

Submitted by: ASSEMBLY MEMBERS GRAY-JACKSON,
DRUMMOND AND GUTIERREZ
Prepared by: Assembly Counsel
For Reading: September 28, 2010

CLERK'S OFFICE
APPROVED

Date: 10-26-10

IMMEDIATE RECONSIDERATION **ANCHORAGE, ALASKA**
FAILED 10-26-10; VETOED **AO NO. 2010-69**
11-1-10; NO ASSEMBLY ACTION
TAKEN 11-22-10

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
2 **ANCHORAGE CODE SECTION 1.15.035 TO PROVIDE ADDITIONAL**
3 **RESTRICTIONS ON THE EMPLOYMENT OF ELECTED OFFICIALS FOR ONE YEAR**
4 **AFTER LEAVING MUNICIPAL SERVICE.**

5
6 THE ANCHORAGE ASSEMBLY ORDAINS:

7
8 **Section 1.** Anchorage Municipal Code section 1.15.035 is hereby amended to read
9 as follows (*language indicating no amendment is included for context only*):

10
11 **1.15.035 Additional provisions for elected officials**

12 *** *** ***

13 P. *Restrictions on employment after leaving municipal service.*

- 14
15 1. An elected official who leaves municipal service may not, for one
16 year after leaving municipal service, represent, advise, or assist a
17 person for compensation regarding a matter that was under
18 consideration by the elected body during the elected official's last
19 two years in office [PERIOD OF SERVICE]. "Matter" includes a
20 case, proceeding, application, contract, or determination but does
21 not include consideration of ordinances, resolutions, charter
22 amendments, other legislative measures or the adoption of
23 administrative regulations if consideration by the elected body was
24 only in the context of general application.

- 25
26 a. This restriction [DOES NOT] prohibits the municipality from
27 contracting with a former elected official to provide service
28 on a matter on behalf of the municipality for one year after
29 leaving municipal service unless the contract is competitively
30 bid.

- 31
32 [b.] [THE ASSEMBLY OR SCHOOL BOARD MAY WAIVE
33 APPLICATION OF THIS RESTRICTION UPON
34 DETERMINATION THAT A PROPOSED ACTION BY A
35 FORMER ELECTED OFFICIAL IS NOT ADVERSE TO THE
36 PUBLIC INTEREST. THE WAIVER SHALL BE BY FORMAL
37 ACTION AND A COPY SHALL BE PROVIDED TO THE
38 ETHICS BOARD.]
39

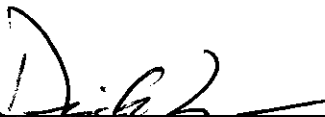
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

- 2. A person serving as an assembly member [OR SCHOOL BOARD MEMBER] for one year after leaving service shall hold no compensated municipal [OFFICE] or Anchorage School District employment except in elected office. [WHICH WAS CREATED, OR THE SALARY OR BENEFITS OF WHICH WERE SPECIFICALLY INCREASED DURING THE PERSON'S LAST YEAR IN OFFICE BY THE GOVERNING BODY ON WHICH THE MEMBER SERVED]
- 3. A person serving as a school board member for one year after leaving service shall hold no compensated employment with the Anchorage School District.
- [3] 4. The mayor for one year after leaving mayoral office shall hold no compensated municipal [OFFICE OR] employment, except in elected office [WHICH WAS CREATED, OR THE SALARY OR BENEFITS OF WHICH WERE SPECIFICALLY INCREASED DURING THE MAYOR'S LAST YEAR IN OFFICE].
- 5. The school board may seek waiver for Anchorage School District employment of an elected official from the Ethics Board upon initial determination and findings by the school board that the Anchorage School District job proposed for employment by a former elected official during the first year after leaving service is not adverse to the public interest in any way. Examples which support waiver not adverse to the public interest include Noon Duty, Kindergarten Aide, School Bus Driver, and School Bus Attendant. Waiver shall be at the sole discretion of the Ethics Board.

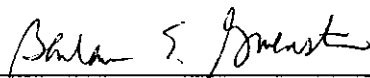
(AO No. 2006-140(S-1), § 1, 1-1-07; AO No. 2008-78(S), § 1, 8-12-08)

Section 2. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 26th day of October, 2010.


Chair

ATTEST:


Municipal Clerk



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. AM 525-2010

Meeting Date: September 28, 2010

1 **From:** Assembly Member Gray-Jackson
2 **Subject:** **AO 2010-69 — AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**
3 **AMENDING ANCHORAGE CODE SECTION 1.15.035 TO PROVIDE ADDITIONAL**
4 **RESTRICTIONS ON THE EMPLOYMENT OF ELECTED OFFICIALS FOR ONE**
5 **YEAR AFTER LEAVING MUNICIPAL SERVICE.**
6

7 In the context of his veto of AO 2010-54(S), the Mayor has raised three concerns:
8

- 9 1. Assembly Members and School Board Members may want to work for the
10 Anchorage School District as a Noon Duty or Kindergarten Aide for pay within the
11 first year after leaving public office.
12

13 The purpose of this ordinance is not to unreasonably restrict employment. The restriction
14 basically carries over for one year after leaving office, the same restrictions in place during
15 the term of elected office. The Matanuska-Susitna Borough has a one year restriction in
16 Borough code. As demonstrated with Fire Chief Hall's appointment, the Assembly is already
17 empowered to provide relief should the circumstances so warrant. During my 26 years of
18 service with the Municipality, I have not come across a single instance where an elected
19 official wanted to work for hire as a Noon Duty or Kindergarten Aide within the first year after
20 leaving public office. I can only applaud such desires/concerns on the part of the Mayor and
21 Assembly Member Ossiander. A waiver mechanism, should such Anchorage School
22 District employment opportunities arise, is provided in this ordinance through the Ethics
23 Board.
24

