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AN ORDINANCE providing for a stipend to be paid to employees who are required to treat the fair market value of health-care benefits for their same-sex spouses as taxable income under the Internal Revenue Code; and amending Ordinance 12014, Section 7, as amended, and K.C.C. 3.12.040.

PREAMBLE:

1. To attract the best employees, King County seeks to offer robust workplace benefits and fair treatment for all of its employees.

2. Studies have found that benefits packages, especially health-care and retirement benefits, are a direct contributor to employee loyalty, and that satisfied and engaged workers are more productive and perform better than less-satisfied colleagues.

3. The federal Defense of Marriage Act forces employers to consider the gender of the spouses of lawfully married employees when determining the scope and manner of benefits that may be extended to those spouses and the children of those spouses.

4. The Defense of Marriage Act enforces discriminatory tax treatment of spousal retirement and health-care benefits. While the Defense of Marriage Act does not prevent a nonfederal employer from offering health-care benefits to the same-sex spouse of an employee, it imposes discriminatory tax treatment. Under the Internal Revenue Code, the fair market value of health-care benefits for a qualified employee's spouse who is not otherwise a dependent of the qualified employee is not subject to federal income tax, but the Defense of Marriage Act forces both employer and employee to treat that value as taxable income when the qualified employee and

his or her spouse are of the same sex.

5. Because of the Defense of Marriage Act, the typical paycheck for a married employee with a same-sex spouse will show higher taxable wages than a married employee with a different-sex spouse due to the imputed value of the spouse's health-care coverage and reduced take-home pay.

6. Similarly, the Defense of Marriage Act also provides discriminatory treatment in times of entitlement to family medical leave. If an employee's different-sex spouse becomes seriously sick or injured, federal law permits him or her up to twelve work weeks of unpaid, protected leave to care for her spouse; an employee with a same-sex spouse is not entitled to receive the same protection under federal law.

6. Many major employers, including Google, Apple, Cisco, Kimpton Hotels and Facebook, and the city of Cambridge, Massachusetts, have established workarounds to provide for equal take-home compensation among same-sex married couples and different-sex married couples.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12014, Section 7, as amended, and K.C.C. 3.12.040 are each hereby amended to read as follows:

A. Full-time regular, part-time regular, provisional, probationary and term-limited temporary employees shall receive the leave benefits provided in this chapter.

B. Full-time regular, part-time regular, provisional, probationary and term-limited temporary employees and their spouse or domestic partner, each of their dependent children, and each of the dependent children of their spouse or domestic partner shall be eligible for medical, dental, life, disability((~~,~~)) and vision benefits, except in those instances where contrary provisions have been agreed to in the collective bargaining process and to the extent such benefits are available through insurers selected by the county. The director shall establish specific provisions governing eligibility for these benefits as part of the personnel guidelines and consistent with budget requirements. Such provisions may include waiting periods for employees newly-hired to the county.

C. The county shall provide full-time regular, part-time regular, provisional, probationary and term-limited temporary employees with a same-sex spouse receiving health-care benefits from the county, a stipend to reimburse employees with a same-sex spouse for the additional federal income taxes incurred by these employees compared to employees who choose to cover their opposite-sex spouses. The stipend shall be calculated based on each employee's federal tax bracket based on their county earnings and shall be sufficient to reimburse each employee for the federal taxes incurred on the benefits coverage and the approximate additional tax incurred as a result of the stipend itself.

D. Part-time and temporary employees, other than probationary, provisional and term-limited temporary employees, who exceed the calendar year working hours threshold defined in this chapter shall receive compensation in lieu of leave benefits at the rate of ((~~15%~~)) fifteen percent of gross pay for all hours worked, paid retroactive to the first hour of employment and for each hour worked thereafter. The employee will also receive a one-time only payment in an amount equal to the direct cost of three months of insured benefits, as determined by the director, and, in lieu of insured benefits, an amount equal to the direct cost to the county for each employee for whom insured benefits are provided, prorated to reflect the affected employee's normal work week, for each hour worked thereafter. Such additional compensation shall continue until termination of employment or hire into a full-time regular, part-time regular or term-limited position. Further, employees receiving pay in lieu of insured benefits may elect to receive the medical component of the insured benefit plan, with the cost to be deducted from their gross pay; provided, that an employee who so elects shall remain in the selected plan until termination of employment, hire into a full-time regular, part-time regular, or term-limited position, or service of an appropriate notice of change or cancellation during the employee benefits annual open-enrollment.

Part-time and temporary employees, other than probationary, provisional and term-limited temporary employees, who exceed the applicable threshold will also be eligible for cash in lieu of the bus pass benefit provided to regular employees. The value will be determined based on the average annual cost per employee as determined in the adopted budget, prorated to an hourly equivalent based on the employee's normal work week, and will be paid retroactive to the first hour worked and for each hour worked thereafter until termination of employment or hire into a full-time regular, part-time regular, or term limited position.

SECTION 2. Section 1 of this ordinance takes effect January 1, 2014.