



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.:	6	Date:	20 June 2011
Proposed Ordinance No.:	2011-0283	Prepared by:	Nick Wagner

SUMMARY

Proposed Ordinance 2011-0283 (pp. 7-11 of these materials) would place on the November 2011 ballot a proposed charter amendment establishing as the county’s “paramount duty”: “to seek to fund open and free elections, the fair and transparent assessment of real and personal property, the effective management of county government, an effective social safety net of regional human services and effective oversight of county government, and requiring the county to establish by ordinance such levels of service as it deems appropriate to provide a well-functioning county government.”

The ordinance should be considered in conjunction with Proposed Ordinance 2011-0278, which addresses similar issues.

BACKGROUND

Proposed Ordinance 2011-0283 is a response to Proposed Ordinance 2011-0278, which is discussed in a separate staff report. Since the background of both ordinances is the same, the following information from the staff report on Proposed Ordinance 2011-0278 is repeated here:

In July of 2010 the Council adopted the King County Strategic Plan (Ordinance 16897).¹ The strategic plan includes eight major goals, four focused on “What we deliver” and four on “How we deliver” (not listed in order of priority):

What we deliver

- Justice and Safety
- Health and Human Potential
- Economic Growth and Built Environment
- Environmental Sustainability

¹ A poster summarizing the Strategic Plan is included at p. 13 of these materials.

How we deliver

Service Excellence
Financial Stewardship
Public Engagement
Quality Workforce

For several years, because of revenue caps approved by the voters and the national economic recession, the county has lacked sufficient funds to vigorously pursue all of these goals. Instead it has been necessary each year for the Executive and the Council, in proposing and adopting the county's budget, to strike a balance between competing priorities.

The adoption of the county's strategic plan has clarified the county's priorities and helped to focus the county's efforts, but it has not eliminated—and cannot eliminate—the chronic insufficiency of available funding. It continues to be necessary for the county to choose which worthy programs will receive financial support and which ones will not. The strategic plan itself does not establish priorities among the plan deliverables.

Decisions concerning which programs to fund and at what level of funding are currently made in the context of appropriation ordinances, including the annual budget ordinance. Each proposed appropriation ordinance reflects the Executive's judgment about how scarce county funds should be allocated, and the Council's action on each ordinance reflects the Council's own judgment. Currently, those judgments are based on all of the county's competing priorities. The King County Charter does not require the Executive or the Council to give one particular priority or group of priorities preference over another.

THE PROPOSED CHARTER AMENDMENT

Proposed Ordinance 2011-0283 would place on the November 2011 general election ballot a charter amendment adding the following new section to the King County Charter:

Section 805. Paramount Duty of the County.

It is the paramount duty of the county to provide effective management and provision of all services required by law. To further these aims, the county shall seek to provide effective assessment, elections, management, oversight, public health and social safety net programs by making ample provision for these services. The county shall adopt appropriations ordinances establishing such levels of service as it deems appropriate to provide effective management and provision of required services. This section is intended neither to protect any particular class of individuals or organizations, nor to guarantee any specific level of funding, nor to create any private or public right of action.

COMPARISON WITH PROPOSED ORDINANCE 2011-0278

The charter amendment that Proposed Ordinance 2011-0283 would place on the ballot (1) defines the county’s “paramount duty” much more broadly than the charter amendment contained in Proposed Ordinance 2011-0278 and (2) explicitly calls for service levels to be set in appropriations ordinances. Specifically:

	2011-0283	2011-0278
“Paramount duty”	“to provide effective management and provision of all services required by law”	“to protect the rights and safety of the general public by enforcing the laws of the state of Washington and the county and providing for the swift administration of justice when such laws are violated within its boundaries”
“To further these aims . . .”	“shall seek to provide effective assessment, elections, management, oversight, public health and social safety net programs by making ample provision for these services”	“shall seek to provide a well-functioning public safety and justice system by making ample provision for such police, prosecution, defense, detention and court services as may be required by law”
By ordinance . . .	“shall adopt appropriations ordinances establishing such levels of service as it deems appropriate to provide effective management and provision of required services”	“shall by ordinance establish such levels of service as it deems appropriate to provide a well-functioning public safety and justice system”
Disclaimers	“This section is intended neither to protect any particular class of individuals or organizations, nor to guarantee any specific level of funding, nor to create any private or public right of action.”	“This section is intended neither to protect any particular class of individuals or organizations, nor to guarantee any specific level of funding, nor to create any private or public right of action.”

The proposed charter amendments are similar in that they focus on the funding and provision of services that are “required by law” without specifying which services or what levels of service are required. Funding of services that are not legally mandated would be subject to the availability of funds after required services are funded. Both amendments require the county to set such service levels “as it deems appropriate” and to “make ample provision” for those services.

DISCLAIMERS AGAINST POTENTIAL LIABILITY

The charter amendment that Proposed Ordinance 2011-0283 would place on the ballot, like the charter amendment in Proposed Ordinance 2011-0278, bears a similarity to

article IX, section 1, of the State Constitution, which provides: “It is the *paramount duty* of the state to make *ample provision* for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex” (emphasis added). This language has been interpreted by the courts to create a judicially enforceable obligation on the part of the state to assure sufficient funding for basic education.

