HONORABLE JOHN R. RUHL

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

S. MICHAEL KUNATH, Plaintiff, vs. CITY OF SEATTLE, Defendant.	No. 17-2-18848-4 SEA ECONOMIC OPPORTUNITY INSTITUTE'S MOTION FOR SUMMARY JUDGMENT
SUZIE BURKE, *et al.*, Plaintiffs, vs. CITY OF SEATTLE, *et al.*, Defendants.	
DENA LEVINE, *et al.*, Plaintiffs, vs. CITY OF SEATTLE, Defendant.	

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

I. INTRODUCTION

Plaintiffs all allege that Seattle's income tax ordinance is prohibited by RCW 36.65.030, a statute that purports to prohibit cities, counties, and city-counties from levying taxes on net income. This allegation is inept because Seattle's ordinance levies a tax on total income, not net income. Furthermore, as detailed in this motion, RCW 36.65.030 is itself invalid because its one sentence on city taxation was slipped into legislation otherwise concerned only with the combined city-county form of government. Washington's constitution prohibits such log-rolling, so the Court should "not hesitate" to invalidate RCW 36.65.030. *Wash. Ass'n for Substance Abuse & Violence Prev. v. State*, 174 Wn.2d 642, 654, 278 P.3d 632 (2012) (hereinafter, "*WASAVP*").

II. RELIEF REQUESTED

Economic Opportunity Institute ("EOI") respectfully requests a declaration that Seattle Ordinance 125339 (the "Ordinance") is not prohibited by RCW 36.65.030, and that RCW 36.65.030 is unconstitutional and void.

III. STATEMENT OF FACTS

A. The Ordinance Levies a Tax on Total Income

The Ordinance imposes a tax on total income received on or after January 1, 2018. SMC 5.65.030(A)-(B). The Ordinance defines "total income" as:

> the amount reported as income before any adjustments, deductions, or credits on a resident taxpayer's United States individual income tax return for the tax year, listed as "total income" on line of Internal Revenue Service Form 1040, "total income" on line 15 of Internal Revenue Service Form 1040A, "total income" on line 9 of Internal Revenue Service Form 1041, or the equivalent on any form issued by the Internal Revenue Service that is not reported on Schedule K-l for a beneficiary.

SMC 5.65.020(G).

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

B. History of RCW 36.65.030

1. 1972's Amendment 58.

The history of RCW 36.65.030 begins with Article XI, section 16 of the Washington Constitution, which provides for the combined "city-county" form of municipal corporation. Voters enacted Article XI, section 16 in 1972 through Amendment 58, but it has never been utilized. There is no city-county in Washington and there never has been.

While city-counties may frame charters in a manner similar to counties, Article XI, section 16 treats city-counties different than the Constitution treats counties and especially different than cities. For example, city-counties are exempt from sections 2, 3, 5, 6, and 8, and the first paragraph of section 4 of Article XI of the Constitution. Art. XI, § 16. Further, their authority is not restricted by the second sentence of Article VII, section 1, or by Article VIII, section 6 of the Constitution. *Id.*

2. 1975 Attorney General Opinion

Following Amendment 58's passage, a county prosecuting attorney requested the Attorney General's opinion on several questions concerning city-county consolidation under Article XI, section 16. 1975 Op. Att'y Gen. 2. The Attorney General's resulting opinion answered questions on a myriad of issues about city-county governments,[1] including most pertinent to this case: "May a consolidated city-county impose an income tax?" *Id.* at 15. The Attorney General answered the latter question thusly:

[1] These include: retention of cities and special districts in a combined city-county; the prerequisites for a city-county charter-framing election; which officials would need to be elected in the combined government; effects on prior agreements of the county or its cities once combined; city-county contractual authority; state funding allocation; continuation of existing zoning laws; and integration of public employee benefit programs. *Id.*

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> This question arises by reason of so much of the final paragraph of Amendment 58 as provides that:
>
> "The authority conferred on the city-county government shall not be restricted by the second sentence of Article 7, section 1, or by Article 8, section 6 of this Constitution." That sentence in turn, contains the so-called "uniformity" clause [] which has caused our court, in past, to invalidate various legislative efforts to establish a graduated net income tax in this state. *See, Culliton v. Chase*, 174 Wash. 363, 25 P.2d 81 (1933); *Jensen v. Henneford*, 185 Wash. 209, 53 P.2d 607 (1936); and *Power, Inc. v. Huntley*, 39 Wn.2d 191, 235 P.2d 173 (1951), all holding that income is a form of property for the purposes of our constitutional limitations upon property taxation. With the elimination of this clause of Article VII, § 1 in the case of city-counties formed under Amendment 58, it thus follows that such governmental bodies, in the exercise of their legislative authority, could provide for a **city-county graduated net income tax**.

