

Honorable Laura Gene Middaugh
Noted for May 4, 2011 w/o oral argument
Responding Party
ORAL ARGUMENT REQUESTED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

)	
CITY OF SEATTLE, A Washington municipal)	
corporation,)	
Plaintiff,)	No. 11-2-11719-7 SEA
vs.)	CITY OF SEATTLE'S OPPOSITION TO
)	MOTION TO DISMISS
PROTECT SEATTLE NOW; ANDREW)	
PAXTON, in his capacity as Protect Seattle)	Noted for: May 4, 2011
Now's Committee Chair and a principal)	
referendum petitioner; SCOT BRANNON, in)	
his capacity as Protect Seattle Now's Treasurer)	
and a principal referendum petitioner; LET'S)	
MOVE FORWARD; PHIL LLOYD, in his)	
capacity as Let's Move Forward's)	
Secretary/Treasurer; WASHINGTON STATE)	
DEPARTMENT OF TRANSPORTATION.)	
Defendants.)	

I. INTRODUCTION

This Court should deny Defendant Protect Seattle Now's ("PSN") motion to dismiss because Seattle's independently elected City Attorney possesses "full supervisory control of all the litigation of the City" under the Seattle City Charter, including the power to sue on behalf of the City. The City Attorney consulted with the Mayor, members of the City Council, and the

1 City Clerk before filing the instant action to clarify the legal duties of the City's Legislative
2 Department. The City Council President supports this action as the head of the Legislative
3 Department. PSN's motion should be denied, and the City should remain as Plaintiff in this
4 litigation.

5 II. STATEMENT OF FACTS

6 On February 28, 2011, the Seattle City Council enacted Ordinance 123542 by overriding a
7 mayoral veto. By its terms, Ordinance 123542 was scheduled to take effect on March 30, 2011. *See*
8 Ordinance 123542 § 8. On March 29, 2011, Defendants Protect Seattle Now, Andrew Paxton, and
9 Scot Brannon ("Petitioners") filed a referendum petition with the Seattle City Clerk, designated as
10 R-1. *See* Declaration of Carol Shenk ¶ 2 (Docket No. 11). Petitioners estimated that the petition
11 contains 28,929 signatures. *Id.* If R-1 is valid, the deadline for placing it upon the 2011 primary
12 ballot is May 24, 2011. *See* RCW 29A.04.311, 29A.04.321 (stating that the primary is on the
13 third Tuesday in August and that local governments have until 84 days before that date to submit
14 a matter for the ballot).

15 Also on March 29, the City of Seattle filed the instant declaratory judgment action to
16 determine whether Ordinance 123542 is subject to Seattle's local referendum power. (The
17 substantive arguments concerning whether Ordinance 123542 is subject to Seattle's local
18 referendum power are addressed in the City's Motion for Summary Judgment, Docket No. 40)
19 The City Council President asked the City Attorney to file this lawsuit. *See* Conlin Decl. ¶ 4.
20 And before deciding to file this lawsuit, the City Attorney consulted with the Mayor, the City
21 Council, and the City Clerk. *See* Declaration of Gary Manca, Ex. 1; Declaration of Richard
22 Conlin ¶¶ 3-4. In order to receive a decision before the primary ballot deadline, the City
23

1 requested an expedited briefing schedule with a May 13, 2011 argument date for a summary
2 judgment motion, which this Court has already granted.

3 III. ISSUES

4 This motion raises two issues:

5 (1) Whether the City Attorney, as an independently elected official with “supervisory
6 control of all the litigation of the City,” has the independent authority to initiate litigation on behalf
7 of the City; and

8 (2) Alternatively, if consultation with or consent of another City official is required
9 before the City Attorney may initiate litigation, whether the City Council President’s
10 consultation and consent is sufficient in matters solely concerning the legal obligations of the
11 Legislative Department, of which the Council President is head.

12 IV. EVIDENCE RELIED UPON

13 The City relies upon the Declaration of Richard Conlin, the documents submitted with
14 PSN’s motion, the documents submitted with Gary Manca’s April 28, 2011 letter to this Court, and
15 the other pleadings and documents on file with this Court, including the Declaration of Carol Shenk
16 filed in connection with the City’s Motion for Summary Judgment, as Appendix C (Docket No. 40).

17 V. ARGUMENT AND AUTHORITY

18 **A. The Seattle City Attorney has the authority to initiate litigation on behalf of
19 the City without being asked to do so by other City officials.**

20 As an independently elected official with “full supervisory control of all the litigation of
21 the City,” Charter art. XIII, § 3 (cited Charter provisions attached as Appendix A), the Seattle
22 City Attorney has the authority to initiate litigation on behalf of the City without being asked to
23

1 do so by other City officials or department heads. PSN's arguments overlook the plain language
2 of Seattle's Charter and its history.

