



Legislation Text

File #: Ord 19-71, **Version:** 1

Amending Chapter 24.03 of the Administrative Code related to financial disclosure requirements.

SECTION 1

WHEREAS, Saint Paul Administrative Code Chapter 24.03 contains financial disclosure requirements for the Members of the City Council and their appointed aides, the mayor and the mayor's appointed assistants and aides, and all department directors; and

WHEREAS, the list of individuals who are required to file such disclosures was based upon a finding by the Council that such persons have authority to make, to recommend, or to vote on as a member of the governing body major decisions regarding the expenditure or investment of public money; and

WHEREAS, the Council now believes that some of the individuals being required to complete such disclosures do not have such authority; and

WHEREAS, Council does not wish to require such disclosures for individuals who lack the authority to participate in major decisions regarding the expenditure or investment of public money; now, therefore, be it;

RESOLVED, that the City of Saint Paul does hereby ordain:

SECTION 2

Section 24.03 of the Saint Paul Administrative Code is hereby amended to read as follows:

Sec. 24.30 Rules.

(A) *Financial Interests:*

(1) *Prohibitions.*

(i) *Sale, lease or contract.* Except as otherwise permitted by law, no city official or employee shall knowingly be a party to or have a financial interest in any sale, lease or contract with the city.

(ii) *Interests of private employer.* A city official or city employee, as defined herein, who is authorized in his or her official capacity to take part in any manner in making or carrying out any governmental action, including but not limited to, making any sale, lease or contract, or deciding or recommending upon or issuing licenses, zoning variances, zoning permits or determinations, street vacations, or the acquisition or release of any interest in real property, shall not participate in any manner in any governmental action, if the governmental action would directly or indirectly affect the financial interest of his or her employer. "Employer," for the purpose of this section, excludes the City of Saint Paul, but includes a future employer if there is in existence, at any time while such governmental action was pending with or before the City of Saint Paul, an oral or written agreement for future employment of that official or employee with that employer. "Employment" as used in the preceding sentence includes any agreement under which work or services are to be performed for compensation. A city official shall abstain from voting on any such governmental action.

(iii) *No action on city matters for one year.* For one (1) year after ending employment as a city official or employee, no such official or employee shall represent a client other than the City of Saint Paul or another governmental entity, or perform work for any employer other than the City of Saint Paul or another governmental entity on any matter, project or assignment (a) in which the City of Saint Paul is substantially interested, and (b) on which such official or employee did any work within six (6) months before leaving city employment, unless the said city, after consultation and after public discussion by the council at a regularly scheduled meeting, consents by resolution, finding that such consent will neither injure the public interest nor impair the policy goals of the foregoing prohibition. The term "work," as used in the foregoing sentence, shall mean any decision, function, task, assignment or activity which in fact involved, or would reasonably be deemed to require, the use of judgment and discretion in balancing policy objectives, and as to which the said official or employee did in fact personally exercise such judgment or discretion in carrying out such decision, function, task assignment or activity. A "matter, project or assignment in which the City of Saint Paul is substantially interested" for the purpose of this section shall mean any matter, project, work, contract, assignment or development in which the city has expended or is obligated to expend fifty thousand dollars (\$50,000.00) or more in federal, state or local governmental public funds. This subsection (iii) shall apply to all city officials, as defined; provided, however, that this subsection (iii) shall apply only to those city employees who had, within the six (6) months before leaving city employment, the authority to make or recommend major decisions regarding the expenditure or investment of public money. The term "another governmental entity" as used in this subsection (iii) shall include the state, the University of Minnesota, and any office, department, board, commission, district, authority or agency of the state, and any county, statutory or home rule charter city, school district, special district, and any board, commission, district or authority created pursuant to law, local ordinance or charter provision.

(iv) *Disclosure of offers.* A city official or employee who has received an offer of employment, as defined in subsection (ii) above, if such city official or employee is working on or has responsibility for any matter, project or assignment in which the City of Saint Paul is substantially interested, as defined in subsection (iii) above, and if such offer of employment is made by anyone who has a direct or indirect financial interest in such matter, project or assignment, shall prepare a written statement disclosing the offer, its maker, and the terms and conditions of the offer. Such written statement shall be delivered to the employee's superior and, in the case of an official, to the City Clerk of the City of Saint Paul.

