

CS FOR SENATE BILL NO. 13(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/14/07

Referred: State Affairs

Sponsor(s): SENATOR STEVENS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to ethics in state government and to activities of former legislators; and**
2 **providing for an effective date."**

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

4 *** Section 1.** AS 24.60.030(a) is amended to read:

5 (a) A legislator or legislative employee may not

6 (1) solicit, agree to accept, or accept a benefit other than official
7 compensation for the performance of public duties; this paragraph may not be
8 construed to prohibit lawful solicitation for and acceptance of campaign contributions,
9 solicitation or acceptance of contributions for a charity event, as defined in
10 AS 24.60.080(c)(10), or the acceptance of a lawful gratuity under AS 24.60.080;

11 (2) use public funds, facilities, equipment, services, or another
12 government asset or resource for a nonlegislative purpose, for involvement in or
13 support of or opposition to partisan political activity, or for the private benefit of either
14 the legislator, legislative employee, or another person; this paragraph does not prohibit

1 (A) limited use of state property and resources for personal
2 purposes if the use does not interfere with the performance of public duties and
3 either the cost or value related to the use is nominal or the legislator or
4 legislative employee reimburses the state for the cost of the use;

5 (B) the use of mailing lists, computer data, or other information
6 lawfully obtained from a government agency and available to the general
7 public for nonlegislative purposes;

8 (C) telephone or facsimile use that does not carry a special
9 charge;

10 (D) the legislative council, notwithstanding AS 24.05.190,
11 from designating a public facility for use by legislators and legislative
12 employees for health or fitness purposes; when the council designates a facility
13 to be used by legislators and legislative employees for health or fitness
14 purposes, it shall adopt guidelines governing access to and use of the facility;
15 the guidelines may establish times in which use of the facility is limited to
16 specific groups;

17 (E) a legislator from using the legislator's private office in the
18 capital city during a legislative session, and for the 10 days immediately before
19 and the 10 days immediately after a legislative session, for nonlegislative
20 purposes if the use does not interfere with the performance of public duties and
21 if there is no cost to the state for the use of the space and equipment, other than
22 utility costs and minimal wear and tear, or the legislator promptly reimburses
23 the state for the cost; an office is considered a legislator's private office under
24 this subparagraph if it is the primary space in the capital city reserved for use
25 by the legislator, whether or not it is shared with others;

26 (F) a legislator from use of legislative employees to prepare
27 and send out seasonal greeting cards;

28 (G) a legislator from using state resources to transport
29 computers or other office equipment owned by the legislator but primarily used
30 for a state function;

31 (H) use by a legislator of photographs of that legislator;

1 (I) reasonable use of the Internet by a legislator or a legislative
2 employee except if the use is for election campaign purposes;

3 (J) a legislator or legislative employee from soliciting,
4 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable
5 organization in a state facility;

6 (K) a legislator from sending any communication in the form of
7 a newsletter to the legislator's constituents, unless

8 **(i) the communication is sent during the 30-day**
9 **period immediately preceding a state election; or**

10 **(ii) it is** [EXCEPT] a communication expressly
11 advocating the election or defeat of a candidate or a newsletter or
12 material in a newsletter that is clearly only for the private benefit of a
13 legislator or a legislative employee; or

14 (L) full participation in a charity event approved in advance by
15 the Alaska Legislative Council;

16 (3) knowingly seek, accept, use, allocate, grant, or award public funds
17 for a purpose other than that approved by law, or make a false statement in connection
18 with a claim, request, or application for compensation, reimbursement, or travel
19 allowances from public funds;

20 (4) require a legislative employee to perform services for the private
21 benefit of the legislator or employee at any time, or allow a legislative employee to
22 perform services for the private benefit of a legislator or employee on government
23 time; it is not a violation of this paragraph if the services were performed in an
24 unusual or infrequent situation and the person's services were reasonably necessary to
25 permit the legislator or legislative employee to perform official duties;

26 (5) use or authorize the use of state funds, facilities, equipment,
27 services, or another government asset or resource for the purpose of political fund
28 raising or campaigning; this paragraph does not prohibit

29 (A) limited use of state property and resources for personal
30 purposes if the use does not interfere with the performance of public duties and
31 either the cost or value related to the use is nominal or the legislator or

1 legislative employee reimburses the state for the cost of the use;

