



Legislation Text

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AN ORDINANCE related to contracts; requiring contractors with the county to provide benefits to domestic partners of their employees equivalent with the benefits provided to spouses of their employees; adding a new chapter to K.C.C. Title 12 and prescribing penalties.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 6 of this chapter should constitute a new chapter in K.C.C. Title 12.

NEW SECTION. SECTION 2. **Purpose.** The purpose of this chapter is to protect and further a more just government by requiring that public funds be expended so as to prohibit county contractors from discrimination in the provision of employee benefits between employees with spouses and employees with domestic partners.

NEW SECTION. SECTION 3. **Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Contract" means an agreement to perform services or provide tangible personal property as defined in K.C.C. 4.16.010. that entails a legally binding obligation of twenty-five thousand dollars or more.

"Contract" does not include the following: a contract between a contract-awarding authority and a public entity; a contract for the purchase, lease or rent of real estate; or a collective bargaining agreement.

B. "Contract-awarding authority" means the county officer, department, commission, employee or board authorized to enter into or to administer contracts on behalf of the county.

C. "Domestic partner" means any person who is a domestic partner as defined in K.C.C. 3.12.010 and is registered with the employee's employer as the employee's domestic partner or, in the absence of such an

employer-provided registry, is registered as a domestic partner with a governmental body in accordance with state or local law authorizing the registration. Any internal employer registry of domestic partnership must comply with the criteria for domestic partnerships specified by the executive by administrative rule.

D. "Employee benefits" means: the provision of bereavement leave; disability, life and other types of insurance; family medical leave; health benefits; membership discounts; moving expenses; pension and retirement benefits; travel benefits; and other benefits given to employees. However, "employee benefits" does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

NEW SECTION. SECTION 4. Nondiscrimination in benefits.

A. A contractor who has contracted with the county shall not discriminate in the provision of employee benefits between an employee with a spouse and an employee with a domestic partner.

B. A contractor who has contracted with the county does not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners, so long as the contractor:

1. Provides the same employee benefits to employees' spouses and domestic partners; or
2. Provides no employee benefits to employees' spouses and domestic partners.

C. The executive may waive the requirements of this chapter where any of the following applies:

1. The award of a contract or amendment to a contract is necessary in an emergency, as "emergency" is defined in K.C.C. 4.16.050;
2. The contract is for a proprietary purchase under K.C.C. 4.16.040;
3. There are no contractors capable of responding to the county's requirements that can comply with the provisions of this chapter;
4. The contractor, despite taking all reasonable measures to do so, demonstrates it is unable to extend a particular employee benefit to domestic partners;
5. The requirements of this chapter are inconsistent with a grant, subvention or agreement with a

public agency; or

6. The county is purchasing through a cooperative or joint purchasing agreement.

D. A request for a waiver of the terms of this chapter must be made to the executive by the contract-awarding authority in a manner prescribed by the executive by administrative rule.

E. A contract-awarding authority shall not execute a contract with a contractor unless the contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter.

F. All contracts awarded by the county shall contain provisions prohibiting discrimination in the provision of employee benefits, including provisions containing appropriate remedies for the breach of the contracts as prescribed by section 5 of this ordinance.

NEW SECTION. SECTION 5. Powers and duties of the executive. The executive shall:

A. Adopt public and administrative rules in accordance with this chapter establishing standards and procedures for effectively carrying out this chapter;

B. Determine and impose appropriate sanctions or remedies, or both, for violation of this chapter by contractors including, but not limited to:

1. Disqualification of the contractor from bidding on or being awarded a county contract for up to two years;

2. Remedies allowable by contract including, but not limited to, liquidated damages and termination of the contract;

3. Remedial action after a finding of noncompliance, as specified by rule; and

4. Other appropriate civil remedies and sanctions allowable by law;

C. Examine contractor's benefit programs covered by this chapter; and

D. Administer other requirements specified by this chapter or that are necessary to implement the purposes of this chapter.

SECTION 6. Appeals. An aggrieved contractor may appeal a decision made by the executive under section 5.B of this ordinance. An appeal must be submitted in writing to the executive within ten working days of the decision to be appealed. The executive shall consider the appeal. The executive shall issue a decision in writing to the contractor within twenty days of the submittal of the appeal that contains findings upon which the decision was made.

SECTION 7. Applicability. This ordinance applies to any contract awarded on or after the earlier of:

A. The date the executive adopts public and administrative rules establishing standards and procedures for implementing this chapter; or

B. April 1, 2004.

SECTION 8. 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.