

Text Comparison

Documents Compared

Law Bureau I.pdf

Law Bureau II.pdf

Summary

18 word(s) added

15 word(s) deleted

3619 word(s) matched

14 block(s) matched

To see where the changes are, scroll down.

Law Bureau

Overview

The City ~~Solicitor~~³⁰ and staff of the Law Bureau perform a myriad of duties, encompassing all facets of trial practice including courtroom litigation, administrative hearings, grievance hearings, appellate argument and minor criminal prosecutions. The Law Bureau drafts legislation, contracts and other agreements for the various City departments and reviews those generated by individuals and companies seeking to do business with the City. The City Solicitor responds to requests for formal opinions from elected officials and department heads. The Law Bureau keeps a record of all tort claims filed against the City and litigation and administrative proceedings to which the City is a party. The City Solicitor or a designee attends all legislative and non-legislative meetings of City Council as well as committee meetings upon request.

Additional routine activities of the Law Bureau include:

- Assisting the Bureau of Human Resources to assure compliance with FMLA, ADA, the City's Pension plans, 457 Deferred Compensation plans, commercial driver's license (CDL) policy, Workplace Violence and Anti-Harassment/Non-discrimination policies;
- Assisting the Bureau of Human Resources to review correspondence sent to Civil Service Commission candidates;
- Participating in labor/management meetings and drafting/reviewing Memoranda of Understanding between management and unions;
- Representing the Police Pension Board which meets monthly and involves assignments outside of those meetings;
- Reviewing and/or drafting contracts which involve making substantive and non-substantive changes to the contract language and negotiating with the contracting party;
- Reviewing Workers' Compensation and Heart and Lung claims;
- Drafting legislation on a biweekly basis;
- Reviewing subpoenas issued to the City for compliance;
- Attending depositions of City officials and employees subpoenaed in civil cases;
- Drafting official documents for the Mayor and other City officials;
- Attending legislative sessions of the City Council as the Parliamentarian;
- Attending committee meetings of the City Council to advise them in regards to proposed legislation;
- Reviewing and filing liens;
- Assisting the Right to Know Officer; and
- Assisting all departments in compliance with federal and state law and reviewing and/or drafting correspondence with county, state or federal officials.

Currently the Law Bureau is responsible for several significant projects which impact workload, including the following:

- Assisting the Police Pension Board with Act 44 mandates compliance;
- Revising the City's ADA and Workers' Compensation policies (Note: the Acting Solicitor has suspended action on this work due to other priorities);

³⁰ City of Harrisburg Code [Adopted by the City Council of the City of Harrisburg by Ord. No. 10-1971. Amendments noted where applicable.]:

§2-303.1. Appointment. The City Solicitor shall be appointed by the Mayor with the advice and consent of Council.

§2-303.2. Duties. The City Solicitor shall have such duties and responsibilities as are set forth in general law.

§2-303.3. Assistants. One or more assistant City Solicitors may be appointed by the Mayor with the advice and consent of Council.

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- Representing the City on the Urban Search and Rescue Task Force 1 which is in the process of migrating from Sponsoring Agency to Participating Agency, including coordination with the FEMA/ Pennsylvania Emergency Management Agency (PEMA); and
- Working with outside counsel to respond to the Security and Exchange Commission's subpoenas and discovery in addition to compliance with disclosure requirements.

In April 2011, the Law Bureau staff includes the Acting City Solicitor, a Legal Secretary and a Paralegal. The City is advertising for and is seeking to hire a City Solicitor. The table below shows the Bureau's budgeted and filled staffing for years 2006-2011.

Bureau of Law - Staffing

	2006	2007	2008	2009	2010	2011
Budgeted	5	4	4	4	5	3
Filled	5	4	4	4	3	3

Source: Budgeted: City Report *Summary of Positions 2006-2011 Budget*
 Filled: Adopted 2010 City Budget

Litigation

The City is currently involved with a variety of litigation, both recurring and current cases, which has strained the Law Bureau's limited resources. A summary of the City's recurring cases is described below.

