

ORDINANCE No. 115266

COUNCIL BILL No. 108153

*Law Department*

The City of

AN ORDINANCE relating to and repealing SMC 4.10.050 to remove expiration date on the authorization for limited duty assignments for pregnant employees.

Honorable President:

Your Committee on FINA

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

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: AUG 13 1990	By: SIBONGA
Referred: AUG 13 1990	To: Finance, Budget and Management
Referred:	To:
Referred:	To:
Reported: AUG 20 1990	Second Reading: AUG 20 1990
Third Reading: AUG 20 1990	Signed: AUG 20 1990
Presented to Mayor: AUG 21 1990	Approved: AUG 24 1990
Returned to City Clerk: AUG 21 1990	Published:
Vetoes by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

PASS

Vote

OK

Department

# The City of Seattle--Legislative Department

Date Reported  
and Adopted

## REPORT OF COMMITTEE

President:

Committee on

Finance, Budget & Mgmt

was referred the within Council Bill No.

108153

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

PASS 3-0 8/15/90

Note 6-0

\_\_\_\_\_  
Committee Chair

ORDINANCE 115266

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AN ORDINANCE relating to and repealing SMC 4.10.050 to remove expiration date on the authorization for limited duty assignments for pregnant employees.

WHEREAS, in 1987 the City adopted a policy to reasonably accommodate pregnant employees in medically approved limited duty assignments which provided for a three-year sunset; and

WHEREAS, affected City departments report overall satisfaction with the policy and recommend its permanent continuation; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective October 1, 1990, Seattle Municipal Code Section 4.10.050 is repealed.

Section 2. Any action taken consistent with the authority and prior to the effective date of this ordinance is 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 20th day of August, 1990,  
and signed by me in open session in authentication of its passage this 20th day of  
August, 1990.

*[Signature]*  
President ~~Pro Tem~~ of the City Council.

Approved by me this 24th day of August, 1990.

*[Signature]*  
Mayor.

Filed by me this 24th day of August, 1990.

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

(SEAL)

By *[Signature]*  
Deputy Clerk.

Published .....

PUBLISH  DO NOT PUBLISH

CITY ATTORNEY .....

City of Seattle Personnel Department

Norman B. Rice, Mayor Dwight K. Imanaka, Personnel Director



CB 107153  
8/90

August 14, 1990

W.P. 115766

TO: Dolores Sibonga, Chair  
Finance, Budget, and Management Committee

FROM: Dwight K. Imanaka  
Personnel Director

SUBJECT: Sunset Review of the City's Limited Duty Policy for Pregnant Employees  
(SMC 4.10.050)

Attached is a copy of a July 20, 1990, letter sent to labor unions representing City employees giving notice of the Mayor's intent to propose legislation removing the sunset language from the above-referenced ordinance. We received only two responses, both in favor of removal. The letters from the International Federation of Professional and Technical Engineers, Local 17, and the Seattle Police Officers' Guild are attached.

Thank you.

DKI:clp  
Attachments

cc: Judy Bedell, Office for Women's Rights  
Anne Levinson, Mayor's Office

RECEIVED

AUG 14 1990

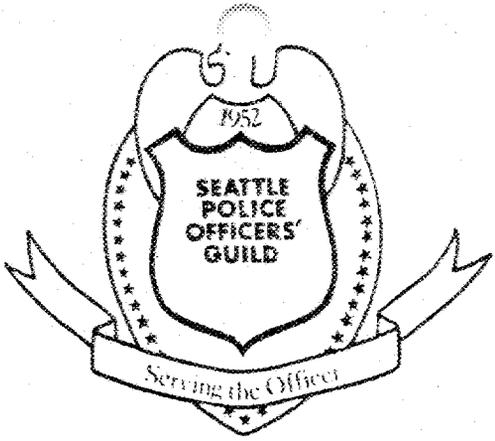
DOLORES SIBONGA  
SEATTLE CITY COUNCIL MEMBER

m\sunset.dki

*Terminated Duty - Polgren* LL

ONE 623-4802

407 JEFFERSON STREET, SEATTLE, WASHINGTON 98104



July 30, 1990

Bill Hauskins  
Director of Labor Relations  
City of Seattle  
Personnel Department

RE: Removal of Sunset Clause SMC 4.10.050

Dear Mr. Hauskins:

Thank you for the opportunity to comment on SMC 4.10.050.

