

Legislative Ethics Board

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COMPLAINT 2022 – No. 5

In re Das
June 24, 2022

I. NATURE OF COMPLAINT

The complaint alleges that Respondent violated the Ethics Act by introducing legislation during the 2022 session which would allegedly benefit a personal client. Although the Complaint does not cite a provision of the Act alleged to have been violated by Respondent, the Board has analyzed the complaint as alleging a violation of RCW 42.52.020 (activities incompatible with public duties) and RCW 42.52.140 (quid pro quo).

II. JURISDICTION

The Board has personal and subject matter jurisdiction. RCW 42.52.320.

III. PROCEDURAL HISTORY

Complaint 2022 – No. 5 was received on February 26, 2022, and was discussed during the Board's regularly scheduled meetings on April 18, 2022 and June 14, 2022.

IV. FINDINGS OF FACT

1. Respondent is a member of the Senate representing the 47th legislative district. She has served in the Senate since 2018.
2. During the 2021 interim, Respondent worked on and lobbied for federal legislation that supported green roof systems. She was employed by a consultant who hired her to do this work. Before accepting the position with the consultant, Respondent discussed the position with both Senate Counsel and Board counsel.
3. Respondent stated she has been interested in green roofs policy and the implication of green roofs as a tool in climate change before she was elected to the Senate.

4. A green roof system is an extension of the existing roof which involves, at a minimum, high quality waterproofing, root repellent system, drainage system, filter cloth, a lightweight growing medium, and plants.
5. Respondent was introduced to Steven Peck, President of Green Roofs for Healthy Cities, by a long-time friend involved in the green roofs industry who resides in Portland, Oregon.
6. Green Roofs for Healthy Cities is a national membership association based in Toronto, Canada. Its mission is to “develop and protect the market by increasing the awareness of the economic, social and environmental benefits of green roofs, green walls and other forms of living architecture through education, advocacy, professional development, and celebrations of excellence.”
7. Mr. Peck indicated that several years ago, Respondent assisted his association with some communications work on green roofs on education buildings.
8. During the 2022 legislative session, Respondent sponsored SB 5732. SB 5732 would have required, among other items, all new buildings 50,000 square feet or larger and designed after January 1, 2025, to cover over 70% of the roof space with green roofing and solar panels.
9. The bill was heard in committee on January 26, 2022. Steven Peck testified in favor of the bill. Although the bill died in committee, Respondent was able to secure a \$220,000 supplemental operating budget proviso for the Department of Commerce to conduct a cost-benefit analysis on the use of agrivoltaic¹ and green roof systems on projected new buildings with a floor area of 10,000 feet or larger to be developed in the next 20 years in communities of 50,000 or greater.
10. As part of this proviso, the department is required to consult with the department of ecology, private sector representatives and an organization that has experience conducting cost-benefit analyses on green roofing.
11. Respondent indicated that she did direct Senate staff to consult with Mr. Peck several times because his association is the leading expert in the area of green roofs.
12. There is no evidence that Mr. Peck received or will receive any financial benefit from working with Respondent on the bill or the budget proviso.
13. There is no evidence that Respondent received or will receive any financial benefit from working with Mr. Peck on either the bill or the budget proviso.

V. ANALYSIS AND CONCLUSIONS OF LAW

A. Conflict of Interest

RCW 42.52.020 provides as follows:

¹ *Agrivoltaics* is an arrangement of land use that collocates agriculture and solar photo-voltaic panels.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

Board opinions have consistently reaffirmed the citizen-legislature concept based upon the constitutional principle of a part-time legislature. *Advisory Opinion 2001 – No. 1*. “By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle.” RCW 42.52.330.

According to the Respondent, her interest in green roof technology and policy existed before she was elected. It may have been enhanced through her work on the federal level last interim, but that is the nature of a citizen-legislature – through various experiences different legislative ideas are brought to bear. The introduction and passage of legislation is the heart of a legislator’s official duties. *In re Reykdal*, 2016 – No. 14. There is no reasonable cause to believe that RCW 42.52.020 was violated.

B. Quid Pro Quo

RCW 42.52.140 provides as follows:

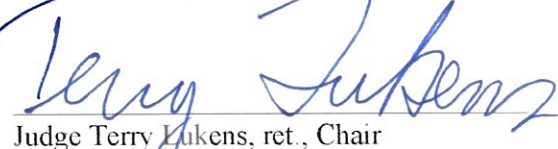
No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

This section, referred to as the "quid pro quo" prohibition, controls what otherwise might be permitted activity under other sections of the Act. In analyzing .140, the Board is primarily looking for conduct which offers or appears to offer something specific in exchange for something specific. *In re Rivers*, 2020 – No. 8; *In re Van Luven*, 2002 – No. 1. The offer of a vote on a specific bill in exchange for money is an obvious example of a violation of the quid pro quo prohibition. *See Senate Ethics Board Complaint*, 1975 – No. 1; *In re Scott*, 1995 – No. 4.

In this matter, there is no evidence that Respondent sponsored SB 5732 or a supplemental budget proviso in exchange for something specific from Mr. Peck. There is no reasonable cause to believe that Respondent violated RCW 42.52.140.

VI. ORDER

IT IS HEREBY ORDERED: that reasonable cause does not exist that Respondent, Sen. Das, violated either RCW 42.52.020 or RCW 42.52.140.


Judge Terry Lukens, ret., Chair

Date: 6/24/22