3 PSN argues that "[t]he phrase 'full supervisory control' refers to supervision of
4 subordinates and functions of the Law Department" Motion to Dismiss at 4. The Charter,
5 however, plainly charges the City Attorney with "full supervisory control *of all the litigation of*
6 *the City, or in which the City or any of its departments are interested.*" Charter art. XIII, § 3
7 (emphasis supplied). The City Attorney does indeed supervise "subordinates and functions of the
8 Law Department," but these additional duties are separately spelled out in the Charter. *See, e.g.,*
9 Charter art. XIII, § 1 ("The Law Department shall consist of a City Attorney who shall appoint
10 the Assistant City Attorneys and City Prosecutors, who may be removed at will."); *id.* art. XIII, §
11 4 ("The Assistant City Attorneys and the City Prosecutors shall perform such duties as shall be
12 required by the City Attorney."); *id.* art. XIII, § 5 ("The City Attorney shall appoint under the
13 civil service rules, supervise and control all other officers and employees of the Law
14 Department.").

15 As PSN notes, the Charter previously listed a number of different specific duties of the
16 Corporation Counsel, who previously performed the civil functions of the City Attorney. *See*
17 Charter art. XV, § 3 (1890) (referring to the corporation counsel bringing certain types of actions
18 "which may be directed by the mayor, the city council, the comptroller, or any municipal
19 department or board"). By 1900, the Charter had been amended to include the "full supervisory
20 control" language in the current charter. *See* Charter art. XV, § 3 (1900). Although the previous
21 version of the Charter required authorization by other City officials for certain types of litigation
22 (i.e., "special proceedings"), that language was removed and is no longer part of the Charter.
23 This change establishes the opposite of what PSN is arguing—in addition to consolidating civil

1 and criminal legal responsibilities in a single independently elected official, the Charter was
2 amended to give Seattle's elected City Attorney greater independent authority vis-à-vis the other
3 elected City officials.

4 PSN's reference to federal courts' "supervisory power" involves a distinct issue within
5 the federal court system not related to the City Attorney's powers. *See* Motion to Dismiss at 4
6 (quoting *United States v. Simpson*, 927 F.2d 1088 (9th Cir. 1991)). The Charter plainly refers not
7 only to "supervisory control," but specifically to "full supervisory control of all the litigation of
8 the City, or in which the City or any of its departments are interested." Internal Law Department
9 supervision functions of the City Attorney are addressed elsewhere in the Charter and would
10 therefore be superfluous if "full supervisory control" were read to refer only to internal
11 administration. *See Veit, ex rel. Nelson v. Burlington Northern Santa Fe Corp.*, 2011 WL
12 666283, *13, __ Wn.2d __, __ P.3d __ (Feb. 24, 2011) ("[T]he rule against surplusage . . .
13 requires this court to avoid interpretations of a statute that would render superfluous a provision
14 of the statute . . .") (citing William N. Eskridge, Jr., Philip P. Frickey, & Elizabeth Garrett,
15 *Legislation and Statutory Interpretation* 390 (2d ed. 2006)).

16 PSN's arguments regarding the Rules of Professional Conduct are also misplaced. PSN
17 overlooks Note 18 to the Preamble to the Rules of Professional Conduct, which makes it plain
18 that the RPCs do not limit the City Attorney's Charter authority:

19 Under various legal provisions, including constitutional, statutory and common
20 law, *the responsibilities of government lawyers may include authority concerning*
21 *legal matters that ordinarily reposes in the client in private client-lawyer*
22 *relationships.* For example, a lawyer for a government agency may have authority
23 on behalf of the government to decide upon settlement or whether to appeal from
an adverse judgment. Such authority in various respects is generally vested in the
attorney general and the state's attorney in state government, and their federal
counterparts, and the same may be true of other government law officers. Also,
lawyers under the supervision of these officers may be authorized to represent

1 several government agencies in intragovernmental legal controversies in
2 circumstances where a private lawyer could not represent multiple private clients.
3 *These Rules do not abrogate any such authority.* (Emphasis added.)