The Seattle Police Officers' Guild supports the removal of the Sunset Clause.

By doing so however, we do not waive any right to bargain for Light Duty benefits as agreed in Article XXI of our Collective Bargaining Agreement.

Sincerely,

Ed Striedinger  
President  
SEATTLE POLICE OFFICERS' GUILD

ES/dm



July 30, 1990

INTERNATIONAL  
FEDERATION OF  
PROFESSIONAL  
AND  
TECHNICAL  
ENGINEERS

LOCAL NO. 17  
AFL-CIO

2900 EASTLAKE AVENUE EAST  
SUITE 300  
SEATTLE, WA 98102  
(206) 328-7321  
1-800-783-0017

Mr. Bill Hauskins  
Director of Labor Relations  
City of Seattle  
Dexter Horton Building  
710 Second Avenue, 4th Floor  
Seattle, WA 98104

**Re: Repeal of Limited Duty Policy's Sunset Clause**

Dear Mr. Hauskins:

Local 17 is fully in support of the elimination of the sunset provision of City's Limited Duty Policy for Pregnant Employees, SMC 4.10.050. While the Union supports the policy, it continues to hold the position that Local 17 contracts with the City supersede the provisions of Ordinance 113597 in regard to the pay level while assigned to limited duty. Please see Article 11, Section 2 of the Administrative Support contract and Article 11, Section 5 of the Professional/Technical contract.

Thank you for bringing the change in the ordinance to our attention and we look forward to its passage by the City Council and Mayor.

Sincerely,

Paul M. Grace  
Business Representative

PMG:dc  
opeiu8

City of Seattle Personnel Department

Norman B. Rice, Mayor

Dwight K. Imanaka, Personnel Director



July 20, 1990

(Sent to all Unions on attached list.)

RE: Ordinance to Repeal the Sunset Clause on the Limited Duty Policy for Pregnant Employees, SMC 4.10.050

Dear ^C:

Enclosed is a copy of City Ordinance 113597 cited at Seattle Municipal Code (SMC) 4.10.050 concerning assignment of pregnant employees to alternative jobs when unable to perform their regularly assigned duties.

By its terms, this ordinance is due to "sunset" or become ineffective as of September 8, 1990. By the attached proposed ordinance, the Mayor is to recommend the three-year limit on the ordinance be removed.

Please address any comments you may have on this proposed action in writing to me at your earliest convenience, but no later than July 31, 1990. If you would like to discuss this matter further, please contact Carol Laurich at 684-7873.

Sincerely,

Bill Hauskins  
Director of Labor Relations

BH:clp  
Enclosure

cc: Judy Bedell  
Carol Laurich  
Department Personnel Managers  
and Officers

m\pregnant.pri

Commission's proceedings with a temporary replacement shall be valid to all intents and purposes. The appointment of a temporary replacement shall not reduce the rights or privileges of the regular member, who is excused from acting on the particular matter, with respect to any other matters or proceedings of the Commission.  
(Ord. 108077 § 1, 1979; Ord. 107791 § 23, 1978.)

**4.08.210 Penalties.**

Any person who violates any of the provisions of Section 4.08.160 shall, upon conviction thereof, be fined in an amount not to exceed Five Hundred Dollars (\$500.00) and/or imprisoned in the City Jail for a period not to exceed one hundred eighty (180) days. In addition, such violation shall constitute good cause for dismissal or other discipline at the discretion of the appointing authority.  
(Ord. 107791 § 17, 1978.)

**Chapter 4.10  
LIMITED DUTY ASSIGNMENTS—  
PREGNANCY**

**Sections:**

- 4.10.010 Purpose—Policy.**
- 4.10.020 Procedure—Accommodation.**
- 4.10.030 Limitations.**
- 4.10.040 Departmental operating procedures.**
- 4.10.050 Condition of employment; "sunset."**

**4.10.010 Purpose—Policy.**

It is the policy of The City of Seattle to recognize pregnancy as a normal occurrence in a woman's life and to provide female employees an opportunity to continue to participate in the work force during a normal pregnancy.  
(Ord. 113597 § 1 (part), 1987.)

