



Legislation Details (With Text)

File #: CB 119254 **Version:** 3 **Name:** CB 119254
Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk
On agenda: 5/21/2018
Final Action: 6/1/2018 **Ord. No.** Ord 125589
Title: AN ORDINANCE relating to the Ethics Code; amending Sections 4.16.030 and 4.16.070 of the Seattle Municipal Code; requiring elected officials to disclose financial interests in legislative matters prior to participating in those matters; and creating a limited exception to the requirement that elected officials disqualify themselves from participating in such matters.
Sponsors: Sally Bagshaw

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Proposed Amendment (added 5/15/18), 4. Proposed Amendment 1 (added 5/30/18), 5. Signed Ordinance 125589, 6. Affidavit of Publication

Date	Ver.	Action By	Action	Result
6/1/2018	3	City Clerk	attested by City Clerk	
6/1/2018	3	Mayor	returned	
6/1/2018	3	Mayor	Signed	
5/23/2018	3	City Clerk	submitted for Mayor's signature	
5/21/2018	2	City Council	passed as amended	Pass
5/15/2018	1	Governance, Equity, and Technology Committee	pass as amended	Pass
5/14/2018	1	City Council	referred	
5/11/2018	1	Council President's Office	sent for review	
5/11/2018	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Ethics Code; amending Sections 4.16.030 and 4.16.070 of the Seattle Municipal Code; requiring elected officials to disclose financial interests in legislative matters prior to participating in those matters; and creating a limited exception to the requirement that elected officials disqualify themselves from participating in such matters.

WHEREAS, in 2013 the City enacted a charter amendment to elect seven members of the City Council by district; and

WHEREAS, disqualifying a Councilmember from participating in a matter because of a conflict of interest may

have the effect of denying residents of that Councilmember's district an equal voice in the City's lawmaking process; and

WHEREAS, the Ethics and Elections Commission recommended the adoption of a robust disclosure requirement for all elected officials in tandem with the elimination of the requirement that elected officials disqualify themselves from participating in legislative matters in which they have a financial interest; and

WHEREAS, this limited exception does not permit elected officials to participate in quasi-judicial proceedings in which they have a financial interest, or to participate in executive functions in which they have a financial interest; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.16.030 of the Seattle Municipal Code, last amended by Ordinance 123264, is amended as follows:

4.16.030 Definitions ((-))

As used in this chapter, the following terms shall have the meanings indicated: ((-))

* * *

“Immediate family,” except for the purposes of ~~((section))~~ Section 4.16.080, means a spouse or domestic partner, child, child of a spouse or domestic partner, sibling, sibling of a spouse or domestic partner, brother-in-law, sister-in-law, parent, parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal guardian, or a person claimed as a dependent on the Covered Individual's most recently filed federal income tax return.

“Legislative matter” means any enacted or introduced council bill, ordinance, resolution, clerk file, ballot measure, or charter amendment. A legislative matter may include a possible future council bill, ordinance, resolution, clerk file, ballot measure, or charter amendment, if the possible future matter has been discussed on the public record at an open public meeting of the City Council or one of its committees.

* * *

Section 2. Subsection 4.16.070.A of the Seattle Municipal Code, which section was last amended by Ordinance 124362, is amended as follows:

4.16.070 Prohibited conduct

A covered individual may not engage in any of the following acts:

A. Disqualification from acting on City business

1. Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071:
 - a. ~~((the))~~ The covered individual;
 - b. ~~((an))~~ An immediate family member of the covered individual;
 - c. ~~((an))~~ An individual residing with the covered individual;
 - d. ~~((a))~~ A person the covered individual serves as an officer, director, trustee, partner, or employee;
 - e. ~~((a))~~ A person with ~~((which))~~ whom the covered individual is seeking or has an arrangement concerning future employment.
2. Participate in a matter in which a person ~~((that))~~ who employed the covered individual in the preceding 12 months, or retained the covered individual or ~~((his or her))~~ the covered individual's firm or partnership in the preceding 12 months, has a financial interest; provided, however, that the Executive Director shall waive this ~~((section))~~ subsection 4.16.070.A.2 when:
 - a. ~~((the))~~ The covered individual's appointing authority or the authority's designee makes a written determination that there is a compelling City need for the covered individual to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the authority will safeguard the City's interests, and
 - b. ~~((the))~~ The Executive Director determines that the authority's plan is satisfactory.

3. Perform any official duties when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the covered individual's judgment is impaired because of either ~~((1))~~ (a) a personal or business relationship not covered under subsection 4.16.070.A.1 or 4.16.070.A.2, ~~((above,))~~ or ~~((2))~~ (b) a transaction or activity engaged in by the covered individual. It is an affirmative defense to a violation of this subsection 4.16.070.A.3 if the covered individual, before performing the official act, discloses the relationship, transaction, or activity in writing to the Executive Director and the covered individual's appointing authority, and the appointing authority or the authority's designee either approves or does not within one week of the disclosure disqualify the covered individual from acting. For an elected official to receive the same protection, the official must file a disclosure with the Executive Director and the City Clerk. If a covered individual is charged with a violation of this subsection 4.16.070.A.3, and asserts as an affirmative defense that a disclosure was made, the burden of proof is on the covered individual to show that a proper disclosure was made and that the covered individual was not notified that ~~((he or she))~~ the covered individual was disqualified from acting.

4. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply if the prohibited financial interest is shared with a substantial segment of the ~~((City's population))~~ public, as defined by rule by the Ethics and Elections Commission. The Rule will consider if the elected official is elected by a district or citywide.

5. Application to City elected officials and legislative matters. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply to an elected official's participation in legislative matters if:

a. The legislative matter establishes or adjusts assessments, taxes, fees, or rates for water, utility, or other broadly provided public services or facilities that are applied equally, proportionally, or by the same percentage to the elected official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate and a disclosure is made in accordance with subsection 4.16.070.A.6, or

6. Before participating in a matter covered by subsection 4.16.070.A.5, the elected official must publicly disclose any financial interest. An elected official must post a written disclosure on the official's

webpage and file a copy with the Executive Director and the City Clerk. A Councilmember shall additionally make such a disclosure on the public record at an open public meeting of the Council or one of its committees at which the legislative matter is discussed. The Councilmember shall also, before participating in that legislative matter at any subsequent Council or committee meeting, repeat the oral disclosure on the public record of that meeting.

a. If a Councilmember is charged with a violation of subsection 4.16.070.A.1 or 4.16.070.A.2, and asserts as an affirmative defense that a disclosure under this subsection 4.16.070.A.6 was made, the burden of proof is on the Councilmember to show that a proper disclosure was made.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2018, and signed by me in open session in authentication of its passage this ____ day of _____, 2018.

President _____ of the City Council

Approved by me this _____ day of _____, 2018.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2018.

Monica Martinez Simmons, City Clerk

(Seal)