

LAW A563 – Local Government Law

Spring Quarter 2019 | Monday and Wednesday 8:50 am to 10:20 am | Room 207

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Office hours: Monday-Wednesday 10:30 to 12:30 and by appointment most any time.

Course Description and Objectives

This course provides a basic introduction to local government law, using Washington State municipal law as a model. The course covers the sources of local government authority, formation and structure of municipal corporations, police, general services and proprietary powers, public official ethics and open government, government attorney ethics, taxation and finance, and public works. At the conclusion of the course, you should have a good working overview of municipal law and useful technical knowledge of some key subareas within that field. You will also have a heightened awareness of the interaction between politics and every day law, and an improved sense of how to be an effective lawyer within that environment. We do not include land use law, which is the topic of a separate course.

Course Materials

The course will use one photocopied text: a set of Washington statutory and case readings called “Washington Municipal Law Readings,” referred to below as “Readings.” These photocopied materials are available from the Rams Copy Center, 4144 University Way NE (632-6630). Certain required readings will be made available through the Canvas course website, to save copying costs. Just because they’re on the website doesn’t mean you can skip them—please do read them! A number of optional law review articles and other items are also on the Canvas website. These articles are quite useful in providing a big picture overview of the topics they address, and some of them might be helpful in preparing for the exam.

There are two Case Studies interspersed among the readings. One is an individual “lab” activity involving a short memo for an imaginary city council member. Students will complete that one outside class. The other Case Study will involve teams that will discuss the problem presented and collectively prepare bullet point summaries of the analyses they develop. Participation in the Case Studies is required and will be part of the participation grade.

The attached schedule suggests the date on which we will cover a segment of the readings for each class, although the number of classes devoted to each subject (and the dates) may be adjusted as the quarter progresses. **NOTE that on some days we will cover more than one segment**, while certain segments require more than one day of class (or a portion of a couple of class days). I’ll try to keep you current on where I expect the class to be in the readings. If you miss a class, be sure to check in with a colleague regarding how far we progressed on that date.

Please read the Assignment and Introductory Notes for each major section of the course materials—you will find them very helpful in understanding the relevant readings. Also note where I suggest in the syllabus, or in the course materials, where you can skim certain readings.

It is **very important to do the readings for the first class ahead of April 1**, because we have a limited number of class sessions in Spring Quarter and we need to hit the ground running.

Grading

There will be an exam at the end of the course. It will be an open book, open computer exam. In the case of exams with raw scores that are close to the dividing line between two grade levels, active class participation can help make a difference in the final course grade. Up to 15% of the course grade will be tied to participation in class, including participation in the Case Studies.

Computer Use Policy

You may use laptop computers in class solely for the purpose of taking notes and accessing materials directly related to the course. As a courtesy to your classmates, please refrain from checking, composing, or transmitting emails or other electronic communications (or playing Solitaire) during class time, whether on a laptop, smart phone, or tablet. Also, please do not access the internet during class time unless I ask you to (accessing the course website and materials during class is of course permitted, as is research to support an argument you are making.)

Class Times

This class meets Monday and Wednesdays from 8:50 to 10:20 a.m. We will start class promptly.

Disability Accommodations

The UW is committed to ensuring that students with physical, mental, or sensory disabilities have equal access to its facilities and programs. To request academic accommodations due to a disability, please contact Disability Resources for Students (DRS), 448 Schmitz Hall, 206.543.8924 (V), 206.543.8925 (TTY). If you have a letter from DRS, please present the letter to me so we can discuss the accommodations you might need in or out of class. Work with Academic Services to obtain accommodations on the exam.

LOCAL GOVERNMENT LAW COURSE SYLLABUS

1. History, Concept and Formation of Local Government

A. History –April 1

- Caesar’s Law on Municipalities (44 B.C.) (Skim)
- [McQuillan, *Municipal Corporations*](#), History (Skim– On Canvas Website)
- History of Washington Local Governments (Excerpts)
- [Teaford, *The Municipal Revolution*](#) (Skim Excerpts – On Canvas Website)

B. Constitutional, Statutory and Charter Parameters – April 1

- Article XI, Washington State Constitution
- Chapter 35.02 RCW (Skim)
- Selections from the Seattle City Charter (Skim)
- RCW 35.82.030 (Housing authority creation statute)

C. Formation, Expansion and Voter Control – April 3

- *Carroll v. Bastian*, 66 Wn.2d 546 (1965)
- *Port of Tacoma v. Parosa*, 52 Wn.2d 181 (1958)
- *People v. Spokane*, 51 Wn. App. 816 (1988)
- *Cunningham v. METRO*, 751 F.Supp. 885 (W.D. Wash., 1990)

D. What is a “Municipal Corporation”? – April 3

- *Columbia Irr. Dist. v. Benton County*, 149 Wash. 234 (1928)
- *Roza Irr. Dist. v. State*, 80 Wn.2d 633 (1972)
RCW 35.82.030 (housing authorities again)
- RCW 35.21.730 et seq. (Public corporation law)
- *Telford v. Board of Comm’rs*, 95 Wn.App. 149 (1999) (Excerpt)

(Optional reading on Canvas Website: [Spitzer, *A Local Government by Any Other Name*](#), Proceedings of the Washington State Association of Municipal Attorneys, Fall Conference (2009)).

