



**King County**

## **Metropolitan King County Council**

### **STAFF REPORT**

<b>Proposed No.:</b>	2022-0313	<b>Name:</b>	Melissa Bailey
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#### **SUBJECT**

The proposed ordinance would amend King County Code to extend provisions bargained in the Coalition Labor Agreement to non-represented King County employees.

#### **SUMMARY**

On August 23, 2022, the Council adopted the Coalition Labor Agreement (CLA) between King County and the King County Coalition of Unions. Proposed Ordinance 2022-0313 would amend King County Code to extend certain provisions bargained in the CLA to non-represented County employees. The ordinance proposes changes to various types of leave (bereavement, paid parental, sick, and donated leaves), personal holidays, special duty assignments, reclassifications and resulting pay, and reimbursements for commercial driver's license endorsements. Proposed code changes are described in further detail in the Analysis section of this staff report. According to the fiscal note transmitted with the proposed ordinance, there would be no fiscal impact as a result of these code changes.

Striking amendment S1 would make technical corrections and clarify language to the proposed ordinance. The striking amendment would also remove code changes in the proposed ordinance unrelated to CLA standardization. The striker is described in further detail in Table 1 and in the Amendment section of this staff report.

#### **BACKGROUND**

In May 2018, the Council adopted the first Master Labor Agreement (MLA) negotiated between King County and the King County Coalition of Unions (the Coalition).<sup>1</sup> Seeking to achieve process efficiencies and administrative cost savings, the MLA standardized a number of practices and procedures across bargaining units belonging to the Coalition. To further these standardization efforts, the Executive also transmitted and the Council adopted an ordinance extending the MLA provisions to non-represented employees.<sup>2</sup>

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<sup>1</sup> Ordinance 18726

<sup>2</sup> Ordinance 18727

In August 2022, the Council adopted the successor agreement to the MLA, referred to as the Coalition Labor Agreement (CLA).<sup>3</sup> Updating a number of benefits and practices, the CLA applies to approximately 41 percent of the County's workforce. The Executive proposes to continue the practice of extending the negotiated provisions to non-represented employees who make up about 21 percent of the County's workforce.<sup>4</sup>

Proposed Ordinance 2022-0313 would bring the King County Code into alignment with the benefits and practices adopted in the CLA. According to the Executive, "standardization between the CLA and the King County Code supports the King County Strategic Plan goal of efficient, accountable regional and local government. Furthermore, standardizing employee benefits and practices is in our employees' best interests and is foundational to the Equity and Social Justice Strategic Plan."

## **ANALYSIS**

Proposed Ordinance 2022-0313 would amend King County Code to extend certain provisions approved by the Council in Ordinance 19489, the 2021-2024 CLA, to non-represented employees. As previously stated, about 21 percent of the County's workforce is not represented by a union. These employees work in approximately 640 classifications across the three branches of county government (executive, legislative, and judicial). Nearly one-third of non-represented employees work in department and division leadership positions and another third are in short-term temporary and term-limited temporary positions.

Table 1 summarizes the material changes proposed in the ordinance. The legislation also includes technical changes that would clarify and streamline code but would not result in changes to existing policy and practice; not every technical change is discussed in the table.

As transmitted, the proposed ordinance has some technical errors as well as changes unrelated to CLA standardization. To avoid single subject concerns, the Department of Human Resources (DHR) has agreed to transmit code changes unrelated to the CLA separately.<sup>5</sup> Striking amendment S1 would correct the technical errors and remove the unrelated code changes from the proposed ordinance. To help the Council compare the proposed ordinance and the striking amendment, both are described in Table 1.

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<sup>3</sup> Ordinance 19489

<sup>4</sup> Employment numbers fluctuate; these percentages reflect the County's workforce in October 2022. The remaining 38 percent of employees are represented by unions that do not belong to the Coalition.

<sup>5</sup> The Executive is working on a comprehensive update to Title 2 and Title 3. Transmittal is currently anticipated in Q1 of 2023, and these changes could be included with that proposed ordinance.

