

(GENERAL)

COMPTROLLER FILE NUMBER 286838

Initiative Petition No. 17 "relating to unnatural practices, and establishing a Citizen's Commission on Unnatural Practices." (Including correspondence relating thereto.)

FILED August 4, 1978

E. L. KIDD
COMPTROLLER AND CITY CLERK

[Signature]
DEPUTY

ACTION OF THE COUNCIL

REFERRED	TO
REFERRED	TO
REFERRED	TO
REPORTED	DISPOSITION
RE-REFERRED	TO
REPORTED	DISPOSITION

REPORT OF COMMITTEE

Mr. President:

Your

Committee

to which was referred the within

would respectfully report that we have considered the same and respectfully recommend that

CHAIRMAN

CHAIRMAN

City of Seattle

OFFICE OF THE COMPTROLLER

101 Municipal Building
Seattle, Washington 98104



E L KIDD
CITY COMPTROLLER

E J RICE
CHIEF DEPUTY COMPTROLLER

AUGUST 10, 1978

MR. CLINT ELSON, MANAGER
DEPARTMENT OF RECORDS AND ELECTIONS
COUNTY OF KING
553 KING COUNTY ADMINISTRATION BUILDING
SEATTLE, WASHINGTON 98104

ATTENTION: DOUG VINEY, SPECIAL ELECTIONS SUPERVISOR

DEAR MR. ELSON:

CITY OF SEATTLE ORDINANCE No. 103892, APPROVED OCTOBER 21, 1974, RELATES TO INITIATIVE PETITIONS. SECTION 2 PROVIDES THAT UPON RECEIPT OF A CONCISE STATEMENT FROM THE CITY ATTORNEY POSED AS A QUESTION AND NOT TO EXCEED TWENTY (20) WORDS, BEARING THE SERIAL NUMBER OF THE MEASURE, SHALL BE FILED BY THE CITY COMPTROLLER WITH THE KING COUNTY DIRECTOR OF RECORDS AND ELECTIONS. A REPRINT OF ORDINANCE No. 103892 IS ATTACHED FOR YOUR FURTHER INFORMATION.

ACCORDINGLY, YOU ARE ADVISED THAT AN INITIATIVE PETITION WAS FILED ON AUGUST 3, 1978, AND STATEMENT RECEIVED FROM THE CITY ATTORNEY ON AUGUST 9, 1978 AS FOLLOWS:

"SHOULD AN ORDINANCE BE PASSED ESTABLISHING AN UNNATURAL PRACTICES COMMISSION, DEFINING VARIOUS BEHAVIORS AS UNNATURAL PRACTICES, AND PENALIZING VIOLATIONS?"

THE PETITION HAS BEEN APPROVED AS TO FORM AS OF TODAY, AUGUST 10, 1978. AS STATED IN THE CITY CHARTER, SIGNED PETITIONS SHALL BE FILED WITH THE CITY COMPTROLLER WITHIN 180 DAYS AFTER THE DATE OF APPROVAL OF THE FORM OF THE PETITION WHICH WOULD MAKE THE DEADLINE DATE 180 DAYS FROM THIS DATE, AUGUST 10, 1978, OR FEBRUARY 7, 1979.

THIS INFORMATION IS SUBMITTED TO YOU IN COMPLIANCE WITH PROVISIONS OF SAID ORDINANCE No. 103892.

VERY TRULY YOURS,

E. L. KIDD

COMPTROLLER AND CITY CLERK

WA:JO

ENC. 1

CC: WAYNE ANGEVINE,
ASSISTANT CITY CLERK

City of Seattle

OFFICE OF THE COMPTROLLER

101 Municipal Building
Seattle, Washington 98104



E. L. KIDD
CITY COMPTROLLER

E. J. RICE
CHIEF DEPUTY COMPTROLLER

AUGUST 10, 1978

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEATTLE COMMITTEE AGAINST THIRTEEN
105 - 14TH AVENUE, SUITE "B"
SEATTLE, WASHINGTON 98122

ATTENTION: MR. DENNIS RAYMOND

DEAR MR. RAYMOND:

A PROPOSED INITIATIVE MEASURE "RELATING TO UNNATURAL PRACTICES, AND ESTABLISHING A CITIZEN'S COMMISSION ON UNNATURAL PRACTICES" WAS FILED IN THIS OFFICE ON THURSDAY, AUGUST 3, 1978. SAID MEASURE WAS DESIGNATED INITIATIVE MEASURE No. 17.

