

CS FOR HOUSE BILL NO. 193(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/7/09

Referred: Finance

Sponsor(s): REPRESENTATIVES COGHILL, Lynn, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act increasing the amount of money certain lobbyists may spend on food and**
2 **beverage for immediate consumption by a legislator, legislative employee, or a spouse or**
3 **domestic partner of a legislator or legislative employee without disclosure to the Alaska**
4 **Public Offices Commission; prohibiting public members of the Select Committee on**
5 **Legislative Ethics from disclosing information that is confidential under the Legislative**
6 **Ethics Act; relating to representation by a legislator or legislative employee of another**
7 **person in an administrative hearing; relating to prohibitions on the use of state**
8 **resources under the Legislative Ethics Act; relating to charity events under the**
9 **Legislative Ethics Act; requiring compensation of public members of the Select**
10 **Committee on Legislative Ethics; exempting certain information from disclosure**
11 **requirements of the Legislative Ethics Act; relating to the selection of alternate members**
12 **and the participation of members and alternate members in formal proceedings of the**

1 **Select Committee on Legislative Ethics and its subcommittees; and defining**
 2 **'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and**
 3 **'private benefit' for the purposes of the Legislative Ethics Act.'**

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

5 *** Section 1.** AS 24.45.051(b) is amended to read:

6 (b) A lobbyist required to report to the commission under (a) of this section,
 7 who provides or pays for food or beverage for immediate consumption by a legislator
 8 or legislative employee or a spouse or domestic partner of a legislator or legislative
 9 employee shall report the date the food or beverage was provided or paid for and the
 10 recipient's name and relationship to the legislator or legislative employee, unless the
 11 food and beverage

12 (1) cost \$50 [\$15] or less; or

13 (2) are provided as part of an event that is open to all legislators or
 14 legislative employees.

15 *** Sec. 2.** AS 24.60.030(a) is amended to read:

16 (a) A legislator or legislative employee may not

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

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

28 (A) limited use of state property and resources for personal
 29 purposes if the use does not interfere with the performance of public duties and
 30 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 a legislator's legislative mailing list for
3 campaign purposes, or the use of mailing lists, computer data, or other
4 information lawfully obtained from a government agency and available to the
5 general public for nonlegislative purposes;

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

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

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

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

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

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

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

1 (J) a legislator from sending any communication in the form of
2 a newsletter to the legislator's constituents, except a communication expressly
3 advocating the election or defeat of a candidate or a newsletter or material in a
4 newsletter that is clearly only for the private benefit of a legislator or a
5 legislative employee; or

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

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

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

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

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

25 (B) the use of **a legislator's legislative mailing list, or the use**
26 **of** mailing lists, computer data, or other information lawfully obtained from a
27 government agency and available to the general public for nonlegislative
28 purposes;

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

31 (D) a legislator from using the legislator's private office in the

1 capital city during a legislative session, and for the 10 days immediately before
 2 and the 10 days immediately after a legislative session, for nonlegislative
 3 purposes if the use does not interfere with the performance of public duties and
 4 if there is no cost to the state for the use of the space and equipment, other than
 5 utility costs and minimal wear and tear, or the legislator promptly reimburses
 6 the state for the cost; an office is considered a legislator's private office under
 7 this subparagraph if it is the primary space in the capital city reserved for use
 8 by the legislator, whether or not it is shared with others; or

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

10 * **Sec. 3.** AS 24.60.030(i) is amended to read:

11 (i) Except **when representing another person for compensation subject to**
 12 **AS 24.60.100 and as a professional who is licensed in the state** [FOR SUPPLYING
 13 INFORMATION REQUESTED BY THE HEARING OFFICER OR THE
 14 INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE
 15 FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS
 16 INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR
 17 COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE
 18 CASE], a legislator or legislative employee may not attempt to influence the outcome
 19 of an administrative hearing by directly or indirectly contacting or attempting to
 20 contact the hearing officer assigned to the hearing or the individual, board, or
 21 commission with authority to make the final decision in the **matter** [CASE] unless
 22 [THE]

23 (1) **the** contact is made in the presence of all parties to the hearing or
 24 the parties' representatives **while the legislator or legislative employee is acting as a**
 25 **party or a witness in the matter or responding to a question asked of the**
 26 **legislator or legislative employee by the hearing officer, individual, board, or**
 27 **commission** and the contact is made a part of the record; or

28 (2) **the contact is inadvertent and ex parte and the** fact and
 29 substance of the contact **are** [IS] promptly disclosed by the legislator or legislative
 30 employee to all parties to the hearing and [THE CONTACT IS] made a part of the
 31 record.