**4.10.020 Procedure—Accommodation.**

A. Notwithstanding other provisions of Title 4 of this Code, a female employee who, upon advice of her physician and/or a physician employed by the City, may not safely perform all of the normal duties of her job due to pregnancy and who indicates a desire to continue working

prior to taking sick leave or maternity leave for which she may otherwise be eligible, shall, upon concurrence of the City, receive consideration for temporary reassignment. The employing department shall reasonably accommodate such a pregnant employee's desire for medically approved continued employment during pregnancy via one (1) or more of the alternatives listed below within the employing department, with the first alternative having preference, as long as such accommodation can be reasonably made:

1. Temporary reassignment to limited duties within the employee's job classification;
2. Temporary reassignment of the employee to a similar classification with equal pay for which the employee is qualified;
3. Temporary reassignment of the employee to another classification for which the employee is qualified but with lesser pay to be assigned to the pay step closest to that which the employee was receiving in her normal job classification.

B. Because of the separate and unique retirement system for uniformed police officers and firefighters, the temporary reassignment for pregnant firefighters or police officers shall only be provided as in subsection A1 of this section.  
(Ord. 113597 § 1 (part), 1987.)

**4.10.030 Limitations.**

A. Temporary reassignments made pursuant to SMC 4.10.020 of this Code shall be limited to the period of temporary incapacity caused by normal pregnancy both before childbirth and upon return to work but prior to the time when released by the employee's physician or a consulting physician retained by the City, to return to full duty.

B. "Temporary incapacity," for purposes of this section, is the period during which the employee cannot perform all of her regular duties, but is capable of performing a temporary limited duty assignment provided by the City as contemplated in SMC 4.10.020.

C. Female employees shall continue to be eligible for paid leave and leave without pay pursuant to the personnel laws and rules regarding such matters in order to provide for the period of temporary disability (illness) attributable to pregnancy and pregnancy-related conditions.

# Your City, Seattle

Executive Department-Office for Women's Rights  
Norman B. Rice, Mayor



## MEMORANDUM

DATE: July 12, 1990  
TO: Norm Rice, Mayor  
VIA: Andrew Lofton, Budget Director  
FROM: Judy Bedell, Acting Director  
RE: Ordinance to Repeal the Sunset Clause on the Limited Duty Policy for Pregnant Employees, SMC 4.10.050

RECEIVED OMB

JUL 12 1990

846393

I am submitting to you today an ordinance to repeal the three-year sunset clause in the Limited Duty Policy for Pregnant Employees, SMC 4.10.050, established in September 1987. At the time the policy was adopted, a sunset clause was established to provide for a review of the effects of limited duty work assignments on City departments.

In general the policy has worked effectively and no unanticipated costs or problems have arisen. Departments commenting on the policy unanimously support its continuation and the repeal of the three-year sunset clause.

### Background

By ordinance in September 1987 the City of Seattle adopted a limited duty assignment policy for pregnant employees. The intent of the policy was to ensure that pregnant City employees would have the opportunity to work throughout their pregnancies in medically-approved assignments. Limited-duty assignments were to be based on medical need and arranged on a case-by-case basis for individual employees. The policy was consistent with emerging case law (California Federal Savings and Loan vs. Guerra, 1987).

The need for the policy was reflected 1) in the medical research indicating pregnant women increasingly worked to the onset of childbirth and 2) in the City's growing numbers of women in strength-dependent, non-traditional jobs where medical accommodation would be required during pregnancy.

### Departmental Impacts Anticipated in 1987

With passage of the ordinance in 1987, the City recognized that impact of the limited duty policy would be greatest in the Fire Department. Prior to adoption of the policy, the Fire Department

was the only City department without a mechanism to provide limited duty assignments to pregnant employees. Limited duty assignments were provided only to LEOFF I personnel and firefighters injured on the job. The Fire Department alone anticipated cost increases in order to implement this policy. These costs would arise from the need to pay overtime replacement costs to maintain on-duty combat strength.

Changes in existing practice were anticipated in the Police Department, based on the existence in 1987 of a fixed, 16-week time limit for all sworn employees requesting a limited duty assignment. Additional departments employing women in strength-dependent jobs in 1987 (City Light, Engineering, Water, Parks, Seattle Center, DAS) reported that appropriate informal policies existed to accommodate employees with temporary disabilities, including pregnant women, and these departments anticipated no impact from the proposed limited duty ordinance.