Id. (underline emphasis in the original, boldface emphasis added). Thus, the Attorney General Opinion suggests that city-counties can adopt a graduated net income tax, but nowhere opines on or addresses income taxes in traditional cities or counties.

3. Senate Bill 4313

In 1984, the Legislature took up a bill in response to this Attorney General Opinion. The first iteration of the bill was Senate Bill 4313, entitled "Authorizing the formation of combined city and county municipal corporations under Art. XI, section 16 of the Constitution. Tonry Decl. in Support of EOI's Mot. Summ. J. ("2d Tonry Decl."), Ex. 1 (Report of Standing Comm. on Local Gov't, S., 48th Sess. (Jan. 18, 1984)); Ex. 2. That is the title that the Senate Committee on Local Government used to identify the bill on its sign-in sheet for members of the public attending its committee meeting. *Id.*, Ex. 3.

4. Substitute Senate Bill 4313

Senate Bill 4313 was quickly replaced by Substitute Senate Bill 4313, the bill that enacted Chapter 36.65. *Id.*, Ex.1; Laws of 1984. Ch. 91 (Attached hereto for convenience as Attachment A).

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2317 East John Street
Seattle, Washington 98112
(206) 860-2883

Substitute Senate Bill 4313 ("SSB 4313") was entitled "CITY-COUNTY MUNICIPAL CORPORATIONS ---- CLARIFICATION AN ACT Relating to local government; and adding a new chapter to Title 36 RCW." Laws of 1984, ch. 91.

The committee and final bill reports acknowledge that SSB 4313 was a response to the "Attorney General's Opinion in 1975 [that] created some confusion over the powers possessed by a combined city-county" which the Legislature had yet to clear up. 2d Tonry Decl., Ex. 4.

These bill reports stated that the subject of Chapter 91 of the Laws of 1984 is "Clarifying the formation of combined city and county municipal corporations under Art. XI, section 16 of the Constitution." *Id.* Throughout the Senate and House Journals and bill reports for the 1984 legislative session, SSB 4313 is described as "Authorizing the formation of combined city and county municipal corporations under Article XI, section 16 of the Constitution." *Id.,* Exs. 5 & 6. The Legislative Digest likewise describes SSB 4313 and its predecessor Senate Bill 4313 as "Authorizing the formation of combined city and county municipal corporations under Art. XI, section 16 of the Constitution." *Id.,* Ex. 7. The enacted digest of SSB 4313 provides that the bill "[c]reates provisions relating to [various topics] upon formation of a city-county municipal corporation." *Id.*

Section 1 of Chapter 91 of the Laws of 1984 confirms that the Legislature's intent in enacting Chapter 36.65 RCW was to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations. Laws of 1984, ch. 91. Sections 2, 4, 5, and 6 of SSB 4313 concern the powers of city-county form of government relating to school districts, allocation of state revenue, fire protection and law enforcement collective bargaining, and municipal employee benefits. *Id.*

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2317 East John Street
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Only Section 3 of Chapter 91 of the Laws of 1984, at issue in this case, purports to address a government entity other than a city-county. That section states "A county, city, or city-county shall not levy a tax on net income." *Id.*

5. House Debate

SSB 4313 quickly made its way to the House, where one Representative moved to amend the bill to require border counties to levy an additional sales tax. 2d Tonry Decl., Ex. 6 at 762. The Speaker of the House ruled that the proposed amendment was outside the scope and object of SSB 4313, because the bill "pertains to consolidation of city and county and the method of allocating state revenue in connection with the consolidation" such that the amendment pertaining to county taxes was "out of order." *Id.* SSB 4313 then passed the House without amendment. *Id.*

6. Chapter 36.65, RCW

Consistent with the stated intent of SSB 4313, the code reviser codified the act as a separate chapter in RCW Title 36 (Counties), and titled the chapter "Combined City and County Municipal Corporations." Ch. 36.65 RCW. RCW 36.65.010 recites that "It is the intent of the legislature in enacting this chapter to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations."