To guard against a similar interpretation of the proposed charter amendment—and also against the possibility of the county being held liable for an injury attributable to an alleged failure to adequately fund criminal justice services—the last sentence of proposed new charter section 805 provides: “This section is intended neither to protect any particular class of individuals or organizations, nor to guarantee any specific level of funding, nor to create any private or public right of action.” Councilmembers may wish to consult with legal counsel about the protection afforded by this language.

ISSUES RAISED BY THE PROPOSED CHARTER AMENDMENT

Proposed Ordinance 2011-0283 raises some of the same issues as Proposed Ordinance 2011-0278, as described below.

A. Would the proposed charter amendment expose the county to increased legal risk?

As described above in the section entitled “Disclaimers Against Potential Liability,” the proposed charter amendment contains language that is intended to guard against the possibility of the amendment being used either (1) to create a judicially enforceable obligation on the part of the county to fund criminal justice services at a certain level or (2) to hold the county liable for an injury attributed to an alleged failure to adequately fund criminal justice services. Nevertheless, councilmembers may wish to consult with legal counsel about whether the protection afforded by this language is complete.

B. Which services are “required by law”?

The proposed charter amendment does not specify which services are “required by law.”

To the extent that the listed services are required by state or federal law, the charter amendment would require the county by ordinance to set service levels sufficient to provide those services and to appropriate sufficient funds to pay for them. The proposed charter amendment appears to have no effect on the county’s existing legal obligations in that regard.

To the extent that the listed services are required by county ordinance (including though not necessarily limited to the ordinance establishing appropriate service levels), but not by state or federal law, the charter amendment appears to permit the county—i.e., the Council—if it wishes, to amend its local service requirement and then adopt an ordinance

making appropriations sufficient to provide the services required by the amended ordinance. Unlike the charter amendment in Proposed Ordinance 2011-0278, the amendment in Proposed Ordinance 2011-0283 explicitly contemplates that service levels will be set in an appropriation ordinance.

C. Is the proposed charter amendment needed?

It is unclear to what extent the proposed charter amendment would require a change in the county’s existing management and budget process; hence, it would be reasonable to ask whether the proposed charter amendment is needed.

FISCAL IMPACT

Putting aside the issue of whether the proposed charter amendment would expose the county to increased legal risk (discussed on pp. 3-4 above), the fiscal impact of the proposed charter amendment seems minimal, since the amendment defines the scope of the county’s “paramount duty” to include the provision of “all services required by law,” which arguably is already the case.

INVITED

None.

ATTACHMENTS

Page

- 1. Proposed Ordinance 2011-02837
- 2. Poster summarizing King County Strategic Plan 13

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 17, 2011

Ordinance

Proposed No. 2011-0283.1

Sponsors Patterson and McDermott

1 AN ORDINANCE proposing an amendment to the King
2 County Charter; establishing as the county's paramount
3 duty to seek to fund open and free elections, the fair and
4 transparent assessment of real and personal property, the
5 effective management of county government, an effective
6 social safety net of regional human services and effective
7 oversight of county government, and requiring the county
8 to establish by ordinance such levels of service as it deems
9 appropriate to provide a well-functioning county
10 government; adding a new Section 805 to the King County
11 Charter; and submitting the same to the voters of the county
12 for their ratification or rejection at the November 8, 2011,
13 general election.

14 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

15 **SECTION 1. Findings:**

16 A. The principal goals of county government, as set forth in the King County
17 strategic plan, adopted by the county council in July 2010, are to deliver justice and
18 safety; health and human potential; economic growth and built environment; and

19 environmental sustainability to county residents, and to do so in a manner that reflects
20 service excellence, financial stewardship, public engagement and a quality workforce.

21 B. In times of economic scarcity, county government may lack sufficient
22 resources to achieve all of these goals and therefore may need to establish priorities
23 among them.

24 C. Since it is difficult, if not impossible, to enjoy the benefits of living in a
25 democratic society without assurances to the public that free and open elections are
26 conducted on their behalf, the adequate funding of an effective elections department is of
27 paramount importance.

28 D. The ten leading causes of death in King County from 2003 through 2007
29 included seven health-related causes: cancer, heart disease, stroke, Alzheimer's disease,
30 chronic lower respiratory disease, diabetes, influenza and pneumonia. In addition, based
31 on a 2004 national study, Public Health-Seattle & King County estimates that the most
32 prevalent actual causes of death include tobacco use; poor diet and physical inactivity;
33 infectious diseases; toxic agents, such as second-hand smoke and food contamination;
34 and sexually transmitted diseases, such as HIV and hepatitis B and C. This relationship
35 between health and mortality in King County underscores the importance of maintaining
36 a vital public health system in our region. As such, the adequate funding of an effective
37 public health system is of paramount importance.

38 E. The demand for human service programs are rising as King County residents
39 suffer from record breaking numbers of unemployment and foreclosures, and growing
40 numbers of substance abuse and mental health needs. Despite these facts, most human
41 services are not mandated by state law and the majority of funding for these programs

42 from the county's general fund has been cut. These cuts cost lives, increase costs for
43 public safety, while increasing suffering and decreasing the quality of life for residents of
44 King County. As such, the adequate funding of an effective social safety net is of
45 paramount importance.

