

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

COUNCIL OF THE DISTRICT OF
COLUMBIA,

Plaintiff,

v.

VINCENT C. GRAY, in his official capacity
as Mayor of the District of Columbia,

and

JEFFREY S. DeWITT, in his official capacity
as Chief Financial Officer for the District of
Columbia,

Defendants.

No. 1:14-cv-00655-EGS

PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT OR REMAND

Pursuant to Federal Rule of Civil Procedure 56(a), Local Rule 7, and this Court’s Order dated April 22, 2014, plaintiff Council of the District of Columbia (“the Council”) hereby moves for summary judgment, including the entry of a permanent injunction against defendants Vincent C. Gray and Jeffrey S. DeWitt. In the alternative, pursuant to 28 U.S.C. § 1447, the Council moves to remand this action to the Superior Court of the District of Columbia.

The grounds supporting this Motion are set forth in the accompanying Statement of Undisputed Material Facts and Memorandum of Points and Authorities. In brief, the Council states as follows:

1. This year, the residents of the District of Columbia will contribute more than \$7 billion in tax and fees to fund their local government.
2. In every other home-rule jurisdiction in the country, the locally elected officials

who set the tax rates also authorize the expenditures of those locally raised funds.

3. Congress granted home rule to the District of Columbia in 1973. As part of the Home Rule Act, Congress transferred the right to collect locally raised taxes and fees from the U.S. Treasury to the District government and specified that such revenues, in the D.C. General Fund, “shall belong to the District government.” Home Rule Act § 450, D.C. Code § 1–204.50.

4. The Home Rule Act also established the District Charter. The Charter is “[s]imilar in certain respects to a state constitution.” *Shook v. D.C. Fin. Responsibility & Mgmt. Assistance Auth.*, 132 F.3d 775, 776 (D.C. Cir. 1998). Like a state constitution, the Charter became effective only upon ratification by District voters. And like a state constitution, the Charter has an amendment process; it is the only part of the Home Rule Act subject to amendment by the District.

5. The budget process for spending the District’s local funds was included by Congress as part of the District Charter. Pursuant to that process, the Council proposed a budget that Congress then affirmatively enacted.

6. This action concerns an amendment the District Charter’s budget process. Following the process for amending the Charter, the Local Budget Autonomy Act of 2012 was enacted by the Council, signed by the Mayor, ratified by a substantial majority (83%) of the District’s voters in an April 2013 referendum, and permitted to enter into law by Congress.

7. Pursuant to the Budget Autonomy Act, the District’s annual budget for locally raised funds is passed by the Council and submitted to Congress for the same form of review that applies for all other District legislation; an affirmative act is no longer required.

8. The Budget Autonomy Act did not affect the disposition of federal funds in the District.

9. In addition to bringing the process for expending local funds in line with the process for passing all other legislation, the Budget Autonomy Act brought the District in line with every other home-rule jurisdiction in the country. Now all have the ability to spend locally raised tax and fee revenues.

10. On April 11, 2014, defendants Vincent C. Gray and Jeffrey S. DeWitt announced in separate letters that they would not comply with the Budget Autonomy Act and would impede the Council's efforts to follow the Act's procedures.

11. The Council filed suit for declaratory and injunctive relief on April 17, 2014. Dkt. No. 1–3. Defendants then removed the action to this Court (Dkt. No. 1), which set a summary judgment briefing schedule to resolve the legal dispute at the center of this case.

12. Defendants' opposition to the Act is based on errors in their analysis of its validity. Contrary to Defendants' position, the Act complies with federal budget laws and is within the scope of Charter amendments permitted by the Home Rule Act.

13. Declaratory relief is warranted because there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality.

14. In the alternative, injunctive relief is warranted. The Mayor's refusal to enforce the Budget Autonomy Act will cause irreparable injury to the Council because his conduct will contravene the Council's exclusive power to legislate. Moreover, Defendants' refusal to enforce the Budget Autonomy Act will cause the Council irreparable injury because their conduct will (1) nullify the Council's legislative act in enacting the Budget Autonomy Act; (2) deprive the Council of information to which it is entitled in the formulation of its budget; (3) impede the orderly administration of government; and (4) deprive the Council of funding for its necessary operations. The balance of hardships and public interest strongly favor entry of a permanent

injunction prohibiting them from depriving the Budget Autonomy Act of its binding force.

15. In the further alternative, because the Council's Complaint does not present a substantial federal question, the case should be remanded to Superior Court.

WHEREFORE, Plaintiff's Motion for Summary Judgment or Remand should be granted.

Dated: April 25, 2014

Respectfully submitted,

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