ORDINANCE No. 103892, A COPY OF WHICH IS ENCLOSED, PRESCRIBES GUIDELINES AS TO THE FORM OF AN INITIATIVE PETITION. IN ACCORDANCE WITH SAID PROVISIONS, THE CITY ATTORNEY HAS PREPARED AND TRANSMITTED THE FOLLOWING BALLOT TITLE:

"SHOULD AN ORDINANCE BE PASSED ESTABLISHING AN UNNATURAL PRACTICES COMMISSION, DEFINING VARIOUS BEHAVIORS AS UNNATURAL PRACTICES, AND PENALIZING VIOLATIONS?"

I HAVE CHECKED SAID PETITION AND DO APPROVE THE FORM. MAY I SUGGEST YOU SUBMIT A COPY OF THE ACTUAL PETITION TO THIS OFFICE PRIOR TO HAVING IT PRINTED.

AS STATED IN THE CHARTER, SIGNED PETITIONS SHALL BE FILED WITH THE CITY COMPTROLLER WITHIN 180 DAYS AFTER THE DATE OF APPROVAL OF THE FORM OF THE PETITION WHICH WOULD MAKE THE DEADLINE DATE 180 DAYS FROM THIS DATE, AUGUST 10, 1978, OR FEBRUARY 7, 1979.

THE TOTAL NUMBER OF VOTES CAST FOR THE OFFICE OF MAYOR AT THE LAST ELECTION, NOVEMBER 8, 1977, IS 176,264. INITIATIVE PETITIONS REQUIRE NOT LESS THAN TEN (10) PERCENT OF THE TOTAL VOTES, WHICH IS 17,626 VALID SIGNATURES. SHOULD THE ORIGINAL FILING OF SIGNATURES FAIL TO HAVE SUFFICIENT QUALIFIED SIGNATURES, AN ADDITIONAL TWENTY (20) DAYS SHALL BE ALLOWED TO COMPLETE THE PETITION TO THE REQUIRED PERCENTAGE.

VERY TRULY YOURS,

E. L. KIDD
COMPTROLLER AND CITY CLERK

WA:JG
ENC. 2
CC: WAYNE ANGEVINE,
ASSISTANT CITY CLERK

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT CITY ATTORNEY

August 9, 1978

Honorable E. L. Kidd
City Comptroller
The City of Seattle

Re: Initiative Measure No. 17

Dear Mr. Kidd:

By letter of August 3, 1978, pursuant to City Charter Article IV, Section 1, Ordinance 103892 and RCW 29.27.060, you have forwarded "Initiative Measure No. 17" to the Law Department for preparation of a Ballot Title to be placed upon petitions circulated for signatures and placed upon ballots for voting purposes should enough signatures be obtained. The proposed Initiative purports to define a number of "unnatural practices", impose criminal sanctions for such "practices", create a commission to administer the initiative and deprive certain persons of protection from discrimination in employment and housing.

Because Initiative Measure 17 is so clearly and palpably unconstitutional or illegal in most respects, the question arises whether the City may refuse to supply a Ballot Title and certify the measure for circulation. Further, proponents of the measure have been quoted in radio interviews as primarily seeking publicity for their opposition to Initiative Measure 13 and as not being entirely certain whether they will circulate petitions for proposed Initiative Measure 17. Such latter fact, when considered with the clear constitutional and legal flaws of the measure, also raise the question whether the City should expend public moneys on such a frivolous effort. There is no question that circulation -- and even passage -- of such a measure is a futile act, for courts would surely enjoin enforcement thereof or nullify it, as the case may be.

