SEATTLE CITY COUNCIL

Legislative Summary

CB 118428

Record No.: CB 118428 **Type:** Ordinance (Ord) **Status:** Passed

Version: 3 124809 **In Control:** City Clerk

File Created: 06/18/2015

Final Action: 07/17/2015

Title: AN ORDINANCE providing the Office of City Auditor independent audit authority, including access to employer records, after a case is closed by the Seattle Office for Civil Rights (SOCR) in order to evaluate SOCR's enforcement efforts of Chapters 14.16, 14.17, 14.19, and 14.20 of the Seattle Municipal Code (SMC); amending Sections 3.40.040, 14.16.060, and 14.20.050 of the SMC; and creating a new Section 14.19.065 of the SMC.

	Date
Notes:	
Filed with City Clerk:	7/17/2015
Mayor's Signature:	7/17/2015
Sponsors: Licata	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
3	Full Council	06/29/2015	referred	Finance and Culture Committee			
	Action Text: The Council Bill (CB) was referred. to the Finance and Culture Committee						
	Notes:						
3	Finance and Culture Committee	07/08/2015	pass				Pass
	Action Text: The Committee recommends that Full Council pass the Council Bill (CB).						
	Notes:						
		In Favor:	3	Chair Licata, Vice Chair Godden, Member Burgess			
		Opposed:	0				
3	Full Council	07/13/2015	passed				Pass
	Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:						

Notes:

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

3	City Clerk	07/14/2015	submitted for Mayor's signature	Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor

Notes:

3	Mayor	07/17/2015	Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

3	Mayor	07/17/2015	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

3	City Clerk	07/17/2015	attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 124809

COUNCIL BILL 118428

AN ORDINANCE providing the Office of City Auditor independent audit authority, including access to employer records, after a case is closed by the Seattle Office for Civil Rights (SOCR) in order to evaluate SOCR's enforcement efforts of Chapters 14.16, 14.17, 14.19, and 14.20 of the Seattle Municipal Code (SMC); amending Sections 3.40.040, 14.16.060, and 14.20.050 of the SMC; and creating a new Section 14.19.065 of the SMC.

WHEREAS, in 2011 the Seattle City Council passed Ordinance 123698, the Paid Sick and Safe Time Ordinance, which took effect September 1, 2012; and

WHEREAS, the Paid Sick and Safe Time Ordinance requires employers with more than four full-time equivalent employees to provide workers with paid leave for their and their family members' illness, preventative care, and critical safety needs related to domestic violence, sexual assault, or stalking; and

WHEREAS, the Office of City Auditor (OCA) was requested to perform an enforcement audit of Seattle's Paid Sick and Safe Time Ordinance; and

WHEREAS, the OCA performed an enforcement audit covering the period of September 1, 2012 through December 31, 2013; and

WHEREAS, OCA issued its report on October 17, 2014; and

WHEREAS, the OCA report made 13 recommendations to address its findings and strengthen the Seattle Office for Civil Rights' (SOCR) enforcement efforts; and

WHEREAS, among OCA's recommendations was to amend the City's four labor laws, including the Paid Sick and Safe Time Ordinance, the Minimum Wage Ordinance, the Administrative Wage Theft Ordinance, and the Job Assistance Ordinance, to provide

OCA independent authority to obtain and audit employers' records and interview complainants and respondents of closed cases in order to evaluate SOCR's enforcement efforts; and

WHEREAS, it is the City Council's intent through this ordinance to provide the OCA with such independent audit authority for the City's four labor laws, but it is not necessary to amend the Job Assistance Ordinance because it refers to the Paid Sick and Safe Time Ordinance for enforcement authority; and

WHEREAS, SOCR did not disagree with the recommendation, but wanted the City to consider the potential for confusion if multiple City agencies had enforcement authority of the same ordinance; and

WHEREAS, SOCR and OCA have worked on the proposed language to clarify the purpose of OCA's audits, and the jurisdiction and responsibilities of the two City agencies; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.40.040 of the Seattle Municipal Code, last amended by Ordinance 121722, is amended as follows:

3.40.040 Auditing authority((.))

A. The City Auditor is authorized to audit the records of the Seattle Public Library, the Seattle City Employees Retirement System, the Firefighters' Pension Fund, and the Police Pension Fund and, to the extent authorized by law, the Seattle Municipal Court.

B. The City Auditor is authorized to audit each Consultant Contract entered into by a Department to verify, among other things, that the procedures prescribed in this chapter were followed; that the compensation or other consideration provided to any Consultant has been

appropriate, under the circumstances, and that the contracted-for services were provided in a timely manner.

C. The City Auditor shall participate in the selection of all consultants providing auditing and accounting services in accordance with a memorandum of understanding entered into between such official and the Executive Department. The affected City department or Executive Department office may determine the terms and conditions of the agreement, but any such contract shall be subject to review by the City Auditor. All reports or financial statements submitted by such consultants shall be submitted to the City Auditor and the Director as well as the affected department or Executive Department office.

D. The City Auditor shall have the authority to audit employer compliance with Chapters 14.16, 14.17, 14.19, and 14.20 for the sole purpose of evaluating the enforcement efforts of the Office for Civil Rights and the Office of Labor Standards.

