



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance

Proposed No. 2023-0262.1

Sponsors von Reichbauer

1 AN ORDINANCE relating to the office of risk
 2 management services; and amending Ordinance 3581,
 3 Section 1, as amended, and K.C.C. 2.21.010, Ordinance
 4 3581, Section 2, as amended, and K.C.C. 2.21.020,
 5 Ordinance 11984, Section 3, as amended, and K.C.C.
 6 2.21.030, Ordinance 12076, Section 38, as amended, and
 7 K.C.C. 2.21.040, Ordinance 3581, Section 6, as amended,
 8 and K.C.C. 2.21.050, Ordinance 3581, Section 7, as
 9 amended, and K.C.C. 2.21.060, Ordinance 3581, Section 8,
 10 as amended, and K.C.C. 2.21.070, Ordinance 3581, Section
 11 9, as amended, and K.C.C. 2.21.080, Ordinance 3581,
 12 Section 10, as amended, and K.C.C. 2.21.090 and
 13 Ordinance 3581, Section 11, as amended, and K.C.C.
 14 2.21.100.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 3581, Section 1, as amended, and K.C.C. 2.21.010 are hereby amended to read as follows:

The purpose of this chapter is to establish risk management policies for the county and to define procedures for the executive and the prosecuting attorney regarding the processing and disposition of claims and (~~claims~~) lawsuits against the county.

21 SECTION 2. Ordinance 3581, Section 2, as amended, and K.C.C. 2.21.020 are
22 hereby amended to read as follows:

23 The definitions in this section apply throughout this chapter unless the context
24 clearly requires otherwise:

25 A. "Chief civil deputy" means the chief deputy of the civil division, office of the
26 prosecuting attorney or the chief civil deputy's designee;

27 B. "Civil division" means the civil division of the office of the King County
28 prosecuting attorney;

29 C. "Claim((s))" means any claim that names the county, or any of its officers,
30 employees, or agents, whether employed or engaged in the past or in the present, while
31 acting in ~~((good faith with no reasonable cause to believe the conduct was unlawful and~~
32 ~~within the scope of the county officer, employee or agent's))~~ service to or employment
33 with the county, as a cause or causes of injury or damage, and that alleges a tort cause of
34 action and asks for money damages;

35 D. "Committee" means the risk management committee established by K.C.C.
36 2.21.040;

37 E. "Enterprise risk management" means a countywide approach to risk
38 management that proactively identifies and addresses potential risks across all operations.
39 It is designed to ensure that organizational leadership integrates consideration of risk into
40 the county's culture and processes, including, but not limited to, business and strategic
41 planning and performance measurement;

42 F. "Lawsuit" means any lawsuit that names as a defendant the county, its officers,
43 employees, or agents, whether employed or engaged in the past or in the present, while

44 acting (~~in good faith~~) within the scope of (~~their official duties~~) service to or
45 employment with the county, that alleges a tort cause of action and that asks for money
46 damages;

47 G. "Risk management" means a coordinated and continuous management process
48 to identify potential loss exposures, to apply reasonable and effective risk controls, and to
49 (~~insure~~) ensure that the financial integrity of the county is not impaired after a loss; and

50 H. "Safety manager" means the manager of the safety and claims management
51 division of the department of executive services.

52 SECTION 3. Ordinance 11984, Section 3, as amended, and K.C.C. 2.21.030 are
53 hereby amended to read as follows:

54 A. The office of risk management services is established in K.C.C. chapter 2.16.
55 The manager of the office of risk management services shall be the risk manager, who
56 shall report directly to the director of the department of executive services.

57 B.1. The risk manager shall be responsible for administration of the risk
58 management program.

59 2. The risk manager shall coordinate with the civil division on contractual
60 matters giving rise to potential liability on the part of the county. The risk manager shall
61 seek the advice of the civil division as to appropriate language regarding (~~insurance,~~)
62 indemnification, releases, and hold harmless clauses. (~~Thereafter, t~~) The risk manager,
63 in coordination with the civil division, shall advise department directors (~~and division~~
64 ~~managers~~) or their designees concerning these matters, and on appropriate language
65 regarding insurance, as part of a coordinated process before finalization of county
66 contracts.

