

# Legislative Ethics Board



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## COMPLAINT 2019 – No. 6

*In re Kilduff & Leavitt*  
September 4, 2019

### BOARD COUNSEL'S ORDER OF DISMISSAL

#### I. NATURE OF THE COMPLAINT

The complaint alleges that in one of Respondents' newsletters received by the Complainant, they were not truthful about their support for new taxes. The complaint does not cite the specific provision(s) of the Ethics in Public Service Act (Act) the Complainant believes has been violated.

#### II. JURISDICTION

The Board has personal jurisdiction over the Respondents under RCW 42.52.320. Because the Act does not address the alleged inclusion of misinformation in a flyer, the Board does not have subject matter jurisdiction in this matter.

#### III. PROCEDURAL HISTORY

The complaint was received by Board counsel on July 12, 2019 and was the subject of Board discussion at the regularly scheduled meeting on August 26, 2019.

#### IV. FINDINGS OF FACT

There is reasonable cause to believe the following are the pertinent facts of the case.

1. Both Respondents are members of the House of Representatives representing the 28<sup>th</sup> legislative district.
2. Complainant believes she received a newsletter from Respondents at her home address. The newsletter summarized the results of the 2019 session. In the newsletter, Respondents state they

were “against any tax increases that ultimately failed this year specifically highlighting ‘NO carbon tax’ & ‘NO increase in state property tax rates.’”

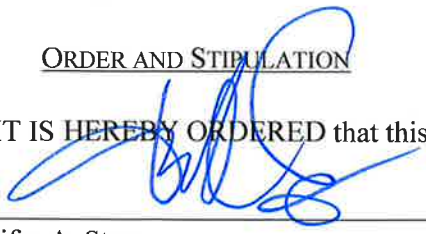
3. Respondent Kilduff voted in favor of HB 1110 which, Complainant believes, included a carbon tax. HB 1110 did not pass the legislature because it stalled in the Senate.
4. Respondent Kilduff voted in favor of SB 5313 which, Complainant believes, raised property taxes contrary to Respondent’s newsletter which stated that there was not an increase in state property taxes.
5. The document Complainant included with her complaint was not a newsletter from Respondents. Rather, it was a document that was prepared for Respondents and handed out at city council meetings to assist Respondents in summarizing the results of the 2019 session.
6. HB 1110 does not create a carbon tax. It directs the Department of Ecology to adopt a rule establishing a Clean Fuels Program to limit greenhouse gas emissions per unit of transportation fuel energy to 10% below 2017 levels by 2028 and 20% below 2017 levels by 2035. The bill did pass off the House floor. Both Respondents voted in favor of the bill.
7. SB 5313 does not increase the state property tax rates; rather, it deals with school districts’ levy authority. Respondent Kilduff voted in favor of the bill upon final passage; Respondent Leavitt voted against the bill upon final passage.

V. CONCLUSIONS OF LAW

1. Pursuant to RCW 42.52.RCW, the Board has jurisdiction over the Respondents but lacks subject matter jurisdiction in this matter because the violations alleged are not prohibited by the Act.
2. Even if the Act did include provisions prohibiting the behavior alleged in the Complaint, there would be no reasonable cause to believe the Act had been violated because Complainant’s allegations against Respondents include incorrect facts.
3. Pursuant to RCW 42.52.425 and Legislative Ethics Board Rule 1. D., Board Counsel has the authority to dismiss this complaint.
4. The investigation conducted under RCW 42.52.420 revealed that the conduct meets the criterion for dismissal.

VI. ORDER AND STIPULATION

IT IS HEREBY ORDERED that this complaint is dismissed.

  
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Jennifer A. Strus  
Board Counsel

Date: 9/4/19