4 Next, PSN compares the instant action with *City of Seattle v. Robert M. McKenna*,
5 currently pending in the Washington Supreme Court (No. 84483-6, argued November 18, 2010).
6 The Seattle City Attorney's Charter authority is broader than the Washington Attorney General's
7 constitutional power. The Washington Constitution provides only that the Attorney General
8 "shall be the legal adviser of the state officers, and shall perform such other duties as may be
9 prescribed by law." Wash. Const. art. III, § 21. This means that, aside from the general "legal
10 adviser" role—which does not include initiation of litigation—the Attorney General has only
11 those powers expressly given to him or her by the state Legislature, with no common law
12 powers. *See Yelle v. Bishop*, 55 Wn.2d 286, 295-96, 347 P.2d 1081 (1959). Consistent with the
13 Constitution's "as may be prescribed by law" language, the Legislature has spelled out a number
14 of the Attorney General's litigation-related powers in specific detail at RCW 43.10.030 and
15 RCW 43.10.040, and elsewhere empowered the Attorney General to act in other specific
16 instances, such as campaign finance (RCW 42.17.400), consumer protection (RCW 19.86.080),
17 and the state ethics code (RCW 42.52.490). In contrast to the State Constitution, the City Charter
18 broadly grants the City Attorney litigation authority and has been amended to remove previous
19 requirements that other City officials approve certain types of litigation.

20 Any suggestion that the *McKenna* mandamus petition represents an inconsistent legal
21 position by the City Attorney is also factually inaccurate. A press statement regarding some of
22 the testimony provided by the City Attorney before the Senate Judiciary Committee on proposed
23 legislation relating to the Attorney General's authority under state law does not constitute an
admission that the City Attorney believes that authorization from the Mayor and Council is

1 *required* before filing a mandamus petition on behalf of the City of Seattle. Instead, that
2 testimony underscored what Seattle’s City Attorney believes elected lawyers *should* do, not what
3 they necessarily *must* do: consult within the governmental entity they represent. The City
4 Attorney consulted internally prior to filing the *McKenna* petition and prior to filing the instant
5 declaratory judgment action. *See* Manca Decl., Ex. 1. The only difference: Seattle’s Mayor
6 agreed with the first action, but not the second. As explained *infra*, however, whatever the scope
7 of the City Attorney’s authority the Mayor’s disagreement has no bearing on the City Attorney’s
8 authority to file this lawsuit on behalf of the City of Seattle.

9 **B. Even if another City official were required to ask the City Attorney to**
10 **initiate litigation, the Council President’s request fulfills this requirement.**

11 PSN asserts that “approval of the Mayor and City Council” is necessary before any legal
12 action can be taken on behalf of the City. Regardless of the scope of the City Attorney’s
13 independent authority, however, the Mayor has no role in the referendum process. Article IV,
14 Sections 1.J and 1.K of the Charter require “[t]he City Clerk [to] verify the sufficiency of the
15 signatures to the [referendum] petition and transmit it, together with his or her report thereon, to
16 the City Council, at a regular meeting not less than twenty (20) days after the filing of the
17 petition” and require “[t]he City Council [to] thereupon provide for submitting the said ordinance
18 or section, item or part thereof, to the vote of the qualified electors for ratification or rejection,
19 either at the next regularly scheduled election, irrespective of whether it is a state or municipal
20 election, or at a sooner special election, as the City Council in its discretion may provide.” All of
21 these functions are performed by the Legislative Department of the City—the Council is the
22 integral part of the Legislative Department, and the City Clerk is also a part of the Legislative
23 Department. *See* SMC 3.42.10.

1 As the Mayor plays no role in this process, there can be no requirement that he be
2 involved in this lawsuit—either by objecting to it or supporting it. This action is strictly a
3 Legislative Department matter because it concerns what actions must or must not be taken by
4 Legislative Department officials (the Clerk and the Councilmembers) based on Ordinance
5 123542’s referability or nonreferability. The Mayor acting in his official capacity is not part of
6 the referendum process; as such, he has no power to require the City Attorney to sue or not to sue
7 in connection with issues pertaining exclusively to potential actions taken by and legal
8 responsibilities of the Legislative Department.

9 Taken to its logical conclusion, PSN’s argument would effectively create a second
10 mayoral veto power that does not exist in the Charter. Under the Charter, the Mayor’s role in the
11 process of passing nonemergency legislation is limited to his power to sign, return unsigned, or
12 veto legislation, subject to the Council’s override power. *See* Charter art. IV, § 12. The Mayor
13 already vetoed Ordinance 123542, and the Council overrode his veto in an 8-1 vote. Given the
14 impact of a valid referendum petition to delay an ordinance’s effective date, if the Mayor had the
15 power to prevent Seattle’s independently elected City Attorney from seeking a declaratory
16 judgment clarifying whether Ordinance 123542 is subject to Seattle’s local referendum power,
17 that authority would function as a second mayoral veto extending beyond the mayoral veto
18 power spelled out in Article IV, Section 12 of the Charter. This Court should decline to
19 recognize such a second mayoral veto power over the City Attorney’s ability to seek a
20 declaratory judgment regarding the Legislative Department’s legal responsibilities.