#### Implementation History, 1987-1990

In April 1990 eight City departments employing women in strength-dependent, non-traditional jobs were asked a set of questions pertaining to the impact of the limited duty policy on their operations. Departments responding included Fire, Police, City Light, Parks, DAS, Seattle Center and Engineering.

#### 1) Requests for limited duty assignments, September 1987-April 1990.

As previously mentioned, accommodation of pregnant employees was common practice in the civilian departments employing women in non-traditional jobs in 1987. At this time only Police, Fire and Seattle Center maintain statistics on the implementation of this policy. Total requests they granted, September 1987-April 1990, by department were

Police	14
Fire	9
Seattle Center	5

#### 2) Average length of limited-duty assignment

For those three departments maintaining statistics, the length of the limited-duty assignments were as follows:

Police	16 weeks (variable)
Fire	39 weeks <sup>1</sup>
Seattle Center	4-10 weeks

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<sup>1</sup>Female firefighters are removed from combat at the time pregnancy is confirmed, resulting in a 37-40 week limited duty assignment.

3) Projects accomplished by employees in limited duty assignments

In civilian departments the majority of employees were accommodated in their regular job assignment. For employees in positions where heavy lifting or environmental hazards existed, assignments were made in an office setting to complete inspections, records and maintenance management projects. Employees remained in their own classification or were placed in a similar position with equal pay. Work assignments were consistent with pay rates and based on identified department need.

In the Police Department, employees were assigned to offices receiving citizen complaints, developing and analyzing statistics and preparing reports and records. In Fire, assignments were made in training, records inspection and hazardous materials program formulation. All assignments required sworn personnel. Among public safety assignments, salaries were maintained in the existing pay grade.

4) Costs

No departments reported any unanticipated costs in implementing the policy.

JB:dp:134

cc: Anne Levinson, Mayor's Office  
Marilyn Sherron, Law  
Carol Laurich, Personnel

# City of Seattle

Executive Department-Office of Management and Budget

Andrew J. Lofton, Director  
Norman B. Rice, Mayor



COPIES RECEIVED

90 JUL 25 PM 12:23

SEATTLE CITY ATTORNEY

July 23, 1990

The Honorable Mark Sidran  
City Attorney  
City of Seattle

*Sherron 11,465-*

Dear Mr. Sidran:

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

REQUESTING  
DEPARTMENT: Executive

SUBJECT: AN ORDINANCE relating to Limited Duty Assignments -- Pregnancy, repealing three-year sunset clause (SMC 4.10.050).

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

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Rick Painter at 684-8080.

Sincerely,

Norman B. Rice  
Mayor

by

*Rick Painter for*

ANDREW J. LOFTON  
Budget Director

Enclosure

AL/sw/dcc

STATE OF WASHINGTON - KING COUNTY

29932  
City of Seattle

---ss.

No.

Affidavit of Publication

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

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

ORD# 115266

was published on

09/06/90

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

*[Signature]*  
Subscribed and sworn to before me on  
*[Signature]* SEP 16 1990

Notary Public for the State of Washington,  
residing in Seattle

## City of Seattle

### ORDINANCE 115266

AN ORDINANCE relating to and repealing SMC 4.10.050 to remove expiration date on the authorization for limited duty assignments for pregnant employees.

WHEREAS, in 1987 the City adopted a policy to reasonably accommodate pregnant employees in medically approved limited duty assignments which provided for a three-year sunset; and

WHEREAS, affected City departments report overall satisfaction with the policy and recommend its permanent continuation; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective October 1, 1990, Seattle Municipal Code Section 4.10.050 is repealed.

Section 2. Any action taken consistent with the authority and prior to the effective date of this ordinance is 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 26th day of August, 1990, and signed by me in open session in authentication of its passage this 29th day of August, 1990.

\_\_\_\_\_  
President Pro Tem of the City Council.  
Approved by me this 24th day of August, 1990.

MURMAN H. RICE,  
Mayor

Filed by me this 24th day of August, 1990.

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

(Seal) By: MARGARET CARTER,  
Deputy Clerk.

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

Date of official publication in Daily Journal of Commerce, Seattle, September 8,  
1990. 9/8/1990

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY  
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

*Adores Sibonga*

_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_

\_\_\_\_\_

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PRESIDENT'S SIGNATURE