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Oct. 6, 2014

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Sponsor: Dembowski, Phillips, Gossett

Proposed No.: 2014-0299.2

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2014-0299, VERSION**

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3 On page 1, beginning on line 4, strike everything through page 17, line 346, and insert:

4 "STATEMENT OF FACTS:

5 1. This ordinance has its foundation in the King County Strategic Plan.

6 One of the eight goals of the Strategic Plan is to "encourage a growing and

7 diverse King County economy and vibrant, thriving and sustainable

8 communities." The first listed objective toward achieving that goal is to

9 "support a strong, diverse, and sustainable economy." One measure of

10 progress toward achieving that goal is the "percent of jobs paying a living

11 wage." Another Strategic Plan goal that would be advanced by the

12 payment of a living wage is to "provide opportunities for all communities

13 and individuals to realize their full potential." Finally, being paid a living

14 wage is "fair and just," which is one of the guiding principles of the

15 Strategic Plan.

16 2. According to The Self-Sufficiency Standard for Washington State

17 2011; a report prepared for the Workforce Development Council of

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18 Seattle-King County, the Washington state minimum wage is insufficient  
19 to meet the basic needs of working families. The current minimum wage  
20 for Washington state, which is \$9.32 per hour as of July 2014, is less than  
21 the 2011 "self-sufficiency standard" for a single adult by between twelve  
22 percent and thirty-four percent, depending on the individual's specific  
23 location within King County.

24 3. According to a report published by the Alliance for a Just Society on  
25 May 2014, the 2012 living wage for a single adult in King County was  
26 \$17.55 per hour. By that measure, the current state minimum wage is  
27 forty-seven percent less than what a living wage was two years ago.

28 4. According to the Economic Policy Institute, from 1948 to 1979 the real  
29 hourly compensation of nonsupervisory production workers in the private  
30 sector increased by 93.4 percent, which was roughly equal to the 108.1  
31 percent increase in productivity of the United States economy. But from  
32 1979 to 2013, productivity rose 64.9 percent, while real hourly  
33 compensation rose only 8.0 percent.

34 5. According to the U.S. Department of Labor, minimum wage workers  
35 are disproportionately women and people of color, and it is an aim of King  
36 County's equity and social justice initiative to eliminate disparities that  
37 prevent residents from earning a sufficient income to purchase the basic  
38 necessities to support them and their families.

39 6. Employees who are paid less than a living wage are more likely to be  
40 eligible for and rely upon government programs for assistance, including

41 programs such as subsidized food, housing, health care, bus fare and  
42 utilities, resulting in an indirect and unintended taxpayer subsidy to their  
43 employers.

44 7. The benefits of a living wage are not limited to the worker who  
45 receives it. Evidence suggests that payment of a living wage tends to  
46 improve employee performance and productivity and to reduce employee  
47 turnover and absenteeism and that the effects of paying a living wage  
48 extend beyond the employees who receive it, in that the additional money  
49 that a living wage puts into the pockets of low-wage workers is likely to  
50 be spent, especially in the areas where they live, which tends to promote  
51 economic growth and job creation.

52 8. The county has an interest in protecting the public health, safety and  
53 welfare of its residents by establishing certain compensation requirements  
54 for its own employees and for the employees of firms that enter into  
55 service contracts with the county.

56 9. According to the National Employment Law Project, legislation  
57 requiring employers to pay a living wage has been adopted in more than  
58 one hundred twenty-five cities and counties across the nation, including  
59 about half of the twenty-five largest cities by population.

60 10. On May 19, 2014, the metropolitan King County council unanimously  
61 adopted Motion 14131, which established as a policy of King County "that  
62 a living wage should be paid to county employees and to the employees of  
63 persons, businesses, organizations and other entities that receive

64 procurement contracts, tax exemptions or credits, or other financial  
65 benefits from the county."

