



SEATTLE UNIONS FLOUT CITY'S "HONEST ELECTIONS" LAW

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In 2015, voters in the city of Seattle passed Initiative 122, the “honest elections” law, with the goal of “reducing the influence of money, ensuring accountability, and preventing corruption in City of Seattle government.”¹

While I-122 is best known for establishing a controversial, tax-funded “democracy voucher” program — whereby city voters receive four \$25 vouchers they can contribute to candidates of their choosing running for city office — the measure also contained a host of other election regulations.²

Implementation of the democracy voucher element of the law for the 2017 city elections was beset with challenges.³ In addition, a Freedom Foundation review of election records compiled by the Seattle Ethics and Elections Commission (SEEC) indicates several labor unions contributed to candidates for city office despite a provision in the “honest elections” ordinance appearing to prohibit such contributions.

Seattle Municipal Code 2.04.601, titled, “No Campaign Contributions from City Contractors or their PACs,” states:

“No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly accept any contribution directly or indirectly from any entity or person who in the prior two years has earned or received more than \$250,000, under a contractual relationship with the City. No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly solicit a contribution for himself or herself or for any political party, political committee, campaign committee or public office fund, directly or indirectly from any entity or person who in the prior two years has earned or received more than \$250,000, under a contractual relationship with the City.”

The SEEC publishes a list of city contractors that have “received payments of \$100,000 or more from the city of Seattle in the two-year period between 1/1/2016 and 12/31/2017” on its website. The webpage notes that, “[c]andidates for Seattle Mayor, City Council and City Attorney are prohibited from accepting contributions from any contractor who received more than \$250,000 in the last two years.”⁴ Though not a definitive list of contractors prohibited from making campaign contributions, the purpose of this webpage is presumably to assist candidates in determining which entities they may not accept contributions from. The list includes a variety of entities, including several labor unions.

Most Seattle employees are represented by one of several different labor unions. The city currently has a total of 28 different collective bargaining agreements (CBAs) with 17 different unions.⁵

¹ The full text of Initiative 122 is available online at: www.seattle.gov/Documents/Departments/EthicsElections/DemocracyVoucher/I-122%20Text-%20Master.pdf

² A summary of Initiative 122’s substantive provisions prepared by the city of Seattle is available online at: www.seattle.gov/democracymet/about-the-program/honest-elections-seattle-initiative

³ Hayat Norimine, “Seattle Tried to Reform Campaign Finance with Democracy Vouchers. It Didn’t Work for Everyone,” *SeattleMet*, Dec. 19, 2017. www.seattlemet.com/articles/2017/12/19/seattle-tried-to-reform-campaign-finance-with-democracy-vouchers-it-didn-t-work-for-everyone

⁴ Seattle Ethics and Elections Commission, “City of Seattle’s Contractors, Organizations and Individuals.” web6.seattle.gov/ethics/elections/popvendorlist.aspx?sort=byamount

⁵ The Seattle Department of Human Resources makes a list of the city’s collective bargaining agreement with unions available online at: www.seattle.gov/personnel/resources/agreements.asp

Data obtained by the Freedom Foundation from the Seattle Department of Finance and Administrative Services under the state Public Records Act indicate the city collected \$15.3 million in union dues and fees from employees' pay in accordance with a CBA from 2016-17.⁶

At least eight unions received more than \$250,000 in dues and fees during this period under a CBA with Seattle and nonetheless contributed to candidates for city office in the 2017 election.

