## STAFF REPORT

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| **Agenda Item:** |  | **Name:** | Sahar Fathi |
| **Proposed No**.: |  | **Date:** | March 14, 2019 |

**SUBJECT**

Brief analysis on referendum and initiative process at the City of Seattle, King County, and State of Washington for the Charter Review Commission.

**SUMMARY**

The below staff report provides a comparison of timelines and requirements for initiatives and referenda across Washington State, King County and the City of Seattle.

**BACKGROUND**

In 1912, Washington became one of the first states to adopt the initiative and referendum process.[[1]](#footnote-1)The power of initiative is used to propose new legislation and the power of referendum is used to review previously adopted legislation.[[2]](#footnote-2) The powers of initiative and referendum are not available to all classes of municipalities. These powers are not automatically included in the powers granted to cities, towns, or counties. The authority for use of these powers is found either in the state constitution or in enabling legislation adopted by the state legislature, or both. In Washington, the only cities that have been granted the powers of initiative and referendum are the first class cities (of which Seattle is one), code cities that have formally adopted these powers, and cities with the commission form of government[[3]](#footnote-3). The only counties that may exercise these powers are counties that have formally adopted them by charter. Of the 39 counties in Washington, 33 retain the commission structure as outlined in Title 36 RCW; six counties have established themselves as charter counties by drafting a charter and submitting it to a vote of the people. The state constitution specifically grants the authority to adopt a charter to first class cities, and RCW 35.22.200 specifically provides that a first class city charter may provide for direct legislation by the people through the initiative and referendum process. All of the ten first class cities in Washington have adopted the powers of initiative and referendum, and the procedures for exercising these powers are set out in the city charter of each city.[[4]](#footnote-4)

The state constitution grants counties the option of adopting a charter for their own form of government, and that charter may provide for direct legislation by the people through the initiative and referendum process. Seven counties have adopted a charter: Clallam, Clark, King, Pierce, San Juan, Snohomish, and Whatcom. Each has adopted the powers of initiative and referendum. Procedures for the exercise of these powers are set out in the charter of each county.[[5]](#footnote-5)

In general, under Washington State law only ordinances may be enacted by initiative or repealed by referendum. The powers of initiative and referendum are not applicable to any other type of legislative enactment by a city or county council, such as a motion, order, or resolution. In 2003, the Washington State Supreme Court held that amending the county charter was not outside the scope of the initiative power. In ruling that the King County charter did not restrict the people’s authority to amend the county charter the state supreme court stated that “one of the foremost rights of Washington State citizens is the power to propose and enact laws through the initiative process.”[[6]](#footnote-6)

**ANALYSIS**

**Referendums:**

State law governs when a general or special election must be held in Washington. A county legislative authority may call a special county election on one of the following dates as set out in RCW 29A.04.321: 1. The second Tuesday in February; 2. The fourth Tuesday in April; 3. The third Tuesday in May; 4. The day of the primary election as specified by RCW 29A.04.311; 5. The first Tuesday after the first Monday in November (this is the same date as the general election date in November).

Table 1: REFERENDUMS - Comparison between Washington State, King County[[7]](#footnote-7) and City of Seattle[[8]](#footnote-8)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Washington State** | **King County** | **City of Seattle** |
| **Signature Requirements** | Referendum measures[[9]](#footnote-9): Petition signatures equal to **four percent** of the total votes case for the office of Governor in the last election.[[10]](#footnote-10) | Signatures of no less than **eight percent** of voters in the county that voted in the last election for county executive.[[11]](#footnote-11) | Signatures equal to not less than **8 percent** of the total number of votes cast for the office of mayor at the last preceding municipal election. |
| **Deadlines** | Referendum measures may be filed within 90 days after the Legislature has passed the law. | If sufficient, the referendum will be put on the ballot at the next special or general election occurring more than 45 days after the petitions are filed. | The amount of time allowed to gather signatures is typically only 29 days.[[12]](#footnote-12) |

**Initiatives**

*Countywide special elections are rare and expensive. Should this be only primary or general elections to avoid the cost of a countywide special election?*

There is some language in the City of Seattle with regard to Initiatives and Special Elections. The City of Seattle’s Charter, Article IV (E) states that a special election is required: “If an initiative petition shall be signed by a number of qualified voters of not less than twenty (20) percent of the total number of votes cast for the office of Mayor at the last preceding municipal election, or shall at any time be strengthened in qualified signatures up to said percentage, then the City Council shall provide for a special election upon said subject, to be held within sixty (60) days from the proof of sufficiency of the percentage of signatures.”