IV. STATEMENT OF ISSUE

Is RCW 36.65.030 void for violating Article II, Section 19 of the Washington Constitution?

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

V. EVIDENCE RELIED UPON

This motion relies upon the declaration of John Burbank, and the first and second declarations of Claire Tonry.

VI. AUTHORITY & ARGUMENT

A. The Single-Subject and Subject-in-Title Rules.

"There are two distinct prohibitions in article II, section 19: (1) no bill shall embrace more than one subject and (2) no bill shall have a subject that is not expressed in the title. Its purpose is (1) to prevent 'logrolling', or pushing legislation through by attaching it to other necessary or desirable legislation, and (2) to assure that the members of the legislature and the public are generally aware of what is contained in proposed new laws." *Lee v. State*, 185 Wn. 2d 608, 620, 374 P.3d 157 (2016) (internal citations and quotations omitted). These mandates are often referred to as the "single subject rule" and the "subject in title rule."

The courts "will not hesitate" to invalidate a law that violates either rule. *WASAVP*, 174 Wn.2d at 654. A bill need not violate the subject in title rule to violate the single subject rule, and vice versa. *E.g., Lee v. State*, 185 Wn. 2d at 620; *Amalgamated Transit v. State,* 142 Wn. 2d 183, 217, 11 P.3d 762 (2000).

The single-subject analysis begins by determining whether the bill's title is general or restrictive. "A restrictive title 'is one where a particular part or branch of a subject is carved out and selected as the subject of the legislation.'" *State v. Broadaway*, 133 Wn. 2d 118, 127, 942 P.2d 363 (1997). If a title is general, courts look to whether there is "a rational unity between the operative provisions themselves as well as the general topic" to determine if the law complies with the single-subject rule. *Lee v. State*, 185 Wn. 2d at 620-21. "Rational unity exists when the matters within the body of the [legislation] are germane to the general title and to one another."

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2317 East John Street
Seattle, Washington 98112
(206) 860-2883

Filo Foods, LLC v. City of SeaTac, 183 Wn.2d 770, 782-83, 357 P.3d 1040 (2015). If the title is restrictive, it "limits the scope of the act to that expressed in the title." *State v. Broadaway*, 133 Wn. 2d at 127.

The subject-in-title rule requires that the title "give[] notice that would lead to an inquiry into the body of the act, or indicate to an inquiring mind the scope and purpose of the law." *WASAVP*, 174 Wn.2d at 660 (internal citations and quotations omitted). In particular, a constitutional title is one that gives "fair notice to those specific parties who would be most impacted upon by the legislation." *Certification v. Murphy*, 136 Wn.2d 845, 854, 966 P.2d 1271 (1998)

B. RCW 36.65.030 Violates the Single Subject Rule.

RCW 36.65.030 violates the single subject clause because it was enacted by a bill concerning the combined city-county form of government. The purpose of the bill was to "provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations." Laws of 1984, ch. 91. Every provision of the bill, save for the single sentence prohibiting taxes on net income, is directed to city-counties and no other form of government. *Id.* On its face, such a bill cannot encompass any restrictions on the rights of cities which are not "city-county municipal corporations," without running afoul of the single subject and subject in title rules. *See Potter v. Whatcom Cty.*, 138 Wash. 571, 576, 245 P. 11 (1926) (bill primarily concerning townships violated the single subject rule by imposing a requirement on a county).

1. The title is restrictive and city and county taxation is outside of its scope.

The bill enacting RCW 36.65.030 has a restrictive title, which "limits the scope of the act to that expressed in the title." *State v. Broadway*, 133 Wn. 2d at 127. In *Potter v. Whatcom*

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

County, the court held that the restrictive title "An Act Relating to townships and amending [nine designated sections of the township act]" was not broad enough to embrace a provision requiring counties, rather than townships, to pay for bridges costing more than $300. 138 Wash. at 576; *Amalgamated Transit v. State*, 142 Wn.2d at 211 (title in *Potter* is restrictive).