- 25 2. The unspecified length of time is not workable.
26

27 This is corrected by specifying the last two years of the elected official's term. If the elected
28 official worked on an item during his or her last two years in office, then for one year after
29 leaving the office, the elected official cannot work on that item for compensation. This does
30 not prevent elected officials from volunteering their services to the non-profits referenced by
31 the Mayor, during the first year out of office.
32

- 33 3. The Mayor has restrictions on employment after leaving office under AMC 1.15.035
34 P. 3, and under AMC 1.15.025G, there is a reference back to the post-employment
35 restrictions on the mayor under AMC 1.15.035. For restrictions on other public
36 employment by the mayor during office, AMC 1.15.035H provides that the Mayor is
37 governed by provisions of AMC 1.15.025.
38

39 Different code sections govern employment during office and employment after leaving
40 office. This ordinance does not change current governance of the Mayor under the Ethics
41 Code. Nor did AO 2010-54(S).
42

1 The Mayor is the single full time elected municipal official in the employ of the Municipality.
2 The structure of the Ethics Code is in three basic sections: Municipal Employees (including
3 Anchorage School District employees) under provisions of AMC 1.15.025; Appointed Board
4 and Commission Members under AMC 1.15.030; and Elected Officials under AMC
5 1.15.035. Under AMC 1.15.015 **SCOPE**, subsection C provides for coverage of the Mayor
6 for some things under certain provisions of AMC 1.15.025 and for other things under certain
7 provisions of AMC 1.15.035, depending on the subject of the particular subsections.

8
9 The Mayor was on the Assembly when the Ethics Code was passed and approved by the
10 Assembly and successfully sponsored subsequent amendments for additional provisions.
11 The amendment to subsection 1.15.035P.3 is to ensure that the mayor is not restricted from
12 seeking other elected office after leaving mayoral office.

13
14 Respectfully submitted:

15
16 Elvi Gray-Jackson
17 Assembly Member, Section 4
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

No Assembly action taken 11-22-10



M.O.A

MUNICIPALITY OF ANCHORAGE

2010 NOV - 1 PM 4:13

OFFICE OF THE MAYOR

CLERKS OFFICE

M.O.A
OCT 28 PM 10:42
CLERKS OFFICE

MEMORANDUM

DATE: November 1, 2010

TO: Anchorage Assembly
Dick Traini, Assembly Chair

FROM: Mayor Daniel A. Sullivan *Daniel A. Sullivan*

SUBJECT: VETO OF AO 2010-69; AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 1.15.035 TO PROVIDE ADDITIONAL RESTRICTIONS ON THE EMPLOYMENT OF ELECTED OFFICIALS.

Pursuant to the authority vested in me by Charter section 5.02(c), I hereby veto AO 2010-69 approved by the Assembly at the meeting of October 26, 2010.

I vetoed a nearly identical ordinance (AO 2010-54(S)) on September 21, 2010. In that veto I noted that the changes have consequences "that serve no public purpose." I also stated that code revisions should, to the extent possible, "be clear and concise." AO 2010-69 does not result in a better outcome over its predecessor.

AO 2010-69 forces the Municipality to go through a wasteful competitive bidding process to reach the very same outcome that can be accomplished by streamlined sole source procurement. Instead of hiring the most qualified person directly, the Municipality would, under this ordinance, waste time and money requesting, receiving, reviewing and grading bids to hire the most qualified person.

In response to the call that more transparency is a good thing, I agree. But, this ordinance does not add transparency. In fact, under current code, the Assembly or School Board decides whether to waive the restriction rather than force the Municipality to go through the motions of competitive bidding to reach a pre-ordained outcome. The Assembly or School Board waiver process gets the issue on the Assembly's or School Board's publicly-noticed agenda and all the members then can comment on whether the sole source contract is in the Municipality's or School District's best interest. The necessary transparency already exists.

This ordinance would have removed that provision and left the process in the hands of whatever bid review committee is assigned to the bid project, actually resulting in a lower level of review that is less visible to the public.

The ordinance is also problematic because it creates a new waiver process for the Ethics Board. The Ethics Board was not consulted on the ordinance or asked about the impact this ordinance would have on it, or whether the Ethics Board felt it had the expertise or sufficient Code guidance to apply the waiver provision. The Ethics Board would have been required to determine whether the School Board could employ a former elected official (former assembly member or school board member), but could grant the waiver only if the employment was "not adverse to the public interest in any way." The use of the phrase "in any way" is more restrictive than most "public interest" findings and may have gutted the ability of the Ethics Board to grant waivers. Additionally, if the Ethics Board acted in a manner that was arbitrary or capricious in denying or granting such a waiver, what recourse would an applicant have? Perhaps they would have to go to court. Or, maybe they would have no recourse at all.

Finally, the examples given to the Ethics Board are all positions within the School District that do not involve either teaching children or working in the School District Administration. It is unclear whether this is intended to prohibit former officials from holding such jobs. If it does, then why does it? What public policy goal is achieved by not allowing former elected officials from being teachers or administrators? None was identified at the public hearing. And, some of the jobs listed in the ordinance, such as a School Bus Driver and School Bus Attendant, are contracted by private companies. They may not even fit in the definition of a School District employee and for that reason should not be in the list at all.

Just as with the original ordinance, there again was insufficient testimony in the record to either identify a problem that needed solving through a Code change or how this particular Code change would actually solve the problem.

Cc: Barbara Gruenstein, Municipal Clerk