2 (B) the use of mailing lists, computer data, or other information
3 lawfully obtained from a government agency and available to the general
4 public for nonlegislative purposes;

5 (C) telephone or facsimile use that does not carry a special
6 charge;

7 (D) storing or maintaining, consistent with (b) of this section,
8 election campaign records in a legislator's office;

9 (E) a legislator from using the legislator's private office in the
10 capital city during a legislative session, and for the 10 days immediately before
11 and the 10 days immediately after a legislative session, for nonlegislative
12 purposes if the use does not interfere with the performance of public duties and
13 if there is no cost to the state for the use of the space and equipment, other than
14 utility costs and minimal wear and tear, or the legislator promptly reimburses
15 the state for the cost; an office is considered a legislator's private office under
16 this subparagraph if it is the primary space in the capital city reserved for use
17 by the legislator, whether or not it is shared with others; or

18 (F) use by a legislator of photographs of that legislator.

19 * **Sec. 2.** AS 24.60.040 is amended by adding a new subsection to read:

20 (d) Disclosure by a legislator or legislative employee under this section shall
21 be made in writing to the committee, which shall maintain a public record of the
22 disclosure and forward the disclosure to the respective house for inclusion in the
23 journal.

24 * **Sec. 3.** AS 24.60.050(c) is amended to read:

25 (c) A legislator or legislative employee who participates in a program or
26 receives a loan that is not exempt from disclosure under (a) of this section shall **make**
27 **written disclosure to** [FILE A WRITTEN REPORT WITH] the committee by the
28 date required under AS 24.60.105 stating the amounts of the loans outstanding or
29 benefits received during the preceding calendar year from nonqualifying programs. If
30 the committee requests additional information necessary to determine the propriety of
31 participating in the program or receiving the loan, it shall be promptly provided. The

1 committee shall promptly compile a list of the statements indicating the loans and
 2 programs and amounts and send it to the presiding officer of each house who shall
 3 have it published in the supplemental journals **with the next regular publication, by**
 4 **the senate secretary and the house chief clerk, of disclosures under this chapter**
 5 [WITHIN THREE WEEKS AFTER THE FILING DATE]. A legislator or legislative
 6 employee who believes that disclosure of participation in a program would be an
 7 invasion of the participant's right to privacy under the state constitution may request
 8 the committee to keep the disclosure confidential. If the committee finds that
 9 publication would constitute an invasion of privacy, the committee shall publish only
 10 the fact that a person has participated in the program and the amount of benefit that the
 11 unnamed person received. The committee shall maintain the disclosure of the name of
 12 the person as confidential and may only use the disclosure in a proceeding under
 13 AS 24.60.170. If the disclosure becomes part of the record of a proceeding under
 14 AS 24.60.170, the disclosure may be made public as provided in that section.

15 * **Sec. 4.** AS 24.60.080(c) is amended to read:

16 (c) Notwithstanding (a) of this section, it is not a violation of this section for a
 17 legislator or legislative employee to accept

18 (1) hospitality, other than hospitality described in (4) of this
 19 subsection,

20 (A) with incidental transportation at the residence of a person;
 21 however, a vacation home located outside the state is not considered a
 22 residence for the purposes of this subparagraph; or

23 (B) at a social event or meal;

24 (2) discounts that are available

25 (A) generally to the public or to a large class of persons to
 26 which the person belongs; or

27 (B) when on official state business, but only if receipt of the
 28 discount benefits the state;

29 (3) food or foodstuffs indigenous to the state that are shared generally
 30 as a cultural or social norm;

31 (4) travel and hospitality primarily for the purpose of obtaining

1 information on matters of legislative concern;

2 (5) gifts from the immediate family of the person;

3 (6) gifts that are not connected with the recipient's legislative status;

4 (7) a discount for all or part of a legislative session, including time
5 immediately preceding or following the session, or other gift to welcome a legislator
6 or legislative employee who is employed on the personal staff of a legislator or by a
7 standing or special committee to the capital city or in recognition of the beginning of a
8 legislative session if the gift or discount is available generally to all legislators and the
9 personal staff of legislators and staff of standing and special committees; this
10 paragraph does not apply to legislative employees who are employed by the
11 Legislative Affairs Agency, the office of the chief clerk, the office of the senate
12 secretary, the legislative budget and audit committee, the office of victims' rights, or
13 the office of the ombudsman;

