## REVISED STAFF REPORT

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| **Agenda Item:** | 5 | **Name:** | Melissa Bailey |
| **Proposed No**.: | 2022-0013 | **Date:** | May 10, 2022 |

**COMMITTEE ACTION**

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| ***Proposed Substitute Ordinance 2022-0013.2, which would change Indigenous Peoples' Day, a paid holiday for King County employees eligible for comprehensive leave benefits, from October 12 of each year to the second Monday in October of each year, passed out of committee on May 10, 2022, with a “Do Pass” recommendation. The Ordinance was amended in committee with Amendment 1 to remove an obsolete effective date and clarify that the legislation would become effective the standard 10 days after enactment.***  |

**SUBJECT**

Proposed Ordinance 2022-0013 would change Indigenous Peoples' Day, a paid holiday for King County employees eligible for comprehensive leave benefits, from October 12 of each year to the second Monday in October of each year.

**SUMMARY**

In November 2020, Council passed Ordinance 19208 establishing October 12 of each year, Indigenous Peoples' Day, as a paid holiday for King County employees eligible for leave benefits. The ordinance also directed the Office of Equity and Social Justice (OESJ) to consult with employees who identify as Native American as well as with tribes located within King County on whether October 12 is the preferred date to designate the Indigenous Peoples' Day holiday with pay.

Based on the consultation conducted, Proposed Ordinance 2022-0013 would change the county's Indigenous Peoples' Day holiday with pay from October 12 of each year to the second Monday in October of each year.

Amendment 1 would remove Section 2 of the proposed ordinance which would no longer require the effective date of the ordinance to begin on January 1, 2022, since this date has already passed.

**BACKGROUND**

On October 12, 1492, Christopher Columbus landed in what is now known as the Bahamas while in search of a new route to Asia. Celebrations honoring Columbus occurred over the years, but it was not until President Franklin D. Roosevelt issued a proclamation in 1934 that October 12 of each year was officially recognized as Columbus Day by the federal government.[[1]](#footnote-1) In 1968, Congress made Columbus Day a legal federal holiday and set observance to be the second Monday of October (effective in 1971).[[2]](#footnote-2) King County celebrated Columbus Day as a paid holiday until 1976 when it was replaced with a personal holiday.[[3]](#footnote-3)

Indigenous Peoples' Day was first proposed in 1977 during the International Non-Governmental Organizations Conference on Discrimination Against Indigenous Populations in the Americas, hosted by the United Nations. According to conference reports, "representatives of the indigenous peoples gave evidence to the international community of the ways in which discrimination, genocide and ethnocide operated." The conference developed several recommended actions including "observe October 12, the day of the so-called 'discovery' of America, as an International Day of Solidarity with the Indigenous Peoples of the Americas."[[4]](#footnote-4)

Since originally proposed in 1977, numerous states and local jurisdictions have recognized Indigenous Peoples' Day, although not all by that name. South Dakota was the first, officially changing the name of Columbus Day to Native American Day in 1990.[[5]](#footnote-5) For those jurisdictions recognizing Indigenous Peoples' Day, some do so as a day of celebration while others have made it an official paid holiday.[[6]](#footnote-6) In 2021, President Joe Biden was the first president to officially acknowledge Indigenous Peoples' Day.[[7]](#footnote-7) While federal legislation has been introduced, Congress has not made it a legal federal holiday.[[8]](#footnote-8)

In November 2020, Council established October 12 of each year, Indigenous Peoples' Day, as a paid holiday for King County employees eligible for comprehensive leave benefits.[[9]](#footnote-9),[[10]](#footnote-10) In accordance with Ordinance 19208, the paid holiday begins in 2022 and is subject to available funding resources, bargaining, and potential impacts to existing county services.

Ordinance 19208 also directed OESJ to consult with employees who identify as Native American as well as with tribes located within King County on whether October 12 is the preferred date to designate the Indigenous Peoples' Day holiday with pay. Council requested any legislation necessary to change the October 12 date be transmitted by December 31, 2021.