Codes Violations

The Law Bureau is responsible for the prosecution of City codes violations. There are approximately 25 code cases appealed to the Court in Dauphin County annually.

Civil Claims – City as Plaintiff

The Law Bureau is responsible for filing and litigating civil claims against those who have damaged City property and who are either uninsured, underinsured or whose insurance companies deny coverage. Approximately six cases require Law Bureau representation in court annually. The Acting Solicitor has suspended any action on these cases due to other priorities.

Defense of Small Civil Claims

The Law Bureau represents the City at the Magisterial District Judges to defend against small claims suits brought by parties against the City.

Investigations

The Law Bureau performs investigations into violations of City's Workplace Violence and Anti-harassment/Non-discrimination policies.

Land Use Cases

The Law Bureau represents the City's interests before the City Council as well as appeals to Dauphin County Court of Common Pleas. There are three current cases, as of April 2011.

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Civil Service Commission Appeals

The Law Bureau defends the City in the appeals.

Zoning Hearing Board

The Law Bureau attends hearings before the Zoning Hearing Board if the Zoning Officer recommends denial of a zoning application.

Housing Code Board of Appeals

The Law Bureau represents the Codes Bureau in appeals before this Board.

Assessment Appeals

The Law Bureau represents the City in appeals of City properties that are taxed by the Dauphin County Tax Claims Bureau. The Law Bureau works with the Board of Assessment Appeals to contest the appeals by property owners dissatisfied by the determinations of the Board.

Tax Enforcement Cases

The Law Bureau represents the Tax Enforcement Office in civil claims against business owners for the collection of Business Privilege & Mercantile Taxes and in appeals before the Tax Enforcement Board of Appeals when the Tax Enforcement Office suspends a Mercantile License.

Unearned Leave Repayments

The Law Bureau handles collection efforts and civil complaints against City employees who resign or are terminated with negative leave balances. The Acting Solicitor has suspended any action on these cases due to other priorities.

Actions in Equity Against Owners of Blighted Properties

The Law Bureau brings actions against landowners who fail to abate unsafe and/or unsanitary conditions on their City properties. The Acting Solicitor has suspended any action on these cases due to other priorities.

Resource Recovery Facility Debt Litigation

There are seven current cases in connection with the RRF:

- TD Bank, N.A. and M&T Trust Company, and Assured Guaranty Municipal Corporation v. Harrisburg Authority, City of Harrisburg, and Paul Wambach, Treasurer, No. 2010-CV-11737, filed on 9-13-2010.
- TD Bank, N.A. v. Paul Wambach, Treasurer; City of Harrisburg; and Harrisburg Authority. No. 2010-CV-11738. Filed 9-13-2010.
- County of Dauphin v. Harrisburg Authority, City of Harrisburg; Mayor Stephen Reed, Paul Wambach, Treasurer; James McCarthy, Jr., Controller; Linda Thompson, President City Council; Daniel Miller, Susan Brown Wilson, Brad Koplinski, Wanda Williams, Gloria Martin Roberts, Patty Kim, City Council Members. No. 2009-CV-09271. Filed 7-22-09.
- County of Dauphin v. City of Harrisburg; Mayor Stephen Reed; Paul Wambach, Treasurer; James McCarthy, Controller; Linda Thompson, President City Council; Daniel Miller, Susan Brown Wilson, Brad Koplinski, Wanda Williams, Gloria Martin Roberts, Patty Kim, City Council Members. No. 2009-CV-14921. Filed 11-9-2009.
- County of Dauphin v. Harrisburg Authority and City of Harrisburg, No. 2010-CV-14071. Filed 10-26-2010
- Covanta Harrisburg, Inc. v. City of Harrisburg and Paul Wambach, Treasurer of City, No. 2010-13120, filed on 10-5-2010.
- County of Dauphin v. Harrisburg Authority and City of Harrisburg, No. 2011-CV-1618, filed on 2-15-2011.

