



**King County**

**Metropolitan King County Council  
Budget and Fiscal Management Committee**

**STAFF REPORT**

<b>AGENDA ITEM</b>	<b>15 &amp; 16</b>	<b>DATE:</b>	<b>July 21, 2009</b>
<b>PROPOSED No.:</b>	<b>2009-0427</b>	<b>PREPARED BY:</b>	<b>Amy Tsai</b>
	<b>2009-0429</b>		

**SUBJECT:**

- 2009-0427** A MOTION requesting the Executive to provided information on state unfunded mandates and directing the County Auditor to review the information provided.
- 2009-0429** A MOTION adding the review to the County Auditor’s work program.

**SUMMARY:** These two motions would collect the information needed in order to better assess the extent of state unfunded mandates imposed on King County since 1995. The County Auditor would review the information submitted by the Executive for financial accuracy.

**BACKGROUND:**

According to the Prosecuting Attorney’s Office, the applicable state statute that pertains to state unfunded mandates is RCW 43.135.060(1). It states:

After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels. Reimbursement by the state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998. (emphasis added)

In order to qualify as a state unfunded mandate under this statute, the mandate must be:

- 1) Imposed by the state legislature
- 2) A new program or increased level of service that provides a measurable benefit to the public, and
- 3) Not fully reimbursed via either
  - a. A specific appropriation, or

- b. Increases in state distributions of revenue after January 1, 1998.

In 2000, the Executive provided the Council with a detailed report and legal analysis of state unfunded mandates, but that information is now almost a decade old.

In the fall of 2008, at the request of the Council, the Executive transmitted general information on unfunded mandates. However, not all of the programs listed met the definition of a state unfunded mandate under RCW 43.135.060(1), and specific revenue information was not part of the response. Consequently, the county still requires more information in order to specifically communicate the budgetary impacts of state unfunded mandates.

## **ANALYSIS**

First, Proposed Motion 2009-0427 asks the Executive to identify all state distributions of revenue occurring after January 1, 1998. This information is needed in order to determine whether programs have been reimbursed by state distributions of revenue. If programs have received such reimbursement, then according to RCW 43.135.060(1)(b) they are not unfunded mandates.

Second, Proposed Motion 2009-0427 requests that the Executive collect information on state unfunded mandates by September 4, 2009, and includes suggested departmental instructions and an inventory template that target the elements of RCW 43.135.060(1). The inclusion of the sample template should assist the Executive in obtaining departmental information on new programs or increased levels of service that meet the definition of a state unfunded mandate.

Third, Proposed Motion 2009-0427 directs the County Auditor to review the information submitted by the executive for financial accuracy by November 6, 2009.

Proposed Motion 2009-0429 adds the financial review to the County Auditor's work program.

The sample inventory template recommends that departments submit information on how they derived their cost impact estimates. This documentation should assist the Auditor in her financial review of the information.

Issues that will affect the quality and scope of the Auditor's financial review include

- The timeliness of the Executive in submitting the information requested
- The quality of the information submitted by the Executive, and
- Availability of resources.

Should a claim be pursued against the state for unfunded mandates, the Prosecuting Attorney's Office has indicated that a claim should be filed with Risk Management Division of the state Office of Financial Management (OFM) prior to the start of the legislative session in January (see RCW 4.92.040). OFM makes recommendations to

the House and Senate Ways and Means committees by no later than the 30<sup>th</sup> day of session. If the outcome were not satisfactory to the county, a lawsuit could be filed 60 days after filing the risk management claim with OFM (see RCW 4.92.110).

The deadlines for submission of information by the Executive by September 4 and review of the information by the Auditor by November 6 are ambitious, but would be necessary in order to keep open the possibility of the Prosecuting Attorney's Office having time to initiate action for this year.

**REASONABLENESS:**

Proposed Motions 2009-0427 and 2009-0429 would give the county information that it needs before any attempt to recover money from the state for unfunded mandates can be commenced. In that respect the motions appear to be reasonable and prudent policy decisions.

