



**King County
Metropolitan King County Council
Budget and Fiscal Management Committee**

STAFF REPORT

Agenda Item:	29	Date:	October 25-27, 2016
Proposed No.:	2016-0463	Name:	Nick Wagner

SUBJECT

Conversion of the County’s paid parental leave pilot program into an ongoing employee benefit.

SUMMARY

Proposed Ordinance 2016-0463 would convert the County’s paid parental leave (PPL) pilot program into an ongoing employee benefit, effective January 1, 2017.

As in the pilot program, the benefit would be available only to employees who are eligible for leave benefits. An employee's participation in the program would continue to be contingent on a "qualifying event," of which there are three:

- The birth of the employee's child
- The employee's adoption of a child
- The foster-to-adopt placement of a child with the employee.

The permitted duration of the leave would be 12 weeks when combined with: (1) all but one week of the vacation that the employee had accrued as of the qualifying event; and (2) all but one week of the sick leave that the employee had accrued as of the qualifying event. The employee would receive “supplemental paid leave” sufficient to bring the total to 12 weeks of leave. An employee on PPL would be compensated at the employee's base pay rate.

A represented employee’s participation in the program would be contingent on the employee’s union having signed a memorandum of agreement (MOA) with the County providing for the employees represented by the union to participate in the program on the terms set forth in the ordinance.

Other terms of the program are spelled out in the proposed ordinance and are described below under Analysis.

The Executive estimates the cost of the program to be about \$6.5 million for the 2017-2018 biennium and about \$6.7 million for the 2019-2020 biennium (Att. 4: Fiscal Note). This estimate makes certain assumptions, which are described below under Fiscal Impact.

BACKGROUND

In December 2015, by Ordinance 18190, the Council directed the Executive to create a one-year pilot program granting PPL to leave-eligible county employees. The pilot was limited to “qualifying events” (birth, adoption, or foster-to-adopt) occurring during 2016.

In July of this year, the Executive transmitted, at the Council’s request, a report on the County’s experience during the first six months of the pilot program. In his transmittal letter accompanying the report, the Executive said:

I am happy to report that the preliminary usage and cost estimates for the first six months are consistent with those predicted in our initial proposal to the Council last year, and it appears that we are meeting our objectives of supporting our employees during one of the most important events of their lives, while at the same time remaining good stewards of public resources.

Some of the findings in the report were:

- 120 employees were awarded in PPL hours, which was consistent with the Executive’s original estimate of 241 for the full year.
- The cost of the program through June 2016 was \$1.4 million, which was consistent with the Executive’s projection of \$2.9 million for the year.
- Of the 120 participating employees, 73 (60.8%) were male and 47 (39.2%) were female, which was consistent with the gender breakdown among all county employees.

In his transmittal letter (Att. 4) in support of Proposed Ordinance 2016-0463, the Executive said: “Based on the success of the pilot program, I recommend that we make Paid Parental Leave a permanent benefit, effective January 1, 2017, using the same program that was utilized in the pilot.” The Executive observed that doing so would:

- “Improve infant and child health, by permitting parents to bond with their children during the first crucial stages of life, which is one of the most important ways we can support best starts for kids;
- “Help attract and retain workers, especially workers in the millennial generation who are moving into prime child-bearing years and, in general, are looking for better integration between work and family lives; and
- “Support the County’s Equity and Social Justice guiding principles by reducing disparities between how low- and high-wage employees take leave.”

ANALYSIS

The PPL program that would be approved by Proposed Ordinance 2016-0494 is essentially the same as the one-year pilot program that the Council directed the Executive to create in December 2015, but without the requirement that the qualifying event occur during the 2016 calendar year.