The title here is analogous though more restrictive than the title in *Potter*. Like the title in *Potter*, "City-County Municipal Corporations – Clarification . . ." regards a particular type of municipal government and is therefore not broad enough to embrace other types, like traditional cities or counties. *Id. See also Cory v. Nethery*, 19 Wn.2d 326, 329-31, 142 P.2d 488 (1943) ("An act relating to local improvements in cities and towns . . ." is restrictive and does not embrace any other kind of taxing or assessment district). The title here is made even more restrictive because it limits the bill to "clarification" concerning city-counties, signaling that it will not create new substantive law. Laws of 1984, ch. 91.

Similarly on point is *Swedish Hospital of Seattle v. Department of Labor and Industries*, 26 Wn. 2d 819, 831, 176 P.2d 429 (1947), wherein the court held that the title's inclusion of "charitable institutions" did not encompass the text's regulation of "nonprofit institutions" because "[t]here is a wide distinction in this state between these two kinds of organizations." There is also "a wide distinction in this state between" combined city-counties and traditional stand-alone cities, such that one bill may not encompass both entities. *See* § III.B.1-2, *supra* (summarizing unique attributes of city-counties). Thus, a city's authority to levy a tax on net income is wholly outside the scope of the restrictive title, which limits the legislation to the combined city-county form of government.

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2317 East John Street
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(206) 860-2883

2. RCW 36.65.030 fails even the test for general titles.

Even if the relevant title was general (which it is not) and a relaxed scrutiny applied, the bill violates the single-subject rule because permissible taxes in a traditional city or county are not germane to the formation of combined city-county municipal corporations. Again, precedent shows that the Supreme Court finds constitutional infirmities in closer cases than this one. For example, in *Lee v. State,* where the Supreme Court held that "the subjects of a specific reduction in a current sales tax rate, and a constitutional amendment or altering the way the legislature passes all future taxes may relate to the general title of fiscal restraint or taxes, but they are not germane to each other." 185 Wn. 2d at 623. *See also Amalgamated Transit,* 142 Wn.2d at 217 (act with a general title violated the single-subject and subject-in-title rules).

Indeed, courts have routinely invalidated legislation that combines aspects of different scope – such as a law with a specific or discrete impact and a more general measure for the future – even where there is some common theme among the two aspects. *Id.; Lee v. State,* 185 Wn. 2d at 623; *City of Burien v. Kiga*, 144 Wn.2d 819, 827, 31 P.3d 659 (2001). In *Kiga,* legislation nullifying specific tax increases and changing the method of assessing property taxes found to violate the single-subject rule, despite both provisions relating to the general topic of tax relief. 144 Wn.2d at 827-28. Another such case, *Washington Toll Bridge Authority v. State,* found an act embraced two subjects because it granted continuing power to build toll roads and provided for the construction of a particular toll road, despite the common thread of toll roads. 49 Wn.2d 520, 523-25, 304 P.2d 676 (1956). "Particularly problematic" to the court in *Washington Toll Bridge* "was the fact the creation of the [toll road] state agency was long-term and continuing in nature while the funding provision was a onetime event that was narrow in scope." *Kiga*, 144 Wn.2d 819, 826.

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(206) 860-2883

SSB 4313's flaws are similar in that the scope of section 3 is entirely different from the rest of the bill. Section 3 addresses a specific topic – levying a tax on net income – across three categories of government entities, whereas sections 2, 4, 5, and 6 all concern details of administering the combined city-county form of government (of which there were and are none). Laws of 1984, ch. 91. Sections 2, 4, 5, and 6 fall squarely within the bill's purpose statement (section 1), but section 3 is outside the scope of that purpose. *Id.* Sections 2, 4, 5, and 6 are concerned with the transition to and set up of a combined city-county; section 3 purports to limit the taxation authority of existing cities and counties long-term. *Id.* SSB 4313 thus embraces two subjects in violation of Article II, section 19.

Whether the Legislature historically considered the issues together is another relevant factor that weighs in favor of invalidating RCW 36.65.030. *Fed'n of Emps. v. State*, 127 Wn. 2d 544, 575, 901 P.2d 1028 (1995); *Lee v. State*, 185 Wn. 2d at 623 (no history that the legislature has treated sales tax reductions and procedures for approving future taxes together). Cities and city-counties are distinct forms of government with widely divergent legislative and practical histories. These divergent histories underscore the fact that cities and city-counties are separate subjects.

