

CS FOR HOUSE BILL NO. 193(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/27/09

Referred: Judiciary

Sponsor(s): REPRESENTATIVES COGHILL, Lynn, Gruenberg

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 prohibitions on the use of state
3 resources under the Legislative Ethics Act; relating to charity events under the
4 Legislative Ethics Act; requiring compensation of public members of the Select
5 Committee on Legislative Ethics; exempting certain information from disclosure
6 requirements of the Legislative Ethics Act; relating to the selection of alternate members
7 and the participation of members and alternate members in formal proceedings of the
8 Select Committee on Legislative Ethics and its subcommittees; and defining
9 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and
10 'private benefit' for the purposes of the Legislative Ethics Act."

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

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

1 (a) A legislator or legislative employee may not

2 (1) solicit, agree to accept, or accept a benefit other than official
3 compensation for the performance of public duties; this paragraph may not be
4 construed to prohibit lawful solicitation for and acceptance of campaign contributions,
5 solicitation or acceptance of contributions for a charity event, as defined in
6 AS 24.60.080(a)(2)(B), or the acceptance of a **gift** [LAWFUL GRATUITY] under
7 **AS 24.60.075 or 24.60.080** [AS 24.60.080];

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

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

17 (B) the use of **a legislator's legislative mailing list for**
18 **campaign purposes, or the use of** mailing lists, computer data, or other
19 information lawfully obtained from a government agency and available to the
20 general public for nonlegislative purposes;

21 (C) the legislative council, notwithstanding AS 24.05.190, from
22 designating a public facility for use by legislators and legislative employees for
23 health or fitness purposes; when the council designates a facility to be used by
24 legislators and legislative employees for health or fitness purposes, it shall
25 adopt guidelines governing access to and use of the facility; the guidelines may
26 establish times in which use of the facility is limited to specific groups;

27 (D) a legislator from using the legislator's private office in the
28 capital city during a legislative session, and for the 10 days immediately before
29 and the 10 days immediately after a legislative session, for nonlegislative
30 purposes if the use does not interfere with the performance of public duties and
31 if there is no cost to the state for the use of the space and equipment, other than

1 utility costs and minimal wear and tear, or the legislator promptly reimburses
2 the state for the cost; an office is considered a legislator's private office under
3 this subparagraph if it is the primary space in the capital city reserved for use
4 by the legislator, whether or not it is shared with others;

5 (E) a legislator from use of legislative employees to prepare
6 and send out seasonal greeting cards;

7 (F) a legislator from using state resources to transport
8 computers or other office equipment owned by the legislator but primarily used
9 for a state function;

10 (G) use by a legislator of photographs of that legislator;

11 (H) reasonable use of the Internet by a legislator or a legislative
12 employee except if the use is for election campaign purposes;

13 (I) a legislator or legislative employee from soliciting,
14 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable
15 organization in a state facility;

16 (J) a legislator from sending any communication in the form of
17 a newsletter to the legislator's constituents, except a communication expressly
18 advocating the election or defeat of a candidate or a newsletter or material in a
19 newsletter that is clearly only for the private benefit of a legislator or a
20 legislative employee; or

21 (K) full participation in a charity event approved in advance by
22 the Alaska Legislative Council;

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

27 (4) require a legislative employee to perform services for the private
28 benefit of the legislator or employee at any time, or allow a legislative employee to
29 perform services for the private benefit of a legislator or employee on government
30 time; it is not a violation of this paragraph if the services were performed in an
31 unusual or infrequent situation and the person's services were reasonably necessary to

1 permit the legislator or legislative employee to perform official duties;

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

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

9 (B) the use of a legislator's legislative mailing list, or the use
10 of mailing lists, computer data, or other information lawfully obtained from a
11 government agency and available to the general public for nonlegislative
12 purposes;

13 (C) storing or maintaining, consistent with (b) of this section,
14 election campaign records in a legislator's office;

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

24 (E) use by a legislator of photographs of that legislator.

25 * **Sec. 2.** AS 24.60.030(i) is amended to read:

26 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE
27 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH
28 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN
29 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR
30 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE
31 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may

1 not attempt to influence the outcome of an administrative hearing by directly or
 2 indirectly contacting or attempting to contact the hearing officer assigned to the
 3 hearing or the individual, board, or commission with authority to make the final
 4 decision in the matter [CASE] unless [THE]

5 (1) the contact is made in the presence of all parties to the hearing or
 6 the parties' representatives while the legislator or legislative employee is acting as a
 7 party or a witness in the matter or responding to a question asked of the
 8 legislator or legislative employee by the hearing officer, individual, board, or
 9 commission and the contact is made a part of the record; or

10 (2) the contact is inadvertent and ex parte and the fact and
 11 substance of the contact are [IS] promptly disclosed by the legislator or legislative
 12 employee to all parties to the hearing and [THE CONTACT IS] made a part of the
 13 record.

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

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

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

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

24 (A) food or beverage for immediate consumption;

25 (B) a contribution to a charity event, [FROM ANY PERSON
 26 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,
 27 EXCEPT THAT TICKETS TO OR] gifts received in connection with [AT] a
 28 charity event; however, tickets to a charity event and gifts received in
 29 connection with a charity event that are not included in the price of the
 30 ticket [UNDER THIS SUBPARAGRAPH] are subject to the calendar year
 31 limit on the value of gifts received by a legislator or legislative employee in (1)

1 of this subsection; in this subparagraph, "charity event" means an event the
 2 proceeds of which go to a charitable organization with tax-free status under 26
 3 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in
 4 advance; the tickets may entitle the bearer to admission to the event, to
 5 entertainment, to food or beverages, or to other gifts or services **in connection**
 6 **with** [INVOLVED IN] the charity event;

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

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

12 (E) a compassionate gift under AS 24.60.075.