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DCED and the Act 47 Coordinator have moved to intervene in two of the seven RRF-related cases. DCED intervened in one case in which AGM, TD Bank and M&T Bank are plaintiffs and in a second case in which TD Bank is the only plaintiff. In both cases, the City, the City Treasurer, and THA are defendants. The plaintiffs in both cases are seeking first dollar relief, among other things, against the City to compel the City Treasurer to pay all tax revenues as received to the plaintiffs up to the amount of the sums owed on the bonds and revenue notes sued upon. DCED intervened in both cases solely to join in the City's motion to stay the proceedings so that the Act 47 process could proceed. DCED did not intervene generally to assume the defense of those proceedings. The merits of the RRF related cases are not addressed herein.

In addition to the recurring cases, the City is currently a party to the following litigation:

- The Law Bureau is representing the City in three cases at the PLRB and in Pennsylvania appellate courts.
- The Law Bureau handles the day-to-day labor law work for the City, including internal grievance hearings. The Law Bureau averages two internal grievances a month. Currently there are seven arbitration cases. The City is behind schedule on hearing internal grievances due to a shortage of attorneys. Arbitrations require significant preparation by the Law Bureau. Current arbitrations include:
 1. Arbitration regarding suspension of direct deposit filed by the IAFF;
 2. Arbitration regarding termination of a Police Officer;
 3. Arbitrations regarding the Heart and Lung benefits of two Firefighters;
 4. IAFF arbitration regarding Fire Apparatus repairs;
 5. IAFF arbitration regarding a retirement;
 6. IAFF arbitration regarding the Vehicle Maintenance Center; and
 7. Arbitration regarding a Heart and Lung benefits claim of a police officer.

Litigation in Dauphin County Court includes:

- *Handwerk vs. City of Harrisburg* – This is a contract dispute alleging the City owes approximately \$250,000 plus interest and costs.
- *Enos, et al. vs. City of Harrisburg* – Plaintiffs filed action regarding the City's announced plan to enforce overtime metered parking in permit parking areas.

Litigation in Federal Court includes:

- City police officers have sued the City under the Fair Labor Standards Act (FLSA) for late paychecks.
- *Ascalon vs. Dept. of Parks and Recreation for City of Harrisburg, et al.* This case was filed against the Jewish Federation of Greater Harrisburg and the City for an alleged violation of the rights of the artist who designed the Holocaust Memorial Statue in Riverfront Park. A settlement has been entered into that does not involve any financial loss to the City.

Other litigation includes:

- *Beal vs. Officer Grynkwitz, et al.* – The Law Bureau is assisting Insurance Counsel for the City of Pittsburgh in the defense of several Harrisburg police officers sued in connection with an incident at the G-20 summit in Pittsburgh to which Harrisburg sent police officers.
- The Law Bureau assists outside insurance counsel in lawsuits against police and occasionally other departments alleging misconduct and civil rights violations. This sometimes involves acting as a go-between between the litigation attorneys and City officials.

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- The Law Bureau assists outside counsel acting as primary litigation counsel in seven cases related to The Harrisburg Authority incinerator debt and guaranty.
- There are four Pennsylvania Human Relations Commission cases in which the Law Bureau is participating with the insurance lead counsel.

Finances

The tables below show historical expenditures for the Bureau of Law for the period 2006 through 2010.

Bureau of Law Historical Expenditures by Major Category

Category	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	% Growth
Salaries & Wages	\$255,799	\$219,292	\$229,474	\$205,598	\$192,766	(24.6%)
Temporary	\$0	\$0	\$0	\$0	\$0	0.0%
Overtime	\$0	\$0	\$0	\$0	\$0	0.0%
Social Security	\$19,569	\$16,776	\$17,555	\$15,728	\$14,747	(24.6%)
Benefits	\$57,060	\$69,151	\$64,368	\$0	\$0	(100.0%)
Legal/Contract Services	\$27,238	\$4,108	\$36,169	\$20,289	\$133,671	390.7%
Subscriptions	\$14,505	\$15,066	\$14,624	\$19,623	\$19,360	33.5%
Other Miscellaneous	\$7,029	\$8,224	\$4,963	\$8,214	\$2,818	(59.9%)
Total	\$381,200	\$332,617	\$367,153	\$269,453	\$363,362	(4.7%)

