
Council Bill Number: 115511

Ordinance Number: 122063

AN ORDINANCE relating to temporary City workers; amending Seattle Municipal Code Sections 4.04.030, 4.20.055, 4.20.190, 4.20.220, 4.24.010, 4.28.010, and 4.34.005; adding a new section 4.04.280; repealing Seattle Municipal Code Sections 4.04.145 and 4.04.255; and repealing Ordinance 114682; all for the purpose of implementing the settlement agreement approved by the Superior Court of King County in Larry D. Glaser et al v the City of Seattle.

Status: Passed

Note: Portable patio fireplace regulations

Vote: 9-0

Date filed with the City Clerk: 2006/04/17

Date of Mayor's signature: 2006/04/10 ([about the signature date](#))

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Committee: Finance and Budget

Sponsor: MCIVER

Committee Recommendation: Pass

Index Terms: CITY-EMPLOYEES, PERSONNEL-ADMINISTRATION, EMPLOYEE-BENEFITS, WAGES-AND-SALARIES

Fiscal Note: [Fiscal Note to Council Bill No. 115511](#)

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Reference: Related: Res. 30829, 30831; CF 307824

Text:

ORDINANCE _____

AN ORDINANCE relating to temporary City workers; amending Seattle Municipal Code Sections 4.04.030, 4.20.055, 4.20.190, 4.20.220, 4.24.010, 4.28.010, and 4.34.005; adding a new section 4.04.280; repealing Seattle Municipal Code Sections 4.04.145 and 4.04.255; and repealing Ordinance 114682; all for the purpose of implementing the settlement agreement approved by the Superior Court of King County in Larry D. Glaser et al v the City of Seattle.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 4.04.030, Definitions, Subsection 32, is hereby amended as follows:

32. "Temporary worker" includes both temporary and less than half time employees and means a person who is employed ~~for~~ in:

a. ~~seasonal assignments to perform a short-term, recurring body of work not associated with a regularly budgeted position that is dependent on time of year, customer demand or some other predictable factor; and~~

~~an interim assignments of up to one year to a vacant regular position to perform work associated with a regularly budgeted position because the position that is temporarily vacant and has no incumbent or otherwise assigned; and; or~~

~~e. on-call assignments to perform work associated with event support that is intermittent and as-needed, and which may be sporadically or irregularly scheduled, or may regularly consist of fewer straight-time hours per month than are necessary to qualify for health care coverage~~

~~under the City's benefits programs; and~~

b. an interim assignment for short-term replacement of a regular employee of up to one year when the incumbent is temporarily absent; or

c. a short-term assignment of up to one year, which may be extended beyond one year only while the assignment is in the process of being converted to a regular position, to perform work that is not ongoing regular work and for which there is no regularly budgeted position; or

~~d. short-term or emergency assignments to perform a body of work not associated with a regularly budgeted position in response to short-term, emergency or unplanned needs.~~

d. a less than half-time assignment for seasonal, on-call, intermittent or regularly scheduled work that normally does not exceed 1040 hours in a year, but may be extended up to 1300 hours once every three years and may also be extended while the assignment is in the process of being converted to a regular position; or

e. a term-limited assignment for a period of more than one but less than three years for time-limited work related to a specific project, grant or other non-routine substantial body of work, or for the replacement of a regularly appointed employee when that employee is absent on long-term disability time loss, medical or military leave of absence.

For purposes of administering temporary assignments, one year shall be equivalent to 26 consecutive pay periods. The Personnel Director may promulgate rules that direct departments to limit temporary assignments to fewer hours than this ordinance provides for.

Except as may be provided by ordinance or labor contract, temporary workers shall be exempt from the provisions of this title.

Section 2. Seattle Municipal Code Section 4.20.055 is retitled and amended as follows:

4.20.055 Premium pay for temporary City employees, compensation and benefits for temporary workers.

A. Temporary workers in interim, short-term and less than half-time assignments to titles that correspond to regular job titles in which wage progression is based on length of service shall be paid the minimum rate for the applicable title except as provided at Subsection C and D. Temporary workers in interim, short-term and less than half-time assignments to titles that correspond to regular job titles associated with any of the City's discretionary pay programs, including but not necessarily limited to the Accountability Pay for Executives, Strategic Advisor and Manager, and Information Technology Professional pay programs, may be paid any rate within the pay band associated with the corresponding regular job title, at the discretion of the appointing authority.

B. Except as provided in Subsection BC below, the City will pay all temporary City employeesworkers the following prospectivepremium pay rates in lieu of paid leave and benefits, based on cumulative non-overtime hours worked by each employee:

1. Hour 1 through hour 520: five (5) percent premium pay;
2. Hour 521 through hour 1,040: ten (10) percent premium pay;
3. Hour 1,041 through hour 2,080: fifteen (15) percent premium pay; however, if an employee worked eight hundred (800) hours or more in the previous twelve (12) months, premium pay shall instead be twenty (20) percent;

4. Hour 2,081 and up: twenty (20) percent premium pay; however, if an employee worked eight hundred (800) hours or more in the previous twelve (12) months, premium pay shall instead be twenty-five (25) percent.