It is worth noting that the proposed motion would require an investment of resources by the Prosecuting Attorney's office and the Office of Management and Budget (OMB) during a timeframe in which OMB will be busy preparing the Executive's 2010 budget proposal. (The Auditor would also be required to review the materials provided by OMB, which is a relatively smaller effort.) Because this work has the potential to help the County realize increased resources in the future, the proposed motion involves a judgment call about resource allocation in the near-term versus those potential long-term resource benefits.

**INVITED:**

1. Cheryle Broom, King County Auditor, Auditor's Office
2. Beth Goldberg, Deputy Director, Office of Management and Budget
3. John Gerberding, Senior Deputy Prosecuting Attorney, Prosecuting Attorney's Office

**ATTACHMENTS:**

1. Proposed Motion 2009-0427 with attachments
2. Proposed Motion 2009-0429 with attachment





**KING COUNTY**

**Signature Report**

**July 20, 2009**

**Motion**

**Proposed No.** 2009-0427.1

**Sponsors** Phillips

1           A MOTION requesting the executive to collect program,  
2           funding and revenue stream information for the purpose of  
3           identifying state unfunded mandates, and directing the  
4           auditor to conduct a financial review of the information.

5  
6           WHEREAS, under RCW 43.135.060, after July 1, 1995, the legislature shall not  
7           impose responsibility for new programs or increased levels of service under existing  
8           programs on any political subdivision of the state unless the subdivision is fully  
9           reimbursed by the state by: (a) a specific appropriation; or (b) increases in state  
10          distributions of revenue to political subdivisions occurring after January 1, 1998, and

11          WHEREAS, since 1995, the state has increasingly put demands for new programs  
12          or services that have not been fully reimbursed to the county on the order of millions of  
13          dollars, and

14          WHEREAS, in today's economic climate the county can no longer bear the  
15          burden of costs that are morally and legally the state's obligation to pay, and

**Motion**

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16 WHEREAS, the council desires to work with all branches to gather the  
17 information needed in order to pursue reimbursement of these ongoing costs from the  
18 state;

19 NOW, THEREFORE, BE IT MOVED by the Council of King County:

20 A. The executive is requested to identify all increases in state distributions of  
21 revenue to the county occurring after January 1, 1998, and their permissible uses.

22 B.1. The executive is also requested to inventory all new programs or increased  
23 levels of service to the public that have been imposed by and required by the state  
24 legislature after July 1, 1995, the cost of which was not fully funded by the state by a  
25 specific appropriation or, to the extent known, by use of state distribution of revenue.  
26 The inventory shall include the following for each new program or increased level of  
27 service:

28 a. a description of the new program or increased level of service, including  
29 identification of a quantifiable benefit that the public receives from the new program or  
30 increased level of service;

31 b. the citation for each step of increase, including, at a minimum, citation to the  
32 RCW or bill number with year;

33 c. the estimated cost for each year for the past three years for the new program  
34 or increased level of service;

35 d. the basis for the cost estimates;

36 e. identification of sources of funding, including specific appropriations, and  
37 also including state distributions of revenue if known;

38 f. a description of how the shortfall was addressed; and

39 g. a contact person with knowledge of the information provided.

40 2. Examples of areas that may have new programs or increased level of service  
41 that should be included in the inventory include, but are not limited to, dependency  
42 hearings, the Becca bill, sexual predator tracking and firearm background checks.

43 C. Sample inventory instructions and a sample inventory template are attached as  
44 Attachments A and B to this motion. The executive is free to modify the samples as  
45 needed. The executive should work with the prosecuting attorney's office for assistance  
46 in identifying which new programs or increased levels of service should or should not be  
47 included in the inventory. The executive should work with the auditor's office for  
48 financial consultation.

49 D. The executive is requested to report the increases identified under subsection  
50 A. of this motion and the results of the inventory made under subsection B. of this motion  
51 to the council by September 4, 2009. Thirteen paper copies of the report should be filed  
52 with the clerk of the council, for distribution to all councilmembers, the auditor's office  
53 and the prosecuting attorney's office.