Source: Historical Data from City As Provided

Bureau of Law Historical Expenditures – Personnel and Non Personnel

Category	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	% Growth
Personnel Expenditures	\$332,428	\$305,219	\$311,397	\$221,326	\$207,512	(37.6%)
Non Personnel Expenditures	\$48,772	\$27,398	\$55,756	\$48,126	\$155,850	219.5%
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The Law Bureau has made technological advances. For example, the Law Bureau utilizes internet-based programs to assist in the efficient retrieval of research materials, information and data without leaving the office. These are as follows: (1) Public Access to Court Electronic Records (PACER) is utilized to research bankruptcy information including reports of new bankruptcy cases filed and cases dismissed and discharged; (2) Electronic Case Filing (ECF) for the Middle District Court of Pennsylvania allows the City to file documents electronically and check the docket report for cases; and (3) the Law Bureau has been working with the City's IT Bureau to develop a case management program. This program will allow the City to maintain the status of litigation and non-litigation cases electronically for efficient access and updating.

Despite these limited successes, the Law Bureau faces significant challenges. For example, basic access to organized legal information is challenging. The Code of the City of Harrisburg is updated through Ordinance No. 20-1997. Ordinances adopted subsequent to Ordinance 20-1997 are not codified, but are appended thereto. According to the Acting Solicitor, in 2009, a third party vendor worked with the City Clerk on recodification. At that time, the recodification information was sent to all City department heads for comment. Between 2009 to date, additional amendments to the City Code have been enacted by ordinance. Upon receipt by the City Clerk of the cumulative recodification information and the aforesaid amendments, the Acting Solicitor can present the complete recodification to City Council for action. Although the Code is currently in the process of being recodified, there is no completion date. Upon completion, the new Code will include all of the Ordinances adopted since 1997, but since they are not codified, it is an extremely difficult task to determine to what sections of the Code those ordinances pertain. One essentially must go through and "do your own codification" (per the Acting Solicitor) by referring between and among the ordinances and the original Code provisions, or perform searches of the recently adopted ordinances (if one knows exactly what one is looking for). This is very tedious and inefficient. There are bound volumes in the Law Bureau of the proposed codification. That is probably the most up-to-date version of all of the ordinances, but it is unofficial, as Council has not passed a Codification Ordinance.

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The tables below show the Bureau's budgeted expenses for 2011 and projected expenses through 2015 using the assumptions detailed in the Introduction chapter.

Bureau of Law Projected Expenditures by Major Category

Category	2011 Budget	2011 Estimated	2012 Projected	2013 Projected	2014 Projected	2015 Projected	% Growth
Salaries & Wages	\$184,860	\$184,860	\$184,860	\$184,860	\$184,860	\$184,860	0.0%
Temporary	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Overtime	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Social Security	\$14,143	\$14,142	\$14,142	\$14,142	\$14,142	\$14,142	0.0%
Benefits ³¹	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Legal/Contract Services	\$180,750	\$180,750	\$184,919	\$189,610	\$195,733	\$202,956	12.3%
Subscriptions	\$29,925	\$29,925	\$29,925	\$29,925	\$29,925	\$29,925	0.0%
Other Miscellaneous	\$6,480	\$6,480	\$6,546	\$6,627	\$6,721	\$6,829	5.4%
Total	\$416,158	\$416,157	\$420,392	\$425,164	\$431,381	\$438,712	5.4%