21 The President of the City Council is the head of the Legislative Department. *See* Charter
22 art. III, § 3; Council Rule I.B.2.1 (Conlin Decl., Ex. A). As such, to the extent any authorization
23 by another City official was necessary for the City Attorney to initiate litigation regarding the

1 referability of Ordinance 123542, Council President Conlin's request for a declaratory judgment
2 action constitutes such authorization. *See* Conlin Decl. ¶¶ 3-4. Since only the City Clerk and the
3 City Council—both part of the Legislative Department—have roles in placing referenda on the
4 ballot, Conlin, as head of the Legislative Department, was the only appropriate person to request
5 that a declaratory judgment action be filed.

6 Although this declaratory judgment action concerns only Legislative Department duties, it
7 was appropriate to bring it in the name of the City. PSN apparently takes the view that the Mayor
8 must approve every action brought in the name of the City. *See* Motion to Dismiss at 8. This
9 position is inconsistent with longstanding City practices. As the City's prosecutor, the City Attorney
10 files misdemeanor criminal charges in Seattle Municipal Court in the name of the City, typically
11 without consulting any other branches of City government. For example, the City Attorney brings
12 civil enforcement actions and initiates collections litigation in the name of the City, typically
13 consulting only officials within the department charged with enforcing a particular code or who are
14 responsible for collecting a particular debt. When the City Attorney initiates more significant
15 litigation on behalf of the City, the Mayor's Office and City Council may be consulted, as in
16 connection with the *McKenna* mandamus petition. This case follows typical City practice—the
17 Mayor and Council were consulted, *see* Manca Decl., Ex. 1, but to the extent any approval was
18 necessary for this declaratory judgment action, it was the Council President's approval as head of
19 the Legislative Department, which is the only department with legal duties that need to be clarified
20 and resolved by this litigation.

1 **C. Protect Seattle Now’s arguments regarding *Philadelphia II v. Gregoire* are**
2 **misplaced.**

3 PSN makes two assertions regarding the Supreme Court’s holding in *Philadelphia II v.*
4 *Gregoire*, 128 Wn.2d 707, 911 P.2d 389 (1996). PSN’s first assertion is that “the City Council
5 has a nondiscretionary duty to refer this matter to the ballot, pending any court ruling.” Motion to
6 Dismiss at 6. PSN’s view of the Council’s obligations further demonstrates why it is important to
7 have an expeditious decision on Ordinance 123542’s referability, which is precisely what the
8 City has been attempting to obtain since filing this declaratory judgment action. Second, PSN
9 argues that *Philadelphia II* required this action to be brought in the name of the City Attorney
10 rather than the City. *See id.* This is incorrect. The government party in *Philadelphia II* was then-
11 Attorney General Gregoire rather than the State because: (1) that lawsuit was brought by the
12 Philadelphia II organization as a mandamus petition against the Attorney General rather than a
13 declaratory judgment action initiated by the State or City, *see Philadelphia II*, 128 Wn.2d at 711-
14 12; and (2) that lawsuit involved legal questions regarding the Attorney General’s duty to
15 prepare ballot titles rather than the Secretary of State’s or City Council’s obligation to place a
16 particular measure upon the ballot, *see id.* at 712-14.

17 While *Philadelphia II* guided the City’s decision to seek a declaratory judgment from this
18 Court regarding Ordinance 123542’s referability so that the Legislative Department’s can
19 properly follow its legal obligations, *Philadelphia II* involved a different type of ballot measure,
20 arose at a different stage in the ballot measure process, and came before the court through a
21 different legal procedure than this action. As such, its substantive holding and not its party
22 designations control this declaratory judgment action.

1 **D. Protect Seattle Now did not properly note its Motion to Dismiss.**

2 PSN is seeking to dismiss the City—this action’s sole plaintiff—under Rule 12(b).
3 Because PSN seeks to dismiss the only plaintiff from this declaratory judgment action, this is a
4 dispositive motion that should have been scheduled with oral argument after contacting the
5 Court’s staff. *See* LR 7(3); LR 7(4)(B). Because PSN noted this motion without oral argument,
6 PSN’s note for motion fails to comply with the local rules for noting dispositive motions and may
7 therefore simply be stricken by the Court. If, however, this Court decides to consider PSN’s motion
8 despite it being improperly noted, the City respectfully requests that oral argument be held together
9 with oral argument on the City’s Motion for Summary Judgment on Friday, May 13, 2011.


10 **VI. CONCLUSION**

11 The City of Seattle is the proper party plaintiff in this declaratory judgment action, and
12 the City Attorney has been elected by the voters of Seattle and empowered under City Charter to
13 bring this action on behalf of the City. PSN’s motion to dismiss should be denied.