54 E. The auditor's office shall conduct a financial review of the new programs or  
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**Motion**

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56 increased levels of service submitted by the executive. The auditor's office shall report  
57 its findings to the council by November 6, 2009.  
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KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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ATTEST:

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**Attachments**      A. Sample Inventory Instructions, B. Sample Inventory Template

Attachment A. Sample Inventory Instructions

**UNFUNDED MANDATE INVENTORY**

DUE by no later than \_\_\_\_, 2009

**Purpose/Instructions:** This is a countywide inventory of all new programs and increased levels of service imposed by the state legislature since July 1, 1995, the costs of which were not fully funded by the state via a specific appropriation.

For each new program or increased level of service in your department or agency, you will be asked to provide:

- A description of the new program or increased level of service
- The statutory citation for each step of the increase, including at a minimum the RCW citation, or bill number with year
- To the best of your knowledge, a line-item cost estimate for each year for 2008 and 2009, including identifying sources of funding
- A description of how the shortfall was addressed
- A contact person with knowledge of the information provided.

**Questions?** Any questions about this inventory should be directed to \_\_\_\_.

**Due Date:** You must return this survey by \_\_\_\_, 2009.

**What new programs or increased level of services should I include in my response?** Here is some guidance. You can contact \_\_\_\_ for clarification if you are wondering if one of your programs counts.

**Include the new program or increased level of service if:**

1. It was required by the state legislature.
2. It was started after July 1, 1995.
3. The new program or increased level of service provided a measurable and quantifiable benefit to the public.
4. To the best of your knowledge, the new program or increased level of service was not fully funded by the state.

**ERR ON THE SIDE OF INCLUSION. HOWEVER, do not include the new program or increased level of service if:**

1. It was required by the federal government or the county.
2. The program was put into place before 7/1/95 (but do count increased levels of service after 1995 for programs that existed before 1995).
3. It cost the county money but didn't provide a new benefit to the public (e.g., increasing salaries or benefits costs the county money, but isn't providing a new program or increased level of service to the public).
4. The state provided sufficient money to do the bare minimum, but the county spent more than the bare minimum putting together a nicer program.
5. The costs would have already been incurred (e.g., the cost of training facilities, if training for other purposes was already planned).
6. Loss of potential revenue (e.g., due to decreased fees).
7. It is something you are not required to do (e.g., state imposes requirements for grant eligibility that would cost the county money to comply, but the county is not required to apply for the grant).
8. The state requirement uses the word "should" instead of "shall."



1999



KING COUNTY

Attachment 2

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

Signature Report

July 20, 2009

Motion

Proposed No. 2009-0429.1

Sponsors Phillips

1 A MOTION related to council adoption of the 2009 work  
2 program for the county auditor's office; and rescinding  
3 Motion 12952.

4  
5 WHEREAS, the council adopted Motion 12952 approving the 2009 work  
6 program for the county auditor's office, and

7 WHEREAS, since the adoption of Motion 12952, an important project has arisen that  
8 merits inclusion in the 2009 work program for the county auditor's office, and

9 WHEREAS, the council has requested the executive to collect information on new  
10 programs or increased levels of service that are state unfunded mandates, and

11 WHEREAS, the county auditor has the expertise to conduct a financial review of  
12 information collected by the executive on state unfunded mandate programs, and

13 WHEREAS, the county auditor agrees that the proposed revision to the 2009  
14 auditor's work program should not adversely affect any audit or study in progress, and

15 WHEREAS, the revised 2009 county auditor's work program has been developed  
16 and is attached to this motion;

17 NOW, THEREFORE, BE IT MOVED by the Council of King County:

**Motion**

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- 18           A. Motion 12952 is rescinded; and  
19           B. The King County council adopts the attached 2009 King County Auditor's  
20 Office Work Program.  
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KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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ATTEST:

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**Attachments**     A 2009 King County Auditor's Office Work Program