1 * **Sec. 4.** AS 24.60.060(a) is amended to read:

2 (a) A legislator, [OR] legislative employee, **or public member of the**
 3 **committee** may not knowingly make an unauthorized disclosure of information that is
 4 made confidential by law and that the person acquired in the course of official duties.
 5 A person who violates this section is subject to a proceeding under AS 24.60.170 and
 6 may be subject to prosecution under AS 11.56.860 or another law.

7 * **Sec. 5.** AS 24.60.080(a) is amended to read:

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

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

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

17 (A) food or beverage for immediate consumption;

18 (B) a contribution to a charity event, [FROM ANY PERSON
 19 AT ANY TIME, AND] tickets **to** [FOR] a charity event, **and** [AT ANY TIME,
 20 EXCEPT THAT TICKETS TO OR] gifts received **in connection with** [AT] a
 21 charity event; **however, tickets to a charity event and gifts received in**
 22 **connection with a charity event that are not included in the price of the**
 23 **ticket** [UNDER THIS SUBPARAGRAPH] are subject to the calendar year
 24 limit on the value of gifts received by a legislator or legislative employee in (1)
 25 of this subsection; in this subparagraph, "charity event" means an event the
 26 proceeds of which go to a charitable organization with tax-free status under 26
 27 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in
 28 advance; the tickets may entitle the bearer to admission to the event, to
 29 entertainment, to food or beverages, or to other gifts or services **in connection**
 30 **with** [INVOLVED IN] the charity event;

31 (C) a gift that is unconnected with the recipient's legislative

1 status and is from a member of the legislator's or legislative employee's
2 immediate family;

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

5 (E) a compassionate gift under AS 24.60.075.

6 * **Sec. 6.** AS 24.60.080(c) is amended to read:

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

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

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

14 (B) at a social event or meal;

15 (2) discounts that are available

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

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

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

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

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

26 (A) the spouse of the person;

27 (B) the person's domestic partner;

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

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

31 (E) a parent, sibling, grandparent, aunt, or uncle of the person's

1 spouse or the person's domestic partner; and

2 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-
3 aunt, or step-uncle of the person, the person's spouse, or the person's domestic
4 partner;

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

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

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

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

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

28 * **Sec. 7.** AS 24.60.080(d) is amended to read:

29 (d) A legislator or legislative employee who accepts a gift under (c)(4) of this
30 section that has a value of \$250 or more or a ticket to a charity event under
31 (c)(10) of this section that has a value of \$250 or more shall disclose to the committee,

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

22 * **Sec. 8.** AS 24.60.105 is amended by adding a new subsection to read:

23 (d) A person may submit a written request to refrain from making a disclosure
24 that is required by this chapter if making the disclosure would violate the United
25 States Constitution, the Constitution of the State of Alaska, or other state or federal
26 law. The committee shall approve or deny the request, or require further justification
27 from the person making the request. At the request of the committee or a person
28 authorized to act on behalf of the committee, a person who seeks to refrain from
29 making a disclosure under this subsection shall provide the committee with
30 justification in writing, and the committee may review the written justification to
31 determine whether it is sufficient.

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

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

15 * **Sec. 10.** AS 24.60.130(n) is amended to read:

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

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

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

30 **(3) if, except as to a proceeding under AS 24.60.170,** [. IF] a regular
31 [LEGISLATIVE] member of the committee or a subcommittee is unable to

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

15 * **Sec. 11.** AS 24.60.990(a) is amended by adding new paragraphs to read:

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

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

21 (19) "legislative purpose" means legislative action or providing
 22 constituent service;

23 (20) "nonlegislative purpose" means a purpose other than a legislative
 24 purpose;

25 (21) "private benefit" means a benefit that is conferred on a person
 26 with a purpose that is mainly a nonlegislative purpose.