**Table 1. Proposed Code Changes Related to CLA Standardization**

<b>K.C.C.</b>	<b>Issue</b>	<b>PO 2022-0313</b>	<b>Striker 1</b>
3.12.110	Training	<u>Section 1:</u> The County would reimburse an employee for the cost of maintaining their commercial driver's license endorsement(s) if the County requires the position to have it.	<u>Section 1:</u> No changes, same as PO 2022-0313.
3.12.210	Bereavement Leave	<u>Section 2:</u> Employees would be required to take bereavement leave within 18 months from the date of death of the immediate family member. <sup>6</sup>  Also proposes to delete the following language from code: "A furloughed employee shall not be eligible to take or be paid for bereavement leave in lieu of taking a budgetary furlough day."	<u>Section 2:</u> Retains the new requirement that employees use bereavement leave within 18 months of an immediate family member's death.  No longer deletes language regarding furloughed employees from code as that change is unrelated to CLA standardization.
3.12.219	Paid Parental Leave (PPL)	<u>Section 3:</u> In cases of adoption and foster-to-adopt placement, employees would be required to take PPL within one year of the child's birth or placement in the home.  This would not impact foster-to-adopt placements as code already requires leave be taken within one year of placement. <sup>7</sup> In cases of adoption, however, it clarifies that an employee would not be eligible for PPL when adopting a child who has lived with them for more than one year. <sup>8</sup>	<u>Section 3:</u> No changes, same as PO 2022-0313.

<sup>6</sup> "Immediate family member" does not change and would still include the employee's spouse or domestic partner; the employee's ward, or any person whom the employee has legal guardianship or custody of; and the following family members of the employee, the employee's spouse, or the employee's domestic partner: parent (biological, adoptive, foster or stepparent, legal guardian or a person who stood or stands in loco parentis), grandparent, child, child's spouse, grandchild, or sibling.

<sup>7</sup> K.C.C. 3.12.219.G. requires paid parental leave begin and end within 12 months after the qualifying event and K.C.C. 3.12.010.EEE. defines a "qualifying event" as the birth of an employee's child, the employee's adoption of a child or the foster-to-adopt placement of a child with the employee.

<sup>8</sup> Executive staff note that the intent of PPL is to allow for bonding when the child is newly placed in the home; therefore, this change would clarify that an employee who has lived with their stepchild, for example, for several years before adopting them is not eligible for PPL.

K.C.C.	Issue	PO 2022-0313	Striker 1
3.12.220	Sick Leave	<p><u>Section 4:</u> Employees would be allowed to take sick leave when exposed to a contagious disease and must quarantine. According to Executive staff, this is current practice but amending code would further clarify that this is a qualifying reason to use sick leave.</p>	<p><u>Section 4:</u> No changes, same as PO 2022-0313.</p>
3.12.222	Donated Leave - to nonprofit organizations	<p><u>Section 5:</u> Would update code to say that DHR processes the donated leave, not the Finance, Business, and Operations Division (FBOD). This is a technical change to reflect current practice.</p> <p>Would also add benefit time off in code as a type of leave that can be converted into cash and donated to a nonprofit organization(s). Benefit time is unique to a few bargaining units and is managed in accordance with their contracts.<sup>9</sup> Current practice allows employees with benefit time to donate hours to nonprofits.</p>	<p><u>Section 5:</u> Retains technical corrections such as changing FBOD to DHR.</p> <p>Removes references to benefit time since DHR says this was added in error. According to DHR, because benefit time does not apply to non-represented employees, it should not be added to code. DHR confirms employees with benefit time will be able to continue donating hours to nonprofits and that benefit time will be governed by labor contracts.</p>
3.12.223	Donated Leave - to other employees	<p><u>Section 6:</u> Would add a new requirement that donated leave can only be used for FMLA/KCFML qualifying reasons and must be used for a prolonged absence (3 or more consecutive days). After a prolonged absence, donated leave may be used intermittently. These changes are required to bring the County into compliance with federal IRS Rule 90-29.<sup>10</sup></p> <p>Employees would be required to exhaust all paid leave accruals</p>	<p><u>Section 6:</u> No changes, same as PO 2022-0313.</p>

<sup>9</sup> Benefit time is a unique benefit offered to some represented employees in the Wastewater Treatment Division. It is a bank of time accrued using a combination of holiday leave and vacation accrual, instead of traditional holiday and vacation benefits.