67 3. The risk manager shall ~~((be the chairperson of the committee and shall~~
68 ~~advise))~~ inform the committee concerning insurance, risk management policies, broker
69 selection, and other appropriate matters.

70 4. ~~((With the approval of the committee, t))~~The risk manager shall select
71 appropriate insurance brokers by use of a competitive procurement process for the
72 marketing of insurance and related services.

73 5. The risk manager shall be responsible for the purchasing and administration
74 of all insurance policies, funded self-insurance programs, and related services, as are
75 consistent with good risk management policy and the needs of the county. ~~((In~~
76 ~~purchasing insurance policies, the risk manager shall obtain the approval of the~~
77 ~~committee.))~~

78 6. The risk manager shall advise all county departments and other county
79 agencies regarding risk management and reduction of risk and exposure to loss, including
80 programs and precautions for safety, to reduce hazards to the public that may exist in
81 county facilities and operations, and ~~((utilizing))~~ shall utilize enterprise risk management
82 in order to integrate risk management processes countywide, and proactively identify,
83 analyze, respond to, and monitor risks and opportunities for risk-reduction. The risk
84 manager shall cooperate with the safety manager in areas in which, in the opinion of the
85 risk manager, the safety of employees and of the public requires coordinated programs.
86 The risk manager shall also be responsible for answering all insurance or funded self-
87 insurance coverage questions. The risk manager shall be responsible for the evaluation of
88 current and future county or departmental insurance coverage programs, and have the

89 authority to make recommendations where such an action is in the best interests of the
90 county.

91 7. The risk manager shall have the power, subject to budget authorization, to
92 contract for such outside assistance and perform such other acts as are necessary to carry
93 out the risk manager's responsibilities in an expeditious manner.

94 8. The risk manager is responsible for establishing reserve requirements for all
95 claims and lawsuits, and recommending financing plans and budget actions to assure that
96 adequate resources are available to meet risk management financing requirements.

97 9. The risk manager is responsible for risk identification, control and reduction,
98 including authority to make recommendations to all county departments and agencies
99 regarding the safety of the public using county facilities or services.

100 C.1. The risk manager shall have the power to employ the services of claims
101 specialists or other persons who are necessary to process claims in an equitable and
102 expeditious manner.

103 2. The risk manager shall cooperate with the civil division in coordinating
104 information pertinent to claims and lawsuits against the county.

105 3. The risk manager shall dispose of claims as authorized in K.C.C.

106 2.21.070.~~(E)~~D.

107 4. The risk manager shall maintain complete histories of all claims and claims
108 litigation, insured or funded self-insurance, loss histories, and investigations of claims.

109 The risk manager shall be responsible to ensure that complete files are maintained of all
110 claims asserted against the county and all incidents reported to the office of risk
111 management services sufficient to document at least a ~~(five)~~ ten-year claims history.

112 D.1. The risk manager shall report quarterly to the council on claims that have
113 been closed with an indemnity payment in the amount of one hundred thousand dollars or
114 more. The report shall: identify the claimant; describe the claim; identify the amount of
115 the indemnity payment; identify if the payment was a result of a settlement, a judgment,
116 or a payment to an insurance company or other party; and include any other information
117 the risk manager believes would be helpful to the council in understanding the nature of
118 the claim. The report shall take the form of a letter with an attached table that provides
119 the information required in this section. The quarterly report is due ~~((thirty))~~ forty-five
120 days after the end of each calendar quarter of the year.

121 2. The risk manager, on or before March 31 of each year, shall report to the
122 council on the performance of the risk management program, including, but not limited
123 to, the number of claim filings, amount of claim payments, insurance coverage, and self-
124 insured retention. The annual report shall also include enterprise risk management results
125 for the previous year and plans for the current year, including, but not limited to,
126 enterprise risk management goals, priorities, agency actions, and measurable results.

127 E. The reports required by this section shall be filed in the form of ~~((a paper~~
128 ~~original and))~~ an electronic copy with the clerk of the council, who shall ~~((retain the~~
129 ~~original and))~~ provide an electronic copy of the report to all councilmembers.

