



Legislation Details (With Text)

File #: 2014-0301 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 9/8/2014 **In control:** Government Accountability and Oversight Committee

On agenda: **Final action:** 9/22/2014

Enactment date: 10/2/2014 **Enactment #:** 17895

Title: AN ORDINANCE requiring notice of a county agency's determination of an overpayment of wages and establishing an adjudicative proceeding for review of an agency's denial of a nonrepresented employee's challenge to an agency's determination of an overpayment of wages; and amending Ordinance 12014, Section 15, as amended, and K.C.C. 3.12.120.

Sponsors: Pete von Reichbauer

Indexes: Employee Benefits

Code sections: 3.12.120 -

Attachments: 1. Ordinance 17895.pdf, 2. 2014-0301 legislative review form.pdf, 3. 2014-0301 fiscal note.xlsx, 4. 2014-0301 transmittal letter.docx, 5. Staff Report Proposed Ordinance 2014-0301 Employee overpayments.docx, 6. Attachment 1 - Proposed Ordinance.doc, 7. Attachment 2 - Striking amendment S1.docx, 8. Attachment 2 Revised - Striking amendment S1 - with corrected effect statement.docx, 9. Attachment 3 - Title amendment.docx, 10. Attachment 4 - RCW 49.48.200.docx, 11. Attachment 5 - RCW 49.48.210.docx, 12. Attachment 2 Revised - Striking amendment S1 - with corrected effect statement.docx, 13. Revised Staff Report Proposed Ordinance 2014-0301 Employee overpayments.docx

Date	Ver.	Action By	Action	Result
9/22/2014	2	Metropolitan King County Council	Hearing Held	
9/22/2014	2	Metropolitan King County Council	Passed	Pass
9/9/2014	1	Government Accountability and Oversight Committee	Recommended Do Pass Substitute Consent	Pass
9/8/2014	1	Metropolitan King County Council	Introduced and Referred	

Clerk 09/09/2014

AN ORDINANCE requiring notice of a county agency's determination of an overpayment of wages and establishing an adjudicative proceeding for review of an agency's denial of a nonrepresented employee's challenge to an agency's determination of an overpayment of wages; and amending Ordinance 12014, Section 15, as amended, and K.C.C. 3.12.120.

STATEMENT OF FACTS:

1. State law, in RCW 49.48.200 and 49.48.210, establishes a process for determining the

amount of and collection of any overpayment of wages received by a nonrepresented county employee.

2. The statutory process includes notice requirements and multiple steps to determine the amount, if any, of the overpayment. These steps include: an initial determination and notice to the nonrepresented employee about the overpayment; an opportunity for the employee to challenge the determination; employer review of the challenge and notice to the employee of the employer's decision regarding the challenge; and an opportunity for the employee to obtain review of the employer's decision in an adjudicative proceeding that can be provided for by ordinance. This ordinance establishes an adjudicative proceeding for that review.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12014, Section 15, as amended, and K.C.C. 3.12.120 are each hereby amended to read as follows:

A. Nothing contained in this chapter shall prevent, relieve or otherwise excuse any county officer or employee from the performance of any duty imposed upon him or her by any other law of this county, or from the rendering of service at such times and places as are necessary in order to properly perform the functions of his or her office or employment.

B. Except as otherwise provided by ordinance, the official workday shall consist of eight hours of work for all full-time regular and full-time probationary employees. The lunch hour shall not be considered as part of the workday. The official workday for other employees shall be determined by the director. In the case of service reductions resulting in a budgetary furlough, departments may reduce work hours or county offices may be closed.

C. Except as otherwise provided by ordinance, the official workweek shall consist of five working days for all full-time regular and full-time probationary employees. The official workweek for other employees shall be determined by the director. In the case of service reductions resulting ~~((in))~~ from a budgetary furlough,

county offices may be closed, resulting in the reduction of the workweek.

D. The county recognizes that there is an occasional need for an employee to return to work outside his or her normal workday. The personnel guidelines shall contain procedures relating to call duty.

E. The county recognizes a responsibility for action regarding on-the-job injuries. The personnel guidelines shall contain procedures relating to on-the-job injury.

F. A career service employee who accepts an appointment to an exempt position effective on or after January 1, 1996, and which position and appointment resulted from the reorganization of the executive branch as reflected in the creation of certain new positions contained in Attachment A to Ordinance 12013 shall retain his or her career service status and rights while holding such exempt position and have the restoration rights set forth in this section. This provision is not intended to provide the career service employee with a right to the exempt position. But, such employee, if selected for the exempt position, could be terminated from the position only for just cause.

