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BY JACKSON, BRONSON, FINK,
HOHMAN, KAY, KERTTULA,
PERATROVICH AND SWEET

1 IN THE HOUSE

2 HOUSE BILL NO. 113

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to governmental ethics and disclosure
7 of economic interests."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 24 is amended by adding a new chapter to read:

10 CHAPTER 55. LEGISLATIVE CONDUCT.

11 Sec. 24.55.010. LEGISLATIVE RIGHTS AND DUTIES; PRESUMPTION OF
12 GOOD FAITH. (a) In the American system of representative government,
13 in which government functions by and with the consent of the governed,
14 it is the duty of the legislature and its members to support and
15 defend the constitutions of this state and of the United States and to
16 consider and enact legislation necessary to the public interest. To
17 maintain a proper balance in the consideration and enactment of laws
18 it is essential that each legislator exercise his influence and cast
19 his vote according to the best interests of the public and his consti-
20 tuents.

21 (b) The legislature acknowledges that, in serving the public
22 interest, it is a legislator's right to vote upon all questions before
23 the house of which he is a member and to participate in the business
24 of the house and its committees, and that in doing so he is presumed
25 to act in good faith and in the public interest.

26 (c) The legislature also acknowledges that the exercise of legis-
27 lative rights is subject to limitations when personal interest con-
28 flicts with the public interest.

29 Sec. 24.55.020. JOINT COMMITTEE ON LEGISLATIVE CONDUCT. (a) The

1 Joint Committee on Legislative Conduct is established, consisting of
2 the majority leader, the minority leader and two members of each house,
3 each of the leaders appointing one of the members, and the president
4 of the University of Alaska. The senate majority leader is chairman
5 and the house of representatives majority leader is vice-chairman. The
6 term of an appointed member begins in an odd-numbered year and lasts
7 for two years if he remains a member of the legislature. The universit
8 president, as well as other members of the committee, is entitled to a
9 per diem allowance and reimbursement for necessary travel expenses,
10 but receives no additional compensation for service on the committee.

11 (b) The committee shall

12 (1) render advisory opinions on questions of conflict and
13 conduct when requested by a member of the legislature under sec. 30
14 of this chapter;

15 (2) investigate questions of legislative conduct, violations
16 of this chapter and the misuse of disclosure reports and statements of
17 non-impairment, and recommend punishment to be imposed upon offenders;

18 (3) recommend additions to and changes in this chapter and
19 the Uniform Rules of the Alaska State Legislature respecting

20 (A) legislative conduct,

21 (B) voting disqualifications,

22 (C) content and filing of disclosure reports,

23 (D) content and use of statements of non-impairment,

24 (E) procedures for referring and determining questions
25 of violation, misconduct and misuse of statements and disclosure
26 reports, and

27 (F) circumstances which presumptively involve a
28 conflict of interests, undue influence and abuse of office.

29 (c) The committee shall adopt rules of committee procedure not

1 inconsistent with the uniform rules of the legislature.

2 (d) The committee may function without regard to recess periods
3 or adjournment sine die of either house.

4 Sec. 24.55.030. ADVISORY OPINIONS. If a legislator, executive
5 department head, or the governor or secretary of state is uncertain
6 about a possible conflict in his personal circumstances under this
7 chapter, AS 39.05.105 or AS 44.19.015, respectively, he may request
8 an advisory opinion of the Joint Committee on Legislative Conduct.
9 When issued, after review of the circumstances involved, the written
10 opinion of the committee determines the question of conflict, subject
11 to further action of the parent house should the question come before
12 it.

13 Sec. 24.55.040. INSPECTION OF OPINIONS AND CONFIDENTIALITY OF
14 INFORMATION. Advisory opinions of the committee are public records
15 and are open to public inspection as provided in AS 9.25.110 and
16 9.25.120. Except as provided in Sec. 130 of this chapter, all other
17 information in the possession of the committee, its officers, members
18 and employees, concerning personal affairs of members of the legisla-
19 ture is confidential and may not be disclosed except as necessary in
20 relation to disciplinary action, punishment or prosecution.

21 Sec. 24.55.050. HEARING. In performing its duties, the committee
22 shall give each legislator under investigation an opportunity to be
23 heard after notice, to be advised and assisted by legal counsel, to
24 produce witnesses and offer evidence, and to cross examine. Upon
25 request of the legislator under investigation, the hearing shall be
26 open to the public.