2. How Broad are Municipal Powers? When are They Preempted?

A. Dillon’s Rule v. Home Rule – April 8 & April 11

- An Old Time Statutory Grant of Powers: RCW 35.22.280
- *State ex rel. Ennis v. Sup’r. Ct.*, 153 Wash. 139 (1958) (Excerpts)
- *Winkenwerder v. Yakima*, 52 Wn.2d 618 (1958)
- 1966 Municipal Code Committee Report (Excerpt)
- A Modern Statutory Grant of Powers: RCW 35A.11.010 -.040
- *Chemical Bank v. WPPSS*, 99 Wn.2d 772 (1983)
- *In re LTGO Bonds of City of Edmonds*, 162 Wn. App. 513 (2011)

Case Study No. 1: What’s That “WPPSS” Case All About? (Individual Project) – Due April 11

B. State Preemption – April 11

- *State v. Kirwin* 165 Wn.2d 818 (2009)(Excerpts)
- *Entertainment Industry v. Health Dept.*, 153 Wn.2d 657 (2005)
- *Citizens v. City of Mukilteo*, 174 Wn.2d 41 (2012 (excerpts)
- *Cannabis Action Coalition v. City of Kent*, 183 Wn.2d 219

(Optional reading on Canvas Website: [Spitzer, “Home Rule” vs. “Dillon’s Rule” for Washington Cities](#), 38 Seattle U. Law Rev. 809 (2015)).

3. Police Powers

A. Scope of Police Powers – April 15

- Newspaper Articles
- *State ex rel. Richey v. Smith*, 42 Wash. 237 (1906)
- *Seattle v. Hurst*, 50 Wash. 424 (1908)
- *State v. Mountain Timber Co.*, 75 Wash. 581 (1913)
- *Spokane v. Carlson*, 73 Wn.2d 76 (1968)
- *In re Property in Tukwila*, 120 Wn. App. 737 (2004)

B. Constraints on Police Powers – April 17

- *Spokane County v. Valu-Mart*, 69 Wn.2d 712 (1966)
- *Petstel v. King County*, 77 Wn.2d 144 (1969)
- *San Telmo Assoc. v. Seattle*, 108 Wn.2d 20 (1987)
- *Pasco v. Shaw*, 161 Wn.2d 450 (2007)

(Optional reading on Canvas Website: [Spitzer, Municipal Police Powers in Washington](#), 75 Washington Law Rev. 495 (2000)).

4. General Governmental Services – April 22

- Sample statutes granting governmental services powers
- *Mount Spokane Skiing v. Spokane County*, 86 Wn. App. 165 (1997)
- *Wong v. City of Long Beach*, 119 Wn. App. 629 (2004)
- *Stiefel v. Kent*, 132 Wn. App. 523 (2006)

5. “Proprietary” Governmental Services

A. Source of Proprietary Powers (and what *are* they?) – April 22

- Sample statute granting proprietary powers: Chap. 35.67 RCW
- Excerpts from Spitzer article on proprietary-governmental distinction
- *Elliott v. Leavenworth*, 197 Wash. 427 (1938)
- *Cowden v. Kennewick Irr. Dist.*, 76 Wn. App. 844 (1995)
- *Kightlinger v. PUD No. 1*, 119 Wn. App. 501 (2003)

B. Utilities and Rate Setting – April 24

- *Hite v. PUD No. 2*, 112 Wn.2d 456 (1989)
- *Morse v. Wise*, 37 Wn.2d 806 (1951)
- *Silver Shores v. Everett*, 87 Wn.2d 618 (1976)
- *Manufactured Housing Ass’n v. PUD*, 124 Wn.2d 381 (1994)

- C. **Taxes vs. Fees, Rates and Charges – April 24 & April 30**
- *Hillis Homes v. Snohomish County*, 97 Wn.2d 804 (1982)
 - *Teter v. Clark County*, 104 Wn.2d 227 (1985)
 - *Hillis Homes v. PUD No. 1*, 105 Wn.2d 288 (1986)
 - *Covell v. Seattle*, 127 Wn.2d 874 (1995)
 - *City of Snoqualmie v. King County Executive*, 187 Wn.2d 289 (2016) (Excerpts)
 - Taxes vs. Fees Chart
- D. **The “Accountancy Act:” Protecting Utilities and Ratepayers – April 30 & May 2**
- RCW 43.09.200-.282
 - *Okeson v. City of Seattle*, 150 Wn.2d 540 (2003)
 - *Lane v. City of Seattle*, 164 Wn.2d 875 (2008)(Excerpts)
 - *Tacoma v. Bonney Lake*, 173 Wn.2nd 584 (2012)(Excerpts)
 - Chap. 70.315 RCW (Chap. 127, Laws of 2013)
 - *Burns v. Seattle*, 161 Wn.2d 129 (2007)

