

SENATE BILL NO. 186

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR SEEKINS

Introduced: 4/22/05

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Executive Branch Ethics Act."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 11.56 is amended by adding a new section to read:

4 **Sec. 11.56.823. Disclosing confidential ethics information.** (a) A person
5 commits the crime of disclosing confidential ethics information if the person
6 knowingly violates a confidentiality requirement of AS 39.52.340(a).

7 (b) Disclosing confidential ethics information is a class A misdemeanor.

8 * **Sec. 2.** AS 39.52.110(b) is amended to read:

9 (b) Unethical conduct is prohibited, but there is no [SUBSTANTIAL]
10 impropriety if, as to a specific matter, a public officer's

11 (1) personal or financial interest in the matter is [INSIGNIFICANT,
12 OR] of a type that is possessed generally by the public or a large class of persons to
13 which the public officer belongs; [OR]

14 (2) action or influence would have insignificant or conjectural effect
15 on the matter;

1 **(3) financial interest in a matter is held in a blind trust or the**
 2 **public officer has no direct management control over the financial interest; or**

3 **(4) personal or financial interest in a matter is in regard to a**
 4 **business entity and the public officer**

5 **(A) does not have a controlling interest in the business**
 6 **entity;**

7 **(B) does not own more than one percent of the stock in the**
 8 **business entity and the stock owned has a value of less than \$10,000;**

9 **(C) owns an equity interest in the business entity worth less**
 10 **than \$10,000;**

11 **(D) is not a member of the board of directors or another**
 12 **governing body of the business entity;**

13 **(E) is not an elected officer of this business entity;**

14 **(F) does not provide personal or professional services to the**
 15 **business entity;**

16 **(G) has no contracts with the business entity; and**

17 **(H) is not an employee of the business entity.**

18 * **Sec. 3.** AS 39.52.130(f) is amended to read:

19 (f) A public officer who knows or reasonably ought to know that a family
 20 member **or closely associated person** has received a gift because of the family
 21 member's **or closely associated person's** connection with the public office held by the
 22 public officer shall report the receipt of the gift by the family member **or closely**
 23 **associated person** to the public officer's designated supervisor if the gift would have
 24 to be reported under this section if it had been received by the public officer or if
 25 receipt of the gift by a public officer would be prohibited under this section.

26 * **Sec. 4.** AS 39.52.140 is amended to read:

27 **Sec. 39.52.140. Improper use or disclosure of information.** (a) A current
 28 or former public officer may not disclose or use information gained in the course of, or
 29 by reason of, the officer's official duties **or position** that could in any way result in the
 30 receipt of any benefit for the officer or an immediate family member, if the
 31 information has not also been disseminated to the public.

1 (b) A current or former public officer may not disclose or use, without
 2 appropriate authorization, information acquired in the course of official duties **or by**
 3 **reason of the officer's position** that is confidential by law.

4 * **Sec. 5.** AS 39.52.150(a) is amended to read:

5 (a) A public officer, [OR] an immediate family member, **or a closely**
 6 **associated person** may not attempt to acquire, receive, apply for, be a party to, or
 7 have a personal or financial interest in a state grant, contract, lease, or loan if the
 8 public officer may take or withhold official action that affects the award, execution, or
 9 administration of the state grant, contract, lease, or loan.

10 * **Sec. 6.** AS 39.52.150(c) is amended to read:

11 (c) The prohibition in (a) of this section does not apply to a state loan if

12 (1) the public officer does not take or withhold official action that
 13 affects the award, execution, or administration of the loan held by the officer, [OR] an
 14 immediate family member, **or a closely associated person**;

15 (2) the loan is generally available to members of the public; and

16 (3) the loan is subject to fixed eligibility standards.

17 * **Sec. 7.** AS 39.52.150(d) is amended to read:

18 (d) A public officer shall report in writing to the designated supervisor a
 19 personal or financial interest held by the officer, [OR] an immediate family member,
 20 **or a closely associated person** [,] in a state grant, contract, lease, or loan that is
 21 awarded, executed, or administered by the agency the officer serves.

22 * **Sec. 8.** AS 39.52.210(b) is amended to read:

23 (b) A public employee's designated supervisor shall make a written
 24 determination whether an employee's involvement violates AS 39.52.110 - 39.52.190
 25 and shall provide a copy of the written determination to the public employee and to the
 26 attorney general. If the supervisor determines that a violation could exist or will
 27 occur, the supervisor shall [,]

28 (1) reassign duties to cure the employee's potential violation, if
 29 feasible; or

30 (2) direct

31 **(A)** the divestiture or removal by the employee of the personal

1 or financial interests that give rise to the potential violation; or

2 (B) the placement by the employee of the personal or
 3 financial interests that give rise to the potential violation into a blind trust
 4 or other investment where the employee has no direct control over the
 5 investment assets.

6 * **Sec. 9.** AS 39.52.335(c) is amended to read:

7 (c) If a complaint is dismissed under AS 39.52.320 or resolved under
 8 AS 39.52.330, the attorney general shall promptly prepare a summary of the matter
 9 and provide a copy of the summary to the personnel board and the complainant. [THE
 10 SUMMARY IS CONFIDENTIAL UNLESS THE

11 (1) DISMISSAL OR RESOLUTION AGREED TO UNDER
 12 AS 39.52.320 OR 39.52.330 IS PUBLIC; OR

13 (2) SUPERIOR COURT MAKES THE MATTER PUBLIC UNDER
 14 (h) OF THIS SECTION.]