Table 2: INITIATIVES Comparison between Washington State, King County and City of Seattle

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Washington State** | **King County** | **City of Seattle** |
| **Deadlines** | Initiatives to the People[[13]](#footnote-13)  • Filing starts late December or early January with signature petition sheets due in early July.  Initiatives to the Legislature[[14]](#footnote-14)  • Filing starts in early March with signatures due in early January | If sufficient, the council has 90 days to adopt the ordinance as petitioned or place the proposed ordinance on the ballot not less than 135 days after the petitions were filed. | The petition coordinator will have 180 days to collect the required number of signatures[[15]](#footnote-15). Begin counting on the day after the date of the letter providing notification of the approved ballot title. Include Saturdays, Sundays and legal holidays in the count. |
| **Signature Requirements** | Equal to or in excess of **8 percent** of the total votes cast for the office of Governor at the last regular state gubernatorial election. | Not less than **10 percent** of the voters of the county that voted in the last election for county executive.[[16]](#footnote-16) | Not less than **10 percent** of the total votes cast for mayor at the last Mayoral election.[[17]](#footnote-17) |

**Referendum Petitions**

Table 3: REFERNDUM PETITIONS - comparison between Washington State, King County and City of Seattle

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Washington State** | **King County** | **City of Seattle** |
| **Background Ordinances** | RCW 35A.01.040 | K.C.C. 1.16.020 and  K.C.C. 1.16.065 (A) | SMC 2.12.010 and  SMC 2.8.030 |
| **Paper** | Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and a warning.[[18]](#footnote-18) | Printed on single sheets of white paper of good quality, eight and one-half inches in width and fourteen inches in length, with a margin of one and three-quarters inches at the top for binding.  The front side of the petition shall have a minimum font size of eight point font. | Printed on single sheets of paper of good writing quality at least eight and one-half (8½) inches in width and eleven (11) inches in length, but no larger in size than eleven (11) inches in width and seventeen (17) inches in length with a margin of at least one (1) inch at the top. |
| **Signature lines** | Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing; | Numbered lines for not more than twenty signatures on each sheet | Each petition should consist of not more than one (1) sheet with numbered lines for not more than twenty (20) signatures on each sheet. The printed words shall be legible. |
| **Language/Supporting Information to be included** | (1) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;  (2) If the petition initiates or refers an ordinance, a true copy thereof;  (3) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area, (4) The warning statement.[[19]](#footnote-19) | A full, true and correct copy of the measure being proposed or referred printed on the reverse side of the petition or on sheets of paper of like size and quality as the petition, and a web address if one exists to the measure being proposed or referred in twelve point font at the top of the reverse side of the petition, firmly fastened to the petition  The prescribed ballot title or sufficient room for the ballot title to be inserted if the ballot title has not yet been prepared by the prosecuting attorney | A full, true and correct copy of the proposed measure referred to therein shall be printed on the reverse side of the petition; provided that in lieu of being printed on the reverse side of the petition, such proposed measure may be printed on sheets of paper of like size and quality as the petition and firmly fastened thereto. |

**Effective Date of Ordinances**

Table 4: EFFECTIVE DATE OF ORDINANCES- Comparison between Washington State, King County and City of Seattle

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Washington State** | **King County** | **City of Seattle** |
| **Overview** | 90 days after the adjournment of the session at which it was enacted. | 10 days after its enactment unless a later date is specified in the ordinance. | After a proclamation by the mayor, which shall be made and published in the City official newspaper, within five (5) days after the election. Provided, however, that if the ordinance itself shall designate a subsequent date for taking effect, the proclamation shall name the said date as the time for taking effect.[[20]](#footnote-20) |

**Amendment or Repeal of Ordinances Approved by Voters**

Table 5: AMENDMENT OR REPEAL OF ORDINANCES APPROVED BY VOTERS - comparison across Washington State, King County, and City of Seattle.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Washington State** | **King County** | **City of Seattle** |
| **Timeline** | No amendment or repeal within a period of two years following enactment. | No amendment or repeal within a period of two years following enactment. | No amendment or repeal within a period of two years following enactment. |