14 DATED this 2nd day of May, 2011.

15 PETER S. HOLMES
16 Seattle City Attorney

17 By:

18 
19 Jeff Glayton, WSBA No. 14215
20 John B. Schochet, WSBA No. 35869
21 Gary E. Keese, WSBA No. 19265
22 Assistant City Attorneys
23 Attorneys for Plaintiff City of Seattle

APPENDIX A

ARTICLE XIII The Law Department
Section 1. OFFICERS: APPOINTMENT; REMOVAL:

The Law Department shall consist of a City Attorney who shall appoint the Assistant City Attorneys and City Prosecutors, who may be removed at will. (As amended at November 8, 1977 election.)

Notes:

Cases: Under similar language in the earlier Charter, the City Attorney is the principal law officer of the City. Scott v. Forrest, 13 Wash. 166, 42 Pac. 579 (1895).

ARTICLE XIII The Law Department
Sec. 2. QUALIFICATIONS

The City Attorney shall be an attorney of the Supreme Court of the State, and have been in the practice of his or her profession in The City of Seattle for at least four years next prior to his or her election. (As amended at November 8, 1977 election.)

Notes:

Cases: The requirement that a candidate for the position of City Attorney have practiced law within the City for four years is constitutional. Kraft v. Harris, 18 Wn. App. 432, 568 P.2d 828 (1977).

ARTICLE XIII The Law Department
Sec. 3. DUTIES OF CITY ATTORNEY

The City Attorney shall have full supervisory control of all the litigation of the City, or in which the City or any of its departments are interested, and shall perform such other duties as are or shall be prescribed by ordinance. (As amended at November 8, 1977 election.)

ARTICLE XIII The Law Department
Sec. 4. DUTIES OF ASSISTANTS AND CITY PROSECUTORS

The Assistant City Attorneys and the City Prosecutors shall perform such duties as shall be required by the City Attorney. (As amended at November 8, 1977 election.)

ARTICLE XIII The Law Department
Sec. 5.

The City Attorney shall appoint under civil service rules, supervise and control all other officers and employees in the Law Department. (As amended at November 8, 1977 election.)

ARTICLE XIII The Law Department
Sec. 6.

Wherever in this Charter, or in any ordinance, resolution, rule or regulation of the city, the term "Corporation Counsel" appears such term shall be deemed to mean and refer to the City Attorney. (As amended at November 8, 1977 election.)

SEATTLE PUBLIC LIBRARY



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Seattle Public Library

Reference Department

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CHARTER

OF

THE CITY OF SEATTLE

ADOPTED OCTOBER 1, 1890.

COMMONLY KNOWN AS

THE FREEHOLDERS' CHARTER

SEATTLE, WASH.
THE NORTHWESTERN PRINTING COMPANY.
1890.

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respective officers of the city shall have, possess and perform the same powers and duties, in all matters concerning revenue and taxation for municipal purposes, as are or may be by law conferred or imposed upon county officers in matters concerning revenue and taxation for state and county purposes, and to that end—

First—All powers and duties so by law conferred or imposed upon county assessors are hereby imposed or conferred upon the city assessor.

Second—All powers and duties so by law conferred or imposed upon the board of county commissioners are hereby conferred upon and imposed upon the city council and its constituted committees.

Third—All powers and duties so by law conferred or imposed upon the county attorney are hereby conferred and imposed upon the corporation counsel.

Fourth—All powers and duties so by law conferred or imposed upon the county treasurer as tax collector are hereby imposed and conferred upon the city treasurer as city tax collector.

Fifth—All powers and duties so by law conferred and imposed upon the county treasurer are hereby conferred and imposed upon the city treasurer.

Sixth—All powers and duties so by law conferred and imposed upon the county clerk and county auditor respectively, are hereby conferred and imposed upon the city clerk and city comptroller respectively.

SEC. 16. It shall be the duty of the city assessor to prepare between the first day of April and the first day of July in each year, and present to the city clerk, with his certificate of its correctness, a roll of the real and personal property within the city taxable for state or county purposes, with a true valuation thereof, which said assessment roll shall conform as near as practicable, when not incon-

sistent with the provisions of this charter, to the assessment roll required by law to be made by the county assessor for state and county purposes; *provided*, that he must exact from each person a statement under oath setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at twelve o'clock M. on the first day of April in each year; such statement shall be in writing and conform, as near as practicable, to the provisions governing county assessments. The assessor, in person or by deputy, must be present at all the sessions of the board of equalization mentioned in this chapter, and furnish said board such information as may be required, and perform such other services as may be required in reference to the assessment of property in the city and otherwise appertaining to his office, as the city council by ordinance or resolution may require. During the session of the board of equalization the assessor shall enter upon the assessment roll any property not previously assessed. In the assessment and listing of property for taxation he shall have and may exercise the same powers as are conferred by law upon the county assessor.

