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Title: AN ORDINANCE relating to personnel policies; clarifying when a probationary period is applied to employees and establishing a discretionary trial service period for laterally transferred employees; and amending Ordinance 12014, Section 5, as amended and K.C.C. 3.12.010, and Ordinance 12014, Section 13, as amended and K.C.C. 3.12.100.

Sponsors: Pete von Reichbauer

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8/27/2013	1	Government Accountability and Oversight Committee		Deferred
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Clerk 08/02/2013

AN ORDINANCE relating to personnel policies; clarifying when a probationary period is applied to employees and establishing a discretionary trial service period for laterally transferred employees; and amending Ordinance 12014, Section 5, as amended and K.C.C. 3.12.010, and Ordinance 12014, Section 13, as amended and K.C.C. 3.12.100.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. A career service employee is appointed to a county position as a result of a competitive selection process and that appointment is final upon the successful completion of a probationary period. The probationary period is used to determine the probationary employee's qualification for entry into career service.

Achieving career service is analogous to achieving tenure. Until successful completion of the probationary period, the employee is "at-will" and may be terminated without cause.

B. A career service employee has a constitutionally-protected property right in his or her career service position that cannot be removed or reduced absent due process. In this context, that means that the employee must be given notice and an opportunity to be heard prior to suspension, demotion, or termination of employment. Entry into career service in King County also carries with it other rights, such as referral to other positions upon layoff and reemployment opportunities for up to two years after separation from employment.

C. The probationary period has been applied in the county to employees upon initial employment, reemployment, promotion, demotion, and lateral transfer to career service positions. However, there are two situations in which the probationary period should not be applied because the employee is currently in career service status, has already competed in a selection process, and an additional competitive selection process is not necessary. This occurs when an employee is promoted under a reclassification process or when an employee is laterally transferred to a position in the same classification and/or the same pay range.

D. Under K.C.C. 3.12.100, a probationary period is required for an employee who is promoted to a career service position. However, the King County Code does not make a distinction between an employee who is promoted under a competitive process and an employee who is promoted under a reclassification process. An employee who is promoted under a competitive selection process should serve a probationary period. An employee who is promoted under a reclassification process should not.

A reclassification in the county simply recognizes that the employee has been performing the duties of a higher classification and should, therefore, be promoted to that classification. Local public jurisdictions vary on whether or not a probationary period should be required for an employee promoted under a reclassification process.

Under K.C.C. 3.15.030, the director of the human resources division may reclassify an employee's current position and, if the reclassification results in a promotion, assign a pay increase to the employee. A

reclassification may result in a promotion when there has been a gradual accretion and significant change in the duties and responsibilities of a career service employee over a period of one year. The employee already competed for his or her underlying position, thus, the employee's qualification for entry into career service had already been met. Imposing an additional probationary period on such a career service employee offers no benefit to the county and means that the employee involuntarily loses the protections of career service status.

E. Under K.C.C. 3.12.100, a probationary period is currently required for a career service employee who transfers to another position. This means that an employee who moves from one work unit to another, without any change in pay or classification, loses the protections of his or her career service status. Because the employee who transfers has already served a probationary period in the same classification and/or the same pay range, the employee's qualification for entry into career service has already been met. Therefore, a probationary period for a laterally transferred employee should not be required.

Other local public jurisdictions vary on whether a probationary period is required for an employee who laterally transfers. Some impose a trial service period as an alternative.

While a probationary period for a laterally transferred employee should not be required, a discretionary trial service period is prudent. When transferring to a new position in the same classification and/or same pay range, the duties and responsibilities may be similar but not identical. Therefore, an opportunity to evaluate the suitability of the employee to the new position may be appropriate. A trial service period accomplishes that goal without putting the employee at risk of losing his or her career service status. Should the hiring authority determine that the employee is not suited to the new position, the employee may be restored to the former position under some circumstances or afforded post-separation assistance to attempt to match the employee with another County position, as determined by the human resources division manager.