27 Sec. 24.55.060. LEGAL COUNSEL. The attorney general shall serve
28 as legal counsel to the committee in administering this chapter.

29 Sec. 24.55.070. CONFLICT OF INTERESTS. (a) A legislator's

1 personal interest conflicts with the public interest when it tends to
2 impair his independence of judgment. The conflict disqualifies him
3 from voting upon questions and from attempting to influence legislation
4 to which it relates.

5 (b) It is presumed that personal interest tends to impair a
6 legislator's independence of judgment in the following circumstances:

7 (1) having or acquiring an interest in an enterprise,
8 direct or indirect, financial or otherwise, which enterprise or inter-
9 est would be affected by proposed legislation differently from like
10 enterprises or other interests in the same enterprise;

11 (2) close relationship to or close economic association with
12 a person who has an interest in an enterprise, direct or indirect,
13 financial or otherwise, which enterprise or interest would be affected
14 by proposed legislation differently from like enterprises or other
15 interests in the same enterprise;

16 (3) close relationship to or close economic association with
17 a person who is lobbying or who has employed a lobbyist to propose
18 legislation or to influence proposed legislation;

19 (4) accepting a gift, loan, favor, service or economic
20 opportunity of significant value from a person who would be affected
21 by or who has an interest in an enterprise which would be affected
22 by proposed legislation;

23 (5) accepting compensation, gratuity, or reimbursement not
24 authorized by law for services, advice or assistance relating to the
25 legislative process;

26 (6) accepting compensation, gratuity, or reimbursement not
27 authorized by law for voting upon any question or attempting to influ-
28 ence legislation;

29 (7) accepting compensation, gratuity or reimbursement not

1 authorized by law for representing or assisting another in respect to
2 matter before the legislature or one of its committees or subcommittees.

3 Sec. 24.55.080. STATEMENT OF NONIMPAIRMENT. If an apparent con-
4 flict arises but independence of judgment is not impaired, the legis-
5 lator affected may file with the Joint Committee on Legislative Conduct
6 a signed statement describing the circumstances of the apparent conflict
7 and the legislation to which it relates, stating that he is able to
8 vote and otherwise participate in the legislative process fairly and
9 objectively. By signing the statement the legislator acknowledges
10 that the information given is true to the best of his knowledge and
11 belief. When the statement is filed the disqualifications of sec.
12 70(a) of this chapter are suspended, subject to further action of the
13 parent house should the question come before it.

14 Sec. 24.55.090. UNDUE INFLUENCE. (a) A legislator shall avoid
15 all circumstances which involve substantial risk of undue influence.

16 (b) It is presumed that each of the following activities involve
17 substantial risk of undue influence:

18 (1) representing or assisting another

19 (A) in a matter before a state agency, unless without
20 compensation and for the benefit of a constituent;

21 (B) before a state agency in a matter involving a
22 claim of a state employee;

23 (C) before a state agency in a matter involving a
24 against the state, a state agency or a state officer or
25 employee, unless without compensation and for the benefit of a
26 constituent;

27 (D) in the sale of goods or services to a state agency
28 in a transaction not governed by the laws relating to public
29 purchasing by competitive bidding;

1 (2) appearing as an expert witness for compensation in a
2 matter before a state agency;

3 (3) selling goods or services

4 (A) to a state agency in a transaction not governed
5 by the laws relating to public purchasing by competitive bidding;

6 (B) to a person subject to licensing or regulation by
7 a state agency;

8 (C) to an association of state employees.

9 Sec. 24.55.100. EFFECT OF LEGISLATIVE ACTION. (a) Decision of
10 the parent house on a question of conflict or undue influence is con-
11 clusive for all purposes.

12 (b) Enactments of the legislature may not be voided in any
13 judicial proceeding because of an alleged conflict which was not
14 questioned in the parent house before final action.