<sup>10</sup> King County's existing employee-to-employee leave donation program was determined to be out of compliance with IRS Rule 90-29. This rule only allows employee-to-employee leave donation to be used for medical emergencies without requiring the donor be taxed for the donation. According to Executive staff, limiting the use of donated leave to KCFML/FMLA qualifying reasons would meet the definition of medical emergencies and bring the County into compliance.

K.C.C.	Issue	PO 2022-0313	Striker 1
		<p>before they could use donated leave. Executive staff say this is current practice; however, amending code would provide clarity. And, employees would no longer be able to accrue additional leave hours while utilizing donated leave.</p>	
<p>New Section of K.C.C. chapter 3.12</p>	<p>Emergency Medical Leave Program</p>	<p><u>Section 7:</u> Would add a new section to K.C.C. chapter 3.12 that would create an Emergency Medical Leave (EML) Fund program managed by the DHR.<sup>11</sup> The CLA directed the County to create a pilot program that the County could then choose to cease or make permanent. DHR confirms the intent with these code changes is to make the program permanent.</p> <p><i>Donating Leave.</i> The new program would depend on comprehensive leave eligible (CLE) employees donating leave hours to the EML program. They would be limited to donating a maximum of 80 hours of vacation leave and 25 hours of sick leave per calendar year.<sup>12</sup></p> <p><i>Receiving Leave.</i> CLE employees would request leave from DHR and would be awarded leave prospectively and on a first come, first served basis. The maximum number of hours an employee could receive would be 80 hours per calendar year, prorated to reflect their work schedule. Donated hours not</p>	<p><u>Section 7:</u> The striker reorganizes this section to improve readability. Most of the language is the same; however, there are two notable changes.</p> <p>1. The striker removes "fund" from the program name to clarify that this is not a fund as defined in code.<sup>13</sup></p> <p>2. Language explaining how to determine the dollar value of donated hours is rewritten. The transmitted version used language from the employee-to-employee donated leave program, which would not apply to this new program. Donated hours will still be converted to a dollar value based on the donor's base rate of pay at the time of donation. However, the striker clarifies that "the number of donated hours distributed to the receiving employee and the receiving employee's base rate of pay shall determine the dollar value to withdraw from the emergency medical leave program."<sup>14</sup></p>

<sup>11</sup> King County established the COVID Emergency Donated Leave Fund in response to a nationally declared disaster pursuant to IRS Notice 2006-59. Specific to COVID-19 related absences, it is not the same as having an emergency medical leave fund. The proposed ordinance establishes in code an Emergency Medical Leave program, which would operate like the COVID leave program but expand beyond pandemic specific uses.

<sup>12</sup> When donating vacation leave, an employee may donate more than the maximum 80 hours if approved by their department director. When donating sick leave, the employee's sick leave accrual balance must be 100 hours or more immediately subsequent to the donation.

<sup>13</sup> K.C.C. 4A.10.305

<sup>14</sup> The transmitted language was copied from the employee-to-employee program (K.C.C. 3.12.223.D) which states: "All vacation and sick leave hours donated shall be converted to a dollar value based on the