66 11. To explore the implications of implementing the living wage policy  
67 set forth in Motion 14131, the council asked the executive to make written  
68 recommendations to the council suggesting provisions that should or  
69 should not be included in an ordinance implementing the living wage  
70 policy and requested the assistance of the county executive in assessing  
71 the costs, benefits and other consequences of adopting a living wage  
72 ordinance setting a minimum level of compensation for all county  
73 employees and for the employees of persons, businesses, organizations  
74 and other entities receiving or applying for county procurement contracts,  
75 county tax exemptions or credits or other financial benefits from King  
76 County.

77 12. In response to Motion 14131 the county executive has submitted  
78 recommendations and information to the council, and the council has  
79 considered the executive's submittal and has determined that a living wage  
80 ordinance would be in the best interest of the county and would advance  
81 the adopted policy set forth in Motion 14131.

82 13. At the request of the executive, to allow an opportunity for the county  
83 to resolve any issues that might arise during implementation of this  
84 ordinance, the initial scope of this ordinance is limited to professional  
85 service, technical service and service contracts in the amount of at least  
86 one hundred thousand dollars and excludes the following: contracts

87 between a contract-awarding authority and another government or public  
88 entity; contracts that the county enters into as the administrator of grants  
89 received from a third party; contracts for public works; architectural and  
90 engineering contracts; and collective bargaining agreements.

91 14. This ordinance does not: establish any generally applicable county  
92 minimum wage; affect the wages paid by any business or individual that  
93 chooses not to contract with the county to provide services covered by this  
94 ordinance; or affect the wages paid to employees of a county contractor  
95 when they are not providing services under a contract with the county.

96 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

97 SECTION 1. The purpose of this ordinance is to address income inequality by  
98 ensuring that tax dollars are used in a way that benefits the county as a whole by creating  
99 jobs that keep workers and their families out of poverty. This ordinance therefore  
100 requires the county and certain of its contractors and subcontractors to pay their  
101 employees a wage that is intended to enable a worker to meet basic needs and avoid  
102 economic hardship. This ordinance is also intended to promote improved quality and  
103 reliability in the services procured for the county and provided to county residents by  
104 promoting higher productivity and retention of employees working on county service  
105 contracts.

106 SECTION 2. Ordinance 12014, Section 53, and K.C.C. 3.15.100 are hereby  
107 amended to read:

108           A. No employee of the county working full-time, part-time or temporary shall be  
109 paid at any rate less than that mandated by King County Ordinance or federal ~~((and))~~ or  
110 state law, whichever is higher.

111           B. No contractor or subcontractor doing business with the county or furnishing  
112 workers or services in connection thereof shall pay any employee performing any work  
113 for such business with the county less than that mandated by ~~((the))~~ King County  
114 Ordinance or state law, whichever is higher.

115           ~~((C. The terms of this section are not applicable to volunteer or quasi-volunteer  
116 EMS workers, or to volunteer election workers provided by non-profit agencies.))~~

117           SECTION 3. Sections 4 through 13 of this ordinance should constitute a new  
118 chapter in K.C.C. Title 3.

119           NEW SECTION. SECTION 4. The definitions in this section apply throughout  
120 this chapter unless the context clearly requires otherwise.

121           A. "Actuarial value" means the percentage of total average costs for covered  
122 benefits that a health benefits package will cover.

123           B. "Bonuses" means non-discretionary payments in addition to hourly, salary,  
124 commission or piece-rate payments paid under an agreement between an employer and  
125 employee.

126           C. "Commissions" means a sum of money paid to an employee upon completion  
127 of a task, usually selling a certain amount of goods or services.

128           D. "Compensation" means wages together with the money paid by an employer  
129 towards an individual employee's health benefits plan.

130 E. "Contract" means a mutually binding legal relationship or any modification  
131 thereof obligating the county to pay a contractor one hundred thousand dollars or more to  
132 provide professional services, technical services or services, as defined in K.C.C 2.93.030  
133 to, or at the direction of, the county. "Contract" does not include: a contract between a  
134 contract-awarding authority and another government or public entity; a contract that the  
135 county enters into as the administrator of grants received from a third party; a contract for  
136 public works; an architectural or engineering contract; or a collective bargaining  
137 agreement.

138 F. "Contract-awarding authority" means the county officer, department,  
139 commission, employee or board authorized to enter into or to administer contracts on  
140 behalf of the county.