**Attachment A** (July 13, 2009)  
**2009 KING COUNTY AUDITOR'S OFFICE WORK PROGRAM**

Project	Tentative Scope Summary
<b>AUDITS/REVIEWS</b> <sup>1</sup>	
Performance Audit of Transit (Biennial Budget Pilot Evaluations) <sup>2</sup>	Conduct performance audits to evaluate transit operations and capital investments. 2009 reports will focus on identifying potential savings, efficiencies, and service improvements with the goal of informing development of the next biennial budget for the Transit Division.
Animal Care Control <sup>2</sup>	Evaluate the animal care and control program to determine the extent to which the existing data systems, policies, and procedures are appropriately used to manage and carry out shelter operations, improve performance, and promote transparency and accountability.
Emergency Medical Services (EMS) Levy Financial Audit <sup>2</sup>	Perform an agreed-upon-procedures financial review of 2008 programs funded by the countywide Emergency Medical Services (EMS) levy passed by the voters of King County in November of 2007. Evaluate specific financial and compliance aspects of EMS levy programs including the financial models and the underlying assumptions that were developed to assist EMS programs in determining yearly budgeted costs.
Sheriff's Office Internal Investigations Unit <sup>2</sup>	Continue to monitor Sheriff's Office progress towards addressing misconduct complaint issues in 2008 and provide a follow-up report in 2009. This may include review of changes to the Sheriff's Office "use of force" policies and practices that were discussed in our 2006 report.
FMD Facilities Maintenance Program (Note: This is a new proposal.)	Evaluate whether Custodial Services' staffing, scheduling, and supervision practices manage staffing resources efficiently and promote consistency, effectiveness, and accountability, including customer satisfaction.
<b>Follow-Up Projects</b>	
County Vehicle Replacement Program Audit Follow-up	Evaluate the implementation status of our 2007 recommendations to refine lifecycle cost analysis, strengthen cost recovery accounting, and improve customer relations related to county fleet management. This follow-up will also assess progress in developing county guidelines for purchasing and using vehicles.

Project	Tentative Scope Summary
Jail Health Services Pharmacy and Medication Administration Audit Follow-up	Evaluate whether effective implementation of 2007 recommendations has occurred. For example, assess whether processes for filling prescriptions and stocking medication carts have been improved to strengthen controls for medications and to increase efficiency of distribution.
Jail Overtime Performance Audit Follow-up	Evaluate the Department of Adult and Juvenile Detention's progress implementing two recommendations made in our 2006 performance audit of Jail Overtime, including a review of the department's evaluation of its Operations Forecasting Model.
New Construction Assessments Audit Follow-up	Evaluate whether the Assessor's Office has implemented our 2006 recommendations to streamline and improve the quality of new construction permit processing, implement performance measures for new construction assessments, and increase the credibility of revenue forecasting.
Department of Development and Environmental Services (DDES) Code Enforcement Performance Audit Follow-up	Determine status of implementation of 2008 audit recommendations, including the development of a strategic plan for the section that will promote consistent practices.
Facilities Management Division Capital Planning and Budgeting Performance Audit Follow-up	Evaluate how effectively the Facilities Management Division (FMD) has implemented recommendations for improved practices and policies contained in the 2008 audit report.
Alternative Capital Project Delivery Methods Study Follow-up	Assess implementation of three recommendations made in 2008 report, including how to identify high-risk projects when first planned.
<b>CAPITAL PROJECTS OVERSIGHT</b>	
<p><b>Capital Projects Oversight Phase 2 Implementation</b><sup>2</sup></p>	<p>Continue to implement the model developed in 2007 for the capital projects oversight program to:</p> <ul style="list-style-type: none"> <li>• Provide the council with timely information on all major capital projects;</li> <li>• Promote transparency and public accountability.</li> <li>• Work with the executive to improve policies and project management practices for improved capital project delivery through better cost estimating, schedule development, and risk management.</li> <li>• Continue to provide the council with timely information on project scope, schedule, budget and risks on selected projects.</li> </ul>
<ul style="list-style-type: none"> <li>• Harborview Ninth and Jefferson Building (NJB) Project Oversight<sup>2</sup></li> </ul>	<p>This \$180 million multi-use building project is due for completion in 2009.</p>