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

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

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

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

21 (B) at a social event or meal;

22 (2) discounts that are available

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

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

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

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

31 (5) gifts from the immediate family of the person; in this paragraph,

1 "immediate family" means

2 (A) the spouse of the person;

3 (B) the person's domestic partner;

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

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

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

9 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-
10 aunt, or step-uncle of the person, the person's spouse, or the person's domestic
11 partner;

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

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

23 (8) a gift of legal services in a matter of legislative concern and a gift
24 of other services related to the provision of legal services in a matter of legislative
25 concern;

26 (9) a gift of transportation from a legislator or a legislative employee to
27 a legislator or a legislative employee if the transportation takes place in the state on or
28 in an aircraft, boat, motor vehicle, or other means of transport owned or under the
29 control of the donor; this paragraph does not apply to travel described in (4) of this
30 subsection or travel for political campaign purposes; or

31 (10) a contribution to a charity event from any person at any time, **or a**

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

4 * **Sec. 5.** AS 24.60.080(d) is amended to read:

5 (d) A legislator or legislative employee who accepts a gift under (c)(4) **of this**
 6 **section that has a value of \$250 or more or a ticket to a charity event under**
 7 **(c)(10)** of this section that has a value of \$250 or more shall disclose to the committee,
 8 within 30 days after receipt of the gift, the name and occupation of the donor and the
 9 approximate value of the gift. A legislator or legislative employee who accepts a gift
 10 under (c)(8) of this section that the recipient expects will have a value of \$250 or more
 11 in the calendar year shall disclose to the committee, within 30 days after receipt of the
 12 gift, the name and occupation of the donor, a general description of the matter of
 13 legislative concern with respect to which the gift is made, and the approximate value
 14 of the gift. The committee shall maintain a public record of the disclosures it receives
 15 relating to gifts under (c)(4), (c)(8), **(c)(10)**, and (i) of this section and shall forward
 16 the disclosures to the appropriate house for inclusion in the journal. The committee
 17 shall forward to the Alaska Public Offices Commission copies of the disclosures
 18 concerning gifts under (c)(4), (c)(8), **(c)(10)**, and (i) of this section that it receives
 19 from legislators and legislative directors. A legislator or legislative employee who
 20 accepts a gift under (c)(6) of this section that has a value of \$250 or more shall, within
 21 30 days after receiving the gift, disclose to the committee the name and occupation of
 22 the donor and a description of the gift. The committee shall maintain disclosures
 23 relating to gifts under (c)(6) of this section as confidential records and may only use,
 24 or permit a committee employee or contractor to use, a disclosure under (c)(6) of this
 25 section in the investigation of a possible violation of this section or in a proceeding
 26 under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the
 27 record of a proceeding under AS 24.60.170, the confidentiality provisions of that
 28 section apply to the disclosure.

29 * **Sec. 6.** AS 24.60.105 is amended by adding a new subsection to read:

30 (d) A person may refrain from making a disclosure that is required by this
 31 chapter if making the disclosure would violate the United States Constitution, the

1 Constitution of the State of Alaska, or other state or federal law. However, at the
 2 request of the committee or a person authorized to act on behalf of the committee, a
 3 person who refrains from making a disclosure under this subsection shall provide the
 4 committee with justification in writing, and the committee may review the written
 5 justification to determine whether it is sufficient.

6 * **Sec. 7.** AS 24.60.130(f) is amended to read:

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

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

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

26 (1) **when** [WHEN] appointing members of the legislature to serve on
 27 the committee, the speaker of the house or the president of the senate, as appropriate,
 28 shall appoint an alternate member for each regular member; **an** [. AN] alternate must
 29 have the same qualifications as the regular member for whom the alternate stands as
 30 alternate and is subject to confirmation as required for the regular member;

31 (2) **when selecting public members to serve on the committee, the**

1 **Chief Justice of the Alaska Supreme Court shall also select one alternate public**
 2 **member; the alternate public member's selection is subject to ratification as**
 3 **required for selection of the regular public members;**

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

20 * **Sec. 9.** AS 24.60.990(a) is amended by adding new paragraphs to read:

21 (17) "constituent" means a person to whom a legislator owes a duty of
 22 representation under the Constitution of the State of Alaska;

23 (18) "constituent service" means assistance, including representation
 24 other than legal representation and advice other than legal advice, that is provided by a
 25 legislator or a legislator's staff to a constituent;

26 (19) "legislative purpose" means legislative action or providing
 27 constituent service;

28 (20) "nonlegislative purpose" means a purpose other than a legislative
 29 purpose;

30 (21) "private benefit" means a benefit to a person as a result of a
 31 legislative, administrative, or political action of which benefit to that person in

1 particular is a substantial goal and that is greater than the benefit of the legislative,
2 administrative, or political action to a substantial class of persons to which the person
3 belongs by law, choice, legal entitlement, legal privilege, profession, occupation,
4 industry, or region.