

HOUSE BILL NO. 193

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE COGHILL

Introduced: 3/18/09

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to representation by a legislator or legislative employee of another
2 person in an administrative hearing; relating to charity events under the Legislative
3 Ethics Act; requiring compensation of public members of the Select Committee on
4 Legislative Ethics; exempting certain information from disclosure requirements of the
5 Legislative Ethics Act; relating to the selection of alternate members and the
6 participation of members and alternate members in formal proceedings of the Select
7 Committee on Legislative Ethics and its subcommittees; and defining 'constituent,'
8 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit'
9 for the purposes of the Legislative Ethics Act."

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

11 * **Section 1.** AS 24.60.030(i) is amended to read:

12 (i) Except for supplying information requested by the hearing officer or the

individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the **legislator or legislative employee is representing another person in the case for compensation and subject to AS 24.60.100**

[(1) CONTACT IS MADE IN THE PRESENCE OF ALL PARTIES TO THE HEARING OR THE PARTIES' REPRESENTATIVES AND THE CONTACT IS MADE A PART OF THE RECORD; OR

(2) FACT AND SUBSTANCE OF THE CONTACT IS PROMPTLY DISCLOSED BY THE LEGISLATOR OR LEGISLATIVE EMPLOYEE TO ALL PARTIES TO THE HEARING AND THE CONTACT IS MADE A PART OF THE RECORD].

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

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value;

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

(A) food or beverage for immediate consumption;

(B) a contribution to a charity event, [FROM ANY PERSON AT ANY TIME, AND] tickets **to** [FOR] a charity event, **and** [AT ANY TIME, EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a charity event; **however, tickets to a charity event and gifts received in**

connection with a charity event that are not included in the price of the ticket [UNDER THIS SUBPARAGRAPH] are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services in connection with [INVOLVED IN] the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

* **Sec. 3.** AS 24.60.080(c) is amended to read:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

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

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

(B) at a social event or meal;

(2) discounts that are available

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

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

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

1 (4) travel and hospitality primarily for the purpose of obtaining
2 information on matters of legislative concern;

3 (5) gifts from the immediate family of the person; in this paragraph,
4 "immediate family" means

5 (A) the spouse of the person;

6 (B) the person's domestic partner;

7 (C) a child, including a stepchild and an adoptive child, of the
8 person or of the person's domestic partner;

9 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

10 (E) a parent, sibling, grandparent, aunt, or uncle of the person's
11 spouse or the person's domestic partner; and

12 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-
13 aunt, or step-uncle of the person, the person's spouse, or the person's domestic
14 partner;

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

16 (7) a discount for all or part of a legislative session, including time
17 immediately preceding or following the session, or other gift to welcome a legislator
18 or legislative employee who is employed on the personal staff of a legislator or by a
19 standing or special committee to the capital city or in recognition of the beginning of a
20 legislative session if the gift or discount is available generally to all legislators and the
21 personal staff of legislators and staff of standing and special committees; this
22 paragraph does not apply to legislative employees who are employed by the
23 Legislative Affairs Agency, the office of the chief clerk, the office of the senate
24 secretary, the legislative budget and audit committee, the office of victims' rights, or
25 the office of the ombudsman;

26 (8) a gift of legal services in a matter of legislative concern and a gift
27 of other services related to the provision of legal services in a matter of legislative
28 concern;

29 (9) a gift of transportation from a legislator or a legislative employee to
30 a legislator or a legislative employee if the transportation takes place in the state on or
31 in an aircraft, boat, motor vehicle, or other means of transport owned or under the

control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or

(10) a contribution to a charity event from any person at any time, or a ticket to a charity event from a person who is not a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist; in this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

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

(d) A legislator or legislative employee who accepts a gift under (c)(4) of this section that has a value of \$250 or more or a ticket to a charity event under (c)(10) of this section that has a value of \$250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of \$250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), (c)(10), and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of \$250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

1 * **Sec. 5.** AS 24.60.105 is amended by adding a new subsection to read:

2 (d) A person may refrain from making a disclosure that is required by this
3 chapter if making the disclosure would violate the United States Constitution, the
4 Constitution of the State of Alaska, or other state or federal law. However, at the
5 request of the committee or a person authorized to act on behalf of the committee, a
6 person who refrains from making a disclosure under this subsection shall provide the
7 committee with justification in writing, and the committee may review the written
8 justification to determine whether it is sufficient.