Unions Receiving More Than \$250K Under a CBA with Seattle

Union	Amount
Professional and Technical Employees, Local 17	\$3,236,864.32
Seattle Police Officers Guild	\$2,601,877.98
International Association of Fire Fighters, Local 27 [Seattle Fire Fighters]	\$2,489,335.99
International Brotherhood of Electrical Workers, Local 77	\$2,355,570.86
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	\$1,350,230.10
Washington State Council of County and City Employees [AFSCME Council 2]	\$1,035,146.76
United Association of Plumbers and Pipefitters, Local 32	\$287,287.54
International Brotherhood of Teamsters, Local 117	\$261,151.86

Of the eight unions receiving more than \$250,000 based on this city data, all but the Washington State Council of County and City Employees (also known as AFSCME Council 2) are also included on the SEEC's list of vendors and reported to have received over \$250,000. Even though it is not on the SEEC vendor list, information received pursuant to the Freedom Foundation's public records request shows that AFSCME Council 2 has actually received more than \$1 million in dues and fees collected by the city under CBAs during calendar years 2016-17.

⁶ The data provided to the Freedom Foundation by the Seattle Department of Finance and Administrative Services is available online at: www.freedomfoundation.com/wp-content/uploads/2018/05/Dues_Deductions_01.01.16_-_12.31.17_by_BU_Name.pdf

Altogether, the eight unions contributed a total of \$79,800 to eight candidates for Seattle mayor, city council and city attorney in 2017.⁷ Of this, \$70,000 went towards independent expenditures on behalf of Jenny Durkan’s campaign for mayor and Teresa Mosqueda’s campaign for city council. The remaining \$9,800 was contributed directly to candidates in amounts ranging from \$250 to \$500, the maximum contribution allowed under SMC 2.04.370(b).

Union Contributions to Candidates in Violation of SMC 2.04.601

Contributor	Candidate	Office Sought	Amount	Support Type
International Association of Fire Fighters, Local 27	Jenny Durkan	Mayor	\$50,000	Indep. Exp.
International Association of Fire Fighters, Local 27	Lorena Gonzalez	City Council	\$250	Contribution
International Association of Fire Fighters, Local 27	Scott Lindsay	City Attorney	\$500	Contribution
International Association of Fire Fighters, Local 27	Teresa Mosqueda	City Council	\$10,000	Indep. Exp.
International Association of Fire Fighters, Local 27	Teresa Mosqueda	City Council	\$250	Contribution
International Association of Fire Fighters, Local 27	Teresa Mosqueda	City Council	\$250	Contribution
International Brotherhood of Electrical Workers, Local 77	Ed Murray	Mayor	\$300	Contribution
International Brotherhood of Electrical Workers, Local 77	Jessyn Farrell	Mayor	\$250	Contribution
International Brotherhood of Electrical Workers, Local 77	Teresa Mosqueda	City Council	\$5,000	Indep. Exp.
International Brotherhood of Electrical Workers, Local 77	Teresa Mosqueda	City Council	\$250	Contribution
International Brotherhood of Electrical Workers, Local 77	Teresa Mosqueda	City Council	\$250	Contribution
International Brotherhood of Teamsters, Local 117	Jessyn Farrell	Mayor	\$500	Contribution
International Brotherhood of Teamsters, Local 117	Lorena Gonzalez	City Council	\$250	Contribution
International Brotherhood of Teamsters, Local 117	Teresa Mosqueda	City Council	\$250	Contribution
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	Ed Murray	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	Jenny Durkan	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	Jessyn Farrell	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	Lorena Gonzalez	City Council	\$250	Contribution
Laborers International Union of North America, Local 1239 [Public Service and Industrial Employees]	Teresa Mosqueda	City Council	\$250	Contribution

⁷ Records downloaded from the SEEC website showing the contributions by the eight unions are available online at: www.freedomfoundation.com/wp-content/uploads/2018/05/Seattle-political-contributions-2017.pdf