14 (8) a gift of legal services in a matter of legislative concern and a gift
15 of other services related to the provision of legal services in a matter of legislative
16 concern;

17 (9) a gift of transportation from a legislator to a legislator if the
18 transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other
19 means of transport owned or under the control of the donor; this paragraph does not
20 apply to travel described in (4) of this subsection or travel for political campaign
21 purposes;

22 (10) tickets from a lobbyist for a charity event at any time, including
23 during a legislative session, except that tickets to or gifts received at a charity event
24 under this paragraph are subject to the calendar year limit on the value of gifts
25 received by a legislator or legislative employee in (a) of this section; in this paragraph,
26 "charity event" means an event the proceeds of which go to a charitable organization
27 with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council
28 has approved in advance; the tickets may entitle the bearer to admission to the event,
29 to entertainment, to food or beverages, or to other gifts or services involved in the
30 charity event; or

31 (11) a contribution to a charity event from any person at any time; in

1 this paragraph, "charity event" has the meaning given in (10) of this subsection.

2 * **Sec. 5.** AS 24.60.080(i) is amended to read:

3 (i) A legislator or legislative employee who knows or reasonably should know
4 that a family member has received a gift because of the family member's connection
5 with the legislator or legislative employee shall **make written disclosure to the**
6 **committee regarding the gift** [REPORT THE RECEIPT OF THE GIFT BY THE
7 FAMILY MEMBER TO THE COMMITTEE] if the gift would have to be reported
8 under this section if it had been received by the legislator or legislative employee or if
9 receipt of the gift by a legislator or legislative employee would be prohibited under
10 this section. **The committee shall maintain a public record of the disclosure and**
11 **forward the disclosure to the respective house for inclusion in the journal.**

12 * **Sec. 6.** AS 24.60.085 is amended by adding a new subsection to read:

13 (c) During the term for which elected or appointed a legislator may not,
14 directly or by authorizing another to act on the legislator's behalf, accept or agree to
15 accept compensation, except from the State of Alaska, for work associated with
16 legislative action, administrative action, or political action. Notwithstanding
17 AS 24.60.990, in this subsection "administrative action" and "legislative action" have
18 the meanings given in AS 24.45.171.

19 * **Sec. 7.** AS 24.60.105(a) is amended to read:

20 (a) When a legislator or legislative employee is required to file a disclosure
21 under this chapter and a date by which the disclosure must be filed is not otherwise set
22 by statute, the **deadline for filing disclosure shall be 30 days** [DEADLINES SET
23 OUT IN THIS SECTION SHALL APPLY. FOR DISCLOSURE OF A MATTER OR
24 AN INTEREST THAT BEGAN OR WAS ACQUIRED DURING THE INTERIM
25 BETWEEN REGULAR LEGISLATIVE SESSIONS, WHETHER OR NOT THE
26 REGULAR SESSION IS EXTENDED OR THERE IS A SPECIAL SESSION, OR
27 DURING THE LAST 30 DAYS OF A REGULAR SESSION, THE LEGISLATOR
28 OR LEGISLATIVE EMPLOYEE SHALL DISCLOSE THE MATTER BY MARCH
29 15. FOR DISCLOSURE OF A MATTER OR AN INTEREST THAT BEGAN OR
30 WAS ACQUIRED DURING A REGULAR LEGISLATIVE SESSION, BUT NOT
31 DURING THE LAST 30 DAYS OF THE REGULAR SESSION, THE

1 DISCLOSURE MUST BE MADE WITHIN 30 DAYS] after the commencement of
2 the interest or representation.

3 * **Sec. 8.** AS 24.60.130(n) is amended to read:

4 (n) When appointing members of the legislature to serve on the committee, the
5 speaker of the house or the president of the senate, as appropriate, shall appoint an
6 alternate member for each regular member. An alternate must have the same
7 qualifications as the regular member for whom the alternate stands as alternate and is
8 subject to confirmation as required for the regular member. **If a regular legislative**
9 **member of the committee or a subcommittee is unable to attend a meeting, the**
10 **chair of the committee or a subcommittee shall designate the regular member's**
11 **alternate to serve in place of the regular member at the meeting and the**
12 **designated alternate shall serve unless unable to serve for any reason.** If a regular
13 legislative member of the committee or a subcommittee is disqualified under (h) of
14 this section from serving on the committee or the subcommittee concerning a
15 proceeding under AS 24.60.170 **or if the regular member is unable to attend,** the
16 chair of the committee or a subcommittee shall designate the regular member's
17 alternate to serve in place of the regular member in the proceeding unless the alternate
18 is also disqualified from serving. The designation shall be treated as confidential to the
19 same extent that the identity of the subject of a complaint is required to be kept
20 confidential.

