



# King County

## Metropolitan King County Council

### STAFF REPORT

<b>Agenda Item No.:</b>	11	<b>Date:</b>	Feb. 16, 2016
<b>Proposed No.:</b>	2016-0112	<b>Prepared by:</b>	Nick Wagner

### **SUBJECT**

Amendment of the King County Code to conform to the King County Charter requirement that the director of the King County Office of Law Enforcement Oversight (OLEO) be appointed by the Council.

### **SUMMARY**

Proposed Ordinance 2016-0112 (Att. 1) would amend the King County Code (KCC 2.75.030) to conform to the King County Charter provision (§ 265) (Att. 2) governing appointment of the OLEO director. The ordinance would provide that: (1) the OLEO director is appointed by the Council; (2) the five-member selection committee submits its recommendation of three candidates to the Council; and (3) if none of the recommended candidates has the support of a Council majority, the Council by motion may direct a new recruitment and selection process to generate additional candidates.

### **BACKGROUND**

Section 265 of the King County Charter (Att. 2), which was approved by the voters in November 2015, provides in part that OLEO "shall have a director who is appointed by a majority of the county council to serve a term of four years and until a successor is appointed."

Section 2.75.030 of the King County Code prescribes the process for appointment and removal of the OLEO director.<sup>1</sup> Specifically:

- KCC 2.75.030.A. currently provides in part: "The director shall be appointed by the executive and confirmed by the council." This provision was adopted before charter section 265 and is inconsistent with it.
- KCC 2.75.030.B. currently provides in part: "Candidates for appointment shall be selected by a committee of five members that shall recommend three candidates for the director position to the executive, one of which must be selected." This

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<sup>1</sup> Section 2.75.030 also requires a nationwide search by the Executive to identify candidates and includes a list of characteristics that candidates are desired to have. Proposed Ordinance 2016-0112 makes no changes in that part of section 2.75.030.

provision, too, was adopted before charter section 265 and is inconsistent with it in that KCC 2.75.030.B. assumes that the selection committee's recommendation will be made to the executive, rather than the council.

Since the five-member committee<sup>2</sup> that is tasked with reviewing and recommending possible candidates for OLEO director is about to make its recommendations, Proposed Ordinance 2016-0112 is drafted as an emergency ordinance and includes an appropriate finding.

## **ANALYSIS**

Proposed Ordinance 2016-0112 would make the following changes in KCC 2.75.030:

1. Amend KCC 2.75.030(A) to provide for the appointment of the OLEO director to be made by the Council, as now required by section 265 of the King County Charter;
2. Amend KCC 2.75.030(B) to provide for the five-member selection committee to make its recommendation to the Council, rather than the Executive,<sup>3</sup> since the Council will be making the appointment; and
3. Amend KCC 2.75.030(B) to provide, for clarity: "If none of the three recommended candidates has the support of a majority of the council, the council may direct by motion the commencement of a new recruitment and recommendation process."<sup>4</sup>

## **LEGAL REVIEW**

Proposed Ordinance 2016-0112 has been reviewed by the Council's legal counsel.

## **ATTACHMENTS**

1. Proposed Ordinance 2016-0112
2. King County Charter, § 265

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<sup>2</sup> As provided by KCC 2.75.030(B), the selection committee consists of: "one member appointed by the King County Police Officers' Guild; one member appointed by the Puget Sound Police Managers' Association; one member appointed by the chair of the county council; and one member appointed by the county executive. The fifth member shall be appointed by the other four members."

<sup>3</sup> The County's collective bargaining agreement (CBA) with the King County Police Officers Guild (KCPOG) assumes, but does not require, that the selection committee will make its recommendation to the Executive. Article 22, § 18, of the CBA provides in part: "The Committee will be responsible for ensuring that the three candidates forwarded to the Executive possess the required minimum job requirements." The CBA has no provision requiring the appointment of the OLEO director to be made by the Executive.

<sup>4</sup> This is consistent with article 22, § 17, of the KCPOG CBA, which provides in part: "The committee will be responsible for ensuring that three candidates are forwarded for selection. If one of the candidates is not selected, the process shall be repeated."



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**February 16, 2016**

**Ordinance**

**Proposed No.** 2016-0112.1

**Sponsors** Gossett

1 AN ORDINANCE related to the appointment of the  
2 director of the office of law enforcement oversight;  
3 amending Ordinance 15611, Section 4, as amended, and  
4 K.C.C. 2.75.030; and declaring an emergency.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 **SECTION 1. Findings:**

7 A. Section 265 of the King County Charter, which was approved by the voters in  
8 November 2015, provides in part that the King County office of law enforcement  
9 oversight "shall have a director who is appointed by a majority of the county council to  
10 serve a term of four years and until a successor is appointed."

11 B. K.C.C. 2.75.030 prescribes, among other things, the process for appointment  
12 and removal of the director of the office of law enforcement oversight.

13 C. K.C.C. 2.75.030.A. currently provides in part: "The director shall be  
14 appointed by the executive and confirmed by the council." This provision was adopted  
15 before Section 265 of the King County Charter and is inconsistent with Section 265 of  
16 the King County Charter.