141 G. "Contractor" means any person that enters into a contract with the county, or  
142 negotiates the extension of an existing contract with the county, after the effective date of  
143 this ordinance, or that is a subcontractor performing services under such a contract.

144 H. "Division" means the finance and business operations division of the  
145 department of executive services.

146 I. "Director" means the manager of the finance and business operations division  
147 of the department of executive services, or the manager's designee.

148 J. "Employee" means any individual employed by an employer, whether on a  
149 full-time, part-time, temporary or seasonal basis, including temporary workers,  
150 contracted workers, contingent workers and persons made available to work through a  
151 temporary services, staffing or employment agency or similar entity.

152 K. "Employer" includes King County and any individual, partnership,  
153 association, corporation, business trust or person or group of persons acting directly or  
154 indirectly in the interest of an employer in relation to an employee.

155 L. "Health benefits plan" means a silver or higher level essential health benefits  
156 package, as defined in 42 U.S.C. Sec. 18022, or an equivalent plan that is designed to  
157 provide benefits that are actuarially equivalent to seventy percent of the full actuarial  
158 value of the benefits provided under the plan, whichever is greater.

159 M. "Hourly minimum compensation" means the minimum compensation due to  
160 an employee under this chapter for each hour worked during a pay period.

161 N. "Hourly minimum wage" means the minimum wage due to an employee under  
162 this chapter for each hour worked during a pay period.

163 O. "Person" means any individual, partnership, corporation, limited liability  
164 company, sole proprietorship, association, joint adventure, estate, trust or other entity,  
165 group or combination acting as a unit, and the individuals constituting the group or unit.

166 P. "Piece-rate" means a price paid per unit of work.

167 Q. "Rate of inflation" means the Consumer Price Index annual percent change for  
168 urban wage earners and clerical workers, termed CPI-W, or a successor index, for the  
169 twelve months before each September 1 as calculated by the United States Department of  
170 Labor.

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171 R. "Schedule 1 employer" means an employer that employs more than five  
172 hundred employees in the United States, regardless of where those employees are  
173 employed in the United States.



174 S. "Schedule 2 employer" means an employer that employs five hundred or fewer  
175 employees in the United States, regardless of where those employees are employed in the  
176 United States.

177 T. "Subcontractor" means any person, not an employee, that enters into a contract  
178 with a contractor or subcontractor, and that employs employees for that purpose, to assist  
179 the contractor or subcontractor in performing a contract with the county.

180 U. "Wage" means compensation due to an employee by reason of employment,  
181 payable in legal tender of the United States or checks on banks convertible into cash on  
182 demand at full face value, subject to such deductions, charges or allowances as may be  
183 permitted by rules of the director. "Wages" include commissions, piece-rate  
184 compensation and bonuses, all of which shall be counted as wages in the work-week in  
185 which they were earned. An employer payment toward a health benefits plan does not  
186 constitute a "wage."

187 NEW SECTION. SECTION 5. A. An employee is covered by this chapter  
188 for each hour the employee is performing a measurable amount of work as a county  
189 employee or under a contract with the county. An employee who is not covered by this  
190 chapter is still included in determining the size of the employer.

191 B.1. For the purpose of determining whether an employer is a Schedule 1  
192 employer or a Schedule 2 employer, separate entities that form an integrated enterprise  
193 shall be considered a single employer under this chapter. Separate entities are considered  
194 an integrated enterprise and a single employer under this chapter if a separate entity  
195 controls the operation of another entity. The factors to consider in making this  
196 assessment include, but are not limited to:

- 197 a. The degree of interrelation between the operations of multiple entities;  
198 b. The degree to which the entities share common management;  
199 c. Centralized control of labor relations; and  
200 d. The degree of common ownership or financial control over the entities.

201 2. There shall be a presumption that separate legal entities, which may share  
202 some degree of interrelated operations and common management with one another, are  
203 considered separate employers for purposes of this section as long as: the separate legal  
204 entities operate substantially in separate physical locations from one another; and each  
205 separate legal entity has partially different ultimate ownership.