21 * **Sec. 9.** AS 24.60.150(a) is amended to read:

22 (a) The committee shall

23 (1) adopt procedures to facilitate the receipt of inquiries and prompt
24 rendition of its opinions;

25 (2) **publish advisory opinions annually;**

26 (3) publish **annual** [SEMI-ANNUAL] summaries of decisions [AND
27 ADVISORY OPINIONS] with sufficient deletions in the summaries to prevent
28 disclosing the identity of the persons involved in the decisions [OR OPINIONS] that
29 have remained confidential.

30 * **Sec. 10.** AS 24.60.160(b) is amended to read:

31 (b) An opinion issued under this section is binding on the committee in any

1 subsequent proceedings concerning the facts and circumstances of the particular case
 2 unless material facts were omitted or misstated in the request for the advisory opinion.
 3 **All advisory opinions shall be issued with sufficient deletions to prevent**
 4 **disclosing the identity of the persons involved. Advisory opinion discussions and**
 5 **deliberations are confidential, unless the requester and anyone else named in the**
 6 **request who is covered by the ethics code waives confidentiality. The committee**
 7 **vote shall be a public record** [EXCEPT AS PROVIDED IN THIS CHAPTER, AN
 8 ADVISORY OPINION IS CONFIDENTIAL BUT SHALL BE MADE PUBLIC IF A
 9 WRITTEN REQUEST BY THE PERSON WHO REQUESTED THE OPINION IS
 10 FILED WITH THE COMMITTEE].

11 * **Sec. 11.** AS 24.60.176(b) is amended to read:

12 (b) In this section, "appointing authority" means

13 (1) the legislative council for employees of the Legislative Affairs
 14 Agency and of the legislative council and for legislative employees not otherwise
 15 covered under this subsection;

16 (2) the Legislative Budget and Audit Committee for the legislative
 17 fiscal analyst and employees of the division of legislative finance, the legislative
 18 auditor and employees of the division of legislative audit, and employees of the
 19 Legislative Budget and Audit Committee;

20 (3) the appropriate finance committee for employees of the senate or
 21 house finance committees;

22 (4) the appropriate rules committee for employees of

23 (A) standing committees of the legislature, other than the
 24 finance committees;

25 (B) the senate secretary's office and the office of the chief clerk
 26 of the house of representatives; and

27 (C) house records and senate records;

28 (5) the legislator who made the hiring decision for employees of
 29 individual legislators; however, the legislator may request the appropriate rules
 30 committee to act in the legislator's stead;

31 (6) the ombudsman for employees of the office of the ombudsman,

1 other than the ombudsman;

2 (7) the legislature for the ombudsman;

3 **(8) the victims' advocate for the employees, other than the victims'**
 4 **advocate, of the office of victims' rights;**

5 **(9) the legislative council for the victims' advocate.**

6 * **Sec. 12.** AS 24.60.210(a) is amended to read:

7 (a) A person required to file a disclosure statement under AS 24.60.200 shall
 8 file an annual report with the Alaska Public Offices Commission, covering the
 9 previous calendar year, containing the disclosures required by AS 24.60.200, on or
 10 before March 15 of each year, **except that a legislator appointed under**
 11 **AS 15.40.320 - 15.40.350, a public member of the committee, and a legislative**
 12 **director must file within 30 days after the person's initial appointment.**

13 * **Sec. 13.** AS 24.60.250(c) is amended to read:

14 (c) In addition to the sanctions described in AS 24.60.260, if the Alaska Public
 15 Offices Commission finds that a legislative director has failed or refused to file a
 16 report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify
 17 the Alaska Legislative Council or the Legislative Budget and Audit Committee, as
 18 appropriate. For the ombudsman **and for the victims' advocate**, the Alaska
 19 Legislative Council shall be notified.

20 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).