~~The calculations of hours to attain the foregoing levels shall be as provided in the Settlement Agreement, dated June 5, 1989, in the case of Scannell v. the City of Seattle, King County Superior Court Cause No. 844600, Section 3. Once a temporary worker has attained a premium pay level, his or her premium pay level shall not be reduced, whether or not he or she is in a temporary assignment that is eligible for premium pay, unless he or she voluntarily separates from temporary employment with the City or does not work in any of 26 consecutive pay periods. A temporary worker who returns to City service after a voluntary separation or failure to work for more than 26 consecutive pay periods shall begin at Hour 1 for purposes of accumulating time toward increases in premium pay levels.~~

~~BC.~~ Temporary workers in the following types of assignments shall cease receiving premium pay at the time indicated and begin receiving wage progression and~~receive~~ benefits as provided at Subsection ~~CD~~:

1. Temporary workers in interim and short-term assignments after ~~nine hundred sixteen (916)~~ one thousand forty (1040) regular straight-time hours, for the remainder of the assignment, provided that the Personnel Director may promulgate rules to provide for the continuation of premium pay in lieu of wage progression and benefits when he or she determines that the assignment will terminate so imminently that the benefits package would be of minimal value to the worker; and

2. Temporary workers in ~~other types of temporary term-limited~~ assignments starting with the first day and for the duration of their assignments that, in the judgment of the appointing authority and the Personnel Director have developed into regular, ongoing work, after nine hundred sixteen (916) regular straight-time hours and until the work is assigned to a regularly budgeted position or terminated.

3. Temporary workers in any assignment that the appointing authority has proposed be converted to regular position authority, regardless of the number of hours accumulated in the assignment to date.

~~CD.~~ Temporary workers in assignments identified in Subsection ~~BC~~ as eligible for benefits shall receive the following benefits and wage progression at the same level and under the same conditions as regularly appointed employees as well as any other benefits that the City agrees to provide to temporary workers pursuant to an authorized collective bargaining agreement:

1. Participation in the City's medical, dental, vision, basic long-term disability and basic group term life insurance coverage;

2. Accrual and accumulation of paid sick leave as provided at Seattle Municipal Code Chapter 4.24;

3. Accrual and accumulation of paid vacation as provided at Seattle Municipal Code Chapter 4.34;

4. Paid funeral leave as provided at Seattle Municipal Code Chapter 4.28;

5. Paid holidays as provided at Seattle Municipal Code Section 4.20.190;

6. Time off for jury duty or witness testimony without loss of pay or paid leave as provided at Seattle Municipal Code Section 4.20.220.

7. Wage progression as provided at Seattle Municipal Code Section 4.20.040 for assignments to job titles that correspond to regular titles associated with the Step Progression Pay Program; and, for assignments to job titles that correspond to regular titles associated with any of the City's discretionary pay programs, such pay adjustments or consideration for pay adjustments as may be provided for in the employing unit's internal policies and procedures, if any.

~~DE.~~ A temporary worker who is eligible for benefits under this section shall only receive benefits while in the

assignment that made him or her eligible. Upon movement to another temporary assignment, he or she shall receive premium pay in lieu of benefits unless that assignment satisfies the criteria for benefits eligibility as outlined in subsection ~~BC~~.

~~E. Nothing in this section shall be construed to deprive temporary workers of their eligibility for medical and dental insurance benefits, work on holidays, vacation pay, and other fringe benefits as provided in the Settlement Agreement, dated June 5, 1989, in the case of Seannell v. The City of Seattle, King County Superior Court Cause No. 844600, Section 3.~~

F. The Personnel Director shall promulgate rules that are consistent with the City's collective bargaining agreements to allow temporary workers who do not qualify for the fringe benefits package described in subsection D to purchase health care coverage and optional insurance coverage

G. A temporary worker who receives an appointment to a position within the classified service shall be compensated at the pay rate established for initial appointment in the pay program associated with that position; provided, that if the temporary worker is appointed without a voluntary break in service in excess of thirty (30) days and has worked as a temporary worker in excess of five hundred twenty (520) straight-time hours, he or she shall have his or her straight-time hours credited for purposes of salary step placement if applicable under rules promulgated by the Personnel Director.

H. The Personnel Director is authorized to establish temporary job titles that correspond to any classified service or exempt job title that exists now or is hereafter created by ordinance, to assign such temporary job titles salary ranges or pay zones that are equivalent to those assigned to the corresponding regular titles and to make the same adjustments to such salary ranges or pay zones as are approved by ordinance for the corresponding regular titles.