F. A probationary period is currently required for a career service employee who demotes to another position. The imposition of a probationary period should be discretionary at the option of the hiring authority. When demoting to a new position in a lower pay range, an employee may or may not be well suited for position

duties and responsibilities. Therefore, an opportunity to evaluate the qualifications of the employee to the new position may still be appropriate.

An optional probationary period accomplishes that goal. A probationary period may not be necessary depending upon the duties and responsibilities of the new position but the hiring authority may be reluctant to accept a demoted employee without a probationary option.

Currently, employees, including employees who are demoted, earn a step increase upon passing probation. However, a step increase upon successful completion of probation for a demoted employee is not warranted.

SECTION 2. Ordinance 12014, Section 5, as amended, and K.C.C. 3.12.010 are each hereby amended to read as follows:

For the purposes of this chapter, all words shall have their ordinary and usual meanings except those defined in this section which shall have, in addition, the following meanings. In the event of conflict, the specific definitions set forth in this section shall presumptively, but not conclusively, prevail.

A.1. "Administrative interns" means employees who are:

- a. enrolled full-time during the regular school year in a program of education, internship or apprenticeship; or
- b. veterans temporarily working to gain practical workforce experience.

2. All administrative internships in executive departments shall be approved by the manager.

Administrative interns are exempt from the career service under Section 550 of the charter.

B. "Appointing authority" means the county council, the executive, chief officers of executive departments and administrative offices, or division managers having authority to appoint or to remove persons from positions in the county service.

C. "Basis of merit" means the value, excellence or superior quality of an individual's work performance, as determined by a structured process comparing the employee's performance against defined

standards and, where possible, the performance of other employees of the same or similar class.

D. "Board" means the county personnel board established by Section 540 of the charter.

E. "Budgetary furlough" means a circumstance in which projected county revenues are determined to be insufficient to fully fund county agency operations and, in order either to achieve budget savings or to meet unallocated budget reductions, which are commonly known as contras, or both, cost savings may be achieved through reduction in days or hours of service, resulting in placing an employee for one or more days in a temporary furlough status without duties and without pay.

F. "Career service employee" means a county employee appointed to a career service position as a result of the selection procedure provided for in this chapter, and who has completed the probationary period.

G. "Career service position" means all positions in the county service except for those that are designated by Section 550 of the charter as follows: all elected officers; the county auditor, the clerk and all other employees of the county council; the county administrative officer; the chief officer of each executive department and administrative office; the members of all boards and commissions; the chief economist and other employees of the office economic and financial analysis; the chief economist and other employees of the office of economic and financial analysis; administrative assistants for the executive and one administrative assistant each for the county administrative officer, the county auditor, the county assessor, the chief officer of each executive department and administrative office and for each board and commission; a chief deputy for the county assessor; one confidential secretary each for the executive, the chief officer of each executive department and administrative office, and for each administrative assistant specified in this section; all employees of those officers who are exempted from the provisions of this chapter by the state constitution; persons employed in a professional or scientific capacity to conduct a special inquiry, investigation or examination; part-time and temporary employees; administrative interns; election precinct officials; all persons serving the county without compensation; physicians; surgeons; dentists; medical interns; and student nurses and inmates employed by county hospitals, tuberculosis sanitariums and health departments of the county.

Divisions in executive departments and administrative offices as determined by the county council shall be considered to be executive departments for the purpose of determining the applicability of Section 550 of the charter.

All part-time employees shall be exempted from career service membership except, all part-time employees employed at least half time or more, as defined by ordinance, shall be members of the career service.

H. "Charter" means the King County Charter, as amended.

I. "Child" means a biological, adopted or foster child, a stepchild, a legal ward or a child of an employee standing in loco parentis to the child, who is:

1. Under eighteen years of age; or
2. Eighteen years of age or older and incapable of self care because of a mental or physical disability.

J. "Class" or "classification" means a position or group of positions, established under authority of this chapter, sufficiently similar in respect to the duties, responsibilities and authority thereof, that the same descriptive title may be used to designate each position allocated to the class.

K. "Classification plan" means the arrangement of positions into classifications together with specifications describing each classification.