Washington's original constitution provided for cities, whereas city-counties were only authorized by a 1948 constitutional amendment. Const., art. XI, § 10; Amend. 23 (1948). City-counties are exempted from a whole host of constitutional provisions that apply to cities, counties, and townships. Const., art. XI, § 16. Among these is an exemption for city-counties from the constitutional requirement that property taxes be uniform. *Id*. The Legislature has enacted numerous statutes and amendments governing cities which appear in Chapters 35 RCW ("Cities and Towns") and 35A RCW ("Optional Municipal Code"). In contrast, the Legislature

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2317 East John Street
Seattle, Washington 98112
(206) 860-2883

has passed a single bill concerning city-counties that is codified in Chapter 36 RCW, which otherwise and primarily concerns counties. *Compare WSASAVP*, 174 Wn.2d at 659 (that spirits and wine are both liquor "have been governed as such by the same act for decades" indicated they are the same subject).

The practical differences are also stark: cities are ubiquitous whereas there is not a single city-county anywhere in the state. Simply put: the Legislature and the citizens of this state have always treated city taxation authority and combined city-counties as different subjects.

For all of these reasons, the Court should "not hesitate" to invalidate RCW 36.65.030 for violating the single-subject rule. *See WSASAVP*, 174 Wn.2d at 654.

C. RCW 36.65.030 Violates the Subject-in-Title Rule

The bill that enacted RCW 36.65.030 also violated the subject-in-title rule, because its title failed to give "fair notice to those specific parties who would be most impacted upon by the legislation," that is, stand-alone cities and counties. *Certification v. Murphy*, 136 Wn.2d at 854 (title concerning "court costs" did not provide sufficient notice to the law enforcement community).

Again, *Potter* is also instructive. The court in *Potter* faulted the title because it referenced only townships and not counties, yet it contained provisions on both entities. *Potter*, 138 Wash. at 576. The same is true here: the title "CITY-COUNTY MUNICIPAL CORPORATIONS – CLARIFICATION AN ACT Relating to local government; and adding a new chapter to Title 36 RCW" explicitly mentions city-counties, but fails to mention stand-alone cities and counties are also affected irrespective of whether they ever combine into a city-county. The title gave legislators no reason to look beyond the title to see if municipal corporations other than "city-counties" would be affected by the bill. The title's limitation to "clarifying" "city-

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2317 East John Street
Seattle, Washington 98112
(206) 860-2883

county" corporations is particularly significant because there were no city-counties in Washington in the 1980s. Thus, legislators reading the title of the bill would presume that their constituents would be unaffected by the bill and that they could safely skip reading the bill's text.

Potter goes further to fault the title in that case for failing to reference counties' "duties or liabilities" despite the bill imposing funding obligations on counties. 138 Wash. at 576. The title here certainly fails to provide the type of specificity *Potter* requires, as there is no indication whatsoever that the bill sought to restrict cities' taxation authority.

D. The Policies of Article II, Section 19 Strongly Apply Here.

The policies behind the two prohibitions of Article II, Section 19 directly apply to this situation. Every indication is that the Legislature as a whole intended the act to address only city-county forms of government; that intent must control. *Cory v. Nethery,* 19 Wn.2d at 332 (in an Article II, section 19 challenge, the intent of the legislature evidenced by the act as a whole controls over contradictory language in the act). If there were any question about the Legislature's intent, it is unequivocally answered by the law's statement of intent: "It is the intent of the legislature in enacting this chapter to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations." RCW 36.65.010.

The bill reports, Senate and House Journals, Legislative Digest, and committee and floor debates consistently reflect this narrow purpose of the Act. 2d Tonry Decl., Exs. 4-7. Even the prohibition on net income taxes at issue here was spurred by the Attorney General Opinion suggesting that the city-county form of government was unique in being able to enact a graduated net income tax. *See* 2d Tonry Decl., Ex. 4 (bill responded to Attorney General Opinion). The Attorney General suggested –wrongly—that cities and counties lacked this

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2317 East John Street
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(206) 860-2883

authority based on 1930s court precedent, so there was no logical reason that an act responding to the Attorney General Opinion would address cities and counties. 1975 Op. Att'y Gen. 2 at 15.