Section 3. Seattle Municipal Code Section 4.20.190, subsection A is hereby amended as follows:

4.20.190 Holiday pay or time off.

A. Employees, except uniformed police and fire personnel, shall be entitled to ten (10) legal holidays and two (2) personal holidays each calendar year, or days off in lieu thereof occurring Monday to Friday inclusive, without salary deduction. Temporary workers who qualify for fringe benefits in lieu of premium pay pursuant to SMC 4.20.055 ~~BC~~ shall likewise be entitled under the same terms and conditions as regular employees to legal holidays that occur during periods when they are so qualified, or days off in lieu thereof without salary deduction, and for two (2) personal holidays each calendar year. The provisions of this sections hall not apply to any employee whose compensation is set by a collective bargaining agreement unless the labor organization representing such employee agrees to be bound solely by provisions of this section with respect to the subject matter thereof. The Personnel Director is hereby authorized to promulgate rules providing alternative holiday pay or time off for employees not covered by collective bargaining agreements whose work schedules are other than five (5) eight (8) hour days in a payroll workweek.

Section 4 Seattle Municipal Code Section 4.20.220 is hereby amended as follows:

4.20.220 Jury duty or subpoena as witness-No loss of pay

An employee, including a temporary worker who is eligible pursuant to SMC 4.20.055 ~~BC~~, shall suffer no monetary loss while on jury duty or while under subpoena on behalf of the state or any political subdivision thereof to appear as a witness in court in a criminal or civil action. The total amount of money received from the court while on jury duty during the employee's normal work schedule, and the amount of any witness fees received for appearing in court for the state or any political subdivision thereof in a criminal or civil action during the employee's normal work schedule, except for transportation allowance, either shall be deducted from the gross pay due the employee for such period or the money, less the amount paid for transportation allowances, shall be collected from the employee; provided, that an employee excused from service as a juror or from appearing as a witness by the court on any day falling within his

normal schedule shall notify his supervisor and if so directed, report for work for the balance of his normal shift.

Section 5. Seattle Municipal Code Section 4.24.010 is hereby amended as follows:

4.24.010 Computation of sick leave --Exemptions

Cumulative sick leave with pay computed at the rate of .046 hours for each hour on regular pay status as shown on the payroll, but not to exceed forty (40) hours a week, and all benefits of this subchapter shall be granted to all City officers and employees over whom the

legislative authority has jurisdiction in this respect, including those temporary workers who have qualified pursuant to Seattle Municipal Code Section 4.20.055 ~~(B)~~C; provided, that members of the Police and Fire Departments who were members of the Washington State Law Enforcement and Fire Fighters Retirement System (the "LEOFF" System) as of or before September 30, 1977, and those employees specifically excluded by provisions of salary ordinances shall not be included; provided further, that persons who became members of the

LEOFF System on or after October 1, 1977 and who are represented by the Fire Fighters' Union, the Police Officers' Guild, or an equivalent labor organization for labor negotiation purposes, shall receive whatever benefits of the City's sick leave program as are established in the labor contract between the City and such organization. Officers and employees shall accumulate sick leave credits from the date of entering City service and shall be entitled to sick leave with pay

after thirty (30) calendar days of employment.

Section 6. Seattle Municipal Code Section 4.28.010 is hereby amended as follows:

4.28.010 Granting of funeral leave

All City officers and employees over whom the legislative authority has jurisdiction in this respect, including temporary workers who qualify pursuant to Seattle Municipal Code Section 4.20.055 ~~B~~ C, and except employees covered by that certain collective bargaining

agreement entered into between the City and Seattle Police Officers' Guild shall be allowed one (1) day off without salary reduction for the purpose of attendance at the funeral of any close relative of such officer or employee; provided, that where such attendance requires total travel time of two hundred (200) miles or more, one (1) additional day with pay shall be allowed; provided further, that department heads may when circumstances require and upon application

stating the reasons therefor authorize for such purpose not to exceed an additional four (4) days chargeable to the sick leave account of any such officer or employee, but no combination of paid absence under this section shall exceed five (5) days for any one (1) period of absence. In like circumstances and upon like application department heads may authorize for the purpose of attending the funeral of a relative other than a close relative, not to exceed five (5) days chargeable to the sick leave account of any such officer or employee.

Section 7. Seattle Municipal Code Section 4.34.005, Subsections A and E, are hereby amended as follows:

4.34.005 Definitions

A. "Employee" means an individual who works for wages or a salary in the service of the City other than (1) a person elected or appointed to a term of office, or (2) a person who, individually or with others, is the head of an employing unit. It includes full-time and part-time

personnel, and temporary workers who receive fringe benefits in lieu of premium pay, but not temporary workers who receive premium pay.