206 3. The determination of employer schedule for the current calendar year is  
207 calculated based upon the average number of employees employed per calendar week  
208 during the preceding calendar year for any and all weeks during which at least one  
209 employee worked for compensation. For an employer that did not have any employees  
210 during the previous calendar year, the employer schedule is calculated based upon the  
211 average number of employees employed per calendar week during the first ninety  
212 calendar days of the current year in which the employer engaged in business.

213 C. For purposes of this chapter, temporary employment agency employees who  
214 perform, for a Schedule 1 or Schedule 2 employer, a measurable amount of work under a  
215 contract with the county, shall be paid no less than the minimum wage required to be paid  
216 to covered employees of the Schedule 1 or Schedule 2 employer.

217 D. This chapter does not apply to the payment of wages to: employees in the  
218 categories listed in RCW 49.46.010(3); or employees in the categories listed in RCW  
219 49.46.060 and defined in chapter 296-128 WAC for whom their employer has secured a

220 letter of recommendation from the Washington state Department of Labor and Industries  
221 stating that the employer has demonstrated necessity in accordance with chapter 296-128  
222 WAC.

223 E. The county's human resources director shall establish by rule the minimum  
224 wage for employees under the age of eighteen years, but any percentage of the hourly rate  
225 established by rule shall not be lower than the percentage applicable under state statutes  
226 and regulations.

227 NEW SECTION. SECTION 6. The county shall pay its employees at a rate no  
228 less than the hourly minimum wage for Schedule 1 employers, except for individuals  
229 performing services under a work study agreement and short-term temporary employees  
230 who are employed in social service programs designed to help youth gain basic work  
231 training skills.

232 NEW SECTION. SECTION 7.

233 A.1. Except as otherwise provided in subsection B. of this section, beginning  
234 April 1, 2015, and ending January 1, 2016, Schedule 1 employers shall pay their  
235 employees who are covered by this chapter an hourly minimum wage of at least eleven  
236 dollars. Except as otherwise provided in subsection B. of this section, beginning January  
237 1 of each year thereafter, Schedule 1 employers shall pay covered employees an hourly  
238 minimum wage as follows:

239	<b>Year</b>	<b>Hourly Minimum Wage</b>
240	2016	\$13.00
241	2017	\$15.00

242 2. Beginning January 1, 2018, the hourly minimum wage paid by a Schedule 1  
243 employer to covered employees shall be increased annually on a percentage basis to  
244 reflect the rate of inflation and calculated to the nearest cent on January 1 of each year  
245 thereafter.

246 B.1. Beginning January 1, 2016, and ending January 1, 2019, Schedule 1  
247 employers that pay toward a covered employee's health benefits plan shall pay the  
248 employee no less than an hourly minimum wage as follows:

249	<b>Year</b>	<b>Hourly Minimum Wage</b>
250	2016	\$12.50
251	2017	\$13.50
252	2018	\$15.00

253 2. Beginning January 1, 2019, payment by the employer of health benefits for  
254 employees shall no longer affect the hourly minimum wage paid by a Schedule 1  
255 employer.

256 NEW SECTION. SECTION 8. A. Beginning April 1, 2015, and ending January  
257 1, 2016, Schedule 2 employers shall pay their employees who are covered by this chapter  
258 an hourly minimum wage of at least ten dollars. Beginning January 1, 2016, and each  
259 year thereafter through January 1, 2025, Schedule 2 employers shall pay covered  
260 employees no less than the hourly minimum wage shown in the following schedule:

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261	<b>Year</b>	<b>Hourly Minimum Wage</b>
262	2016	\$10.50
263	2017	\$11.00
264	2018	\$11.50

265	2019	\$12.00
266	2020	\$13.50
267	2021	\$15.00
268	2022	\$15.75
269	2023	\$16.50
270	2024	\$17.25

271 B. Beginning January 1, 2025, and January 1 of every year thereafter, the hourly  
 272 minimum wage paid by a Schedule 2 employer to covered employees shall equal the  
 273 hourly minimum wage applicable to Schedule 1 employers.