**ANALYSIS**

Proposed Ordinance 2022-0013 would change the county's Indigenous Peoples' Day holiday with pay from October 12 of each year to the second Monday in October of each year. The legislation was received by the Council's requested transmittal date.

**Consultation.** In accordance with Ordinance 19208, OESJ consulted with employees who identify as Native American through the King County Native American Leadership Council.[[11]](#footnote-11) While the group considered the first Monday in October as an alternative, they ultimately expressed preference for the second Monday in October. According to executive staff, the decision to support the second Monday in October aligns with positions taken by the National Congress of American Indians (NCAI)[[12]](#footnote-12) and the Affiliated Tribes of Northwest Indians (ATNI).[[13]](#footnote-13)

Additionally, government-to-government consultation occurred with six tribes identified by executive staff as having substantial and direct interest in King County. Those tribes include:

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| * Duwamish Tribe
* Muckleshoot Indian Tribe
* Puyallup Tribe of Indians
 | * Snoqualmie Indian Tribe
* Suquamish Tribe, and
* Tulalip Tribes
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All of the tribes consulted either supported or did not object to observing Indigenous Peoples' Day on the second Monday in October.

**Implementation.** King County is set to begin celebrating Indigenous Peoples' Day as a paid holiday in 2022. Executive staff state that, similar to other county holidays, non-represented employees will be covered by the county's human resource policies related to administering holidays[[14]](#footnote-14) and implications for represented employees will be subject to collective bargaining. Some bargaining units have different pay practices for employees who must work on a holiday. Any variations from county policy would be contained in individual collective bargaining agreements.

Executive staff note that the Office of Labor Relations is currently in the process of bargaining, and the new paid holidays (Indigenous Peoples' Day and Juneteenth) have been part of bargaining discussions. While a tentative agreement has been reached with the Coalition of Unions, small table negotiations with individual bargaining units are still underway. Member unions will need to ratify the Coalition Labor Agreement as well as small table agreements before they can be transmitted to Council. Executive staff currently estimate these will be transmitted in July 2022. Negotiations with non-Coalition unions are also ongoing, and agreements will be transmitted as they are completed and ratified by the respective unions.

Along with the Coalition Labor Agreement, executive staff anticipate transmitting a supplemental budget request to address impacts from labor negotiations as well as the new paid holidays.[[15]](#footnote-15) According to executive staff, the total county cost for the Indigenous Peoples' Day holiday is estimated at $1.9 million per year, with approximately 55% of that being associated with Metro operations. They also note that the $1.9 million value includes costs for contracted services such as Link, Streetcar, and Sheriff services, for which a portion or all of the cost would be recouped from the entity contracting with the county for the service.

The fiscal note for this proposed ordinance reports no financial impact related to changing the date of the paid holiday.

**AMENDMENT**

Section 2 of the proposed ordinance would establish an effective date of January 1, 2022. Amendment 1 is a technical amendment that would strike that section, as the proposed effective date has already passed. If amended and passed, the legislation would become effective the standard 10 days after enactment.

1. [Proclamation 2101: Columbus Day](https://www.presidency.ucsb.edu/documents/proclamation-2101-columbus-day) [↑](#footnote-ref-1)
2. [Public Law 90-363](https://www.govinfo.gov/content/pkg/STATUTE-82/pdf/STATUTE-82-Pg250-3.pdf) [↑](#footnote-ref-2)
3. [Ordinance 2894](https://aqua.kingcounty.gov/council/clerk/OldOrdsMotions/Ordinance%2002894.pdf) [↑](#footnote-ref-3)
4. International Non-Governmental Organizations Conference on Discrimination Against Indigenous