9 * **Sec. 6.** AS 24.60.130(f) is amended to read:

10 (f) The committee may contract for professional services and may employ
11 staff as it considers necessary. A committee employee, including a person who
12 provides personal services under a contract with the committee, may not be a
13 legislator, an elected or appointed official of a state or local governmental entity, an
14 officer of a political party, a candidate for public office, or a registered lobbyist. The
15 legislative council shall provide office space, equipment, and additional staff support
16 for the committee. The committee shall submit a budget for each fiscal year to the
17 finance committees of the legislature and shall annually submit an estimated budget to
18 the governor for information purposes in preparation of the state operating budget.
19 Public members of the committee **shall receive** [SERVE WITHOUT] compensation
20 **of \$150 a day while attending committee meetings and** [FOR THEIR SERVICES,
21 BUT] are entitled to per diem and travel expenses authorized for boards and
22 commissions under AS 39.20.180.

23 * **Sec. 7.** AS 24.60.130(n) is amended to read:

24 (n) **A member who participates at the commencement of a proceeding**
25 **under AS 24.60.170 shall participate for the duration of the proceeding unless**
26 **disqualified or unable to continue participating for any reason; however,**
27 **provision shall be made for service by alternate members on the committee or on**
28 **a subcommittee, as follows:**

29 **(1) when** [WHEN] appointing members of the legislature to serve on
30 the committee, the speaker of the house or the president of the senate, as appropriate,
31 shall appoint an alternate member for each regular member; **an** [. AN] alternate must

1 have the same qualifications as the regular member for whom the alternate stands as
 2 alternate and is subject to confirmation as required for the regular member;

3 **(2) when selecting public members to serve on the committee, the**
 4 **Chief Justice of the Alaska Supreme Court shall also select one alternate public**
 5 **member; the alternate public member's selection is subject to ratification as**
 6 **required for selection of the regular public members;**

7 **(3) if, except as to a proceeding under AS 24.60.170, [. IF] a regular**
 8 **[LEGISLATIVE] member of the committee or a subcommittee is unable to**
 9 **participate in [ATTEND] a meeting, the chair of the committee or a subcommittee**
 10 **shall designate the regular member's alternate to participate [SERVE] in place of the**
 11 **regular member at the meeting, and the designated alternate, unless for any reason**
 12 **unable to participate, shall participate for the duration of that meeting; if**
 13 **[SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular**
 14 **[LEGISLATIVE] member of the committee or a subcommittee is disqualified under**
 15 **(h) of this section from participating in [SERVING ON THE COMMITTEE OR**
 16 **THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the**
 17 **regular member is unable to participate [ATTEND], the chair of the committee or a**
 18 **subcommittee shall designate the regular member's alternate to participate [SERVE]**
 19 **in place of the regular member for the duration of [IN] the proceeding unless the**
 20 **alternate is [ALSO] disqualified or is for any reason unable to participate; the**
 21 **[FROM SERVING. THE] designation shall be treated as confidential to the same**
 22 **extent that the identity of the subject of a complaint is required to be kept confidential.**

23 * **Sec. 8.** AS 24.60.990(a) is amended by adding new paragraphs to read:

24 (17) "constituent" means a natural person to whom a legislator owes a
 25 duty of representation in the legislature because the person resides in the legislator's
 26 election district, is registered to vote in that district, or is a member of the immediate
 27 family of a person who is registered to vote in that district;

28 (18) "constituent service" means assistance, including representation
 29 other than legal representation and advice other than legal advice, that is provided by a
 30 legislator or a legislator's staff to a constituent of the legislator;

31 (19) "legislative purpose" means a goal of a legislative action or a

1 constituent service that is a primary goal or, when measured against other goals of the
2 legislative action or constituent service, is a substantial goal;

3 (20) "nonlegislative purpose" means a purpose other than a legislative
4 purpose;

5 (21) "private benefit" means a benefit, other than a benefit to a
6 political party, that is personal to the recipient and does not have a legislative purpose
7 or that satisfies, in whole or in part, a person's substantial interest in legislative,
8 administrative, or political action under (b) of this section.