Honorable E. L. Kidd
Page Two
August 9, 1978

Your responsibilities under the procedures established in law for this process are clearly "ministerial" in nature (McQuillin, Municipal Corporations § 16.65, 42 Am.Jur.2d Initiative and Referendum § 39; 82 C.J.S. Statutes § 125; see State ex rel. O'Connell v. Kramer, 73 Wn.2d 85, 436 P.2d 786 (1968)) the responsibilities of this office, besides preparation of the title, are advisory. You may not pass upon the validity of such measure; you are responsible, however, to investigate and reject, where appropriate, as to matters of form and process as prescribed in Article IV § 1 of the Charter and Ordinance 103892. State ex rel. O'Connell v. Kramer, *supra*; 42 Am.Jur.2d Initiative and Referendum § 50. The courts will not, in the usual circumstance, review measures such as Initiative Measure 17 for legality or constitutionality prior to enactment by a vote of the people; courts will not intervene in the legislative process. State ex rel. O'Connell v. Kramer, *supra*; State ex rel. Griffiths v. Superior Court, 92 Wash. 44, 159 Pac. 101, 162 Pac. 360 (1916); State ex rel. Donohue v. Coe, 49 Wn.2d 410, 302 F.2d 202 (1956); Annot., Enjoining Referendum 19 ALR2d 519, 522 (1951); 42 Am.Jur.2d Initiative and Referendum, § 39; McQuillin, Municipal Corporations § 16.69. While not reviewing measures as to legal validity or constitutionality, courts will inquire as to the fundamental authority to enact certain measures and will, in a proper case, enjoin elections on such measures. Ford v. Logan, 79 Wn.2d 147, 483 P.2d 1247 (1971); McQuillin, Municipal Corporations § 16.68. And courts will inquire into matters of process and form. See, generally, 42 Am.Jur.2d Initiative and Referendum §§ 48, 49.

While, generally, initiative measures must conform to constitutional, statutory or charter requirements as to form (42 Am.Jur.2d Initiative and Referendum § 22), substantial compliance is sufficient and laws controlling the process will be liberally construed to facilitate the right of initiative. Sudduth v. Chapman, 88 Wn.2d 247, 558 P.2d 806, 559 P.2d 1351 (1977); 42 Am.Jur.2d Initiative and Referendum § 22. Technicalities which tend to frustrate the process will be restricted. Sudduth v. Chapman, *supra*. In Washington, even the constitutional requirement that legislation contain only one subject has been held inapplicable to initiative measures. Senior Citizens League v. Department of Social Security, 38 Wn.2d 142, 228 P.2d 478 (1951); Fritz v. Gorton, 83 Wn.2d 275, 517 P.2d 911 (1974).

Honorable E. L. Kidd
Page Three
August 9, 1978

Various portions of proposed Initiative 17 clearly violate one or more of the following federal and state constitutional provisions:

Federal:

- Article I, § 10 - Impairment of obligation of contracts; "ex post facto laws"
- First Amendment - Freedom of religion, of speech, and of the press.
- Fifth Amendment - Rights of accused in criminal proceedings -- "due process", substantive and procedural.
- Fourteenth Amendment - Citizenship rights not to be abridged by states; "due process", "equal protection".

and others.

State:

- Article I, § 3 - "Due process"
- Article I, § 5 - "Freedom of speech"
- Article I, § 7 - "Right of privacy"
- Article I, § 9 - "Rights of accused"
- Article I, § 11 - "Religious freedom"
- Article I, § 12 - "No special privileges and immunities"
- Article I, § 23 - Impairment of contract obligations; "ex post facto laws"
- Article XI, §§ 10, 11 - No local ordinances may contravene state constitution or statute

and others. An additional constitutional infirmity, proscribed under "due process" clauses, inheres in the numerous "practices" defined in vague and over-broad terms carrying criminal sanctions.

The "transfer" of powers of the City's Offices of Human and Women's Rights sought to be effected by Section 9 of the proposed Initiative exceeds the powers of the City to accomplish. The language of Section 14 of the proposed Initiative purporting to establish its duration as "eternal" is ineffective under the Charter. The proposed Initiative also contravenes numerous State laws.

Honorable E. L. Kidd
Page Four
August 9, 1978

In spite of the flaws enumerated and discussed above, we find no authority under judicial precedent in Washington to reject the measure or refuse to process the same. We therefore have prepared the following Ballot Title pursuant to above-cited statute, Charter and ordinance provisions:

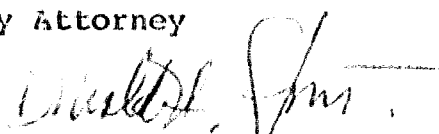
Should an ordinance be passed establishing an unnatural practices commission, defining various behaviors as unnatural practices, and penalizing violations?