Source: 2011 City Adopted Budget, 2011 – 2015 PEL Estimated/Projected

Bureau of Law Projected Expenditures – Personnel and Non Personnel

Category	2011 Budget	2011 Estimated	2012 Projected	2013 Projected	2014 Projected	2015 Projected	% Growth
Personnel Expenditures	\$199,003	\$199,002	\$199,002	\$199,002	\$199,002	\$199,002	0.0%
Non Personnel Expenditures	\$217,155	\$217,155	\$221,390	\$226,162	\$232,379	\$239,710	10.4%
Total	\$416,158	\$416,157	\$420,392	\$425,164	\$431,381	\$438,712	5.4%

Source: 2011 City Adopted Budget, 2011 – 2015 PEL Estimated/Projected

³¹ Beginning in 2009, all costs for medical, dental, vision and group life insurance are recorded in General Expenses, not in the individual departments

The tables below show the Bureau's budgeted expenses for 2011 and projected expenses through 2015 using the assumptions detailed in the Introduction chapter.

Bureau of Law Projected Expenditures by Major Category

Category	2011 Budget	2011 Estimated	2012 Projected	2013 Projected	2014 Projected	2015 Projected	% Growth
Salaries & Wages	\$184,860	\$184,860	\$184,860	\$184,860	\$184,860	\$184,860	0.0%
Temporary	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Overtime	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Social Security	\$14,143	\$14,142	\$14,142	\$14,142	\$14,142	\$14,142	0.0%
<u>Benefits</u> ³³	\$0	\$0	\$0	\$0	\$0	\$0	0.0%
Legal/Contract Services	\$180,750	\$180,750	\$184,919	\$189,610	\$195,733	\$202,956	12.3%
Subscriptions	\$29,925	\$29,925	\$29,925	\$29,925	\$29,925	\$29,925	0.0%
Other Miscellaneous	\$6,480	\$6,480	\$6,546	\$6,627	\$6,721	\$6,829	5.4%
Total	\$416,158	\$416,157	\$420,392	\$425,164	\$431,381	\$438,712	5.4%

Source: 2011 City Adopted Budget, 2011 – 2015 PEL Estimated/Projected

Bureau of Law Projected Expenditures – Personnel and Non Personnel

Category	2011 Budget	2011 Estimated	2012 Projected	2013 Projected	2014 Projected	2015 Projected	% Growth
Personnel Expenditures	\$199,003	\$199,002	\$199,002	\$199,002	\$199,002	\$199,002	0.0%
Non Personnel Expenditures	\$217,155	\$217,155	\$221,390	\$226,162	\$232,379	\$239,710	10.4%
Total	\$416,158	\$416,157	\$420,392	\$425,164	\$431,381	\$438,712	5.4%

Source: 2011 City Adopted Budget, 2011 – 2015 PEL Estimated/Projected

³³ Beginning in 2009, all costs for medical, dental, vision and group life insurance are recorded in General Expenses, not in the individual departments

Initiatives

The Law Bureau's inadequate staffing of experienced attorneys has a very significant impact on the proper handling of the City's legal affairs with potential, serious, adverse financial ramifications.

LAW01.	Use professional assistance for labor relations activities	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor

The City shall retain experienced public-sector employment labor counsel for its labor relations activities beginning with negotiations of new collective bargaining agreements. The City shall also seek professional legal assistance, either through the Law Bureau or outside counsel, for other labor relations issues. The Pennsylvania League of Cities and Municipalities offers a Public Employer Labor Relations Advisory service which the City shall utilize. This service also provides access to wage and benefit data as well as assistance on a variety of labor law issues.

Budgeted funds are available to cover the costs of \$110,000 for additional outside assistance.

LAW02.	Increase the number of staff attorneys from one to three	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor

The City shall hire two additional staff attorneys, each with skill sets to handle the most frequently experienced cases. The City shall fill the currently budgeted but vacant Attorney position. This will have no additional impact on the General Fund. The City shall also shift \$75,000 per year from funds budgeted for outside legal counsel to employee expenditures to cover the costs of an additional Assistant Solicitor. There is no budget impact. This will also leave approximately \$110,000 for outside counsel as indicated in Initiative LAW01 "Use professional assistance for labor relations activities."