This is the classic case of log-rolling – slipping in a second subject without legislative or public notice. Even the code reviser took the Legislature's statement of intent at face value and codified the act in its own chapter concerning the city-county form of government, where it has laid dormant for over thirty years due to the absence of any city-county in our state.

Had the Legislature intended to address all forms of government in this act, it would have broadened the act's title and statement of intent and would have amended the statutes governing city and county tax authority. To validly enact a limitation on cities' taxing authority, the Legislature would have had to amend the applicable statutes that give broad taxing authority to cities. As the Washington Supreme Court just held, Title 35 RCW "delegates broad taxing authority to first class cities" like Seattle. *Watson v. Seattle*, No. 93723-1, 2017 Wash. LEXIS 831, *7 (Aug. 10, 2017). The Legislature could only narrow RCW 35.22.280 and other laws governing city and county taxing authority by amending those statutes; it could not do so by slipping in a conflicting sentence in an act about a different form of government. *See* Const. art. II, § 37 ("No act shall ever be revised or amended by mere reference to its title, but the act revised or section amended shall be set forth at full length.") Like Article II, section 19, the purpose of Article II, section 37 is good government – "to avoid confusion, ambiguity and uncertainty in the law that would occur if the law existed in separate and disconnected legislative provisions, and to disclose the new law's impact on existing laws." *Amalgamated Transit v. State*, 142 Wn.2d at 192. Allowing RCW 36.65.030 to stand and apply to cities and counties would undermine these important constitutional policies.

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

E. EOI's Claim is Justiciable

EOI's claim presented in this motion is justiciable under the Declaratory Judgment Act. Under the Act, a claim is justiciable where the issues are of "broad, overriding public import," or there is a controversy

> (1) which is an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic, and (4) a judicial determination of which will be final and conclusive.

Lee v. State, 185 Wn. 2d at 617. Because EOI asserts that a statute is unconstitutional, it must also serve notice on the Attorney General. EOI complied with the notice requirement. Tonry Decl.¶ 2.

Here, *Levine* Plaintiffs and the City – and presumably all parties – agree that the issues are of "broad, overriding public import." *Levine* Plaintiffs' Amend. Complaint, ¶¶ 17, 52; and see Ordinance, § 1. This alone is sufficient to invoke the Court's jurisdiction. *Lee v. State*, 185 Wn. 2d at 617; *Sorenson v. Bellingham*, 80 Wn. 2d 547, 558, 496 P.2d 512 (1972).

EOI's claim meets the alternative justiciability requirements as well. As the Court held in granting EOI's motion to intervene, "EOI and the Plaintiffs assert opposing positions with respect to the same question: the Plaintiffs' arguments assume that RCW 36.65.030 is valid, while EOI argues that the statute is unconstitutional." Order Granting Mot. to Intervene (Sept. 20, 2017) at 3-4. The Court also recognized that EOI's claim that RCW 36.65.030 is invalid would be a proper defense or counterclaim to Plaintiffs' complaints. *Id.* at 5. Thus, there is an actual, present controversy between opposing parties.

Furthermore, EOI has a substantial interest in invalidating RCW 36.65.030 and upholding the Ordinance. EOI has long been advocating for state and local income taxes in Washington

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

and has recently expended significant resources on efforts in Olympia, Seattle, and other cities. *See* Burbank Decl., ¶¶ 5-6. EOI's interest and instrumental role in the Ordinance is a matter of public record. *Id.,* ¶¶ 3-4.

EOI has made these efforts because fixing the regressive tax system in Seattle and elsewhere and establishing a progressive funding source for urgent local needs are highly important to EOI's leaders and activists and its mission. *Id.,* ¶ 7. These individuals include EOI's Board President, a small business owner whose staff members have been forced out of Seattle by the lack of affordable housing – a need that the Ordinance is expected to fund. *Id.*, ¶ 7. They also include parents, teachers, and working families who are currently harmed by Seattle's regressive tax structure and who stand to benefit from the Ordinance's funding for education programs such as Seattle's Preschool Program and community college tuition support. *Id.* These interests are hardly academic or abstract; they affect real people in their day-to-day lives as they try to run a business and make ends meet.