Union Contributions to Candidates in Violation of SMC 2.04.601 **CONTINUED**

Contributor	Candidate	Office Sought	Amount	Support Type
Professional and Technical Employees, Local 17	Ed Murray	Mayor	\$500	Contribution
Professional and Technical Employees, Local 17	Jenny Durkan	Mayor	\$5,000	Indep. Exp.
Professional and Technical Employees, Local 17	Jenny Durkan	Mayor	\$500	Contribution
Professional and Technical Employees, Local 17	Lorena Gonzalez	City Council	\$250	Contribution
Professional and Technical Employees, Local 17	Pete Holmes	City Attorney	\$250	Contribution
Professional and Technical Employees, Local 17	Teresa Mosqueda	City Council	\$250	Contribution
Professional and Technical Employees, Local 17	Teresa Mosqueda	City Council	\$250	Contribution
United Association of Plumbers and Pipefitters, Local 32	Jenny Durkan	Mayor	\$500	Contribution
United Association of Plumbers and Pipefitters, Local 32	Teresa Mosqueda	City Council	\$250	Contribution
Washington State Council of County and City Employees (AFSCME Council 2)	Bob Hasegawa	Mayor	\$500	Contribution
Washington State Council of County and City Employees (AFSCME Council 2)	Ed Murray	Mayor	\$500	Contribution
Washington State Council of County and City Employees (AFSCME Council 2)	Jenny Durkan	Mayor	\$500	Contribution
Washington State Council of County and City Employees (AFSCME Council 2)	Teresa Mosqueda	City Council	\$250	Contribution
International Brotherhood of Teamsters, Local 117	Teresa Mosqueda	City Council	\$250	Contribution
Laborers International Union of North America, Local 1239 (Public Service and Industrial Employees)	Ed Murray	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 (Public Service and Industrial Employees)	Jenny Durkan	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 (Public Service and Industrial Employees)	Jessyn Farrell	Mayor	\$500	Contribution
Laborers International Union of North America, Local 1239 (Public Service and Industrial Employees)	Lorena Gonzalez	City Council	\$250	Contribution
Laborers International Union of North America, Local 1239 (Public Service and Industrial Employees)	Teresa Mosqueda	City Council	\$250	Contribution
TOTAL			\$79,800	

By accepting contributions from one or more of eight unions that have received more than \$250,000 under a contractual relationship with the city of Seattle, Jenny Durkan, Lorena Gonzalez, Scott Lindsay, Teresa Mosqueda, Ed Murray, Jessyn Farrell, Pete Holmes and/or Bob Hasegawa may have violated SMC 2.04.601.

The eight unions referenced above have “received more than \$250,000 under a contractual relationship with the City” and, accordingly, may not contribute to candidates seeking city offices.

Collective bargaining conducted pursuant to state law and resulting in a binding, written contract undoubtedly constitutes a “contractual relationship” for the purposes of SMC 2.04.601. In accordance with state law,⁸ the city’s CBAs require Seattle to collect union dues and fees from employees’ pay and to forward the funds to the appropriate union.

Absent the written collective bargaining agreements, the city would not perform the function of collecting union dues and fees and the unions would not “receive” the funds they currently do.

The unions benefit from having Seattle use its resources to collect dues and fees on their behalf. Accordingly, the unions have every incentive to contribute money to candidates who will support them and their collective bargaining agreements. It is an immense help to a union to have elected officials on the other side of the bargaining table who will be receptive to its demands.

SMC 2.04.601 exists precisely to prevent this dynamic from corrupting city policymakers.

To trigger SMC 2.04.601’s prohibition, it is not necessary for a union to “earn” the money it receives from the city. The ordinance provides simply that a person or entity “receiving” more than \$250,000 under a contractual relationship with the city may not contribute to candidates for city office. This language covers a broad enough range of activities to include without question union dues collected by the city under a CBA. Consequently, it appears none of these direct contributions were lawful.

While the above unions clearly should not have contributed to candidates for Seattle city offices, technically a violation of the laws occurs only when a candidate “knowingly accepts” a contribution from a prohibited contractor.