SEC. 17. The terms "real" and "personal" property, as used in this charter, shall have the same meaning as the same terms in the revenue laws of this state, and all property subject to taxation aforesaid shall be assessed at its full cash value, which, in the judgment of the assessor, it has at twelve o'clock on the first day of April, and the lien of the annual city tax levy shall attach at said hour. For taxation and assessment, the fiscal year shall begin on the first day of April.

SEC. 18. A committee of the city council selected as in this charter provided, shall constitute a board of equalization, and shall on the first Monday in August, after the assessor shall have completed and handed in his assess-

there is sufficient money in the library fund in the city treasury which may be applicable to the payment thereof.

SEC. 8. No greater annual tax than one mill on the dollar of the assessed valuation of property in the city shall ever be assessed, levied or collected for the library fund, either to redeem the bonds hereinbefore provided for or otherwise.

SEC. 9. Whenever there is, in the judgment of the library commission, sufficient funds which are not needed for current expenses of the library, or to add to or enlarge the same, the library commission may establish an industrial school in connection with and as part of said library, in such branches and with such professors, teachers, apparatus and appliances as they may deem best, and they shall conduct and manage said school and defray out of said fund the necessary expenses thereof.

SEC. 10. The library commission shall have absolute and complete direction, control and charge of the public library and the school connected therewith, except as in this charter otherwise provided, and shall alone have authority to expend the library fund, except as otherwise provided in this charter, and the commission shall certify every such expenditure to the city comptroller, who shall issue his warrant to the city treasurer therefor, and the same shall be paid by the treasurer out of any money in the library fund not otherwise appropriated; *provided*, that no sale or disposal of any work, article or object shall be made, except by the unanimous vote of the entire commission.

SEC. 11. There shall be a librarian, who shall be appointed by the library commission, and hold his office at their pleasure. He shall be clerk of said commission. His duties shall be prescribed by the said commission, and he shall receive a salary to be fixed by the library commission, and to be paid out of the library fund.

SEC. 12. The library commission shall appoint such other subordinate officers and assistants as they may deem requisite from time to time, who shall be removable at the pleasure of the library commission, and shall receive such compensation, to be paid out of the library fund, as the library commission shall prescribe.

SEC. 13. The Seattle public library, museum and reading rooms shall be open for use to the public under such regulations as the council shall by ordinance prescribe.

ARTICLE XV.

THE LAW DEPARTMENT.

SECTION 1. The law department of the City of Seattle shall consist of a corporation counsel and a city attorney.

SEC. 2. The corporation counsel shall be elected by the qualified electors of the city, at the general municipal election provided for in this charter, and shall hold office for the term of two years, and until his successor is duly elected and qualified. The corporation counsel must be an attorney of the supreme court of this state, and must have been in active practice of his profession for at least seven years, two of which next preceding his election, except in case of the first incumbent, must have been in the city of Seattle.

SEC. 3. It shall be the duty of the corporation counsel to bring and prosecute all actions at law and in equity, and all special proceedings which may be directed by the mayor, the city council, the comptroller, or any municipal department or board, except criminal actions and actions on bail bonds, and shall defend all actions and proceedings to which the city, or any officer, board or department of the

city is a party, and all other actions and proceedings in which the rights or interests of the city are involved. He shall give legal advice in writing to the mayor, city council, comptroller, and to all boards and departments when requested by them, in writing, and also to any other officer of the city when directed by the mayor or city council so to do. He shall keep his office in such place as the city may provide, and shall devote himself exclusively to the duties of his office. He shall keep a docket of all the cases to which the city may be a party in any court of record, except criminal actions and actions on bail bonds, in which shall be briefly entered all steps taken in each cause, and which shall at all times be open to the inspection of the mayor, comptroller, or any committee of the city council, or of any other officer of the city, upon the direction of the mayor. It shall also be the duty of said corporation counsel to draft all ordinances, bonds, contracts, leases, conveyances, and such other writings as may be required by the business of the city. He shall also inspect and examine all city tax and assessment rolls, and all proceedings in reference to the levy and collection of city taxes and local assessments. He shall also keep bound books of record and registry, of briefs and transcripts used in causes wherein he appears, and of all official written communications sent by him to any officer, board or department of the city, and all opinions given by him, and he shall perform such other duties as may be prescribed by ordinance, and he shall keep on file all written communications received by him officially.

SEC. 4. The corporation counsel may be authorized by ordinance to employ one or more assistants whenever the interests of the city demand such appointment.