Section 2. Section 14.16.060 of the Seattle Municipal Code, enacted by Ordinance 123698, is amended as follows:

14.16.060 Employer Records

A. Employers shall retain records documenting hours worked by employees and paid sick time taken by employees, for a period of two years. ((~~, and~~))

B. Employers shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to investigate potential violations and to monitor compliance with the requirements of this ((~~chapter~~)) Chapter 14.16.

C. Respondents in any case closed by the Agency shall allow the Office of City Auditor access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement efforts. Before requesting records from such a respondent, the Office of City Auditor shall first

consult the Agency's respondent records on file and determine if additional records are necessary.

((~~B.~~)) D. Employers shall not be required to modify their recordkeeping policies to comply with this section, as long as records reasonably indicate employee hours worked in Seattle, accrued paid sick and safe time, and paid sick and safe time taken. When an issue arises as to the amount of accrued paid sick time and/or paid safe time available to an employee under this ((~~chapter~~)) Chapter 14.16, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick and safe time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated this ((~~chapter~~)) Chapter 14.16.

((~~C.~~)) E. Records and documents relating to medical certifications, re-certifications, or medical histories of employees or employees' family members, created for purposes of this chapter, are required to be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) applies, then these records must comply with the ADA confidentiality requirements.

Section 3. A new Section 14.19.065 is added to the Seattle Municipal Code as follows:

14.19.065 Records

A. Employers shall allow the Agency access to the records required to be kept under subsection 4.19.060.C.3 to investigate potential violations and to monitor compliance with the requirements of this Chapter 14.19.

B. Employers in any case closed by the Agency shall allow the Office of City Auditor access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement efforts. Before requesting records from such a respondent, the Office of City Auditor shall first

consult the Agency's respondent records on file and determine if additional records are necessary.

Section 4. Section 14.20.050 of the Seattle Municipal Code, enacted by Ordinance 124645, is amended as follows:

14.20.050 Records

A. For a period of three years, employers shall retain payroll records pertaining to covered employees that document the name, address, occupation, dates of employment, rate or rates of pay, amount paid each pay period, and the hours worked for each employee.

1. Employers shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to investigate potential violations and to monitor compliance with the requirements of this Chapter 14.20.

2. Employers in any case closed by the Agency shall allow the Office of City Auditor access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement efforts. Before requesting records from such a respondent, the Office of City Auditor shall first consult the Agency's respondent records on file and determine if additional records are necessary.

B. If an issue arises as to an employee's entitlement to wage and tip compensation under this Chapter 14.20, if the employer does not maintain or retain adequate payroll records, or does not allow the Agency reasonable access to such records, there shall be a presumption, rebuttable by clear and convincing evidence, that the employer violated this Chapter 14.20.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 13th day of July, 2015, and signed by me in open session in authentication of its passage this 13th day of July, 2015.

President _____ of the City Council

Approved by me this 17th day of July, 2015.

Edward B. Murray, Mayor

Filed by me this 17th day of July, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

STATE OF WASHINGTON -- KING COUNTY

--ss.

326943

No. 124810,809,808,807,806

CITY OF SEATTLE,CLERKS OFFICE

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

CT:TITLE ONLY RESOLUTION

was published on

07/31/15

The amount of the fee charged for the foregoing publication is the sum of $108.50 which amount has been paid in full.

Subscribed and sworn to before me on

07/31/2015

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on July 13, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124810

AN ORDINANCE related to cable television; authorizing the Mayor or his designee to enter into a new Cable Television Franchise Agreement and an agreement regarding additional public benefits with Qwest Broadband Services, Inc. d/b/a CenturyLink; authorizing the Chief Technology Officer to enter into other agreements for the purpose of implementing or administering the new franchise; increasing appropriations in the 2015 budget of the Department of Information Technology for costs incurred in processing the franchise application; and transferring cash received for processing the franchise application; all by a 3/4 vote of the City Council.

Ordinance 124809

AN ORDINANCE providing the Office of City Auditor independent audit authority, including access to employer records, after a case is closed by the Seattle Office for Civil Rights (SOCR) in order to evaluate SOCR's enforcement efforts of Chapters 14.16, 14.17, 14.19, and 14.20 of the Seattle Municipal Code (SMC); amending Sections 3.40.040, 14.16.060, and 14.20.050 of the SMC; and creating a new Section 14.19.065 of the SMC.

Ordinance 124808

AN ORDINANCE related to business licenses; amending Sections 5.30.030, 5.30.060, 5.32.150, 5.40.060, 5.40.080, 5.40.085, 5.45.110, 5.55.030, 5.55.040, 5.55.220, and 5.55.230 of the Seattle Municipal Code; and adding a new Section 5.55.238 to the Seattle Municipal Code.

Ordinance 124807

AN ORDINANCE related to the regulation of marijuana businesses; adding a new Chapter 6.500 to the Seattle Municipal Code; amending Ordinance 124648, which adopted the 2015 Budget, changing appropriations to various departments and budget control levels, making cash transfers between various City funds; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 124806

AN ORDINANCE relating to the City Light Department; approving a 15-year franchise to construct, operate, maintain, replace, and repair an electrical light and power system in, across, over, along, under, through, and below certain designated public rights-of-way in the City of Lake Forest Park.

Date of publication in the Seattle Daily Journal of Commerce, July 31, 2015.

7/31(326943)