G. A career service employee who accepts a transfer or promotion to an exempt position before December 1, 1979, shall, upon separation from the exempt position, be allowed to re-enter career service at a position comparable in terms of responsibilities and salary or wage (including normal cost-of-living increases) to the career service position formerly held by the employee. A career service employee accepting such a transfer or promotion on or after December 1, 1979, shall have such a right to restoration, but only if:

1. The right to restoration is exercised within four calendar years from the effective date of the transfer or promotion to an exempt position; and

2.a. the former appointing authority, at the appointing authority's discretion, approves the restoration within the limits of available authorized positions; or

b. a different appointing authority, having jurisdiction over comparable authorized positions, and at the different appointing authority's discretion, approves the restoration within the limits of available authorized positions.

H. Matters involving wages and hours, including but not limited to minimum wage and overtime compensation, shall be determined in accordance with applicable state and federal laws and regulations.

I. Overtime work may be authorized by the department director where necessary to maintain or perform vital county services and shall be paid in accordance with appropriate state and federal law.

J. If a county agency or the benefits, payroll and retirement operations section of the finance and business operations division has determined that an overpayment of wages to a nonrepresented employee has occurred, the agency or the benefits, payroll and retirement operations section of the finance and business operations division shall provide written notice to the nonrepresented employee consistent with state law.

K. The following adjudicative process is available, subject to subsection K.1. though 12. of this section, after a decision regarding a nonrepresented employee's challenge to an initial determination of an overpayment of wages:

1. A nonrepresented county employee who is dissatisfied with the decision regarding the employee's challenge to the overpayment determination must submit to the manager of the benefits, payroll and retirement operations section of the finance and business operations division a written request for an adjudicative proceeding consistent with RCW 49.48.210;

2. The request must comply with RCW 49.48.210;

3. A county agency's determination concerning an overpayment to a nonrepresented employee shall be final if the nonrepresented employee fails to request an adjudicative proceeding in the manner prescribed by RCW 49.48.210;

4. The manager of benefits, payroll and retirement operations section of the finance and business operations division shall log the date and time of the request and forward the request to the the agency and to the manager of the finance and business operations division, who shall be responsible for the adjudicative proceeding;

5. Within forty-five business days of receipt of the nonrepresented employee's written request for an

adjudicative hearing, the manager of the finance and business operations division shall conduct an adjudicative hearing to review the decision regarding the challenge to the overpayment determination and to determine the final amount of the overpayment, if any, received by the nonrepresented employee. However, the manager of the finance and business operations division may, under extenuating circumstances, schedule the adjudicative hearing at a time that is more than forty-five days after the receipt of the request for a hearing. The manager of the finance and business operations division shall set the time and place of the hearing and give not less than fifteen business days advance written notice to all parties; notice to the nonrepresented employee shall be by certified mail, return receipt requested;

6. At the hearing, evidence may be presented by the nonrepresented employee, the agency and the benefits, payroll and retirement operations section of the finance and business operations division, but any documents must be provided to the other parties at least five business days before the hearing;

7. If the nonrepresented employee fails to attend or participate in the hearing, upon a showing of valid service, the manager of the finance and business operations division may enter an administrative order declaring the amount claimed, in the notice sent to the employee after the employer's review of the employee's challenge to the overpayment determination, to be assessed against the employee and subject to collection action by the employer as provided in RCW 49.48.200;

8. Within thirty business days after the hearing, the manager of the finance and business operations division shall issue an administrative order that determines the final amount of the overpayment, if any, received by the nonrepresented employee. The manager of the finance and business operations division shall send a copy of the administrative order, by certified mail, return receipt requested, to the nonrepresented employee at the employee's last known address, to the agency and to the manager of benefits, payroll and retirement operations section of the finance and business operations division; however, the manager of the finance and business operations division may, under extenuating circumstances, issue an administrative order more than thirty days after the hearing;

9. The administrative order issued by the manager of the finance and business operations division shall be final;

10. Once a final administrative order determining the final overpayment amount owed by the nonrepresented employee has been entered, a payroll deduction to recover the overpayment may begin as authorized by state law;

11. Nothing in this section precludes an agency or the benefits, payroll and retirement operations section of the finance and business operations division from entering into a voluntary agreement with a nonrepresented employee to repay any overpayment of wages, consistent with state law; and

12. The manager of the finance and business operating division may recuse himself or herself from conducting an adjudicative hearing, at his or her discretion, to avoid any real conflict of interest. If this occurs, the county administrative officer, or the county administrative officer's designee, shall assume responsibility for the hearing.