Finally, a judicial determination of the validity of RCW 36.65.030 will be final and conclusive. EOI's leaders have encountered this same issue in litigation before (involving one of the same entities litigating the present case) but there was no final decision on the merits in that lawsuit. Tonry Decl., ¶ 3. A decision on the issue will finally put the matter to rest, and serve the purpose of the Declaratory Judgment Act by consolidating claims and avoiding piecemeal, partial adjudication. RCW 7.24.120 (purpose); RCW 7.24.060 (refusing judgments that do not terminate a controversy).

Smith & Lowney, p.l.l.c.
2317 East John Street
Seattle, Washington 98112
(206) 860-2883

VII. CONCLUSION

For the foregoing reasons, EOI respectfully requests that the Court declare that the Ordinance is not prohibited by RCW 36.65.030, and that RCW 36.65.030 is unconstitutional and void.

RESPECTFULLY SUBMITTED this 29th day of September, 2017.

SMITH & LOWNEY, PLLC

By:*/s/ Claire E. Tonry*
Knoll Lowney, WSBA No. 23457
Claire Tonry, WSBA No. 44497
Attorneys for Plaintiffs
2317 E. John St., Seattle WA 98112
Tel: (206) 860-2883 Fax: (206) 860-4187
knoll@smithandlowney.com, claire@smithandlowney.com

The above-signed attorney certifies that this memorandum contains 4,642 words, in compliance with the Local Civil Rules.

SMITH & LOWNEY, P.L.L.C.
2317 EAST JOHN STREET
SEATTLE, WASHINGTON 98112
(206) 860-2883

ATTACHMENT A

government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 6, 1984.
Passed the House February 22, 1984.
Approved by the Governor March 2, 1984.
Filed in Office of Secretary of State March 2, 1984.

CHAPTER 91

[Substitute Senate Bill No. 4313]

CITY-COUNTY MUNICIPAL CORPORATIONS——CLARIFICATION

AN ACT Relating to local government; and adding a new chapter to Title 36 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intent of the legislature in enacting this chapter to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations.

"City–county," as used in this chapter, means a combined city and county municipal corporation under Article XI, section 16 of the state Constitution.

NEW SECTION. Sec. 2. Recognizing the paramount duty of the state to provide for the common schools under Article IX, sections 1 and 2 of the state Constitution, school districts shall be retained as separate political subdivisions within the city–county.

NEW SECTION. Sec. 3. A county, city, or city–county shall not levy a tax on net income.

NEW SECTION. Sec. 4. The method of allocating state revenues shall not be modified for a period of one year from the date the initial officers of the city–county assume office. During the one–year period, state revenue shares shall be calculated as if the preexisting county, cities, and special purpose districts had continued as separate entities. However, distributions of the revenue to the consolidated entities shall be made to the city–county.

NEW SECTION. Sec. 5. If the city–county government includes a fire protection or law enforcement unit that was, prior to the formation of the city–county, governed by a state statute providing for binding arbitration in collective bargaining, then the entire fire protection or law enforcement unit of the city–county shall be governed by that statute.

NEW SECTION. Sec. 6. The formation of a city–county shall not have the effect of reducing, restricting, or limiting retirement or disability benefits of any person employed by or retired from a municipal corporation,

or who had a vested right in any state or local retirement system, prior to the formation of the city–county.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 36 RCW.

Passed the Senate February 7, 1984.
Passed the House February 23, 1984.
Approved by the Governor March 2, 1984.
Filed in Office of Secretary of State March 2, 1984.

CHAPTER 92

[Substitute House Bill No. 69]

MARTIN LUTHER KING, JR.——SCHOOL HOLIDAY

AN ACT Relating to holidays; and amending section 13, chapter 283, Laws of 1969 ex. sess. as last amended by section 2, chapter 24, Laws of 1975–'76 2nd ex. sess. and RCW 28A.02.061.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 283, Laws of 1969 ex. sess. as last amended by section 2, chapter 24, Laws of 1975–'76 2nd ex. sess. and RCW 28A-.02.061 are each amended to read as follows:

The following are school holidays, and school shall not be taught on these days: Saturday; Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February, being the anniversary of the birth of George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty–fifth day of December, commonly called Christmas Day: PROVIDED, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught.

Passed the House February 6, 1984.
Passed the Senate February 23, 1984.
Approved by the Governor March 2, 1984.
Filed in Office of Secretary of State March 2, 1984.