The ordinance would make PPL an ongoing benefit for county employees on the following terms:

1. Covered Employees

The program would be limited to non-represented county employees and to those represented employees whose unions have entered an MOA with the County containing the terms set forth in the ordinance (Att. 1, lines 397401).¹

2. Eligibility

To participate in the program an employee must be leave-eligible and must have at least six months of continuous service with the County at the time of the qualifying event. (Att. 1, lines 398-99)

3. Qualifying Events

There are three qualifying events: (a) birth of a child; (b) adoption of a child; or (c) foster-to-adopt placement. (Att. 1, lines 68-69)

4. Period of Coverage

The leave must begin and end within 12 months after the qualifying event. (Att. 1, lines 424-25)

¹ Some bargaining units declined to sign an MOA to participate in the PPL pilot program, because the Executive included in the MOA, not only the terms of Ordinance 18190, but also the terms of Ordinance 18191, which provided that King County Family and Medical Leave (KCFML) would henceforth run concurrently with federal and state family and medical leave (“KCFML concurrency”) to the extent permitted by law. In the past, coverage under the two programs had run consecutively. Some unions objected to the linkage between participation in the PPL pilot program and KCFML concurrency, at least in part because the PPL pilot had a limited duration of one year, whereas the change to KCFML concurrency had no time limit.

Proposed Ordinance 2016-0494 would also require participating bargaining units to sign an MOA, and the MOA again provides for KCFML concurrency. This time, however, the PPL program is an ongoing benefit, not just a pilot, so executive staff do not anticipate any objection from the bargaining units that declined to sign the MOA for the PPL pilot program.

5. Amount of Leave

The program is intended to provide 12 weeks of PPL. (Att. 1, lines 394-96) Employees would be required to reserve one week of accrued vacation and one week of accrued sick leave, or whatever smaller amount of each the employee had accrued at the time of the qualifying event. (Att. 1, lines 404-06) All other accrued paid leave (including all executive leave) would be considered unreserved for the purpose of the program.

- An employee who has 12 or more weeks of unreserved accrued paid leave at the time of the qualifying event would be permitted to use up to 12 weeks of accrued paid leave as PPL during the twelve months after the qualifying event. (Att. 1, lines 406-09)
- An employee who has less than 12 weeks of unreserved accrued paid leave at the time of the qualifying event would be granted supplemental paid leave in an amount sufficient, when combined with the employee's unreserved accrued paid leave, to equal a total of 12 weeks of PPL. (Att. 1, lines 409-12)
- Examples:
 - a. An employee with five weeks of accrued vacation and 10 weeks of accrued sick leave would have a total of 15 weeks of accrued paid leave, two of which would be reserved—for a net total of 13 weeks of unreserved accrued paid leave. The employee would be permitted to use up to 12 weeks of accrued paid leave as PPL.
 - b. An employee with two weeks of accrued vacation and three weeks of accrued sick leave would have a total of five weeks of accrued paid leave, two of which would be reserved—for a net total of three weeks of unreserved accrued paid leave. The employee would be granted nine weeks of supplemental paid leave and would be permitted to use the three weeks of unreserved accrued paid leave to bring the total paid leave to 12 weeks. (Att. 1, lines 412-15)

6. Use of Leave

An employee would be permitted to use supplemental paid leave and accrued paid leave in any order and would not be required to use any of the accrued paid leave as PPL. (Att. 1, lines 416-17) For example, an employee with three weeks of unreserved accrued paid leave could choose to take a PPL of only nine weeks (using the nine weeks of supplemental paid leave that the employee would receive under the program) and save the accrued paid leave for the future.

7. Compensation Rate

While on PPL, an employee would be compensated at the employee's base pay rate. (Att. 1, lines 418-19)

8. Notice

An employee should provide the same notice to participate in the PPL program as is required for taking family and medical leave under federal law. (Att. 1, lines 420-23)

9. Scheduling of Leave

An employee and the employee's supervisor would need to agree on a schedule for taking PPL that is consistent with the County's operational needs. (Att. 1, lines 426-27) For example, they might agree that the employee will take eight weeks of paid leave immediately after the qualifying event and the remaining four weeks at a specified time later in the year.