 Populations in the Americas – 1977: [Statements and Final Documents](https://acervo.socioambiental.org/sites/default/files/documents/I5D00027.pdf)  [↑](#footnote-ref-4)
5. [South Dakota Codified Law 1-5-1.2](https://sdlegislature.gov/Statutes/Codified_Laws/2030408) [↑](#footnote-ref-5)
6. While the [Pew Research Center](https://www.pewresearch.org/fact-tank/2021/10/11/working-on-columbus-day-it-depends-on-where-your-job-is/) provides an overview of states celebrating Indigenous Peoples' Day, staff has not identified a comprehensive list of local jurisdictions that distinguishes between those who celebrate Indigenous Peoples' Day and those who mark it as a legal paid holiday. [↑](#footnote-ref-6)
7. [Proclamation: Indigenous Peoples' Day, 2021](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/08/a-proclamation-indigenous-peoples-day-2021/) [↑](#footnote-ref-7)
8. [H.R. 5473](https://www.congress.gov/bill/117th-congress/house-bill/5473?s=1&r=35) and [S. 2919](https://www.congress.gov/bill/117th-congress/senate-bill/2919) [↑](#footnote-ref-8)
9. [Ordinance 19208](https://mkcclegisearch.kingcounty.gov/LegislationDetail.aspx?ID=4686520&GUID=09D9C950-B6FB-4754-A80E-4C1C4256DBB4&Options=ID%7CText%7C&Search=indigenous+peoples+day&FullText=1) [↑](#footnote-ref-9)
10. [K.C.C. 3.12.010.](https://aqua.kingcounty.gov/council/clerk/code/06_Title_3.htm#_3.12_PERSONNEL_SYSTEM)Z. "Employees eligible for comprehensive leave benefits" means full-time regular, part-time regular, provisional, probationary and term-limited temporary employees. [↑](#footnote-ref-10)
11. [King County Native American Leadership Council](https://kingcounty.gov/elected/executive/equity-social-justice/King-County-Affinity-Groups.aspx#:~:text=Native%20American%20Leadership%20Council%20(NALC)&text=The%20King%20County%20Native%20American,employee%20enrichment%20and%20cultural%20preservation.) [↑](#footnote-ref-11)
12. National Congress of American Indians [Resolution #PDX-11-027](https://www.ncai.org/attachments/Resolution_vXLpWZVNgmzbKwwXBzaunfFLUISmqKLgozXzHhtGJRunGvBnyZe_PDX-11-027_final.pdf) [↑](#footnote-ref-12)
13. Affiliated Tribes of Northwest Indians [Resolution #11-57](https://atnitribes.org/wp-content/uploads/resolutions/res-11-57.pdf) [↑](#footnote-ref-13)
14. [King County Personnel Guidelines](https://kingcounty.gov/~/media/audience/employees/policies-forms/hr-policies/2017KCPersonnelGuidelinesUpdate.ashx?la=en) and King County HR Policies [2021-0010](https://kingcounty.gov/~/media/audience/employees/policies-forms/hr-policies/2021-0010_Executive_Leave.ashx?la=en) and [2021-0011](https://kingcounty.gov/~/media/audience/employees/policies-forms/hr-policies/2021-0011_OT_Holiday_Pay_and_Comp_Time.ashx?la=en) [↑](#footnote-ref-14)
15. The adopted 2021-22 biennial budget included $4.3 million for the Juneteenth holiday in 2022. Executive staff have noted that, since the original estimate, an interdepartmental team developed a more detailed method for identifying operational impacts and costs associated with the new holidays. The new estimated cost of the Juneteenth holiday in 2022 is $1.63 million. This is slightly less than estimates for Indigenous Peoples' Day ($1.9 million) because Juneteenth is also a state holiday. District Court follows the state court calendar, so certain county agencies (e.g., District Court, the Department of Public Defense, and the Prosecuting Attorney's Office) will work on the Indigenous Peoples' Day holiday. [↑](#footnote-ref-15)