130 SECTION 4. Ordinance 12076, Section 38, as amended, and K.C.C. 2.21.040 are
131 hereby amended to read as follows:

132 A. There is created a risk management committee to be composed of the risk
133 manager, ~~((the safety manager;))~~ the chief civil deputy, and the director of the office of
134 performance, strategy and budget. The risk manager shall chair the committee. ~~((The~~

135 ~~safety manager shall be a nonvoting member of the committee and shall inform and~~
136 ~~advise the committee on safety matters and coordinate employee safety programs with~~
137 ~~the risk identification and control functions of the committee.))~~

138 B. The risk management committee shall:

139 1. Make recommendations to the council and executive regarding risk
140 management policy ~~((and shall cause the policy to be established and kept current))~~;

141 2. ~~((Approve the selection of insurance brokers chosen as a result of a~~
142 ~~competitive procurement process;~~

143 3.)) Advise the risk manager on matters concerning the purchase of insurance
144 policies, and advise on the design of insurance and funded self-insurance programs; and

145 ~~((4.))~~ 3. Advise the risk manager concerning matters of risk management
146 policy~~((; and~~

147 ~~5. Approve the purchase of all insurance policies))~~.

148 SECTION 5. Ordinance 3581, Section 6, as amended, and K.C.C. 2.21.050 are
149 hereby amended to read as follows:

150 A. This section is consistent with and implements RCW 36.27.020, which makes
151 the prosecuting attorney the legal advisor of the county.

152 B.1. Subject to the other provisions of this chapter, the county shall provide legal
153 representation and indemnification to protect county officers, employees, and agents,
154 whether employed or engaged in the past or the present, and their marital communities,
155 from personal liability for alleged violations of civil or criminal law resulting from or
156 based upon alleged acts or omissions of the officers, employees, or agents. To have the
157 benefit of the legal representation and indemnification, the county officer, employee, or

158 agent must have performed or acted in good faith, (~~with no reasonable cause to believe~~
159 ~~the conduct was unlawful and~~) within the scope of the county officer's, employee's, or
160 agent's service to or employment with the county, and with no reasonable cause to
161 believe the conduct was unlawful.

162 2. The civil division shall provide legal advice to the risk manager regarding the
163 disposition of all claims against the county.

164 3. The civil division shall keep the risk manager advised of the current status
165 and progress of all claim(s) litigation.

166 4. The civil division shall direct any recommendations for settlement of claims
167 or lawsuits to the authority designated by K.C.C. (~~4.21.030 and 4.21.080~~) 2.21.070.D.
168 and 2.21.080.D., as having final settlement authority. In recommending settlement of
169 claims or lawsuits over \$50,000, the civil division shall consult, in conjunction with the
170 office of risk management services, with the department or other county agency most
171 involved with the litigation or named as a party to the lawsuit.

172 5. In reviewing contract language involving indemnification, releases, or hold
173 harmless clauses (~~or insurance matters~~), the civil division shall provide advice to the
174 risk manager, department directors, or their designees.

175 6. The prosecuting attorney may contract with outside counsel for legal services
176 where appropriate.

177 7. The chief civil deputy of the civil division shall resolve any questions relating
178 to:

179 a. whether a county (~~(official)~~) officer, employee₂ or agent acted in good faith
180 with no reasonable cause to believe the conduct was unlawful₂ and within the scope of the
181 county officer's₂, employee's₂, or agent's service to or employment with the county;

182 b. whether, for purposes of the issues raised by a particular claim or lawsuit, a
183 person is in fact a county (~~(official)~~) officer, employee₂ or agent; or

184 c. whether or not a county officer, employee₂ or agent performed or acted as
185 required to have the benefit of county legal representation and indemnification.

186 C. Any reasonable costs and expenses incurred in the provision of legal
187 representation and indemnification for criminal law allegations, driving infractions₂ and
188 professional licensing matters shall be paid from the funds appropriated to the particular
189 county department or agency employing or retaining the affected county officer,
190 employee₂ or agent, unless the risk manager approves payment for such costs and
191 expenses out of the risk management fund. Any reasonable costs and expenses incurred
192 in the provision of legal representation and indemnification for tort claims and lawsuits
193 shall be paid from available insurance or funded self-insurance program.