(v) *Penalties.* Any city official or employee who willfully and knowingly conceals such a financial interest or willfully and knowingly violates the requirements of this section shall be guilty of malfeasance in office or position which shall serve as just cause for termination of an employee or which shall require resignation from office by an elected official. Violation of this section shall render the contract voidable by the city council or by a court of competent jurisdiction. Any monies paid as the result of such violation may be recovered by a joint and several action from the parties to the sale, lease or contract and the city official or employee interested in the same. If, by reason of an agreement for future employment and pursuant to the prohibitions in subsection (ii) above, a city official or employee is substantially unable to perform the duties of his or her position, such inability shall constitute grounds for immediate termination of employment. The terms "contract," and "sale, lease or contract," as used in this subsection (v) shall include, for the purposes of the prohibitions in subsection (iii) above, all agreements of whatever kind related to or arising out of any matter, project or assignment in which the City of Saint Paul is substantially interested and as to which a city official or employee has violated the prohibitions in subsection (iii) above.

(vi) *Limitation on indirect financial interest.* The terms "indirectly affect the financial interest of" as used in subsection (ii) above, and "indirect financial interest" as used in subsection (iv) above, shall not mean or include an interest which such employer, or offeror of employment, respectively, shares or has in common with all or a substantial number of others of the general public who share the same interest (whether or not the degree or relative impact of such interest varies by

dollar amount from person to person) as a result of residing in or doing business in the City of Saint Paul.

(vii) *Inclusion in city contracts.* Notwithstanding any other provision of law or ordinance to the contrary, and to the extent permitted by law, from and after the effective date of this ordinance and this section 24.03(A), all contracts in or to which the City of Saint Paul is a party shall be presumed to contain and incorporate all the provisions and requirements of this ordinance and of this section 24.03(A), as though all of such provisions and requirements were fully set forth therein. All persons who contract with the City of Saint Paul are deemed by operation of law to have knowledge of and assent to the application of such provisions and requirements.

(2) *Definitions:*

(a) "City official" shall mean an elected official of the City of Saint Paul.

(b) "City employee" shall mean a person who holds a classified or unclassified title in the city service. "City employee" shall not include a city official or an independent contractor.

(c) *Financial interest* shall mean any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than duly authorized salary or compensation for services to the city) to the official or employee, the spouse or any dependent of such official or employee, the employer of such official or employee (other than the City of Saint Paul), or to any other person who resides with such official or employee.

(3) *Permitted interests.* Except as provided in section 24.03(A)(1)(ii), a city employee who is not a public officer within the meaning of Minn. Stat. § 471.87 may be a party to or have a financial interest in the following sales, leases or contracts with the city:

(a) Collective bargaining agreements; provided, however, that no council member who is also a member of, or on leave of absence from, the bargaining unit whose collective bargaining contract is being considered by the council under section 23.02 of the Administrative Code shall take part in any manner, at any time while such member is both a member of the council and a member of the bargaining unit, in any discussion, debate, consideration, approval, ratification or making of the collective bargaining contract for such bargaining unit, or in any other contract as to that unit, which in either case is or might be construed to be a violation of Minn. Stat. § 471.87. The foregoing proviso shall not apply to a council member who is not deemed to be a member of a bargaining unit under sections 23.02(3), 23.02(4) and 23.02(5) of the Administrative Code because of his or her execution of a waiver and acceptance meeting all the requirements of those sections;

(b) Pursuant to the provisions of state law, sales and purchases of surplus city property;

(c) Licenses;

(d) Zoning variances;

(e) Street vacations;

(f) Acquiring or granting of easements;

(g) Acquisitions of a real estate interest pursuant to the provisions of Chapter 51 of the

Saint Paul Legislative Code.

(B) *Statements of Economic Interest:*

(1) *Finding; designation of local officials:* The city council finds that the persons who hold elective office in the city, or who are appointed to or employed in public positions in the city, who have authority to make, to recommend, or to vote on as a member of the governing body major decisions regarding the expenditure or investment of public money, are:

(a) Members of the city council ~~and their appointed aides;~~

(b) The mayor and the deputy mayor's ~~appointed assistants and aides;~~ and

(c) All department directors.