17 D. K.C.C. 2.75.030.B. currently provides in part: "Candidates for appointment  
18 shall be selected by a committee of five members that shall recommend three candidates  
19 for the director position to the executive, one of which must be selected." This provision,

20 too, was adopted before Section 265 of the King County Charter and is inconsistent with  
21 Section 265 of the King County Charter in that K.C.C. 2.75.030.B. assumes that the  
22 selection committee's recommendation will be made to the executive, rather than the  
23 council.

24 E. The recommendation of candidates for appointment to fill the current vacancy  
25 in the position of director of the office of law enforcement oversight is imminent.  
26 Therefore, to support an existing county office, it is urgent that the provisions of K.C.C.  
27 2.75.030 that are referred to in subsections C. and D. of this section be amended to  
28 conform to Section 265 of the King County Charter.

29 SECTION 2. Ordinance 15611, Section 4, as amended, and K.C.C. 2.75.030 are  
30 each hereby amended to read:

31 A. The director shall be appointed by ~~((the executive and confirmed by))~~ a  
32 majority of the council. The executive shall conduct a nationwide search for the director  
33 to identify candidates with the following characteristics:

- 34 1. A reputation for integrity and professionalism, as well as the ability to  
35 maintain a high standard of integrity in the office;
- 36 2. An understanding of and a commitment to the responsibilities of the office;
- 37 3. Demonstrated leadership and a history of effective management and  
38 administration;
- 39 4. The ability to gain the trust and respect of sheriff's office employees;
- 40 5. The ability to work effectively with the executive, council, prosecuting  
41 attorney and sheriff, as well as other public agencies, labor organizations, private  
42 organizations and citizens;

- 43           6. An openness to innovation and new ideas;
- 44           7. Sensitivity to and knowledge of the particular needs and concerns of
- 45 minorities and women in a law enforcement setting;
- 46           8. The ability to work effectively under pressure with controversial issues and
- 47 the ability to effectively communicate with diverse groups;
- 48           9. No history of employment in the sheriff's office;
- 49           10. A history that includes the establishment of a reputation for even-
- 50 handedness and fairness in dealing with both complainants and regulated parties; and
- 51           11. The selected director must pass a complete criminal background check prior
- 52 to confirmation.

53           B. Candidates for appointment shall be selected by a committee of five members

54 that shall recommend three candidates for the director position to the ~~((executive, one of~~

55 ~~which must be selected))~~ council. The selection committee shall be composed of: one

56 member appointed by the King County Police Officers' Guild; one member appointed by

57 the Puget Sound Police Managers' Association; one member appointed by the chair of the

58 county council; and one member appointed by the county executive. The fifth member

59 shall be appointed by the other four members. If none of the three recommended

60 candidates has the support of a majority of the council, the council may direct by motion

61 the commencement of a new recruitment and recommendation process.

62           C. The director shall serve a term of four years, unless removed for cause at any

63 time by motion approved by a majority of the council, and shall be considered by the

64 county council for reappointment at the end of each term of office.

65           D. The director, with consultation of the council and within the amount available  
66 or budgeted by appropriation, may employ staff or use the services of consultants as may  
67 be necessary for conduct of the office's duties. These employees or contractors must pass  
68 a complete criminal background check before employment.

69           SECTION 3. The county council finds as a fact and declares that an emergency  
70 exists and that this ordinance is necessary for the immediate preservation of public peace,

71 health or safety or for the support of county government and its existing public  
72 institutions.  
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KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Larry Phillips, Chair

ATTEST:

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Anne Noris, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Dow Constantine, County Executive

**Attachments:** None



**King County Charter, § 265****Section 265. Office of Law Enforcement Oversight.**

The county council shall establish by ordinance an office of law enforcement oversight, which shall be a part of the legislative branch. The office shall have a director who is appointed by a majority of the county council to serve a term of four years and until a successor is appointed. The director may be removed from office at any time for cause by a majority of the county council.

The authority of the office of law enforcement oversight shall be prescribed by ordinance and should include: investigation, review and analysis of conduct of county law enforcement officers that has been the subject of a complaint and the use of force by county law enforcement officers regardless of whether it has been the subject of a complaint; and review and analysis of internal investigations conducted and disciplinary action taken by the department of public safety regarding that conduct or use of force. The authority of the office should also include: the preparation and publication of findings, conclusions and recommendations related to the office's oversight of the department of public safety; and community outreach concerning the department of public safety and the office of law enforcement oversight.

To enable the office of law enforcement oversight to exercise its authority effectively, the office shall be authorized by ordinance to obtain all relevant information, including authority to review and copy relevant department of public safety files, inspect crime scenes, conduct interviews and participate in internal investigations and review hearings.

The county council shall establish by ordinance an advisory committee for law enforcement oversight to review, advise and report on the office of law enforcement oversight in a manner that may be prescribed by ordinance. The committee shall also advise the sheriff and the council on matters of equity and social justice related to law enforcement. The committee may also advise the sheriff and the council on systemic problems and opportunities for improvement in the law enforcement practices of the department of public safety. The county council shall prescribe by ordinance the committee's membership, qualifications, and rules and procedures, and the process for appointment of committee members, and may prescribe by ordinance additional duties of the committee. (Ord. 18087 § 2 (part), 2015).