* * *

E. "Temporary worker" has the meaning given in Seattle Municipal Code Section 4.04.030 ~~means a person who is hired for:~~

- ~~a. seasonal assignments to perform a short-term, recurring body of work not associated with a regularly budgeted position that is dependent on time of year, customer demand or some other predictable factor, and;~~
- ~~b. interim assignments to perform work associated with a regularly budgeted position because the position is temporarily vacant or the incumbent is absent or otherwise assigned; and~~
- ~~c. on-call assignments to perform work associated with event support that is intermittent and as-needed, and which may be sporadically or irregularly scheduled, or may regularly consist of fewer straight-time hours per month than are necessary to qualify for health care coverage under the City's benefits programs; and~~
- ~~d. short-term or emergency assignments to perform a body of work not associated with a regularly budgeted position in response to short-term, emergency or unplanned needs.~~

Section 8. There is added to Seattle Municipal Code Chapter 4.04 a new section, 4.04.280, Temporary employment oversight and compliance systems, as follows:

4.04.280 Temporary employment oversight and compliance systems.

A. The Personnel Director or his or her designated management representative shall develop, implement and administer such temporary assignment approval and tracking systems and procedures as are necessary to ensure that assignments are managed consistent with applicable ordinances and personnel rules and the Settlement Agreement in Glaser et al v. City of Seattle, during the term of that Agreement.

B. The Personnel Director shall implement, promulgate rules for and manage a process, consistent with the Glaser v. City of Seattle Settlement Agreement during the term of that Agreement whereby temporary workers in short-term and less-than-half-time assignments may appeal to an assignment review committee to seek conversion of their assignment to a regularly budgeted position or term-limited assignment when:

1. the worker's current assignment has exceeded the hours limitation associated with it (i.e., 1040 hours for a less-than-half-time assignment and 1 year for a short-term assignment) and the worker believes he or she is performing an ongoing body of work; or
2. the worker is 1 of 2 or more workers who are assigned substantially the same work in the same department and the worker believes the assignments should be aggregated and assigned to one (or more) regular position(s).

C. If the outcome of the appeal process is the conversion of the temporary assignment(s) to a new or vacant regular position, the temporary worker shall be assigned to the position on an interim basis and receive compensation and fringe benefits as provided at SMC 4.20.055 until an internal competitive hiring process is completed. Such process shall take into account and give substantial weight to the experience of the temporary worker performing the work of the position on an interim basis.

D. The Personnel Director shall provide by rule for a temporary worker to challenge the outcome of the appeal process to a City of Seattle hearing examiner or, at the City's option and expense, to an independent arbitrator for final determination.

E. A temporary worker assigned to a term-limited assignment may avail him or herself of the appeal process described in this section if his or her current assignment has exceeded or will exceed 3 years. If the appeal determination is further appealed to a hearing examiner or arbitrator and the temporary worker prevails and the City Council consequently authorizes new position authority for the body of work, the temporary worker shall be appointed to the regular position

and his or her time worked in the assignment to date shall be counted toward the 12-month probationary period.

F. A temporary employee assigned to a vacant regular position that exceeds one year may avail him or herself of the appeal process described in this section. A temporary worker in an interim assignment to a vacant regular position on or after November 16, 2005, whose assignment in that position exceeds 1 year, shall be appointed to the regular vacant position and shall have regular status upon appointment.

G. Whenever a temporary assignment is recommended for conversion to a regular position the Personal Director may extend the time limits on the assignment as provided in SMC 4.04.030. If the conversion does not require the creation of new position authority, the Personnel Director may extend the assignment up to 90 days. If the assignment conversion requires the creation of new position authority, the Personnel Director may extend the assignment for the length of time required to obtain legislative approval of such authority; provided, that if the Mayor declines to recommend or the City Council declines to approve new position authority, the assignment must terminate within 30 calendar days of the rejection of the conversion proposal and the work must cease or must be assigned to a regular or probationary employee.

Section 9. To the extent that provisions of this ordinance pertain to terms and conditions of employment that are subject to collective bargaining and are not otherwise required by law, such provisions do not supersede the collective bargaining agreements or the right of the collective bargaining agents to bargain over the terms and conditions of employment.

Section 10. Seattle Municipal Code Section 4.04.145, Policies concerning temporary employees, is hereby repealed.

Section 11. Seattle Municipal Code Section 4.04.255, Determinations regarding exemptions from Civil Service, is hereby repealed.

Section 12. Ordinance No. 114682, relating to temporary workers hired by the City; authorizing the Personnel Director to establish new payroll titles for use by such staff, is hereby repealed.

Section 13. Any acts made prior to and consistent with this ordinance are hereby ratified and confirmed.

Section 14. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2006, and signed by me in open session in authentication of its passage this ____ day of _____, 2006.

President _____ of the City Council

Approved by me this ____ day of _____, 2006.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2006.

City Clerk

(Seal)

Version #1b