

Ordinance No. 123199

Council Bill No. 116746

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.04.030 to create a trial service employee status for employees not covered by a collective bargaining agreement, and Section 4.04.220 to include such trial service employees in the City's layoff order; and ratifying and confirming prior acts.

CF No. _____

Date Introduced:	<u>11.23.09</u>	
Date 1st Referred:		To: (committee) <u>Finance & Budget</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>12-7-09</u>	Full Council Vote: <u>8-0</u>
Date Presented to Mayor:	<u>12-8-09</u>	Date Approved: <u>12-11-09</u>
Date Returned to City Clerk:	<u>12.15.09</u>	Date Published: _____ T.O. _____ F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Jean Golden

Councilmember

Committee Action:

Do Pass - JG, SC

12-7-09 (Passed 8-0 (Absent: Malver))

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

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ORDINANCE 123199

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.04.030 to create a trial service employee status for employees not covered by a collective bargaining agreement, and Section 4.04.220 to include such trial service employees in the City's layoff order; and ratifying and confirming prior acts.

WHEREAS, Ordinance 122972 created a trial service period and associated reversion rights for employees not covered by a collective bargaining agreement, but did not amend the Seattle Municipal Code to include such employees in order of layoff; and

WHEREAS, the layoff language for non-represented employees in the Seattle Municipal Code as currently written is not in alignment with language in existing collective bargaining agreements, creating a disparate application of layoff order between non-represented employees and employees covered by a collective bargaining agreement;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Seattle Municipal Code Section 4.04.030 shall be amended as follows:

SMC 4.04.030 Definitions.

37. "Trial Service Employee" means an employee serving a Trial Service Period/ Regular

Subsequent Appointment as defined in 4.04.030 (38).

~~((37.))~~ 38. "Trial Service Period/Regular Subsequent Appointment" means a twelve (12) month
trial period of employment of a regular employee beginning with the effective date of a
subsequent, regular appointment from one classification to a different classification through
promotion or transfer to a classification in which the employee has not successfully completed a



1 probationary or trial service period or rehire from a Reinstatement Recall List to a department
2 other than that from which the employee was laid off.

3
4 Section 2. The Seattle Municipal Code Section 4.04.220 shall be amended as follows:

5 **SMC 4.04.220 – Layoff**

6 A. Order of Layoff. Within an employing unit, the order for layoff in a given class shall be as
7 follows:
8

9 1. Probationary employees;
10

11 2. Trial service employees;
12

13 ~~((2.))~~ 3. Regular employees;
14

15 Provided, that temporary workers and interim employees shall be separated prior to the layoff of
16 any probationary or trial service employees in the same employing unit and class. Trial service
17 employees who cannot be reverted in accordance with SMC 4.04.300(B) shall be separated prior
18 to the layoff of any regular employees.
19

20 Among regular employees, order of layoff shall be in order of seniority until a performance
21 evaluation system as contemplated by this chapter is in effect. Thereafter, the regular employee
22 having the lowest performance evaluation in the class shall be laid off first, but among
23 employees whose performance is substantially the same, layoff shall be in the order of seniority.
24



1 In the event one (1) or more positions having different budget and class titles or having budget
2 titles only and no class titles are scheduled to be abrogated for any reason and such abrogation
3 will result in a layoff, the Director shall establish an order of layoff for regular employees that
4 reflects their relative seniority in positions with the same budget title as such positions affected
5 by the layoff.

6
7 ***

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9 C. Employee Options For Transfers to Avoid Layoff (Bumping). Insofar as the option is
10 available, as determined by the Director, any regular employee subject to being laid off may
11 displace within the same employing unit the employee who has the least seniority in the
12 displacing employee's class, or if the order of layoff reflects seniority within a budget title
13 pursuant to SMC Section 4.04.220 A above, in the displacing employee's budget title.

14
15 The least-senior regular employee or a trial service employee who cannot be reverted in
16 accordance with SMC 4.04.300(B) who is laid off or is displaced pursuant to the immediately
17 preceding paragraph may displace the employee having the least seniority in the next lower class
18 in a class series, or next lower budget title when (1) the displacing employee has had an
19 appointment to such lower class or budget title, and (2) the employee to be sequentially displaced
20 has less seniority than the displacing employee.
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23 ***

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25 E. Notice of Layoff.