15 Sec. 24.55.110. ABUSE OF OFFICE. (a) A legislator shall avoid
16 all activities which tend to abuse his office.

17 (b) It is presumed that the following activities tend to abuse
18 legislative office or position:

19 (1) accepting a gift, loan, favor, service or economic
20 opportunity of significant value from a person would be affected by
21 or who has an interest in an enterprise which would be affected by pro-
22 posed legislation;

23 (2) accepting compensation, gratuity, or reimbursement not
24 authorized by law for services, advice or assistance relating to the
25 legislative process;

26 (3) accepting compensation, gratuity or reimbursement not
27 authorized by law for voting upon any question or attempting to influ-
28 ence legislation;

29 (4) obtaining special privilege, exemption or preferential

1 treatment for self or another;

2 (5) granting special privilege, exemption or preferential
3 treatment to self or another;

4 (6) using confidential information obtained because of
5 legislative office for the benefit of self or another;

6 (7) disclosing confidential information obtained because
7 of legislative office except in good faith and to perform a legislative
8 duty;

9 (8) engaging in a business or professional activity or
10 accepting employment which might reasonably induce or require disclo-
11 sure of confidential information obtained because of legislative
12 office;

13 (9) using legislative stationery in connection with a matter
14 before a state agency, unless without compensation either to perform
15 a legislative duty or for the benefit of a constituent.

16 Sec. 24.55.120. DISCLOSURE OF INTERESTS. (a) Every legislator
17 and every candidate for legislative office shall file with the commit-
18 tee, at the times, with the detail, and in the manner required by the
19 committee, a sworn, written report listing

20 (1) every enterprise, subject to regulation by a state
21 agency, with which he or his spouse or child has a close economic
22 association;

23 (2) every enterprise, having a legislative interest, with
24 which he or his spouse or child has a close economic association;

25 (3) every enterprise, having a legislative interest, to
26 which he or his spouse or child furnished compensated services valued
27 at more than \$1,000 during the period covered by the report, and every
28 enterprise to which a close economic associate furnished the services,
29 if known to him;

1 (4) every contract with a local, the state or federal
2 government held, during the period covered by the report, by the legis-
3 lator or by his spouse or child or by an enterprise with which any of
4 them has or, during that period, had a close economic association;

5 (5) all other categories of interest identified by the
6 committee as potential sources of conflict.

7 (b) The value of an interest in an enterprise need not be
8 reported. Enterprises may be identified by principal type of economic
9 activity, with additional detail the committee may require to indicate
10 their legislative interests.

11 Sec. 24.55.130. REPORTS OPEN TO INSPECTION. Reports are public
12 records and are open to public inspection as provided in AS 9.25.110
13 and 9.25.120. In addition, the committee shall release the report to
14 the news media and provide the clerk of the parent house with a copy of
15 each report and the clerk shall publish it in the journal of that house
16 as soon as possible after receipt. However, the committee may exempt a
17 report or part of a report from release, publication and inspection if
18 it determines that it is appropriate for the protection of third
19 parties, and makes available to the public an explanatory statement to
20 that effect.

21 Sec. 24.55.140. PENALTIES. (a) A legislator who violates a pro-
22 vision of secs. 40, 70, 90 or 110 of this chapter, or who files a false
23 statement under sec. 80 of this chapter or a false report under sec.
24 120 of this chapter, knowing of the falsity, is in contempt and shall
25 be punished as his parent house provides.

26 (b) A nonlegislator who violates sec. 40 of this chapter is in
27 contempt and shall be punished as provided by the house against which
28 the offense is committed.

29 (c) A person who induces, attempts to induce, or aids a violation

1 of this chapter is in contempt and shall be punished as provided by
2 the house against which the offense is committed.

3 (d) An offended house may hear and determine questions of viola-
4 tion and impose punishment until convening of the second regular legis-
5 lative session following the date of an offense. Execution of punish-
6 ment does not terminate with adjournment sine die of the offended house.

7 Sec. 24.55.150. DEFINITIONS. In this chapter, unless the con-
8 text requires otherwise,

9 (1) "close economic associate" and "close economic associ-
10 ation" include the individual's employer, employees, partners and
11 associates in business and professional activities, corporations of
12 which he is a director, officer or agent, corporations in which he
13 owns more than 10 per cent of the outstanding capital stock, enter-
14 prises which are his significant unsecured creditors, enterprises of
15 which he is a significant creditor, and trusts of which he is a bene-
16 ficiary or is a trustee with a power of appointment or disposal; it
17 does not include a bank or savings and loan association in which the
18 interest is in the form of an account, or an officership, directorship,
19 or employment in a political, religious, charitable or educational
20 entity from which he receives compensation of less than \$1,000 per year.