L. "Compensatory time" means time off granted with pay in lieu of pay for work performed either on an authorized overtime basis or work performed on a holiday that is normally scheduled as a day off. Such compensatory time shall be granted on the basis of time and one-half.

M. "Competitive employment" means a position established in the county budget and that requires at least twenty-six weeks of service per year as the work schedule established for the position.

N. "Council" means the county council as established by Article 2 of the charter.

O. "County" means King County and any other organization that is legally governed by the county with respect to personnel matters.

P. "Developmental disability" means a developmental disability, as defined in RCW 71A.10.020(2), as amended, attributable to mental retardation, cerebral palsy, epilepsy, autism or other neurological or other condition of an individual found by the secretary of the Washington state Department of Social and Health Services, or the secretary's designee, to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, that has continued or can be expected to continue indefinitely and that constitutes a substantial handicap for the individual.

Q. "Direct cost" means the cost aggregate of the actual weighted average cost of insured benefits, less any administrative cost therefor. Any payments to part-time and temporary employees under this chapter shall not include any administrative overhead charges applicable to administrative offices and executive departments.

R. "Director" means the manager of the human resources division*.

S. "Division" means the human resources division or its successor agency*.

T. "Domestic partners" are two people in a domestic partnership, one of whom is a county employee.

U. "Domestic partnership" is a relationship whereby two people:

1. Have a close personal relationship;
2. Are each other's sole domestic partner and are responsible for each other's common welfare;
3. Share the same regular and permanent residence;
4. Are jointly responsible for basic living expenses which means the cost of basic food, shelter and any other expenses of a domestic partner that are paid at least in part by a program or benefit for which the partner qualified because of the domestic partnership. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the cost;
5. Are not married to anyone;
6. Are each eighteen years of age or older;
7. Are not related by blood closer than would bar marriage in the state of Washington;

8. Were mentally competent to consent to contract when the domestic partnership began.

V. "Employed at least half time or more" means employed in a regular position that has an established work schedule of not less than one-half the number of hours of the full-time positions in the work unit in which the employee is assigned, or when viewed on a calendar year basis, nine hundred ten hours or more in a work unit in which a work week of more than thirty-five but less than forty hours is standard or one thousand forty hours or more in a work unit in which a forty hour work week is standard. If the standard work week hours within a work unit varies (employees working both thirty five and forty hours) the manager, in consultation with the department, is responsible for determining what hour threshold applies.

W. "Employee" means any person who is employed in a career service position or exempt position.

X. "Executive" means the county executive, as established by Article 3 of the charter.

Y. "Exempt employee" means an employee employed in a position that is not a career service position under Section 550 of the charter. Exempt employees serve at the pleasure of the appointing authority.

Z. "Exempt position" means any position excluded as a career service position by Section 550 of the charter. Exempt positions are positions to which appointments may be made directly without a competitive hiring process.

AA. "Full-time regular employee" means an employee employed in a full-time regular position and, for full-time career service positions, is not serving a probationary period.

BB. "Full-time regular position" means a regular position that has an established work schedule of not less than thirty-five hours per week in those work units in which a thirty-five hour week is standard, or of not less than forty hours per week in those work units in which a forty-hour week is standard.

CC. "Furlough day" means a day for which an employee shall perform no work and shall receive no pay due to an emergency budget crisis necessitating emergency budget furloughs.

DD. "Furloughed employee" means an employee who is placed in a temporary status without duties and without pay due to a financial emergency necessitating budget reductions.

EE. "Grievance" means an issue raised by an employee relating to the interpretation of rights, benefits, or condition of employment as contained in either the administrative rules or procedures, or both, for the career service.

FF. "Immediate family" means spouse, child, parent, son-in-law, daughter-in-law, grandparent, grandchild, sibling, domestic partner and the child, parent, sibling, grandparent or grandchild of the spouse or domestic partner.

GG. "Incentive increase" means an increase to an employee's base salary within the assigned pay range, based on demonstrated performance.

HH. "Integrated work setting" means a work setting with no more than eight persons with developmental disabilities or with the presence of a sensory, mental or physical handicap as specified in K.C.C. 3.12.180. This definition refers to all county offices, field locations and other work sites at which supported employees work alongside employees who are not persons with development disabilities employed in permanent county positions.