Case Study No.2: New Taxes?...New Fees?...Or What? (Group In-class Project)

(Optional readings on Canvas website: Spitzer, *Realigning the Governmental/Proprietary Distinction in Municipal Law*, 40 Seattle U. L. Rev. 173 (2016); Spitzer, *Taxes vs. Fees: A Curious Confusion*, 38 Gonzaga L. Rev. 335 (2002/03)).

6. Economic Development and “Lending of Credit” (Art. VIII, Sec. 7)

– May 2 & May 6

- Art. VIII, Sec. 7, Washington State Constitution
- *Lassila v. Wenatchee*, 89 Wn.2d 804 (1978)
- *U.S. v. Town of Bonneville*, 94 Wn.2d 827 (1980)
- *Tacoma v. Taxpayers*, 108 Wn.2d 679 (1987)
- *Clean v. State*, 130 Wn.2d 782 (1996)
- *King County v. Taxpayers*, 133 Wn.2d 584 (1997)

(Optional reading on Canvas website: Spitzer, *Analytical View of Lending of Credit*, 8 University of Puget Sound Law Rev. 195 (1985)).

7. Public Official Ethics and Disclosure

A. Public Official Ethics – May 8

- Code of Ethics for Municipal Officers: Chap. 42.23 RCW
- *Raymond v. Runyon*, 93 Wn. App. 127 (1998)
- *Barry v. Johns*, 82 Wn. App. 865 (1996)
- RCW 42.17.130

B. Open Public Meetings – May 8

- Open Public Meetings Act: Chap. 42.30 RCW
- *Cathcart v. Andersen*, 85 Wn. App. 102 (1975)
- *Wood v. Battle Ground School Dist.*, 107 Wn. App. 550 (2001)
- *Citizens Alliance for Property Rights v. San Juan County*, 184 Wash.2d 428 (2015) (short excerpt)

C. **Public Records – May 15** (Guest Lecturer Lee Marchisio)

- Publication of Ordinances: RCW 35.22.288
- [State Public Records Law: Chap 42.56 RCW](#) (Skim, but carefully – on Canvas)
- *Nissen v. Pierce Cty.*, 183 Wn.2d 863 (2015)
- *Fortgang v. Woodland Park Zoo*, 187 Wn.2d 509 (2017)
- *Bellevue John Does v. Bellevue School Dist.*, 164 Wn.2d 199 (2008)
- *ACLU v. City of Seattle*, 121 Wn. App. 544 (2004)
- *Soter v. Cowles Pub. Co.*, 162 Wn.2d 716, 174 P.3d 60 (2007)
- *Yousoufian v. King County*, 168 Wn.2d 444 (2010)
- *Neighborhood Alliance v. Spokane County*, 172 Wash.2d 702 (2011)
- *Freedom Foundation v. Gregoire*, 178 Wn.2d 686, 310 P.3d 1252 (2013)

8. Revenue, Taxation and Debt

A. **Sources of Revenue – May 20**

- Revenue Guide for Washington Cities & Towns (MRSC 2019) pp. 3-6.

B. **Taxation: Constitutional & Statutory Parameters – May 20**

- Article VII, Washington State Constitution and Chapter 84.52 RCW
- Newspaper article – Virgil’s housefly
- Article VIII, Sec. 6, Washington State Constitution – Local Debt Limits
- *Pierce County v. Taxpayers of Lakes District*, 70 Wn.2d 375 (1967)
- *Granite Falls Library v. Taxpayers*, 134 Wn.2d 825 (1998)
- *City of Kennewick v. Benton County*, 131 Wn.2d 768 (1997)
- *Cary v. Bellingham*, 41 Wn.2d 468 (1952)
- *Great Northern Rwy. v. Stevens Co.*, 108 Wash. 238, 183 P. 65 (1919)
- *King County v. Algona*, 101 Wn.2d 789 (1984)

9. Public Works and Procurement – May 22

- Traditional Public Works and Prevailing Wage Laws: Chaps. 39.04 and 39.12 RCW (focus on *asterisked sections)
- Architect and Engineer Selection Law: Chap 39.80 RCW
- County Bidding Law: RCW 36.32.240-.270
- *Edwards v. Renton*, 67 Wn.2d 598 (1965)
- *Shaw Disposal v. Auburn*, 15 Wn. App. 65 (1976)
- *Everett Concrete v. Dept. of Labor & Industries*, 109 Wn.2d 819 (1988)

Course Review and Exam Preview – May 22