

ORDINANCE No. 113220

Law Department

COUNCIL BILL No. 105841

The City of

AN ORDINANCE relating to the business and occupation tax and amending Seattle Municipal Code (SMC) section 5.44.170.

Honorable President:

Your Committee on _____

to which was referred the within report that we have considered the

COMPTROLLER FILE No. _____

Introduced: OCT 20 1986	By: EXECUTIVE ADJUTANT
Referred: OCT 20 1986	To: <i>Fin. & Pers.</i>
Referred:	To:
Referred:	To:
Reported: DEC 15 1986	Second Reading: DEC 15 1986
Third Reading: DEC 15 1986	Signed: DEC 15 1986
Presented to Mayor: DEC 16 1986	Approved: DEC 7
Returned to City Clerk: DEC 21 1986	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Vote

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

was referred the within Council Bill No.

that we have considered the same and respectfully recommend that the same:

Vote 7-0

Committee Chair

OB 105841

RJP:sr
10/1/86
7:ORD1.

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ORDINANCE 113220

AN ORDINANCE relating to the business and occupation tax and amending Seattle Municipal Code (SMC) section 5.44.170.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.44.170 of the Seattle Municipal Code is amended as follows:

5.44.170 (~~Final~~) P(~~p~~)ayment (~~public work~~) on City contract--License fees to be paid first.

The Comptroller shall, before issuing any warrant making (~~final~~) any payment to any person performing any (~~public work~~) contract for the City, require such person to pay in full all license fees or taxes due under this chapter from such person on account of such contract, or otherwise.

Section 2. Any acts consistent with this ordinance but prior to its effective date are hereby ratified and confirmed.

(To be used for all Ordinances except Emergency.)

Section ³ This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of December, 19 86,
and signed by me in open session in authentication of its passage this 15th day of
December, 19 86.

[Signature]
President of the City Council.

Approved by me this 23rd day of December, 19 86.
[Signature]
Mayor.

Filed by me this 23rd day of December, 19 86.

Attest: *[Signature]*
City Comptroller and City Clerk.

(SEAL)

By *[Signature]*
Deputy Clerk.

Published

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

#10
CB 105841

October 6, 1986

REC'D GMB OCT 07 1986

Hon. Sam Smith, President
Seattle City Council

Hon. Delores Sibonga, Chairperson
Finance & Personnel Committee
Seattle City Council
VIA Jim Ritch, Acting Budget Director

833801

Re: Proposed amendment of SMC 5.44.170 authorizing
Comptroller to withhold payment on City public work
contracts until contractors' City taxes are paid

Dear Councilman Smith and Councilwoman Sibonga:

The enclosed legislation is proposed by the Law Department and sponsored by the Department of Licenses and Consumer Affairs. It is intended to clarify and expand the City Comptroller's authority to withhold payment on City contracts when the contractor or vendor has failed to pay all license fees or taxes due under Seattle Municipal Code Chapter 5.44.

As currently worded, SMC 5.44.170 appears to authorize the Comptroller to withhold payment only on public work contracts when a contractor has failed to pay City license fees or taxes. Generally, the term "public work" refers to a building, physical improvement, or other fixed construction. Further, the ordinance only addresses the Comptroller's power to withhold final payments.

The Department of Licenses and Consumer Affairs was recently faced with a situation involving a vendor who has a contract with the City to sell it automobiles and automobile parts. The vendor had never paid the B&O tax imposed under SMC 5.44.040 on contracts with the City aggregating \$5,000 per year. While we understand that this particular tax delinquency is being resolved, had DLCA requested the Comptroller to withhold payment on the vendor's contract the Comptroller would have been unable to do so under SMC 5.44.170 as the contract was not for a public work and final payment was not involved.

Hon. Sam Smith
Hon. Delores Sibonga
VIA Jim Ritch
October 6, 1986
Page 2

The Law Department sees no justification or legal reason for limiting the application of SMC 5.44.170 to public work contracts. We also see no reason to limit the Comptroller's authority to the withholding of only final payments. Accordingly, we request passage of the proposed amendment which will enable the ordinance to be used as an effective tax collection tool in situations involving all types of City contracts and not just contracts for public works.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By 
JAMES PIDDUCK
Assistant

RJP:bjw
encl.

cc: Walt Tank, Acting Director
Department of Licenses and Consumer Affairs

Norward Brooks
Comptroller

Barbara Taber, Executive Secretary
Board of Public Works

T. H. Terao
Purchasing Agent

City of Seattle

Executive Department-Office of Management and Budget

Gary Zarker, Director
Charles Royer, Mayor



#8800

OK
JB
10/15/86

October 14, 1986

The Honorable Douglas Jewett
City Attorney
City of Seattle

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Law Department

SUBJECT: Proposed amendment of SMC 5.44.170 authorizing Comptroller to withhold payment on City public work contracts until contractor's City taxes are paid.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation directly to your office for review and drafting.

After reviewing this request and drafting appropriate legislation:

- (X) File the legislation with the City Clerk for formal introduction to the City Council as an Executive Request.
- () Do not file with City Council, but return the proposed legislation to OMB for our review. Return to _____.

Sincerely,

Charles Royer
Mayor

by

Clarence Ellsworth
for

JIM RITCH
Acting Budget Director

JR/bf/ea

Enclosure

cc: Director, LCA

COPY RECEIVED

OCT 15 1986

Douglas N. Jewett
CITY ATTORNEY

C-633-X

Affidavit of Publication

STATE OF WASHINGTON
KING COUNTY—SS.

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

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

Ordinance No. 113220

was published on December 29, 1986

V. Rain

Subscribed and sworn to before me on
December 29, 1986

Yvonne Summers
Notary Public for the State of Washington,
residing in Seattle.

City of Seattle

ORDINANCE 113239

AN ORDINANCE relating to the business and occupation tax and amending Seattle Municipal Code (SMC) section 5.44.170.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.44.170 of the Seattle Municipal Code is amended as follows:

5.44.170 ~~((Final)) Payment ((public work)) on City contract--License fees to be paid first.~~

The Comptroller shall, before issuing any warrant making ~~((final))~~ any payment to any person performing any ~~((public work))~~ contract for the City, require such person to pay in full all license fees or taxes due under this chapter from such person on account of such contract, or otherwise.

Section 2. Any acts consistent with this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of December, 1986, and signed by me in open session in authentication of its passage this 15th day of December, 1986.

SAM SMITH,
President of the City Council

Approved by me this 23rd day of December, 1986.

CHARLES ROYER,
Mayor

Filed by me this 23rd day of December, 1986.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk

(See) By MICHAEL S. SAUNDERS,
Deputy Clerk

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, December 29, 1986.

(C 411 X)