The leave could be taken on a part-time basis if that was consistent with the County's operational needs and was approved in writing by the employee's supervisor before the leave began. (Att. 1, lines 427-30)

10. Concurrency

PPL would run concurrently with King County family and medical leave (KCFML) and with federal and state family and medical leave to the extent permitted by law.² (Att. 1, lines 431-33)

11. Job-protection

While an employee is on leave under the PPL program, the employee's job would be protected to the same extent that an employee's job is protected while the employee is on family or medical leave under federal or state law. This would not protect the employee against layoffs due to budget cuts, as long as the employee's position was not eliminated on the basis of his or her participation or intent to participate in the PPL program. (Att. 1, lines 434-36)

12. Retaliation Prohibited

The proposed ordinance provides:

No retaliatory action may be taken against an employee for participating or planning to participate in the program or for exercising the employee's rights under this ordinance. In particular, permission to use accrued vacation or executive leave shall not be denied or delayed on the basis that the employee intends to participate in the program. This is a general statement of county policy that cannot form the basis of a private right of action. (Att. 1, lines 436-41)

² The concurrency of KCFML with federal and state family and medical leave was established by Ordinance 18191, which the Council adopted on Dec. 7, 2015, the same date that it adopted Ordinance 18190, which directed the Executive to establish the PPL pilot program.

13. Continuation of Health Benefits and Leave Accrual

An employee would continue to receive health benefits and accrue paid leave during the time that the employee was on PPL. (Att. 1, lines 442-44)

14. No Cash-outs

An employee could not be compensated for declining to use the supplemental paid leave that was available under the proposed ordinance. (Att. 1, lines 445-46)

FISCAL IMPACT

The estimated fiscal impact of the PPL program is about \$6.5 million in 2017-2018 and about \$6.7 million in 2019-2020. As described in the Fiscal Note (Att. 5), this estimate:

- Assumes a 1.0 backfill for all, knowing that certain employees may not need to be backfilled and others will need to be backfilled at 1.5 times their normal rate of pay;
- Does not include lost revenue from employees being off work;
- Does not factor in costs of coverage for foster-to-adopt instances, because it is difficult to estimate how many employees will participate in this program³; and
- Assumes employee leave use behavior does not change prior to the addition of the new child.⁴

According to executive staff, it is assumed that county appropriation units will absorb the cost of the PPL taken by their employees, except to the extent that the proposed 2017-2018 budget includes funding to compensate individual appropriation units that experience a disproportionate number of employees taking PPL during the pilot program.⁵

AMENDMENTS

Amendment 1 (Att. 2), at the direction of Councilmember Dembowski, staff wrote amendment 1, which would require annual reports on the usage and costs of the PPL

³ According to the Executive's July 2016 report on the PPL pilot program, three of 96 participants during the first six months of the pilot did so on the basis of a foster-to-adopt.

⁴ The cost estimate assumes that employees will not make an effort to use up their accrued vacation and executive leave before beginning their PPL (doing so would increase the amount of paid supplemental leave they would receive under the program). To the extent that this assumption is incorrect, the cost of the program in the 2017-2018 biennium could increase by up to about \$1.4 million, according to executive staff.

⁵ The proposed budget for the Prosecuting Attorney's Office includes \$250,000 for hiring Deputy Prosecuting Attorney Assistants (contract attorneys) to cover for PAO attorneys who are on PPL. The proposed District Court budget includes \$433,371 for clerk positions to cover for PPL absences.

program in the 2017 and 2018 calendar years. It would also make two technical changes.

Title Amendment T1 (Att. 3) would amend the title to reflect the annual report requirement.

INVITED

Denise Pruitt, Senior Policy Advisor, Human Resources Division, DES

ATTACHMENTS

1. Proposed Ordinance 2016-0463
2. Amendment 1
3. Title Amendment T1
4. Transmittal letter
5. Fiscal Note