Pursuant to Ordinance 103892, you are required to inform the petitioner of the exact language of the ballot title by telephone and certified mail within five (5) days after the filing of the petition. It is our opinion that five (5) days should be counted according to court rules to mean "four working days" which expires on this date, August 9, 1978.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By



DONALD H. STOUT, Assistant
Director, Advisory Division

DHS:rl

cc: Mayor

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FIRST CLASS PERMIT NO. 1000 NEW YORK, NY

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FIRST CLASS PERMIT NO. 1000 NEW YORK, NY



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TO



Handwritten return address:
1111 1st St. N.W.
Washington, D.C. 20004
Attn: Mr. [Name]

POSTAGE WILL BE PAID BY ADDRESSEE

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FORM 5010-A (Rev. 10-1-79) **NEEDLE AND SYRINGE INVENTORY AND CERTIFIED MAIL**

1. NAME OF CLIENT	
2. ADDRESS OF CLIENT	
3. CITY AND STATE	
4. DATE OF INVENTORY	
5. NAME OF NURSE	
6. SIGNATURE OF NURSE	
7. SIGNATURE OF CLIENT	
8. STATE OF CLIENT	
9. INITIALS	

No. 799074

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO <i>Mr. [unclear]</i>	
STREET AND NO. <i>[unclear]</i>	
TO STATE AND ZIP CODE <i>[unclear]</i>	
POSTAGE	\$ 2.80
CERTIFIED FILE	\$ 0.00
SPECIAL DELIVERY	0
REGISTERED DELIVERY	0
OPTIONAL SERVICES	
RETURN RECEIPT SERVICE	\$ 4.50
POSTAGE AND FEE	0
POSTAGE AND FEE	0
POSTAGE AND FEE	0
POSTAGE AND FEE	0
TOTAL FEES	\$ 7.30

CONSULT POSTMASTER FOR FEES

SEATTLE, WA CONTRACT STAMP 1978 USPO

City of Seattle

OFFICE OF THE COMPTROLLER

101 Municipal Building
Seattle, Washington 98104



E. L. WOOD

E. L. WOOD

August 3, 1973

The Honorable Gary Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

To conform with the provisions of Ordinance 103920, trans-
ferring jurisdiction of Initiative Petitions relating to "unnatural practices," and
establishing a Citizens' Commission on Unnatural Practices,

Said Initiative Petition was filed as of 11:03 A.M. today,
August 3, 1973, and was designated as Initiative Measure No. 17.

Section 2 of said ordinance provides, in part, "Upon receipt
of such Initiative Petition, the City Attorney shall prepare and transmit
to the City Clerk a copy of said petition after the filing of an Initi-
ative Petition, together with a copy of a concise statement posed as a
question and not a matter of opinion, hearing the serial number
of the measure, which shall be filed by the City Controller with the King
County Director of Records and Elections."

Very truly yours,

Handwritten signature of E. L. Wood in black ink.

E. L. WOOD
Controller and City Clerk

EAL:wa

enc.

cc: Myne Ingevine, Assistant City Clerk

AN INITIATIVE relating to unnatural practices; exempting those who engage or have engaged in them from protection by laws against discrimination in housing and employment; defining unnatural practices; establishing and empowering a Citizen's Commission on Unnatural Practices; transferring powers of the Department of Human Rights and Office of Women's Rights to other organizations and vehicles; and providing penalties for those committing unnatural practices.

Be it ordained by the City of Seattle as follows:

Section 1. This initiative shall constitute the "Unnatural Practices Ordinance" and may be cited as such.

Section 2. It is hereby declared to be the policy of the City of Seattle in the exercise of its police powers for the protection of the public health, safety, welfare and morals, and for the maintenance of peace and good government, to exempt certain purveyors of unnatural practices from the civil rights to employment and housing.

Section 3. The people of the City of Seattle hereby find that over ninety per cent of the child molestation incidents reported to medical and/or legal authorities in the City of Seattle have involved abuse perpetrated by heterosexual males.

Section 4. The sexual molestation of children being an unnatural practice and a danger to the health, welfare, safety and morals of the community, no heterosexual male shall be deemed protected by any city ordinance preventing discrimination in housing or employment when:

(1) such employment involves frequent, substantial contact with minors; or

(2) such housing is located within 1,000 feet of any dwelling unit in which a minor resides;

provided, however, that any heterosexual male may establish that he is entitled to and deserving of such protection from such discrimination if he establishes beyond a reasonable doubt that he has not engaged in any public display of