

## Judge rules proposed light-rail initiative invalid



Troy Wayrynen

Passengers board a TriMet Max light rail train at the Delta Park/Vanport light rail transit station.

By [Stephanie Rice](#)

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## Document

### [Judge rules against anti-light-rail initiative](#)



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A proposed initiative to prohibit the city of Vancouver from using any resources to promote light rail exceeds the scope of local initiative power, Superior Court Judge John Nichols ruled Wednesday.

His decision ended the hope of anti-light rail activists that city residents would vote on the initiative in November.

Nichols' ruling came a day after he heard oral arguments. He had thanked attorneys for filing detailed briefs and promised a quick turnaround on the ruling because of the Tuesday deadline to make the November ballot.

In his opinion, Nichols quoted from an analysis of a 1997 ruling affirming the legality of public financing of Safeco Field in Seattle, even though a group of residents opposed it:

“Stated another way, the people cannot deprive the city legislative authority of the power to do what the constitution and/or a state statute specifically permit it to do.”

On Tuesday, Nichols got Everett attorney Stephen Pidgeon, who was hired by a group of local plaintiffs led by Larry Patella, to acknowledge the city doesn't have the right to stop state government if the state wants light rail in Vancouver as part of a highway project.

Pidgeon argued the initiative, if approved by voters, would still send a strong message that the city would not be a willing partner to light rail.

Nichols denied Pidgeon's request to order the Vancouver City Council to put the initiative on the ballot.

He granted an order prepared by Vancouver City Attorney Ted Gathe, who had listed the ways the petition was invalid. In addition to interfering with the city's administrative functions as authorized by the state constitution, the initiative interfered with the council's budgeting authority and with matters delegated to the council by statute.

In Nichols' ruling, he wrote that case law supports his point that the state has the authority to compel a city to comply with a state project.

"This is particularly true of those cases in which a state project is being burdened upon a city to the consternation of a certain segment of the population," Nichols wrote.

The proposed initiative, he wrote, would restrict the city from complying with the mandates of a state project.

"This would be beyond the initiative power," Nichols wrote.

Vancouver Mayor Tim Leavitt said Wednesday he was not surprised by Nichols' ruling.

"I have full confidence in our city attorney and his staff," Leavitt said. "A layman reading the initiative would see there was a lot of nonsense to it and it wouldn't be fair or appropriate. I feel bad that folks were bamboozled into donating to the effort to put this in front of a judge."

On May 6, Leavitt and Councilors Jack Burkman, Bart Hansen, Jeanne Harris and Larry Smith followed Gathe's advice and voted to reject the initiative. Councilors Jeanne Stewart and Bill Turlay voted in dissent while expressing frustration there wasn't a way to make the initiative work.

"At least five council members were able to understand, and respected, the staff's perspective," Leavitt said.

The lawsuit was filed May 23 by Patella, Debbie Peterson, Ralph Peabody, Charlie Stemper, Steve Herman and Don Yingling.

Patella, who has been working since 2010 to try and get enough signatures to get a vote on light rail, has been soliciting donations in an effort to raise \$20,000 for Pidgeon's fees.

The city did not ask Nichols to award it any attorney's fees or court costs.

A political action committee, Stopping Light Rail Stops Bridge Tolls, paid people to collect enough signatures to present the initiative to the council, although some people collected signatures for free. Donors to the PAC included Republican Clark County Commissioners Tom Mielke and David Madore, although Madore donated before he took office.

Pidgeon issued a statement Wednesday that he's "grieved for my clients who worked so hard to overcome the many obstacles before them in their effort to allow the voters in Vancouver to express their opinion on this issue. I believe they earned the right to vote on their initiative," he wrote. "It is extremely unfortunate that they will not be able to.

"The only silver lining here is that the CRC unceremoniously has expired during the course of this litigation and I am sure my clients are happy with that outcome. Larry Patella and his team have done a valiant job and a public service in pushing for the right of the people to vote. I admire them greatly," Pidgeon wrote.

Serial state initiative writer Tim Eyman of Mukilteo, who served as an adviser to Patella's group, issued a statement too.

"Sadly, it has become the rule and not the exception for citizen initiatives to be blocked from the ballot," Eyman wrote. "The Vancouver initiative is the latest example. If local citizens collect the

required number of signatures in the required amount of time, the politicians should not be able to stop the people from voting on the initiative.

“The citizens of Vancouver are lucky to have heroic activists like Larry Patella and his team, who put forward tremendous effort to let the voters decide this critical issue.”

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