

MOTION NO. 8603

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A MOTION requesting the Office of the Prosecuting Attorney to seek leave to file and to file an amicus curiae brief on behalf of King County with the U.S. District Court in Cunningham v. Metro regarding the remedy to be ordered by the court to cure the unconstitutional structure of the Metro Council.

WHEREAS, the Honorable William L. Dwyer, Judge, United States District Court for the Western District of Washington has entered an order in the case of Cunningham et al v. Municipality of Metropolitan Seattle (METRO), No. C89-1587WD, declaring that the current system of selecting Metro Council members results in impermissibly disproportionate representation, and hence violates the Equal Protection Clause of the 14th Amendment to the United States Constitution, and

WHEREAS, the court further ordered that the defendants present to the court by April 3, 1992 a fully adopted measure curing the constitutional defect in the composition of the Metro Council, and

WHEREAS, through the Regional Governance Summit Process with participation by Seattle and suburban city officials a proposal was developed calling for an amendment to the King County Charter and for King County to assume the functions of the Municipality of Metropolitan Seattle (Metro) pursuant to RCW Ch. 36.56, which measure was approved by a majority of voters voting thereon in King County, but deemed to have failed by operation of the dual majority requirement contained in such statute, and

WHEREAS, although the 1992 Regular Session of the House of Representatives of the State of Washington overwhelmingly approved a measure which would have authorized King County to assume the functions of Metro without another election on the issue, but such measure was never allowed a hearing in the

1 Senate despite the substantial probability that it would have
2 been approved by the Senate and become law, and

3 WHEREAS, remedies suggested by Metro, Seattle, and
4 Bellevue all call for the court to create a new Metro Council
5 which is appointive, which would be of dubious
6 constitutionality and repugnant under the fundamental American
7 principles of participatory democracy and republican
8 government, and rather than curing the violations of voting
9 rights would entirely denying King County citizens any right to
10 vote for the persons governing the vital water pollution
11 abatement and public transit functions within King County, and

12 WHEREAS, a remedy which would restrain members of the
13 Metro Council other than those elected consistent with one
14 person-one vote would vindicate voting rights and would be
15 consistent with the only alternative Metro governance method
16 authorized by the state legislature, that is, by the governing
17 body of King County, and

18 WHEREAS, such a remedy would be consistent with the will
19 of the voters of King County as expressed in the November 1991
20 general election regarding the assumption of the functions of
21 Metro by King County, which will was frustrated solely by
22 operation of the unconstitutional dual majority requirement of
23 RCW 36.56.040;

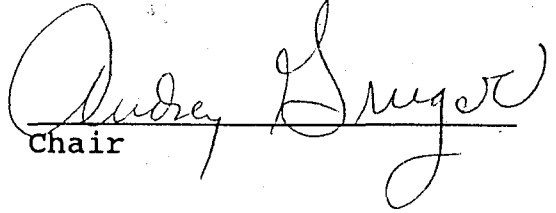
24 NOW, THEREFORE BE IT MOVED by the Council of King County:

25 The Office of the Prosecuting Attorney is requested, in
26 consultation with legal counsel to the Council, to file on
27 behalf of King County a motion with the court requesting leave
28 to file an amicus curiae brief and a brief urging the court to
29 adopt as a remedy an injunction restraining from acting in any
30 official capacity any member of the Metro Council who has not
31 been elected to that office consistent with the principle of
32 one person, one vote, i.e., all members other than the County
33 Council and Executive.

34 PASSED this 20th day of April, 1992


35 KING COUNTY COUNCIL

KING COUNTY, WASHINGTON


Chair

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ATTEST:


Clerk of the Council