Those persons are designated as the city's local officials for purposes of this subdivision and Minnesota

Statutes §§ 10A.01 and 10A.09, as amended.

(2) Requirement to file statements; contents, timing, and form of filing; city clerk to be notified of new local officials: In accordance with this subdivision and Minnesota Statutes §§ 10A.01 and 10A.09, as amended, the city's local officials shall file initial and any required supplementary statements of economic interest with the city clerk on a form prescribed by the city clerk. ~~Supplementary statements are required for each year or part of a year a local official remains in office if any information on the local official's most recently filed statement has changed in any way. Statements must contain all information required by state law and must be filed timely according to state law.~~

(1) initial statements must be filed within 60 days of accepting employment or being sworn in as a local official:

(2) supplementary statements are required annually no later than the last Monday of January for local officials who remain in office.

Any city official or employee who nominates or employs a local official required by this subdivision to file a statement of economic interest shall notify the city clerk of the name of the individual required to file a statement and the date of the nomination or commencement of employment.

(3) *City clerk to notify local officials of failure to file; sanctions:* The city clerk shall notify by registered mail ~~, or to their official city email address,~~ any local official who fails to file a statement of economic interest as required by this subdivision. Except for elected officials and candidates, an individual who knowingly fails to submit a statement of economic interest within seven (7) calendar days after receiving a "failure to file" notice from the city clerk shall be subject to discipline up to and including termination. ~~suspended by his or her appointing officer.~~

Any local official who is required to file a statement of economic interest ~~and fails to do so after receiving notice from the city clerk or~~ and who signs and certifies to be true a statement which he or she knows contains false information or who knowingly omits required information is guilty of a petty misdemeanor.

(C) *Gifts:*

(1) *Definition.* The word "gift," as used in this subdivision, shall mean and include any gift, favor, service or services, money, or thing having any value, but shall not include any of the following:

(a) A gift whose value does not exceed fifty dollars (\$50.00);

(b) The gift or receipt of otherwise permissible campaign contributions by or to candidates for elective office, which contributions are disclosed and reported as required by Chapter 28 of the Saint Paul Legislative Code and any other applicable provisions of law;

(c) The giving, receiving or exchange of gifts between officers and employees of the city;

(d) The gift or receipt of awards, and memorial plaques and trophies, having nominal intrinsic value;

(e) The gift or receipt of tickets entitling the bearer to admission to a sporting, theatrical, musical, testimonial, exhibition or other promotional event;

(f) The gift or receipt of a breakfast, lunch or dinner; or

(g) The giving, receiving or exchange of gifts between spouses and among relatives up to and including the fourth degree of kindred according to the civil law.

(2) *Prohibition.* No public official or employee of the City of Saint Paul shall knowingly receive any gift:

(a) From a person, firm or corporation having any business, administrative, legislative, contractual or any other relationship with the city or any of its departments or agencies; or

(b) From any person, firm or corporation where such gift would render or tend to render the officer or employee susceptible to compromise or influence in any matter relating to his office or employment with the city; or

(c) From any corporation, labor union, partnership or professional association.

(3) *Disposition of gifts.* Any gift not authorized by this subdivision may be returned to the donor or transmitted to the city treasurer or turned over to the city to be used by the city or to be sold, with the proceeds of such sale deposited into the general fund of the city. The chief accountant for the city shall be notified within seven (7) days of the receipt of any nonmonetary property not authorized by this subdivision.

(4) *More restrictive measures.* Department and office directors may adopt more restrictive measures dealing with definition of gift and prohibition on gifts. Such measures must be in writing, reviewed by the city attorney, approved by the mayor, and filed in the office of the city clerk.

(5) *Sanctions:*

(a) It shall be a misdemeanor for any public official or employee to do an act in violation of this subdivision. It shall not be a misdemeanor to violate more restrictive measures adopted by department or office directors.

(b) Where permitted or required by law, it shall be grounds for discharge, suspension or other appropriate disciplinary action against a city employee or nonelected public official for such employee or official to do any act in violation of this subdivision.

SECTION 3

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval, and publication.