Initiatives

The Law Bureau's inadequate staffing of experienced attorneys has a very significant impact on the proper handling of the City's legal affairs with potential, serious, adverse financial ramifications.

LAW01.	Use professional assistance for labor relations activities	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor

The City shall retain experienced public-sector employment labor counsel for its labor relations activities beginning with negotiations of new collective bargaining agreements. The City shall also seek professional legal assistance, either through the Law Bureau or outside counsel, for other labor relations issues. The Pennsylvania League of Cities and Municipalities offers a Public Employer Labor Relations Advisory service which the City shall utilize. This service also provides access to wage and benefit data as well as assistance on a variety of labor law issues.

Budgeted funds are available to cover the costs of \$110,000 for additional outside assistance.

LAW02.	Increase the number of staff attorneys from one to three	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor

The City shall hire two additional staff attorneys, each with skill sets to handle the most frequently experienced cases. The City shall fill the currently budgeted but vacant Attorney position. This will have no additional impact on the General Fund. The City shall also shift \$75,000 per year from funds budgeted for outside legal counsel to employee expenditures to cover the costs of an additional Assistant Solicitor. There is no budget impact. This will also leave approximately \$110,000 for outside counsel as indicated in Initiative LAW01 "Use professional assistance for labor relations activities."

LAW03.	Complete, recodify and enact the Code of the City of Harrisburg	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor and City Council

Under Commonwealth law, the City of Harrisburg is a City of the Third Class which has adopted the Mayor-Council Plan A under the Home Rule Charter and Optional Plans Law. As such, the City does not have a charter, as it would if the City were a home rule municipality.

In municipalities under home rule, it is a best practice to develop and maintain an administrative code that, at the outset, provides a detailed explanation of the roles and responsibilities of the City's elected officials. This introductory section of the code also outlines the overall organization of the City, including the management structure of all departments, bureaus and offices. This introduction is followed by the ordinances of the City, with any applicable updates incorporated into the code on an annual basis.

At present, the City has not incorporated updates into its code through a recodification process in many years. The City of Harrisburg is a complex and multi-faceted local government unit. Governing tools set forth in the City Code shall not continue to be randomly located, unorganized and ineffectively managed and used by the City and the public. An updated codification of City ordinances will greatly improve the efficiency of City personnel in enforcement proceedings. Therefore, the City shall complete, recodify and enact its Code.

The City shall also develop and incorporate into its Code an introductory section on organizational structure. The details of administrative organization and procedures, the precise number of departments, bureaus and offices reporting to the Mayor and/or the Business Administrator, the allocation of functions among the City's departments, bureaus and offices and the internal organization of departments shall all be outlined in this introduction. The introduction can be amended as needed by the City Council through legislative ordinance.

LAW03.	Complete, recodify and enact the Code of the City of Harrisburg	
	Target outcome:	Improved efficiency
	Five year financial impact:	Not available
	Responsible party:	City Solicitor and City Council

Under Commonwealth law, the City of Harrisburg is a City of the Third Class which has adopted the Mayor-Council Plan A under the Home Rule Charter and Optional Plans Law. As such, the City does not have a charter, as it would if the City were a home rule municipality.

In municipalities under home rule, it is a best practice to develop and maintain an administrative code that, at the outset, provides a detailed explanation of the roles and responsibilities of the City's elected officials. This introductory section of the code also outlines the overall organization of the City, including the management structure of all departments, bureaus and offices. This introduction is followed by the ordinances of the City, with any applicable updates incorporated into the code on an annual basis.

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The City shall also develop and incorporate into its Code an introductory section on organizational structure. The details of administrative organization and procedures, the precise number of departments, bureaus and offices reporting to the Mayor and/or the Chief of Staff/Business Administrator, the allocation of functions among the City's departments, bureaus and offices and the internal organization of departments shall all be outlined in this introduction. The introduction can be amended as needed by the City Council through legislative ordinance.