SEC. 5. The city attorney is the public prosecutor of the city. He must be an attorney of the supreme court of

this state, and have been in the active practice of his profession for at least five years, two of which next preceding his election, except in case of the first incumbent, must have been in the city of Seattle. He shall be elected by the qualified electors of said city at the general municipal election provided for in this charter, and shall hold his office for the term of two years, and until his successor is duly elected and qualified.

SEC. 6. It shall be the duty of the city attorney to conduct all prosecutions for public offenses committed against any of the ordinances of the city, and appear for that purpose in any court wherein the same may be pending. It shall also be his duty to commence actions on all forfeited bail bonds within thirty days after they are declared forfeited, and shall diligently prosecute the same. No action on a bail bond shall be compromised except by the authority of the city council. When judgment has been rendered in an action on a bail bond and any property is exposed for sale on execution in such action, the city attorney may bid, and, if necessary, purchase said property for and in the name of the city, at a price not exceeding the amount of judgment recovered on such bond. The city attorney shall not perform any other official functions except those that relate to the prosecution of public offenses.

SEC. 7. The corporation counsel and the city attorney shall receive such compensation as is provided for in the article of this charter relating to the salaries and compensation of officers.

SEC. 8. No action shall be brought or maintained in any way to test or question the validity of any assessment, proceeding, certificate or tax deed unless the plaintiff shall first tender and pay into court the amount of the assessed tax, together with all interest, penalties, costs and damages thereon.

Seattle Public Library

Reference Department
Presented by

Seattle Bd. of Public Works

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THE CHARTER

OF THE

CITY OF SEATTLE

ADOPTED MARCH 6, 1900.

PUBLISHED BY AUTHORITY

SEATTLE:
LOWMAN & HANFORD STATIONERY AND PRINTING COMPANY
1900

Powers and Duties of Librarian.—Sec. 4. Subject to the direction and control of the city council, the librarian shall have the custody, management and control of the library, and, under civil service rules, have the appointment and removal of his subordinates.

Duties of Library Commissioners.—Sec. 5. It shall be the duty of the library commissioners to visit the library at least monthly, and to make proper recommendations to the mayor, city council and librarian concerning the management of the library and the purchase of books.

Council Shall Provide for Expenses of Library.—Sec. 6. The city council shall provide for the expense of operating, maintaining and enlarging the library by monthly appropriation from the library fund, the same to be expended in the manner provided by ordinance or by this charter, but shall not have power to create any debt or obligation against the fund, except in so far as there shall be money therein with which to pay the same.

Library to Be Open for Use of Public.—Sec. 7. The Seattle Public Library shall be open for the use of the public under such regulations as the city council shall by ordinance prescribe.

ARTICLE XV.

THE LAW DEPARTMENT.

Law Department, of What It Shall Consist.—Section 1. The law department of the City of Seattle shall consist of a corporation counsel, assistant corporation counsel and a city attorney. The corporation counsel shall appoint the assistant corporation counsel and city attorney, and remove them at his pleasure.

Qualifications of Corporation Counsel.—Sec. 2. The corporation counsel shall be an attorney of the Supreme Court of this state, and have been in the practice of his profession in the City of Seattle for at least four years next prior to his election.

Duties of Corporation Counsel.—Sec. 3. The corporation counsel shall have full supervisory control of all the litigation of the city, or in which the city or any of its departments are interested, and shall perform such other duties as are or shall be prescribed by ordinance.

Duties of Assistant and City Attorney.—Sec. 4. The assistant corporation counsel and the city attorney shall perform such duties as shall be required by the corporation counsel or by any ordinance of the city.

ARTICLE XVI.

CIVIL SERVICE DEPARTMENT.

Appointment and Terms of Office of Civil Service Commissioners.—Section 1. Commissioners' Appointment. The mayor shall appoint three persons who shall constitute and be known as the civil service commission, one for three years, one for two years and one for one year, from the first day of January, 1896; each year thereafter, the mayor shall in like manner appoint one person as the successor of the commissioner whose term of office shall expire with the preceding year, to serve as such commissioner for three years. Appointments to fill vacancies shall be for the unexpired term. All appointments to said commission, both original and to fill vacancies, shall be so made that not more than two members shall at the time of appointment be members of the same political party. Any commissioner whose term shall expire shall be eligible to reappointment. Two of said commissioners shall constitute a quorum.

Mayor May Remove Commissioners—Vacancies Filled by Council.—Sec. 2. Removal of Commissioners—Vacancies.—The mayor may, in his discretion, remove any commissioner, but the vacancy thereby created shall be filled by the city council. The mayor shall within five days report in writing any such removal to the city council with his reasons therefor, but the commissioner so removed shall have no right to a trial, hearing or appeal. Vacancies in the office of commissioner occurring in any other way than by removal by the mayor shall be filled by appointment by the mayor.