Project	Tentative Scope Summary
<ul style="list-style-type: none"> <li>Accountable Business Transformation (ABT) Project Oversight <sup>2</sup></li> </ul>	<p>Key milestones scheduled for completion in 2009 on this \$79 million information technology project include the development of a Benefits Realization Plan and the Budget Process Review.</p>
<ul style="list-style-type: none"> <li>Brightwater Project Oversight <sup>2</sup></li> </ul>	<p>This \$1.8 billion project includes a new wastewater treatment plant and an extensive conveyance system. Completion is scheduled for 2011.</p>
<ul style="list-style-type: none"> <li>Jail Health Services &amp; Integrated Security Project (ISP) Oversight <sup>2</sup></li> </ul>	<p>This project includes replacement of the jail's electronic security system and remodeling of Inmate Transfer and Release (ITR) and Jail Health Services space. The project is scheduled to be completed early in 2009.</p>
<ul style="list-style-type: none"> <li>Data Center Relocation Project Oversight</li> </ul>	<p>This \$18 million project to relocate the county's enterprise data center from the Seattle Municipal Tower includes construction of tenant improvements on leased space in the Sabey Center in Tukwila, moving existing and purchasing new server equipment, and installing some 20 miles of fiber optic lines. Completion is scheduled in 2010.</p>
<ul style="list-style-type: none"> <li>Criteria for Capital Project Development</li> </ul>	<p>Develop criteria that could be used to prioritize major capital projects. The criteria could further enable the ranking of projects considered for funding in the annual budget process, while also recognizing the differences and unique characteristics of each project and differences in funding sources.</p>
<ul style="list-style-type: none"> <li>Countywide Procurement &amp; Contract Monitoring</li> </ul>	<p>Monitor and provide input on countywide procurement and contracting policy revisions for capital planning, design, and construction management to strengthen capital program delivery and accountability.</p>
<p><b>OTHER OVERSIGHT ACTIVITIES</b></p>	
<p>Coordination and review of Financial, Accountability and Performance audits conducted by the State Auditor's Office's (SAO) in King County.</p>	<p>The State Auditor's Office (SAO) conducts financial, accountability, and performance audits of King County. During the execution of these audits, the auditor's office works with the SAO to promote communication and coordination in fulfilling local government's expectations. Once financial and accountability audits are completed the auditor's office reviews the work performed and reports to the Council on findings and recommendations that are of interest. In addition, for performance audits, legislative bodies are required to hold public hearings and confirm implementation of the SAO's recommendations.</p> <p>Current projects are the financial audits of King County's Comprehensive Annual Financial Report (CAFR), The King County Public Transportation Enterprise, and The King County Water Quality Enterprise. Additionally, there are two performance audits being conducted within the county. Those are the audits of Construction Management, and</p>

Project	Tentative Scope Summary
Countywide Community Forums Program <sup>2</sup>	of the Water Quality and Solid Waste Utilities. In 2007, the council adopted, by ordinance, a proposed initiative. It established a network of community forums, through which citizens can participate in small group discussions to provide input to the county on a variety of key issues. Three forums are planned for 2009. The first forum topic will be budget and strategic options for King County (February/March). The second will be a State of the County forum (May), and the third forum topic is yet to be determined.
Countywide Performance Measurement and Management Program <sup>2</sup>	Continue to facilitate the advisory countywide Performance Management Work Group. In 2009, the Work Group will focus on advising on the implementation of the 2008 Performance and Accountability Act by supporting the development of a countywide performance report and a countywide strategic plan. Subcommittees of the work group will coordinate with the executive on specialized areas of implementation such as strategic planning, reporting, and public involvement.
Jail Operational Master Plan (OMP) Implementation	Continue to oversee implementation of recommendations made in the 2005 Operational Master Plan for Adult Detention. Many recommendations were subject to completion of the Integrated Security Project, which is due to finish early in 2009.
Unfunded Mandate Project Review	Conduct a financial review of new programs or increased levels of service identified by the Executive as state unfunded mandates.

- 1 DDES Critical Areas Section-- Evaluation of the effectiveness and staffing efficiency of the Critical Areas Section of the Department of Development and Environmental Service (DDES), a carryover project from 2008 is on hold.
- 2 Authorized in legislation (in addition to 2008 work program motion 12849).