1 Where a regular employee or a trial service employee is separated by reason of layoff, when
2 possible, thirty (30) days' prior written notice shall be given the affected employee, and at least
3 fifteen (15) days' prior written notice shall be given unless:

4
5 ***

6 Section 3. To the extent that provisions of this ordinance pertain to terms and conditions
7 of employment that are subject to collective bargaining, such provisions do not supersede the
8 collective bargaining agreements or the right of the collective bargaining agents to bargain over
9 the terms and conditions of employment.
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11 Section 4. Any acts made consistent with the authority of this ordinance taken after its
12 passage and prior to the effective date are hereby ratified and confirmed.
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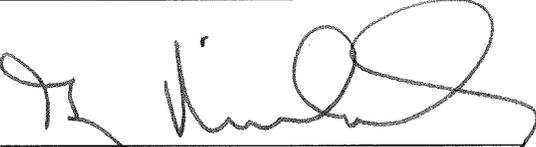


1 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 7th day of December, 2009, and
5 signed by me in open session in authentication of its passage this
6 7th day of December, 2009.

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8
9 
10 President _____ of the City Council

11 Approved by me this 11th day of December, 2009.

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13 
14 Gregory J. Nickels, Mayor

15
16 Filed by me this 15th day of December, 2009.

17
18 
19 City Clerk

20 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Personnel	David Bracilano/47874 Sarah Butler/47929	Amy Williams/32651

Legislation Title:

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.04.030 to create a trial service employee status for employees not covered by a collective bargaining agreement, and Section 4.04.220 to include such trial service employees in the City's layoff order; and ratifying and confirming prior acts.

• **Summary of the Legislation:**

This legislation amends the Seattle Municipal Code to include trial service employees in the layoff order.

• **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

In May of 2009, Council passed Ordinance 122972 creating a trial service period and associated reversion rights for non-represented employees that were consistent with trial service periods provided to employees covered by collective bargaining agreements. However, the Ordinance did not amend the Seattle Municipal Code to include trial service employees in order of layoff, which designates the order in which employees of different employment status (i.e., temporary, probationary, regular, etc.) shall be laid off.

The current layoff order language for non-represented employees in the Seattle Municipal Code is not consistent with language in the City's collective bargaining agreements, thus creating a disparate application of layoff order between non-represented employees and union members. This legislation creates authority to apply a consistent application of layoff order for all Civil service employees as it relates to trial service employees, which was the intent of Ordinance 122972.

• *Please check one of the following:*

X **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

If this legislation is not ratified, layoff order for non-represented employees and employees covered by a collective bargaining agreement will be inconsistent. There are no financial implications of this legislation; however, there may be impacts to final layoff order for certain job titles Citywide. Where there are impacts to layoff order, affected departments will be notified.





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

November 10, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am transmitting the attached proposed Council Bill that amends the Seattle Municipal Code to include trial service employees in the order of layoff. This legislation affects all Civil Service employees not covered by collective bargaining agreements.

In May of 2009, the City Council passed Ordinance 122972, creating trial service periods and associated reversion rights for non-represented employees that were consistent with trial service periods provided to employees covered by collective bargaining agreements. The Ordinance inadvertently omitted an amendment to the Seattle Municipal Code to include trial service employees in the order of layoff, which designates the order in which employees of different employment status (e.g., temporary, probationary, regular, etc.) shall be laid off. The current layoff order language for non-represented employees in the Seattle Municipal Code is not consistent with language in the City's collective bargaining agreements, creating a disparate application of layoff order between non-represented employees and union members. This legislation provides authority to apply a consistent application of layoff order for all Civil Service employees as it relates to trial service employees.

Thank you for your consideration of this legislation. Should you have questions, please contact David Bracilano at 684-7875 or Sarah Butler at 684-7929.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels".

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



123199

STATE OF WASHINGTON – KING COUNTY

--SS.