21 (2) "close relationship" and "close relative" include
22 natural, adoptive and adopted members of the legislator's family and
23 the family of his spouse within the third degree of consanguinity;

24 (3) "committee" means the Joint Committee on Legislative
25 Conduct;

26 (4) "legislative interest" means a substantial economic
27 interest, distinct from that of the general public, in a bill, resolu-
28 tion, nomination or other issue or proposal pending before or likely
29 to be proposed to the legislature or one of its committees, subcommittees

1 or commissions;

2 (5) "notice" means notice in writing stating the specific
3 charge, if any, against the person concerned, and the date, time,
4 place and purpose of a proceeding, delivered to the person concerned
5 on behalf of the committee by a clerk of his parent house or by an
6 officer authorized by law to serve subpoenas, at least seven days before
7 the date of the proceeding, or deposited in the United States mail,
8 certified and return receipt requested, at least 14 days before the
9 date of the proceeding, for delivery to him at his usual place of
10 residence;

11 (6) "state agency" means a department, office, board, com-
12 mission or other organizational unit of the executive branch, including
13 the University of Alaska, but does not include an agency in the
14 judicial or legislative branch of the state government.

15 * Sec. 2. AS 24.05.120 is amended to read:

16 Sec. 24.05.120. RULES. At the beginning of the first regular
17 session of each legislature, both houses shall adopt uniform rules of
18 procedure for enacting bills into law, [AND] adopting resolutions and
19 handling disciplinary matters under ch. 55 of this title. The rules
20 in effect at the last regular session of the immediately preceding
21 legislature serve as the temporary rules of the legislature until the
22 adoption of permanent rules.

23 * Sec. 3. AS 39.05 is amended by adding a new section to read:

24 Sec. 39.05.105. DISCLOSURE OF INTERESTS BY DEPARTMENT HEADS.

25 (a) Each person appointed as the head of a principal executive depart-
26 ment of the state government shall, in the detail and manner specified
27 by the committee, within 30 days of his appointment, and at additional
28 times specified by the committee, file with the Joint Committee on
29 Legislative Conduct (AS 24.55.020) a sworn, written report listing

1 (1) every enterprise, subject to regulation by a state
2 agency, with which he or his spouse or child has a close economic
3 association;

4 (2) every enterprise with a substantial economic interest,
5 distinct from that of the general public, in a matter likely to come
6 before him in his official capacity, to which he or his spouse or child
7 furnished compensated services valued at more than \$1,000 during the
8 period covered by the report, and every enterprise to which a close
9 economic associate furnished the services, if known to him;

10 (3) every contract with a local, the state or federal govern-
11 ment held, during the period covered by the report, by him or by his
12 spouse or child or by an enterprise with which any of them has or,
13 during that period, had a close economic association;

14 (4) all other categories of interest designated by the
15 committee as potential sources of conflicts of interest.

16 (b) The value of an interest in an enterprise need not be
17 reported. Enterprises may be identified by principal type of economic
18 activity, with additional detail the committee may require to indicate
19 their special interests.

20 (c) The committee shall, upon receipt of the report specified in
21 (a) of this section, make a release of the complete report to the news
22 media. In addition, the reports are public records and are open to
23 public inspection as provided in AS 9.25.110 and 9.25.120. However,
24 the committee may exempt a report or part of a report from release and
25 inspection if it determines that it is appropriate for the protection
26 of third parties, and makes available to the public an explanatory
27 statement to that effect.

28 (d) No appointment of a department head may be confirmed by the
29 legislature if the report required by (a) of this section has not been

1 filed with the committee.

2 (e) Definitions, in AS 24.55.150, of terms used in this section
3 apply to this section.

4 * Sec. 4. AS 44.19 is amended by adding a new section to read:

5 Sec. ~~44.19.015~~. DISCLOSURE OF ECONOMIC INTERESTS. The governor
6 and the secretary of state, and each candidate for either of these
7 offices, shall file with the Joint Committee on Legislative Conduct
8 (AS 24.55.020) a sworn, written report of economic interests and rela-
9 tionships likely to create a conflict of interests. The statement
10 shall be filed at the times, in the detail and in the manner prescribed
11 by the committee; it shall contain the information relating to the
12 governor and secretary of state, respectively, specified in AS 30.05.-
13 105 and is subject to all other provisions of that section except (d)
14 of that section.

15 * Sec. 5. All incumbent department heads shall file the report required
16 by sec. 3 of this Act no later than 30 days after the effective date of
17 this Act. Failure of an individual to do so renders his position vacant,
18 unless the Joint Committee on Legislative Conduct determines that the fail-
19 ure was justified, in which case he shall be given an additional 30 days.
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