194 SECTION 6. Ordinance 3581, Section 7, as amended, and K.C.C. 2.21.060 are
195 hereby amended to read as follows:

196 A. All county departments or agencies and the officers, employees₂ and agents of
197 those departments and agencies shall cooperate fully and in good faith with the risk
198 manager and the civil division in the investigation and defense of claims and lawsuits.
199 When deemed necessary by the chief civil deputy or deputy prosecutor assigned to the
200 case, the assistance may include, but not be limited to, the providing of testimony and

201 exhibits for use in litigation. Any request for information by the office of risk
202 management services shall be considered a request by the civil division.

203 B. Except as specifically directed by the risk manager or the civil division, a
204 county department or agency, or a county official or speaking agent, or an employee or
205 agent represented by the civil division or by outside counsel at the county's expense
206 should not:

207 1. Negotiate or otherwise affect the settlement of a claim or lawsuit against the
208 county; or

209 2. Make an admission of liability involving a claim or lawsuit against the
210 county.

211 C. Except as specifically directed by the risk manager or the civil division, a
212 county department or agency, or a county official or speaking agent, or an employee or
213 agent represented by the civil division or by outside legal counsel at the county's expense
214 should not:

215 1. Discuss₂ with persons who are not county employees₂ incidents that could
216 reasonably lead to claims or lawsuits against the county; or

217 2. Discuss₂ with persons who are not county employees₂ incidents that are the
218 subject of pending claims or lawsuits.

219 D. In the event of an accident, incident₂ or occurrence causing bodily injury or
220 property damage involving county vehicles, property₂ or personnel acting within the
221 scope of their employment, the knowledgeable county officers, employees₂ and agents
222 shall provide notice to the office of risk management services as soon as practicable. The
223 notice shall include all reasonably obtainable information with respect to the time, place₂

224 and circumstances of the accident, incident, or occurrence and the names and addresses
225 of all knowledgeable county personnel, injured or affected parties, and available
226 witnesses.

227 SECTION 7. Ordinance 3581, Section 8, as amended, and K.C.C. 2.21.070 are
228 hereby amended to read as follows:

229 A.1. All claims against the county for damages arising out of tortious conduct
230 shall be presented to and filed with the risk manager by use of the electronic claim filing
231 system managed by the office of risk management services, or a claim form provided by
232 the county or the state.

233 2. All such claims shall be verified by oath or affidavit and shall:

234 a. state the claimant's name, date of birth, and contact information;

235 b. describe the conduct and circumstances that brought about the injury or
236 damage;

237 c. describe the injury or damage;

238 d. state the time and place the injury or damage occurred;

239 e. state the names of all persons involved, if known; and

240 f. state the amount of damages claimed, together with a statement of the actual
241 residence of the claimant at the time of presenting and filing the claim and for a period of
242 six months immediately before the time the claim arose.

243 3. If the claimant is incapacitated from verifying, presenting, and filing the
244 claim, if the claimant is a minor or if the claimant is a nonresident of the state, the claim
245 may be verified, presented, and filed on behalf of the claimant by any relative, attorney,
246 or agent representing the claimant. With respect to the content of such claims, this

247 section shall be liberally construed so that substantial compliance will be deemed
248 satisfactory.

249 B. An action shall not be commenced against the county for damages arising out
250 of tortious conduct until a claim has first been presented to and filed with the risk
251 manager and sixty days has passed after the date of filing.

252 C. This section shall not affect the applicable period of limitations within which
253 an action must be commenced, but the period shall begin and shall continue to run as if
254 no claim were required.

255 D.1. For all claims of one hundred thousand dollars or less, the risk manager shall
256 have the final payment authority and shall make final disposition by either granting or
257 denying the claim((;)).

258 2. For all claims over ten thousand dollars, the risk manager shall seek the
259 advice of the civil division before final disposition.

260 3. For all claims above one hundred thousand dollars, the county executive shall
261 make final disposition after receiving advice from the civil division and the risk manager.

262 SECTION 8. Ordinance 3581, Section 9, as amended, and K.C.C. 2.21.080 are
263 hereby amended to read as follows:

264 A. Service of a summons and complaint shall be as provided in K.C.C. 2.04.010.
265 Any county ((official)) officer or employee who is served with a summons and complaint
266 in a lawsuit against the county or against any of its ((officials)) officers, employees, or
267 agents alleged to be acting in their official capacities shall immediately deliver the
268 summons and complaint to the clerk of the council.