248448
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

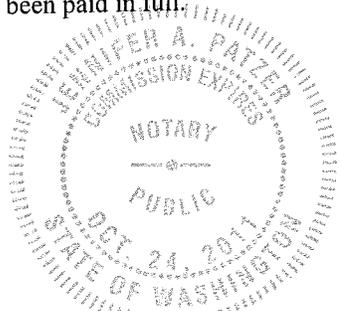
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123199 ORDINANCE

was published on

12/17/09

The amount of the fee charged for the foregoing publication is the sum of \$ 212.25, which amount has been paid in full.



Subscribed and sworn to before me on

12/17/09

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 123199

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.04.030 to create a trial service employee status for employees not covered by a collective bargaining agreement, and Section 4.04.220 to include such trial service employees in the City's layoff order; and ratifying and confirming prior acts.

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WHEREAS, the layoff language for non-represented employees in the Seattle Municipal Code as currently written is not in alignment with language in existing collective bargaining agreements, creating a disparate application of layoff order between non-represented employees and employees covered by a collective bargaining agreement;

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37. "Trial Service Employee" means an employee serving a Trial Service Period/Regular Subsequent Appointment as defined in 4.04.030 (38).

((37-)) 38. "Trial Service Period/Regular Subsequent Appointment" means a twelve (12) month trial period of employment of a regular employee beginning with the effective date of a subsequent, regular appointment from one classification to a different classification through promotion or transfer to a classification in which the employee has not successfully completed a probationary or trial service period or rehire from a Reinstatement Recall List to a department other than that from which the employee was laid off.

Section 2. The Seattle Municipal Code Section 4.04.220 shall be amended as follows:

SMC 4.04.220 - Layoff

A. Order of Layoff. Within an employing unit, the order for layoff in a given class shall be as follows:

1. Probationary employees;
2. Trial service employees;
- ~~((B-))~~ 3. Regular employees;

Provided, that temporary workers and interim employees shall be separated prior to the layoff of any probationary or trial service employees in the same employing unit and class. Trial service employees who cannot be reverted in accordance with SMC 4.04.300(B) shall be separated prior to the layoff of any regular employees.

Among regular employees, order of layoff shall be in order of seniority until a performance evaluation system as contemplated by this chapter is in effect. Thereafter, the regular employee having the lowest performance evaluation in the class shall be laid off first, but among employees whose performance is substantially the same, layoff shall be in the order of seniority.

In the event one (1) or more positions having different budget and class titles or having budget titles only and no class titles are scheduled to be abrogated for any reason and such abrogation will result in a layoff, the Director shall establish an order of layoff for regular employees that reflects their relative seniority in positions with the same budget title as such positions affected by the layoff.

C. Employee Options For Transfers to Avoid Layoff (Bumping). Insofar as the option is available, as determined by the Director, any regular employee subject to being laid off may displace within the same employing unit the employee who has the least seniority in the displacing employee's class, or if the order of layoff reflects seniority within a budget title pursuant to SMC Section 4.04.220 A above, in the displacing employee's budget title.

The least-senior regular employee or a trial service employee who cannot be reverted in accordance with SMC 4.04.300(B) who is laid off or is displaced pursuant to the immediately preceding paragraph may displace the employee having the least seniority in the next lower class in a class series, or next lower budget title when (1) the displacing employee has had an appointment to such lower class or budget title, and (2) the employee to be sequentially displaced has less seniority than the displacing employee.

E. Notice of Layoff.

Where a regular employee or a trial service employee is separated by reason of layoff, when possible, thirty (30) days' prior written notice shall be given the affected employee, and at least fifteen (15) days' prior written notice shall be given unless:

Section 3. To the extent that provisions of this ordinance pertain to terms and conditions of employment that are subject to collective bargaining, 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 4. Any acts made consistent with the authority of this ordinance taken after its passage and prior to the effective date are hereby ratified and confirmed.

Section 5. 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 7th day of December, 2009, and signed by me in open session in authentication of its passage this 7th day of December, 2009.

Richard Conlin

President of the City Council

Approved by me this 11th day of December, 2009.

Gregory J. Nickels, Mayor

Filed by me this 15th day of December, 2009.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, December 17, 2009.
12/17(248448)