



Legislation Text

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AN ORDINANCE transferring duties and responsibilities for processing and investigating lobbyist disclosure complaints from the county auditor to the county ombudsman, and amending Ordinance 13320, Section 5, and K.C.C. 1.07.050, Ordinance 13320, Section 14, as amended, and K.C.C. 1.07.140 and Ordinance 13320, Section 15, and K.C.C. 1.07.150.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13320, Section 5, and K.C.C. 1.07.050 are each hereby amended to read as follows:

A. It is understood that businesses may employ a specific person or persons as lobbyists. In addition, other employees of a business, or contracted experts, may have occasion to meet on an irregular basis with councilmembers or the executive or appear before public sessions of the council or its committees to provide information or expert testimony. Such other employees or contracted experts shall not be required to register or report under this chapter ~~((provided))~~ only if:

1. ~~((t))~~ They restrict their ((lobbying)) activities as defined in this section to no more than six days or parts thereof during any quarter(, and provided further that). ~~((a))~~ Appearing before public sessions of the council and committees of the council are not counted towards the six days; and

2. They are not registered as a lobbyist with the Washington State Public Disclosure Commission as a representative of the same client or organization for which they are an employee or contracted technical expert.

B. Any person exempt under this section may at his or her option register and report under this chapter.

SECTION 2. Ordinance 13320, Section 14, as amended, and K.C.C. 1.07.140 are each hereby amended

to read as follows:

A. Except for allegations of untimely filing of statements and reports, which are processed by the department under section K.C.C. 1.07.130.L, complaints alleging a violation of any of the provisions of this chapter shall be filed with the county (~~(auditor)~~) ombudsman. Any such a complaint shall be in writing, verified and signed by the complainant. The complainant shall describe the basis for the complainant's belief that this chapter has been violated. The complainant may state in the written complaint whether the complainant desires that his or her name be withheld from disclosure under RCW 42.17.310(1)(e) if the complaint is the subject of a public records disclosure request.

B. Within twenty days of receiving a complaint meeting the requirements of subsection A. of this section, the (~~(auditor)~~) ombudsman shall serve or mail, by certified mail, return receipt requested, a copy of the complaint to the person alleged to have violated this chapter. Within forty days of receiving the complaint the (~~(auditor)~~) ombudsman shall analyze the merits of the complaint to determine whether a full investigation is warranted. The (~~(auditor)~~) ombudsman shall have the authority to issue an order dismissing the complaint, or specific sections of the complaint, if the (~~(auditor)~~) ombudsman determines that the complaint or specific sections of the complaint, as written, alleges a de minimis violation or does not state facts that, even if true, would constitute a violation of this chapter.

C. If the (~~(auditor)~~) ombudsman determines that a full investigation of the complaint is warranted, then the investigation shall be directed to ascertain the facts concerning the violation or violations alleged in the complaint and shall be conducted in an objective and impartial manner. The (~~(auditor)~~) ombudsman is authorized to contract for such investigative services and other assistance as may be needed to conduct the investigation, subject to the council's appropriation of adequate funds to pay for the costs of the contracts. In furtherance of such an investigation, the (~~(auditor)~~) ombudsman is authorized to use the subpoena power to compel sworn testimony from any person and require the production of any records relevant or material to the investigation except information that is legally privileged. Upon request of the (~~(auditor)~~) ombudsman, county

employees shall provide sworn testimony and produce any records relevant or material to the investigation, except information that is legally privileged.

D. During the investigation, the (~~auditor~~) ombudsman shall consider any statement of position or evidence with respect to the allegations of the complaint that the complainant or respondent wishes to submit.

E. The results of the investigation shall be reduced to written findings of fact and a finding shall be made that there either is or is not reasonable cause for believing that the respondent has violated one or more provisions of the chapter.

F. If a finding is made that there is no reasonable cause, then the finding shall be served or mailed, by certified mail, return receipt requested, to the complainant and the respondent and the finding shall be final. The original of the (~~auditor's~~) ombudsman's finding shall be filed with the clerk of the council.

G. If a finding is made that reasonable cause exists to believe that the respondent has violated one or more of the provisions of this chapter, then the (~~auditor~~) ombudsman shall prepare an order to that effect, copies of which shall be served or mailed, by certified mail, return receipt requested, to the complainant and the respondent. The original of the (~~auditor's~~) ombudsman's order shall be filed with the clerk of the council. The reasonable cause order shall include:

1. A finding that one or more violations of this chapter has occurred;
2. The factual basis for the finding;
3. The amount of the civil penalty or penalties imposed for remedial purposes to be assessed for each violation. A person who is found to have violated this chapter shall be given a written warning for the first violation by certified mail, return receipt requested, and shall be subject to a civil penalty of up to one thousand dollars for each subsequent violation after the warning has been given. Further, an individual penalty may not exceed one thousand dollars per violation and in any case where multiple violations are involved in a single complaint, the maximum aggregate civil penalty shall not exceed two thousand five hundred dollars; and
4. A notice informing the respondent that the respondent has the right to a hearing before the hearing

examiner as set forth in K.C.C. 1.07.150.

SECTION 3. Ordinance 13320, Section 15, and K.C.C. 1.07.150 are each hereby amended to read as follows:

A. Any respondent aggrieved by an order of the ((~~auditor~~)) ombudsman may request in writing within twenty days of the service of the order upon the respondent an appeal hearing before the hearing examiner. The request shall cite the order appealed from and specify with particularity the findings being contested. The request shall be filed with the hearing examiner with a copy to the ((~~auditor~~)) ombudsman and the complainant.

B. Any order issued by the ((~~auditor~~)) ombudsman pursuant to K.C.C. 1.07.140 shall become final twenty days after service of the order unless a written request for an appeal hearing as set forth above is received by the hearing examiner within the twenty day period.

C. If an order of the ((~~auditor~~)) ombudsman has been timely appealed, a hearing shall be conducted by the hearing examiner for the purpose of affirming, denying or modifying the order. The parties to the hearing shall be the respondent and the ((~~auditor~~)) ombudsman. There shall be a verbatim record kept of the hearing and the hearing examiner shall have the power to administer oaths and affirmations, issue subpoenas, compel attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other documents relevant or material to the hearing, except information which is covered by the attorney-client privilege. The burden of proving that a violation occurred shall at all times be upon the ((~~auditor~~)) ombudsman. The decision of the hearing examiner shall be based upon a preponderance of the evidence. Such hearing shall be conducted within a reasonable time after receipt of the request for appeal. Written notice of the time and place of the hearing shall be given to the parties and the complainant at least ten days prior to the date of the hearing.

D. At the hearing each party shall have the following rights:

1. To call and examine witnesses on any matter relevant to the issues raised by the order of the ((~~auditor~~)) ombudsman;

2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any relevant matter;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut evidence against him or her; and
6. To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.

E. Following review of the evidence submitted the hearing examiner shall, within a reasonable time, enter written findings and conclusions and shall affirm or modify the order previously issued if the hearing examiner finds that one or more violations of this chapter have occurred. The hearing examiner shall reverse the order if he or she finds that no violations of this chapter have occurred. A copy of the hearing examiner's decision shall be served or mailed, by certified mail, return receipt requested, to the (~~auditor~~) ombudsman, the respondent and the complainant. The original of the hearing examiner's decision shall be filed with clerk of the council.

F. A decision of the hearing examiner shall be a final and conclusive action unless within twenty-one calendar days from the date of issuance of the hearing examiner's decision an aggrieved person files an appeal in superior court, state of Washington, for the purpose of review of the action taken.