

Legislative Ethics Board

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COMPLAINT 2025 – No. 6

In re Walen
April 10, 2025

NO REASONABLE CAUSE – ORDER OF DISMISSAL

I. NATURE OF COMPLAINT

The Complaint alleges that Respondent violated the Ethics Act by using her position as both a legislator and the chair of a House committee to kill House Bill (HB) 1721 because she is the owner of a car dealership and the bill related to allowing electric car manufacturers to have dealerships in the state. Although no statute was cited, the allegation was investigated under RCW 42.52.020 (conflict of interest).

II. BACKGROUND

Complaint 2025 – No. 6 was received on March 3, 2025, and discussed at the Board's regularly scheduled meeting on March 31, 2025.

III. JURISDICTION

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

IV. FINDINGS OF FACT

1. Respondent is a member of the House of Representatives representing the 48th legislative district. She was first elected to the seat in November 2018.
2. Respondent and her husband own a car dealership in Kirkland, Washington.
3. Respondent is the current chair of the House Consumer Protection & Business Committee.
4. HB 1721 was introduced in the 2025 legislative session. It allows for direct sales of zero emissions vehicles (ZEV) by manufacturers in specified circumstances and modifies the exception for a manufacturer competing with dealers from certain manufacturers with a dealer license on January 1, 2014, to ZEV manufacturers in specified circumstances.
5. The bill was heard in the House Committee on February 14, 2025, and was scheduled for executive session on February 21, 2025.

6. On the date the bill was originally scheduled for executive session, it was deferred and was not voted out of committee before the deadline to pass bills out of their originating committee.
7. Respondent indicated that she caucused on the bill and did not have sufficient votes to get the bill out of committee.
8. HB 1721 had a Senate companion: SB 5592. That bill was referred to the Senate Labor & Commerce Committee.
9. SB 5592 was heard in committee on February 4, 2025, but was not scheduled for executive session.
10. During the 2024 legislative session, HB 2028 containing the same content as HB 1721 was introduced and referred to the House Committee on Consumer Protection & Business. Respondent chaired the committee during the 2024 legislative session.
11. HB 2028 passed out of the House Consumer Protection & Business Committee but died in the Rules Committee.
12. The Senate companion to HB 2028 (SB 5945) passed out of the Senate Labor & Commerce Committee but also died in Rules.
13. During the 2021 legislative session, HB 1388 (similar in content to HB 1721) was introduced and referred to the House Committee on Consumer Protection & Business. There was no Senate companion.
14. HB 1388 was heard in committee but was not brought up for executive session. Rep. Steve Kirby was the Chair of the House Committee at the time this bill was heard.

V. ANALYSIS AND CONCLUSIONS OF LAW

This Complaint alleges that it is a conflict of interest for Respondent to co-own a car dealership and use her position as a legislator to fail to support bills that may conflict with her outside employment and business interests.

The Board has frequently dealt with the issue of the outside employment of legislators. The Board has analyzed the outside employment of legislators by applying two statutes: RCW 42.52.020 (activities incompatible with public duties) and RCW 42.52.330 (citizen legislator).

The concept of the citizen-legislator is based in the Washington State Constitution. Other than the civil office prohibition in Article 2, Section 14, the constitution does not limit a legislator's ability to hold outside employment. The only other written limits on legislators' non-legislative jobs arises within the Ethics Act itself through provisions like RCW 42.52.020.

The language of RCW 42.52.020 is very broad and provides as follows:

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.

The Board, in considering the application of RCW 42.52.020, must also address RCW 42.52.330 which provides as follows:

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.

These statutes mean that when the Board is reviewing whether a particular non-legislative job presents evidence of “activities incompatible with the member’s official duties,” it must consider how that provision is to be applied in light of the citizen-legislator concept.

Very few non-legislative jobs are prohibited outright. When looking at whether a non-legislative job presents a conflict of interest with the legislator’s official duties, the Board has used two tests: *per se* and functional. The *per se* test looks at whether the legislator’s non-legislative employment presents such a direct conflict with his or her official duties that the employment itself would violate .020. Being employed as a lobbyist and serving as executive director of a non-profit engaged in lobbying an issue before the Legislature have been found to be *per se* conflicts of interest. *See, e.g. Advisory Opinion 1998 – No. 6; Advisory Opinion 1999 – No. 5.*

The functional test applies to specific legislative actions – votes – and the degree to which a particular legislator stands to gain from those votes. The process requires a review of the legislator’s non-legislative activities for his or her employer but also requires consideration of that outside employment and the extent to which the legislator will personally benefit from specific legislative action.

The general rule is that the outside employer cannot condition employment on legislative results or pay the legislator to push or advance the employer’s legislative agenda or to oppose legislation disfavored by the employer. Absent facts that the legislator is engaged in any of these types of prohibited employment, the Ethics Act does not prohibit a legislator from supporting legislation favored by the outside employer or opposing legislation disfavored by the outside employer. *In re Armstrong*, 2011 – No. 1. Under the functional approach to analyzing conflicts, the Board has stated that areas of potential conflict may be reduced or removed by restructuring certain outside employment responsibilities. *Advisory Opinion 1999 – No.1.*

As chair of a committee, it is Respondent’s responsibility to decide which bills to hear and which to bring up for executive session. There are many considerations in making that decision, not the least of which is to ensure there is sufficient support from the committee members to vote the bill out of committee. That Respondent did not have sufficient votes and opted to defer executive session on the bill does not mean that she has a conflict of interest under RCW 42.52.020.

Applying the functional test, the Board should review the previous actions taken in the legislature to the same or similar bills. In 2024, when Respondent was chair of the House Committee on Consumer Protection & Business, and a co-owner of a car dealership, the bill was voted out of committee. The Senate companion bill was also voted out of committee Both the House and Senate bills died in the Rules

Committee. During the 2021 legislative session, a similar bill never moved out of the House committee; Respondent was not chair of the committee at that time. There does not appear to be any evidence that, as a co-owner of a car dealership, her employment is conditioned upon her support or non-support for this bill.

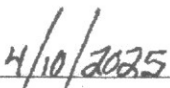
Rather than Respondent favoring her outside employment interests over her legislative duties as is alleged in the Complaint, it appears that there has been and continues to be a general lack of support for these aforementioned bills.

VI. ORDER

IT IS HEREBY ORDERED that: there is no reasonable cause to believe the Respondent violated RCW 42.52.020, and the complaint is dismissed.



Larry Hoff, Chair



Date