Many of these candidates are politically experienced, sophisticated individuals. Jenny Durkan is an attorney,⁹ as are Jessyn Farrell,¹⁰ Scott Lindsay,¹¹ Pete Holmes¹² and Lorena Gonzalez.¹³ Gonzalez even served as a member of the SEEC.¹⁴ Other candidates had direct professional experience with labor unions and are well aware of the nature of unions and collective bargaining. Prior to her election, Teresa Mosqueda worked as the political and strategic campaign director for the Washington State Labor Council.¹⁵ Bob Hasegawa was a member of the Teamsters union for 32 years and head of Teamsters Local 174 for three.¹⁶ Additionally, Hasegawa, Farrell and Gonzalez all endorsed I-122 in 2015.¹⁷

⁸ RCW 41.56.110 and RCW 41.56.122.

⁹ Office of the Mayor, “About the Mayor.” www.seattle.gov/mayor/newsroom/about-the-mayor

¹⁰ web.leg.wa.gov/WomenInTheLegislature/Members/FarrellJ.htm

¹¹ Daniel Beekman, “Seattle mayor adviser Scott Lindsay challenges Pete Holmes for city attorney,” *Seattle Times*, April 27, 2017. www.seattletimes.com/seattle-news/politics/seattle-mayor-adviser-scott-lindsay-challenges-pete-holmes-for-city-attorney

¹² Seattle City Attorney, “About Pete Holmes.” www.seattle.gov/cityattorney/about-us/about-pete-holmes

¹³ Seattle City Council, “About Councilmember Lorena Gonzalez.” www.seattle.gov/council/meet-the-council/lorena-gonz%C3%A1lez/about-lorena

¹⁴ electlorenagonzalez.com/meet-lorena/

¹⁵ Seattle City Council, “About Councilmember Teresa Mosqueda.” www.seattle.gov/council/meet-the-council/teresa-mosqueda/about-teresa

¹⁶ Sen. Bob Hasegawa’s biography on the website for the Washington Senate Democrats, sdc.wastateleg.org/hasegawa/biography

¹⁷ List of I-122’s endorsements: web.archive.org/web/20161024041950/http://honestelectionsseattle.org/endorsements/

In similar circumstances, however, courts generally do not require that an individual have “actual” knowledge their action violated the law. Instead, a violation can be found to have occurred if it is determined a reasonable person should have known — or had reasonable access to the necessary information to know — the action was prohibited.¹⁸ This is referred to as having “constructive” knowledge.

A similar standard is acknowledged in Seattle’s election laws. SMC 2.04.010 provides,

“A person knows or acts knowingly or with knowledge when:

1. the person is aware of a fact, facts, or circumstances or result described by an offense in this title; or
2. he or she has information that would lead a reasonable person to believe that facts exist, which facts are described by an ordinance defining offense violation of this title.”

In this case, the SEEC’s vendor list has been posted online since at least the end of 2016 and was available to candidates throughout the 2017 election season.¹⁹

With such a resource publicly available, the eight candidates receiving prohibited contributions from unions would be hard pressed to argue they didn’t have at least constructive knowledge of the fact the contributions were improper.

In light of these facts, the Freedom Foundation calls on the SEEC’s executive director, Wayne Barnett, to exercise his authority under SMC 2.04.060-090 to conduct an investigation into whether these city candidates and officials broke the law by accepting inappropriate contributions from labor unions.

SMC 2.04.500 provides a maximum penalty of \$5,000 per violation of the city’s election laws. In addition, if a contribution has been “illegally made or accepted,” the SEEC may order the return of the contribution and a penalty of twice the contribution amount.

¹⁸ Jean Murray, “Constructive Notice and Actual Notice in Civil Lawsuits Differences,” *The Balance*, May 11, 2018. www.thebalancesmb.com/constructive-notice-and-actual-notice-in-civil-lawsuits-398193

¹⁹ The version of the website as of December 29, 2016 was captured by the Internet Archive’s Wayback Machine: web.archive.org/web/20161229222921/web6.seattle.gov/ethics/elections/popvendorlist.aspx



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