1. Office of Secretary of State, “Initiatives & Referenda in Washington State.” <https://www.sos.wa.gov/_assets/elections/initiatives/initiative%20and%20referenda%20handbook%202017%20.pdf> at 3. [↑](#footnote-ref-1)
2. Municipal Research and Services Center, “Initiative and Referendum Guide for Washington Cities and Charter Counties.” Found at: <http://mrsc.org/getmedia/18593ba0-fa89-4776-84dc-3dcab86b3449/Initiative-And-Referendum-Guide.pdf.aspx?ext=.pdf> at 1 [↑](#footnote-ref-2)
3. Specific statutory rules apply to petitions in cities, including referendum and initiative petitions. These are found in RCW 35.21.005 and RCW 35A.01.040. [↑](#footnote-ref-3)
4. Municipal Research and Services Center, “Initiative and Referendum Guide for Washington Cities and Charter Counties.” Found at: <http://mrsc.org/getmedia/18593ba0-fa89-4776-84dc-3dcab86b3449/Initiative-And-Referendum-Guide.pdf.aspx?ext=.pdf> at 3 [↑](#footnote-ref-4)
5. Municipal Research and Services Center, “Initiative and Referendum Guide for Washington Cities and Charter Counties.” Found at: <http://mrsc.org/getmedia/18593ba0-fa89-4776-84dc-3dcab86b3449/Initiative-And-Referendum-Guide.pdf.aspx?ext=.pdf> at 4 [↑](#footnote-ref-5)
6. Maleng v. King County Corrections Guild, 76 P.3d 727 (2003), found at: https://law.justia.com/cases/washington/supreme-court/2003/74130-1-1.html [↑](#footnote-ref-6)
7. The state constitution grants counties the option of adopting a charter for their own form of government, and that charter may provide for direct legislation by the people through the initiative and referendum process. [↑](#footnote-ref-7)
8. The state constitution specifically grants the authority to adopt a charter to first class cities, and [RCW 35.22.200](http://app.leg.wa.gov/rcw/default.aspx?cite=35.22.200) specifically provides that a first class city charter may provide for direct legislation by the people through the initiative and referendum process.  [↑](#footnote-ref-8)
9. There are two types of referenda: Referendum Measures and Referendum Bills. Referendum Measures are laws recently passed by the Legislature and placed on the ballot by referendum petition. A referendum may be filed on all or part of the law. Referendum Bills are proposed laws referred to the voters by the Legislature. [↑](#footnote-ref-9)
10. Secretary of State, “Referendum Quick Facts.” Found at <https://www.sos.wa.gov/elections/referendumquickfacts.aspx> [↑](#footnote-ref-10)
11. For unincorporated areas - an enacted ordinance which pursuant to state law is effective only in unincorporated areas of the county may be subjected to a referendum by the voters of the unincorporated areas of the county by filing with the county council prior to the effective date of the ordinance petitions bearing signatures of registered voters residing in unincorporated areas of the county equal in number to not less than eight percent of the votes cast at the last preceding election for county executive, provided however that the number of required signatures shall be calculated based only upon votes cast within areas which on the date such petitions are required to be filed are unincorporated areas of the county. [↑](#footnote-ref-11)
12. This is because the referendum must be filed before the effective date of the ordinance being referred. [↑](#footnote-ref-12)
13. Initiatives to the People are submitted for a vote of the people at the next state general election. Initiatives submitted to the people require a simple majority of voter approval to become law (except for gambling or lottery measures, which require 60 percent approval). [↑](#footnote-ref-13)
14. Initiatives to the Legislature are submitted to the Legislature at its regular session each January. Once submitted, the Legislature must take one of the following three actions: (1) The Legislature may adopt the initiative as proposed and it becomes law without a vote of the people; (2) The Legislature may reject or refuse to act on the proposed initiative and the initiative must be placed on the ballot at the next state general election; or (3) The Legislature may propose a different measure dealing with the same subject and both measures must be placed on the next state general election ballot. Found in: Office of Secretary of State, “Initiatives & Referenda in Washington State.” <https://www.sos.wa.gov/_assets/elections/initiatives/initiative%20and%20referenda%20handbook%202017%20.pdf> at 4. [↑](#footnote-ref-14)
15. Seattle City Charter Art. IV, § 1.B.; see also RCW 35.21.005(8) [↑](#footnote-ref-15)
16. In addition, an ordinance which pursuant to state law is effective only in unincorporated areas of the county, except an ordinance providing for the compensation or working conditions of county employees, may be proposed by filing with the county council petitions bearing signatures of registered voters residing in unincorporated areas of the county equal in number to not less than ten percent of the votes cast at the last preceding election for county executive, provided, however that the number of required signatures shall be calculated based only upon votes cast within areas which on the date such petitions are required to be filed are unincorporated areas of the county.  [↑](#footnote-ref-16)
17. Seattle City Charter, Art. IV, § 1.B [↑](#footnote-ref-17)
18. WARNING: Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor. Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing. [↑](#footnote-ref-18)
19. See Footnote 18. [↑](#footnote-ref-19)
20. http://clerk.seattle.gov/~public/initref/ReferendumFAQ.htm [↑](#footnote-ref-20)