274 NEW SECTION. SECTION 9.

275 A.1. Beginning April 1, 2015, and ending January 1, 2016, Schedule 2 employers  
 276 shall pay their employees who are covered by this chapter an hourly minimum  
 277 compensation of at least eleven dollars. Beginning January 1, 2016, 2017, 2018, 2019,  
 278 and 2020, Schedule 2 employers shall pay their covered employee no less than  
 279 the hourly minimum compensation shown in the following schedule:

280	<b>Year</b>	<b>Hourly Minimum Compensation</b>
281	2016	\$12.00
282	2017	\$13.00
283	2018	\$14.00
284	2019	\$15.00
285	2020	\$15.75

286           2. Beginning January 1, 2021, the hourly minimum compensation paid by a  
287 Schedule 2 employer to their covered employees shall equal the hourly minimum wage  
288 applicable to Schedule 1 employers.

289           B. Schedule 2 employers can meet the applicable hourly minimum compensation  
290 requirement through wages and money paid by an employer towards an individual  
291 employee's health benefits plan, provided that the Schedule 2 employer also meets the  
292 applicable hourly minimum wage requirements.

293           C. Beginning January 1, 2025, minimum compensation is not applicable.

294           NEW SECTION. SECTION 10. A contract-awarding authority shall not execute  
295 a contract with a contractor unless the contract includes provisions requiring the  
296 contractor to comply with the applicable provisions of this chapter and containing  
297 appropriate remedies for the breach of the contracts as prescribed under section 12 of this  
298 ordinance.

299           NEW SECTION. SECTION 11.

300           A. The executive may waive this chapter in whole or in part to the extent that any  
301 of the following applies:

302           1. The award of a contract or amendment to a contract is necessary in an  
303 emergency, as defined in K.C.C. 12.52.010 or RCW 39.04.280;

304           2. The contract is for a proprietary purchase under K.C.C. 2.93.070;

305           3. There are no contractors capable of responding to the county's requirements  
306 that can comply with this chapter;

307           4. The county is purchasing through a cooperative or joint purchasing  
308 agreement; or

309           5. Application of this chapter would:

310           a. result in an increased cost to the county that would make it necessary to

311 reduce services to county residents; or

312           b. otherwise have a material, adverse impact on the county.

313           B. A request for a waiver of this chapter must be made to the executive by the

314 contract-awarding authority in a manner prescribed by the executive by administrative

315 rule.

316           C. The executive shall provide an annual written report to the council regarding

317 any waivers granted under this section, including a description of the relevant facts and

318 an explanation of the reason for each waiver. The executive must file the report by April

319 1 of each calendar year, covering the preceding calendar year, in the form of a paper

320 original and an electronic copy with the clerk of the council, who shall retain the original

321 and provide an electronic copy to all councilmembers, the council chief of staff, and the

322 lead staff to the budget and fiscal management committee or its successor.

323           NEW SECTION. SECTION 12. The executive shall:

324           A. Adopt public and administrative rules in accordance with this chapter

325 establishing standards and procedures for effectively carrying out this chapter;

326           B. Determine when and how any notice and opportunity to cure a violation of this

327 law should be afforded;

328           C. Determine and impose appropriate sanctions or remedies, or both, and

329 procedures for administrative review, for violation of this chapter by contractors,

330 including but not limited to:

331 1. Disqualification of the contractor from bidding on or being awarded a county  
332 contract for up to two years;

333 2. Remedies allowable by contract including, but not limited to, liquidated  
334 damages and termination of the contract;

335 3. Remedial action after a finding of noncompliance, as specified by rule; and

336 4. Other appropriate civil remedies and sanctions allowable by law; and

337 D. Administer other requirements specified by this chapter or that are necessary  
338 to implement the purposes of this chapter.

339 NEW SECTION. SECTION 13. This ordinance applies to any contract entered  
340 into on or after the earlier of:

341 A. The date the executive adopts public and administrative rules establishing  
342 standards and procedures for implementing this chapter; or

343 B. April 1, 2015.

344 SECTION 14. The executive shall provide a written report to the council  
345 describing any impacts this ordinance has had on the contractors participating in the  
346 county's small contractors and suppliers program or its successor or on contractors that  
347 are human services providers, including any wage compression effects. The executive  
348 must file the report by April 1, 2018, covering the period through the end of 2017, in the  
349 form of a paper original and an electronic copy with the clerk of the council, who shall  
350 retain the original and provide an electronic copy to all councilmembers, the council chief  
351 of staff and the lead staff to the budget and fiscal management committee or its successor.