K.C.C.	Issue	PO 2022-0313	Striker 1
		<p>used by the receiving employee within 60 calendar days of being awarded would return to the program.</p> <p>Like the employee-to-employee donated leave program, receiving employees would be required to use EML for a FMLA/KCFML qualifying reasons. Initially, the leave would need to be taken for a prolonged absence (3 or more consecutive days), after which it may be used intermittently. Employees would be required to exhaust all paid leave accruals before using EML, and they would not be able to accrue additional leave hours while utilizing the EML.</p>	
3.12.230	Holidays	<p><u>Section 8:</u> Under current code, comprehensive leave eligible employees receive two personal holidays. The proposed ordinance would change when those holidays would be issued:</p> <ul style="list-style-type: none"> <li>- If employed on February 1, the two personal holidays would be added to the employee's vacation bank on the paycheck that includes February 1;</li> <li>- If hired between February 2 and November 15, the two personal holidays would be awarded upon hire; and,</li> <li>- If hired after November 15, employees would no longer receive two personal holidays for that calendar year.</li> </ul> <p>Additionally, the proposed ordinance would amend code to clarify that an employee who is otherwise eligible for holiday pay would not be ineligible because they took an unpaid holiday for</p>	<p><u>Section 8:</u> Retains the changes related to the two personal holidays.</p> <p>The striker would no longer add language to code related to unpaid holidays for religious purposes as this change is unrelated to CLA standardization.</p>

donor's straight time hourly rate at the time of donation. The dollar value shall then be divided by the receiving employee's hourly rate to determine the actual number of hours received and placed in the receiving employee's donated leave bank."

K.C.C.	Issue	PO 2022-0313	Striker 1
		religious purposes the day before or after the holiday in question (employees are typically required to be in pay status the day before or after a holiday to receive holiday pay). This is current practice and is being proposed for clarity. <sup>15</sup>	
3.15.030	Reclassification and Resulting Pay	<p><u>Section 9:</u> Would allow term-limited temporary employees to be reclassified as part of a group classification, but only if the group includes at least one regular employee.</p> <p>Would also change incentive pay to merit pay to reflect the current terminology used.<sup>16</sup></p>	<u>Section 9:</u> No changes, same as PO 2022-0313.
3.15.140	Special Duty Assignment (SDA) <sup>17</sup>	<p><u>Section 10:</u> The proposed ordinance would amend code to include SDAs in lateral or lower paying classifications. Current code for this section only applies to higher level classifications.</p> <p>The proposed ordinance also clarifies that only SDAs in a higher paid classification would be eligible for increased pay.</p> <p>Language is added to clarify that if a special duty position is converted into a regular position and the employee serving in that position on SDA is hired, they could not be paid a lower rate than what they received during the SDA. The employee's department director, however, could place them at a higher step based on criteria in the adopted salary ordinance (K.C.C. 3.12.130).</p>	<u>Section 10:</u> No changes, same as PO 2022-0313.

<sup>15</sup> R.C.W. 1.16.050 entitles employees to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. King County HR Bulletin 2014-0003 speaks to existing Executive policy.

<sup>16</sup> The 2021-2024 CLA moved away from merit-based step increases and instead provides for automatic step progressions. These same changes were not included in PO 2022-0313; however, DHR notes the Executive is reviewing the matter and may propose these changes in the future.

<sup>17</sup> "Special Duty Assignment" is when an employee in a regular position is temporarily assigned to a classification, and the duties comprise the majority of the work performed for a minimum of 30 calendar days.

K.C.C.	Issue	PO 2022-0313	Striker 1
		<p>Additionally, current code states that if a special duty position is converted into a regular position and the employee who served in that position on SDA is hired, the time served in the special duty position counts toward any required probationary period. The proposed ordinance would add a time limit, requiring the employee be hired within one year of serving in the SDA for the time served to be counted.</p> <p>Would change incentive pay to merit pay to reflect the current terminology used.<sup>18</sup></p>	

According to the accompanying fiscal note, there would be no fiscal impact as a result of the proposed code changes. Executive staff confirmed that covering the cost of commercial driver's licenses for non-represented employees is considered de minimis, and they are assuming no additional costs for administering the Emergency Medical Leave program.

**AMENDMENT**

Striking Amendment S1 would make technical corrections and clarify language. It would also remove proposed code changes unrelated to CLA standardization. See Table 1 for a more detailed description of changes and a comparison to the proposed ordinance.

