



Legislative Department Seattle City Council Memorandum

Date: June 6, 2016
To: Councilmembers
From: Councilmember Tim Burgess
Subject: Changes to the Ethics Code

Later today, the Council will vote on CB 118701 which modifies the current ethics code.

The ethics code is contained in SMC 4.16. The purpose section of the ethics code states: “The City finds that the proper operation of democratic representative government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.” (SMC 4.16.020 Emphasis mine.)

The ethics code (SMC 4.16.070) requires city employees, including elected officials, to disqualify themselves from participating if they or an immediate family member “has a financial interest” in the pending matter.

The current disqualification requirement is a “bright line” prohibition, in other words it is unequivocal and mandatory, and it’s regarded as a very high bar. “Bright line” rules in ethics law are considered best practice. Seattle has adhered to this high standard since 1980.

The ordinance before the Council changes this ethics standard from disqualification to disclosure and then allows a Councilmember to participate in the legislative matter pending before the Council, including voting on final resolution of the matter. The disclosure standard does not meet the stated intent of the Council in SMC 4.16.020 that “public office not be used for personal gain.” Nor does disclosure “cure” the perception that an elected official has a conflict of interest. Quite the contrary, the proposed change allows a Councilmember with an actual conflict of interest to disclose that fact and then vote, a deeply troubling lowering of our ethical standards.

It’s also important to remember that the ethics code already includes an exception when the “prohibited financial interest is shared with a substantial segment of the City’s population.” (SMC 4.16.070.A.4) This exception mitigates any concerns that a Council member’s financial interest based solely on the member’s address could prevent that member from voting on a matter.

Ethics laws serve a dual purpose: (1) to regulate the actions of covered persons, in this case elected officials, and (2) to establish a culture of practice, norms of behavior, and expectations supportive of and consistent with the adoption of the ethics law.

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It's been suggested that this change in Seattle's standard is necessary because of the voters' decision to establish City Council districts, but I don't believe the voters ever intended their actions to be interpreted as a desire to lower city government's ethical standards. Nor do I believe that the argument addresses the potential for harm to the appearance of fairness in our decision making process.

For these reasons, I will vote against this proposal.

As an alternative, I propose that the Council modify the current exception language to specifically address district representation: "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 or, in the case of a councilmember elected to represent a district, if the prohibited financial interest is shared with a substantial segment of the district's population."