

APPROVED this 29th day of June, 2006.

Attachments None