II. "Life-giving and life-saving procedures" means a medically-supervised procedure involving the testing, sampling, or donation of blood, organs, fluids, tissues and other human body components for the purposes of donation without compensation to a person for a medically necessary treatment.

JJ. "Manager" means the manager of the human resources division* or its successor agency.

KK. "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabiting.

LL. "Part-time employee" means an employee employed in a part-time position. Under Section 550 of the charter, part-time employees are not members of the career service.

MM. "Part-time position" means an other than a regular position in which the part-time employee is employed less than half time, that is less than nine hundred ten hours in a calendar year in a work unit in which a thirty-five hour work week is standard or less than one thousand forty hours in a calendar year in a work unit

in which a forty-hour work week is standard, except as provided elsewhere in this chapter. Where the standard work week falls between thirty-five and forty hours, the manager, in consultation with the department, is responsible for determining what hour threshold will apply. Part-time position excludes administrative intern.

NN. "Part-time regular employee" means an employee employed in a part-time regular position and, for part-time career service positions, is not serving a probationary period. Under Section 550 of the charter, such part-time regular employees are members of the career service.

OO. "Part-time regular position" means a regular position in which the part-time regular employee is employed for at least nine hundred ten hours but less than a full-time basis in a calendar year in a work unit in which a thirty-five hour work week is standard or for at least one thousand forty hours but less than a full-time basis in a calendar year in a work unit in which a forty-hour work week is standard. Where the standard work week falls between thirty-five and forty hours, the manager, in consultation with the department, is responsible for determining what hour threshold will apply.

PP. "Pay plan" means a systematic schedule of numbered pay ranges with minimum, maximum and intermediate steps for each pay range, a schedule of assignment of each classification to a numbered pay range and rules for administration.

QQ. "Pay range" means one or more pay rates representing the minimum, maximum and intermediate steps assigned to a classification.

RR. "Pay range adjustment" means the adjustment of the numbered pay range of a classification to another numbered pay range in the schedule based on a classification change, competitive pay data or other significant factors.

SS. "Personnel guidelines" means only those operational procedures promulgated by the manager necessary to implement personnel policies or requirements previously stipulated by ordinance or the charter. Such personnel guidelines shall be applicable only to employees assigned to executive departments and administrative agencies.

TT. "Position" means a group of current duties and responsibilities assigned by competent authority requiring the employment of one person.

UU. "Probationary employee" means an employee serving a probationary period in a regular career service position. Probationary employees are temporary employees and excluded from career service under Section 550 of the charter.

VV.1. "Probationary period" means a period of time, as determined by the manager, constituting the final step in the ~~((competitive screening))~~ hiring process for career service ~~((or for promotion from one career service position to another))~~ positions filled under:

- a. a competitive hiring process resulting in the initial hire of an employee into county employment;
- b. a competitive hiring process resulting in the promotion of a county employee;
- c. Reemployment into the county of a former career service employee; or
- d. Demotion of a county employee.

2. An appointment to the career service ~~((, whether following successful completion of an initial probationary period of county employment or a promotional probationary period,))~~ position shall not be final unless the employee successfully completes this probationary period.

WW. "Probationary period salary increase" means a within-range salary increase from one step to the next highest step upon ~~((satisfactory))~~ successful completion of the probationary period. Employees who are demoted into career service positions are not eligible for a probationary period salary increase upon successful completion of the probationary period.

XX. "Promotion" means the movement of an employee to a position in a classification having a higher maximum salary.

YY. "Provisional appointment" means an appointment made in the absence of a list of candidates certified as qualified by the manager. Only the manager may authorize a provisional appointment. An appointment to this status is limited to six months.

ZZ. "Provisional employee" means an employee serving by provisional appointment in a regular career service. Provisional employees are temporary employees and excluded from career service under Section 550 of the charter.

AAA. "Recruiting step" means the first step of the salary range allocated to a class unless otherwise authorized by the executive.

BBB. "Regular position" means a position established in the county budget and identified within a budgetary unit's authorized full time equivalent (FTE) level as set out in the budget detail report.