15 * **Sec. 10.** AS 39.52.335(f) is amended to read:

16 (f) After review of the summary, the personnel board may issue a report on the
 17 disposition of the complaint. [IF THE MATTER IS CONFIDENTIAL AND THE
 18 BOARD DETERMINES THAT PUBLICATION OF THE NAME OF THE
 19 SUBJECT IS IN THE PUBLIC INTEREST, THE REPORT MAY INCLUDE A
 20 RECOMMENDATION THAT THE MATTER BE MADE PUBLIC.]

21 * **Sec. 11.** AS 39.52.340(a) is amended to read:

22 (a) Except as provided in AS 39.52.310 - 39.52.390 [AS 39.52.335], before
 23 and after the initiation of formal proceedings under AS 39.52.350, the complaint and
 24 all other documents and information regarding an investigation or proceedings
 25 conducted under AS 39.52.310 - 39.52.390 [THIS CHAPTER] or obtained by the
 26 attorney general during the investigation or proceedings are confidential and not
 27 subject to inspection by the public. In the case of a complaint concerning the
 28 governor, lieutenant governor, or attorney general, all meetings of the personnel board
 29 concerning the complaint, [AND] investigation, and determinations [BEFORE THE
 30 DETERMINATION OF PROBABLE CAUSE] are closed to the public. However, if
 31 [IF], in the course of an investigation or proceeding [PROBABLE CAUSE

1 DETERMINATION], the attorney general finds evidence of probable criminal
 2 activity, the attorney general shall transmit a statement and factual findings limited to
 3 that activity to the appropriate law enforcement agency. If the attorney general finds
 4 evidence of a probable violation of AS 15.13, the attorney general shall transmit a
 5 statement to that effect and factual findings limited to the probable violation to the
 6 Alaska Public Offices Commission. The attorney general, **complainant, subject of**
 7 **the complaint**, and all persons contacted during the course of an investigation **or**
 8 **proceeding** shall maintain confidentiality regarding the existence of the investigation
 9 **or proceeding. A person may not disclose to any other person the filing of or**
 10 **intention to file a complaint under AS 39.52.310 except to a person assisting in**
 11 **the filing of the complaint. A person may not disclose information regarding the**
 12 **intention of another to file a complaint under AS 39.52.310. This subsection does**
 13 **not prevent a person from obtaining directly from a state agency a public record**
 14 **of that agency that has also been made available in connection with a proceeding**
 15 **under AS 39.52.310 - 39.52.390.**

16 * **Sec. 12.** AS 39.52.350(a) is amended to read:

17 (a) If the attorney general determines that there is probable cause to believe
 18 that a knowing violation of this chapter or a violation that cannot be corrected under
 19 AS 39.52.330 has occurred, or that the subject of a complaint failed to comply with a
 20 recommendation for corrective or preventive action, the attorney general shall initiate
 21 formal proceedings by serving a copy of an accusation upon the subject of the
 22 accusation. The accusation **must** [SHALL] specifically set out the alleged violation.
 23 [AFTER SERVICE, THE ACCUSATION IS A PUBLIC DOCUMENT OPEN TO
 24 INSPECTION. EXCEPT AS PROVIDED IN AS 39.52.370(c), ALL SUBSEQUENT
 25 PROCEEDINGS ARE OPEN TO THE PUBLIC.]

26 * **Sec. 13.** AS 39.52.370(e) is amended to read:

27 (e) The personnel board secretary shall promptly notify the parties and the
 28 public officer's designated supervisor of the board's action. **After the notification,**
 29 **the order of the personnel board issued under (d) of this section becomes a public**
 30 **record.**

31 * **Sec. 14.** AS 39.52.410(a) is amended to read:

1 (a) If the personnel board determines that a public employee has violated this
2 chapter, it

3 (1) shall order the employee to stop engaging in any official action
4 related to the violation;

5 (2) may order divestiture, establishment of a blind trust **for a period of**
6 **time or under conditions determined appropriate**, restitution, or forfeiture; and

7 (3) may recommend that the employee's agency take disciplinary
8 action, including dismissal.

9 * **Sec. 15.** AS 39.52.960(9) is amended to read:

10 (9) "financial interest" means

11 (A) an interest held by a public officer, [OR] an immediate
12 family member, **or a closely associated person**, which includes an
13 involvement or ownership of an interest in a business, including a property
14 ownership, or a professional or private relationship, that is a source of income,
15 or from which, or as a result of which, a person has received or expects to
16 receive a financial benefit;

17 (B) holding a position in a business, such as an officer, director,
18 trustee, partner, employee, or the like, or holding a position of management;

19 * **Sec. 16.** AS 39.52.960(11) is amended to read:

20 (11) "immediate family member" means

21 (A) the spouse of the person;

22 (B) another person cohabiting with the person in a conjugal
23 relationship that is not a legal marriage;

24 (C) a child, including a stepchild and an adoptive child, of the
25 person;

26 (D) a parent **or** [,] sibling [, GRANDPARENT, AUNT, OR
27 UNCLE] of the person; [AND]

28 (E) a **child**, parent, or sibling of the person's spouse;

29 **(F) a child, parent, or sibling of another person cohabiting**
30 **with the person in a conjugal relationship that is not a legal marriage;**

31 * **Sec. 17.** AS 39.52.960 is amended by adding a new paragraph to read:

1 (23) "closely associated person" means a person who has a close
2 personal, business, or professional relationship with the public official.

3 * **Sec. 18.** AS 24.60.170(m); AS 39.52.335(g), 39.52.335(h) and 39.52.960(16) are
4 repealed.