352            SECTION 15. Severability. If any provision of this ordinance or its application  
353 to any person or circumstance is held invalid, the remainder of the ordinance or the  
354 application of the provision to other persons or circumstances is not affected."

355

356 **Effect:**

357            **1. Modifies Section 13 of the Statement of Facts to conform to Section 4(E) of**  
358 **the ordinance.**

359            **2. Adds a new Section 2, which amends K.C.C. 3.15.100 to make it consistent**  
360 **with the rest of the ordinance, including deletion of Section C, which is unnecessary**  
361 **and potentially misleading in that neither the federal minimum wage nor the state**  
362 **minimum wage nor the King County Code requires payment of a minimum wage to**  
363 **the persons described in Section C or to any volunteers.**

364            **3. Clarifies Section 4(E).**

365            **4. Clarifies Section 4(J).**

366            **5. Clarifies Section 4(K) by adding "King County" to the definition of**  
367 **"employer."**

368            **6. Clarifies Section 4(S).**

369            **7. Clarifies Section 4(T).**

370            **8. In Section 4(U), adds language explaining that commissions, piece-rate**  
371 **compensation, and bonuses are to be counted as wages in the work-week in which**  
372 **they are earned.**

373            **9. Clarifies Section 5(A).**

374           10. Adds a new Section 5(C) providing that the applicable wage rate for  
375 employees working for temporary employment agencies is based on the size of the  
376 contractor for which the individual is working, not the size of the temp agency.

377           11. Expands the scope of employees who are not covered by the ordinance to  
378 include those listed in RCW 49.46.010(3), which is a list of categories of workers  
379 excluded from the scope of the state minimum wage.

380           12. Clarifies Section 7(A).

381           13. Deletes most of Section 7(B). Part of the deleted language required  
382 employers to be “in compliance with all applicable law” in order to be in compliance  
383 with the ordinance, which was not intended. The deleted language concerning  
384 commissions, piece-rate compensation, and bonuses is now covered in Section 4(U).

385           14. Clarifies Section 8 and removes the requirement that employers be “in  
386 compliance with all applicable law” in order to be in compliance with the ordinance,  
387 which was not intended, and the reference to the applicable hourly minimum wage  
388 for Schedule 1 employers, because it is inapplicable.

389           15. Clarifies Section 9 in the same manner as Section 8.

390           16. In Section 11(A)(1), expands the definition of “emergency” to include  
391 situations described in RCW 39.04.280, which provides in part: “For purposes of  
392 this section ‘emergency’ means unforeseen circumstances beyond the control of the  
393 municipality that either: (a) Present a real, immediate threat to the proper  
394 performance of essential functions; or (b) will likely result in material loss or  
395 damage to property, bodily injury, or loss of life if immediate action is not taken.”

396           **17. In Section 13(B), changes the effective date of the ordinance to the earlier**  
397 **of the executive's adoption of rules or April 1, 2015, since the minimum wage**  
398 **requirements in the ordinance do not take effect until that date.**

399           **17. Makes several non-substantive changes to improve readability.**

RDem → passed 90

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Oct. 6, 2014

Nw

Sponsor: Dembowski, Phillips, Gossett

Proposed No.: 2014-0299.2

1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2014-0299, VERSION 2**

2 On page 1, beginning on line 1, strike lines 1 through 3, and insert:

3 "AN ORDINANCE addressing income inequality through a  
4 requirement that a living wage be paid to county employees  
5 and to the employees of certain county contractors;  
6 amending Ordinance 12014, Section 53, and K.C.C.  
7 3.15.100 and adding a new chapter to K.C.C. Title 3."

8 **EFFECT: *Amends the title to conform to the ordinance as amended by Striking***  
9 ***Amendment S1.***