CCC. "Salary or pay rate" means an individual dollar amount that is one of the steps in a pay range paid to an employee based on the classification of the position occupied.

DDD. "Section" means an agency's budget unit comprised of a particular project program or line of business as described in the budget detail plan for the previous fiscal period as attached to the adopted appropriation ordinance or as modified by the most recent supplemental appropriations ordinance. This definition is not intended to create an organization structure for any agency.

EEE. "Serious health condition" means an illness or injury, impairment or physical or mental condition that involves one or more of the following:

1. An acute episode that requires more than three consecutive calendar days of incapacity and either multiple treatments by a licensed health care provider or at least one treatment plus follow-up care such as a course of prescription medication; and any subsequent treatment or period of incapacity relating to the same condition;
2. A chronic ailment continuing over an extended period of time that requires periodic visits for treatment by a health care provider and that has the ability to cause either continuous or intermittent episodes of incapacity;
3. In-patient care in a hospital, hospice or residential medical care facility or related out-patient follow-up care;

4. An ailment requiring multiple medical interventions or treatments by a health care provider that, if not provided, would likely result in a period of incapacity for more than three consecutive calendar days;

5. A permanent or long-term ailment for which treatment might not be effective but that requires medical supervision by a health care provider; or

6. Any period of incapacity due to pregnancy or prenatal care.

FFF. "Temporary employee" means an employee employed in a temporary position and in addition, includes an employee serving a probationary period or is under provisional appointment. Under Section 550 of the charter, temporary employees shall not be members of the career service.

GGG. "Temporary position" means a position that is not a regular position as defined in this chapter and excludes administrative intern. Temporary positions include both term-limited temporary positions as defined in this chapter and short-term (normally less than six months) temporary positions in which a temporary employee works less than nine hundred ten hours in a calendar year in a work unit in which a thirty-five hour work week is standard or less than one thousand forty hours in a calendar year in a work unit in which a forty hour work week is standard, except as provided elsewhere in this chapter. Where the standard work week falls between thirty-five and forty hours, the manager, in consultation with the department, is responsible for determining what hour threshold will apply.

HHH. "Term-limited temporary employee" means a temporary employee who is employed in a term-limited temporary position. Term-limited temporary employees are not members of the career service. Term-limited temporary employees may not be employed in term-limited temporary positions longer than three years beyond the date of hire, except that for grant-funded projects capital improvement projects and information systems technology projects the maximum period may be extended up to five years upon approval of the manager. The manager shall maintain a current list of all term-limited temporary employees by department.

III. "Term-limited temporary position" means a temporary position with work related to a specific grant, capital improvement project, information systems technology project or other nonroutine, substantial

body of work, for a period greater than six months. In determining whether a body of work is appropriate for a term-limited temporary position, the appointing authority will consider the following:

1. Grant-funded projects: These positions will involve projects or activities that are funded by special grants for a specific time or activity. These grants are not regularly available to or their receipt predictable by the county;
2. Information systems technology projects: These positions will be needed to plan and implement new information systems projects for the county. Term-limited temporary positions may not be used for ongoing maintenance of systems that have been implemented;
3. Capital improvement projects: These positions will involve the management of major capital improvement projects. Term-limited temporary positions may not be used for ongoing management of buildings or facilities once they have been built;
4. Miscellaneous projects: Other significant and substantial bodies of work may be appropriate for term-limited temporary positions. These bodies of work must be either nonroutine projects for the department or related to the initiation or cessation of a county function, project or department;
5. Seasonal positions: These are positions with work for more than six consecutive months, half-time or more, with total hours of at least nine hundred ten in a calendar year in a work unit in which a thirty-five hour work week is standard or at least one thousand forty hours in a calendar year in a work unit in which a forty hour work week is standard, that due to the nature of the work have predictable periods of inactivity exceeding one month. Where the standard work week falls between thirty-five and forty hours, the manager, in consultation with the department, is responsible for determining what hour threshold will apply; and
6. Temporary placement in regular positions: These are positions used to back fill regular positions for six months or more due to a career service employee's absence such as extended leave or assignment on any of the foregoing time-limited projects.