Employes of City to Be Classified.—Sec. 3. The commissioners shall classify all the offices and places of employment in the city with reference to the examinations hereinafter provided for, except the offices and places mentioned in Section 11 of this article. The offices and places so classified by the commission shall constitute the classified civil service of the City of Seattle; and no appointment to any such office or place shall be made except under and according to the rules hereinafter mentioned.

Employe whose employment is of a permanent character is properly under civil service regulations.—State, ex rel. Young, vs. Smith, 19 Wash. 644.

SECTION 21 ATTORNEY GENERAL, DUTIES AND SALARY. The attorney general shall be the legal adviser of the state officers, and shall perform such other duties as may be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed thirty-five hundred dollars per annum.

Compensation of legislators, elected state officials, and judges: Art. 28 Section 1, Art. 30.

WA CONSTITUTION

ARTICLE IV. Legislative Department.

Section 1. J. REFERENDUM BY PETITION; EFFECT OF; VERIFICATION OF SIGNATURES:

The referendum may be invoked by petition bearing the signatures of the required percentage of qualified voters as to any non-emergency law or ordinance or any section, item or part of any such law or ordinance, which petition shall be filed with the City Clerk before the day fixed for the taking effect of the said law or ordinance, which shall in no case be less than thirty (30) days after the final favorable action thereon by the Mayor and City Council, acting in their usual prescribed manner as the ordinary legislative authority of the City, and the filing of such referendum petition as to any such ordinance or section, item or part thereof, shall operate to suspend the taking effect of the same, or any further action thereon, except as herein provided, viz: The City Clerk shall verify the sufficiency of the signatures to the petition and transmit it, together with his or her report thereon, to the City Council, at a regular meeting not less than twenty (20) days after the filing of the petition. (As amended at November 7, 2006 election.)

Notes:

Cases: The word "file" as used in this Charter provision means delivery of the petition to the City Comptroller and its receipt by him. Seattle Voters v. Erlandson, 9 Wn.App. 409, 512 P.2d 766 (1973).

ARTICLE IV. Legislative Department.

Section 1. K. SUBMISSION AT GENERAL OR SPECIAL ELECTION:

The City Council shall thereupon provide for submitting the said ordinance or section, item or part thereof, to the vote of the qualified electors for ratification or rejection, either at the next regularly scheduled election, irrespective of whether it is a state or municipal election, or at a sooner special election, as the City Council in its discretion may provide.

Notes:

Cases: Referendum petitions must be filed by the thirtieth day, rather than on the thirtieth day. Romerein v. Erlandson, 70 Wn.2d 932, 425 P.2d 911 (1967).

ARTICLE III. Departments of Government

Sec. 3. HEADS OF DEPARTMENTS; OFFICIAL COMMUNICATIONS:

The Mayor shall head the Executive Department; the President of the City Council, the Legislative Department; the Librarian, the Library Department, and the members of the commissions or boards created by this Charter, and the principal unsubordinated officers in departments wherein there is no commission or board shall head their respective departments, but no head of department shall have or exercise any power or authority not provided for elsewhere in this Charter. Official communications between different departments, except as in this Charter otherwise provided, shall be through, or by authority of, the heads of the departments.

ARTICLE IV. Legislative Department.

Section 12. BILLS TO BE PRESENTED TO MAYOR:

Every bill which shall have passed shall within five days thereafter be presented to the Mayor. RETURN OF BILLS; VETO: The Mayor shall return such bill to the Council within ten (10) days after receiving it. If he or she signs the bill or returns it unsigned but without disapproval or if the time for returning the bill shall have elapsed without its return, that shall be deemed a favorable action by the Mayor and it shall become an ordinance. If the Mayor disapproves the bill, he or she shall, when so returning it, specify his or her objections thereto in writing. The objections of the Mayor shall be entered at large on the journal of the Council, and published in the City official newspaper. RECONSIDERATION OF VETOED BILLS: The Council shall, not less than five days after such publication, and within thirty days after such bill shall have been so returned, reconsider and vote upon the same, and if the same shall, upon such reconsideration, be again passed by the affirmative vote of not less than two-thirds of all the members, the President of the Council shall certify the fact on the bill, and when so certified the bill shall become an ordinance with like effect as if it had not been disapproved by the Mayor; but if the bill so returned shall fail to receive upon the first vote thereon an affirmative vote of two-thirds of all the members it shall be deemed finally lost. The vote on such reconsideration shall be taken by yeas and nays, and the names of the members voting for or against the same shall be entered in the journal thereof. (As amended at November 2, 1999 election.)