**ATTACHMENTS**

1. Transmittal Letter
2. Fiscal Note

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<sup>18</sup> As previously noted, the 2021-2024 CLA moved away from merit-based step increases and instead provides for automatic step progressions. These same changes were not included in PO 2022-0313; however, DHR says the Executive is reviewing the matter and may propose these changes in the future.





**King County**

**Dow Constantine**

King County Executive

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July 26, 2022

The Honorable Claudia Balducci  
Chair, King County Council  
Room 1200  
C O U R T H O U S E

Dear Councilmember Balducci:

In October 2021, King County reached a tentative Coalition Labor Agreement (CLA) with the King County Coalition of Unions representing approximately 6,600 King County employees. The CLA further builds upon the protections and efficiencies established in King County's 2018 Master Labor Agreement by standardizing additional common benefits and practices for employees.

I am pleased to transmit to you a proposed Ordinance that will, if enacted, bring the King County Code into alignment with the benefits and practices of the CLA. This proposed Ordinance supports improvements in efficiency and productivity for the County by extending the benefits and practices in the CLA to our non-represented employees. The CLA is transmitted to the King County Council simultaneously with this proposed Ordinance.

The range of proposed changes include items such as updates to the County's donated leave program to align with federal tax requirements and establishing a new emergency donated leave fund for County employees.

Standardization between the CLA and the King County Code supports the King County Strategic Plan goal of efficient, accountable regional and local government. Furthermore, standardizing employee benefits and practices is in our employees' best interests and is foundational to the Equity and Social Justice Strategic Plan.

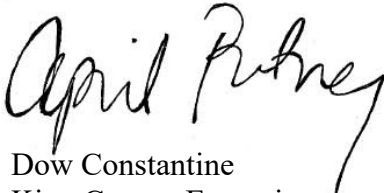
The Honorable Claudia Balducci

July 26, 2022

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Thank you for your consideration of this proposed Ordinance. If you have any questions, please contact Denise R. Pruitt, Department of Human Resources Chief of Policy & Legislation, at 206-477-3230.

Sincerely,

 for

Dow Constantine  
King County Executive

Enclosure

cc: King County Councilmembers  
    ATTN: Stephanie Cirkovich, Chief of Staff  
          Melani Pedroza, Clerk of the Council  
Shannon Braddock, Chief of Staff, Office of the Executive  
Karan Gill, Deputy Chief of Staff, Office of the Executive  
Mina Hashemi, Council Relations Director, Office of the Executive  
Dwight Dively, Director, Office of Performance, Strategy and Budget  
Whitney Abrams, Chief People Officer, Office of the Executive  
Jay Osborne, Director, Department of Human Resources  
Denise R. Pruitt, Chief of Policy & Legislation, Department of Human Resources

2021-2022 FISCAL NOTE

Ordinance/Motion:	Ordinance
Title:	Standardization between the CLA and KCC
Affected Agency and/or Agencies:	All
Note Prepared By:	Andres Fuerte, Department of Human Resources
Date Prepared:	7/14/2022
Note Reviewed By:	Chris McGowan, Office of Performance, Strategy and Budget
Date Reviewed:	7/14/2022

Description of request:

The attached legislation brings the King County Code in alignment with the benefits and practices adopted in the Coalition Labor Agreement (CLA). If approved, this ordinance will result in efficiencies and improvements in productivity for the County by extending the same benefits and practices agreed to in the CLA to our non-represented employees. The specific benefits that will be codified through this legislation include donated leave changes and changes to special duty assignments. As noted below, we expect that they will have no fiscal impact.

Revenue to:

Agency	Fund Code	Revenue Source	2022	2023	2024
TOTAL			0	0	0

Expenditures from:

Agency	Fund Code	Department	2022	2023	2024
			0	0	0
			0	0	0
TOTAL			0	0	0

Expenditures by Categories

	2022	2023	2024
	0	0	0
	0	0	0
TOTAL	0	0	0

This legislation does not require a budget supplemental

Notes and Assumptions:

- There will be no fiscal impact as a result of these code changes.