All appointments to term-limited temporary positions will be made by the appointing authority in

consultation with the manager before the appointment of term-limited temporary employees.

JJJ. "Trial service period" means a period of time, as determined by the manager, served by a career service employee who laterally transfers to a different career service position in the same classification or in the same pay range. The purpose of a trial service period is to determine an employee's suitability for the position to which the employee has transferred. Appointment to the position shall not be final unless the employee successfully completes the trial service period.

KKK. "Volunteer for the county" means an individual who performs service for the county for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation from the county for services rendered and who is accepted as a volunteer by the county, except emergency service worker volunteers as described by chapter 38.52 RCW. A "volunteer for the county" may receive reasonable reimbursement of expenses or an allowance for expenses actually incurred without losing his or her status as a volunteer. "Volunteer for the county" includes, but is not limited to, a volunteer serving as a board member, officer, commission member, volunteer intern or direct service volunteer.

~~((KKK.))~~ LLL. "Volunteer intern" means volunteers who are also enrolled full-time during the regular school year in a program of education, internship or apprenticeship who are receiving scholastic credit or scholastic recognition for participating in the internship.

~~((LLL.))~~ MMM. "Work study student" means a student enrolled or accepted for enrollment at a post-secondary institution who, according to a system of need analysis approved by the higher education coordinating board, demonstrates a financial inability, either parental, familial or personal, to bear the total cost of education for any semester or quarter.

SECTION 3. Ordinance 12014, Section 13, as amended, and K.C.C. 3.12.100 are each hereby amended to read as follows:

A. There shall be a probationary period during which time a probationary employee shall be evaluated by the appointing authority to determine qualification for entry into career service. The probationary period

shall be determined by the director, but shall be not less than six months or more than one year of actual service ((,)). The probationary period shall not be subject to reduction or waiver and shall be served by those employees who ((have been newly hired, reemployed, transferred to a different position, or promoted or demoted.)) are:

1. Newly hired into a career service position under a competitive hiring process;
2. Promoted into a career service position under competitive hiring process; or
3. Reemployed into a career service position having been a former career service employee within the last two years.

B. The imposition of a probationary period for employees demoted into career service positions is discretionary and, when imposed, shall not be more than one year of actual service and is subject to reduction or waiver at the option of the hiring authority.

C. A furloughed employee's probationary period shall not be extended as a result of a budgetary furlough.

~~((B-))~~ D. A probationary employee may be separated from county service at any time during the probationary period without right of appeal to the personnel board.

E. Notwithstanding any other provisions of this section, an employee who does not successfully complete the probationary period in a position to which ((he or she)) the employee had been promoted ((or transferred)) may be restored to his or her former position if such a position still exists and is vacant. Such a restoration is not mandatory, but is optional at the discretion of the former appointing authority within the limits of available authorized positions. Such a restoration shall include restoration of the employee's former salary and all other benefits to which ((he or she)) the employee would have been entitled if the promotion ((or transfer)) had not occurred.

F. There may be a trial service period served by those career service employees who laterally transfer to a different career service position in the same classification or in the same pay range without a break in service.

During the trial service period, a laterally transferred employee shall be evaluated by the appointing authority to determine suitability for the position. The employee retains his or her career service status during the trial service period. The trial service period is discretionary and, when imposed, shall not be more than one year of actual service and is subject to reduction or waiver at the option of the hiring authority. A furloughed employee's trial service period shall not be extended as a result of a budgetary furlough.

1. An employee serving a trial service period may be separated for cause from the employee's position at any time during the trial service period.

2. Notwithstanding any other provisions of this section, an employee who does not successfully complete the trial service period may be restored to his or her former position if such position still exists and is vacant; or afforded a separation process to attempt to match the employee with another county position, as determined by the human resources division manager. Such a restoration is not mandatory, but is optional at the discretion of the former appointing authority within the limits of available authorized positions. Such a restoration shall include restoration of the employee's former salary and all other benefits to which the employee would have been entitled if the transfer had not occurred.

SECTION 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.