269 B. The clerk of the council, upon accepting service of the summons and
270 complaint shall immediately deliver the summons and complaint to the civil division.
271 The civil division shall docket the lawsuit and send a copy of the summons and complaint
272 to the office of risk management services.

273 C. The prosecuting attorney shall defend, or provide for the defense of, all
274 lawsuits against the county or any of its (~~officials~~) officers, employees, or agents, acting
275 in good faith with no reasonable cause to believe the conduct was unlawful and within
276 the scope of the county officer, employee, or agent's service to or employment with the
277 county, as long as the individuals discharge their obligations in K.C.C. 2.21.060.

278 D. Final authority for settlement of self-insured lawsuits shall be as follows:

279 1. The risk manager, acting with the advice of the civil division, may authorize
280 settlements of one hundred thousand dollars or less; and

281 2. The executive, acting with the advice of the civil division and the risk
282 manager, may authorize settlements of more than one hundred thousand dollars.

283 SECTION 9. Ordinance 3581, Section 10, as amended, and K.C.C. 2.21.090 are
284 hereby amended to read as follows:

285 A. The purpose of this section is to protect county officers, employees, agents,
286 and their marital communities from personal liability for acts committed by those
287 individuals in good faith and within the scope of their official county duties.

288 B. The chief civil deputy shall determine all questions relating to scope and status
289 in accordance with K.C.C. 2.21.050.B.7.

290 C. When a county officer, employee, agent, or the marital community of the
291 county officer, employee, or agent is sued in a lawsuit for an act or alleged act falling

292 within the scope of the officer's, employee's, or agent's official duties, the prosecuting
293 attorney shall be responsible for defense of that person or community in accordance with
294 K.C.C. 2.21.050, 2.21.060 and 2.21.080 and this section.

295 D. This section may not apply if a claim or lawsuit is covered fully by insurance.

296 E. If a possible conflict exists between the county and a county (~~official~~)
297 officer, employee, or agent, acting in good faith within the scope of official duties of the
298 county (~~official~~) officer, employee, or agent, the prosecuting attorney may, at the
299 prosecuting attorney's sole discretion, appoint outside counsel as a special deputy
300 prosecuting attorney to represent the person. In those cases, the county shall be
301 responsible for payment of costs incurred in the defense.

302 F.1. Subject to the other provisions of this chapter, the county shall provide legal
303 representation and indemnification to protect county officers, employees, agents, and
304 their marital communities from personal liability for alleged violations of civil or
305 criminal law resulting from or based upon alleged acts or omissions of the officers,
306 employees, or agents. To have the benefit of the legal representation and
307 indemnification, the county officers, employees, or agents must have performed or acted
308 in good faith, with no reasonable cause to believe the conduct was unlawful and within
309 the scope of the county officer's, employee's, or agent's service to or employment with
310 the county.

311 2. For the purposes of subsection F.1. of this section, "alleged violations of civil
312 or criminal law":

313 a. includes, but is not limited to, professional licensing matters if a complaint
314 has been filed regarding an officer, employee, or agent's professional license; and

315 b. does not include motor-vehicle-related infractions unless the chief civil
316 deputy determines that, in a particular instance, a motor vehicle infraction should be
317 included because it is in the best interests of the county.

318 SECTION 10. Ordinance 3581, Section 11, as amended, and K.C.C. 2.21.100 are
319 hereby amended to read as follows:

320 A. The risk manager and the civil division shall be responsible for bringing all
321 actions, including claims and lawsuits, for recovery of losses to the county arising out of
322 the acts of others. The losses may include property damages or losses that impact ~~((en))~~
323 the county as a result of personal injuries to county officers or employees. In addition,
324 the civil division may join the county as a party with any third party in a lawsuit
325 involving recovery of loss to the county. The prosecuting attorney may contract with
326 outside counsel on recovery matters where appropriate.

327 B. Any moneys recovered, excluding costs of recovery, by the risk manager or
328 civil division, on account of losses to the county shall be paid to the budget unit or
329 department that has expended funds or materials as a result of the loss. Any moneys

330 recovered in excess of those so expended shall be transferred to the ((insurance)) risk
331 management fund.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None