46 F. Article VII of the Washington State Constitution requires that all real and
47 personal property be taxed equally based upon its value. In order to assure that this
48 constitutional requirement is met, the adequate funding of a county assessor is necessary
49 to assure fairness in the taxation of property. As such, the adequate funding of an
50 effective county assessor is of paramount importance.

51 G. To achieve financial stewardship, public engagement and service excellence
52 requires effective, transparent and professional management. As such the adequate
53 funding of staff and resources for the county executive's management of King County is
54 of paramount importance.

55 H. Maintaining the public's trust of county government is not possible without
56 effective and public oversight and policy making. As such, the adequate funding of staff
57 and resources for the county council is of paramount importance.

58 SECTION 2. There shall be submitted to the voters of King County for their
59 approval and ratification or rejection, at the next general election to be held in this county
60 occurring more than forty-five days after the enactment of this ordinance, the addition of
61 a new Section 805 to the King County Charter to read as follows:

62 **Section 805. Paramount Duty of the County.**

63 It is the paramount duty of the county to provide effective management and
64 provision of all services required by law. To further these aims, the county shall seek to

65 provide effective assessment, elections, management, oversight, public health and social
66 safety net programs by making ample provision for these services. The county shall
67 adopt appropriations ordinances establishing such levels of service as it deems
68 appropriate to provide effective management and provision of required services. This
69 section is intended neither to protect any particular class of individuals or organizations,
70 nor to guarantee any specific level of funding, nor to create any private or public right of
71 action.

72 SECTION 3. The clerk of the council shall certify the proposition to the elections
73 director, in substantially the following form, with such additions, deletions or
74 modifications as may be required by the prosecuting attorney:

75 Shall the King County Charter be amended to establish the effective
76 provision of public health, human services, elections, assessment,

77 management, oversight and other services required by law as the
78 paramount duty of King County?
79

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

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KING COUNTY STRATEGIC PLAN

Working Together for One King County

Vision Statement

King County: a diverse and dynamic community with a healthy economy and environment where all people and businesses have the opportunity to thrive.

Mission Statement

King County government provides fiscally responsible, quality-driven local and regional services for healthy, safe, and vibrant communities.

Guiding Principles

Collaborative • Service-oriented • Results-focused • Accountable
Innovative • Professional • Fair and Just

Goals

What we deliver

Justice and Safety

Support safe communities and accessible justice systems for all.

1. Keep people safe in their homes and communities
2. Ensure fair and accessible justice systems
3. Ensure offending individuals are appropriately detained or sanctioned
4. Decrease damage or harm in the event of a regional crisis

Health and Human Potential

Provide opportunities for all communities and individuals to realize their full potential.

1. Increase the number of healthy years that residents live
2. Protect the health of communities
3. Support the optimal growth and development of children and youth
4. Ensure a network of integrated and effective health and human services is available to people in need

Economic Growth and Built Environment

Encourage a growing and diverse King County economy and vibrant, thriving and sustainable communities.

1. Support a strong, diverse and sustainable economy
2. Meet the growing need for transportation services and facilities throughout the county
3. Shape a built environment that allows communities to flourish
4. Preserve the unique character of our rural communities in collaboration with rural residents

Environmental Sustainability

Safeguard and enhance King County's natural resources and environment.

1. Protect and restore water quality, biodiversity, open space, and ecosystems
2. Encourage sustainable agriculture and forestry
3. Reduce climate pollution and prepare for the effects of climate change on the environment, human health, and the economy
4. Minimize King County's operational environmental footprint

How we deliver

Service Excellence

Establish a culture of customer service and deliver services that are responsive to community needs.

1. Improve our customers' satisfaction with King County
2. Build a culture of performance and improve the effectiveness and efficiency of county programs, services, and systems
3. Foster an ethic of working together for King County
4. Increase access to King County services, personnel, and information

Financial Stewardship

Exercise sound financial management and build King County's long-term fiscal strength.

1. Keep the county's cost of doing business down, including keeping growth in costs below the rate of inflation
2. Plan for the long-term sustainability of county services
3. Provide the public with choices about which services -King County delivers within existing resources and for which services they would like to provide additional funding

Public Engagement

Promote robust public engagement that informs, involves, and empowers people and communities.

1. Expand opportunities to seek input, listen, and respond to residents
2. Empower people to play an active role in shaping their future
3. Improve public awareness of what King County does

Quality Workforce

Develop and empower King County government's most valuable asset, our employees.

1. Attract and recruit a talented county workforce
2. Develop and retain quality employees
3. Utilize employees in an efficient, effective, and productive manner

Immediate Priorities

①

Set standards and expectations for the immediate improvement of customer service

②

Build lasting regional partnerships

③

Stabilize the long-term structural budget problem

④

Build a culture of performance

⑤

Empower our workforce and work together as one King County

⑥

Implement the King County Strategic Plan



King County

Office of Performance, Strategy and Budget

www.kingcounty.gov/strategicplan

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