

1 IN THE SENATE

BY PALMER

2 SENATE BILL NO. 53

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."

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

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

9 CHAPTER 55. LEGISLATIVE ETHICS.

10 ARTICLE 1. BOARD OF ETHICS.

11 Sec. 24.55.010. BOARD OF ETHICS. (a) There is a board of ethics
12 composed of five members of the legislature, two appointed from the
13 senate by the president of the senate, two appointed from the house of
14 representatives by the speaker of the house and one member of the public
15 appointed by the judicial council. No more than one member from each
16 house may be of the same political party. The board shall elect a
17 chairman, and shall meet as frequently as it considers necessary.

18 (b) Each member of the board serves for a term of two years, to
19 expire on January 30 in odd-numbered years. Vacancies shall be filled
20 by the appropriate appointing authority for the balance of the un-
21 expired term.

22 (c) Each member of the board is entitled to be reimbursed for
23 necessary expenses incurred in the performance of his duties as a
24 board member.

25 Sec. 24.55.020. STAFF AND COUNSEL. The board may employ employees
26 agents and consultants it considers necessary, and may prescribe their
27 duties, determine their compensation and provide for reimbursement of
28 their expenses. The board may also engage outside professional counsel
29 it considers necessary. The board and its staff may also make use of the

1 services and facilities of the Alaska attorney general and every other
2 state agency.

3 Sec. 24.55.030. POWERS AND DUTIES. (a) The board shall

4 (1) upon the request of a legislator, or a member of the
5 executive branch covered by AS 44.17.090 or 44.19.015, or when in its
6 judgment the public interest requires, render an advisory opinion on
7 questions arising under this chapter or AS 44.17.090 and 44.19.015, and
8 other ethical issues affecting legislators, and in the appropriate house
9 journal, with executive-branch opinions being published in the senate
10 journal, shall publish these opinions periodically with deletions and
11 changes that may be necessary to protect the identity of the person
12 seeking the opinion;

13 (2) in response to a signed complaint filed with it, or
14 when in its judgment the public interest requires, inquire into possible
15 violations of secs. 60 - 110 of this chapter, which power to initiate
16 inquiries is not delegable;

17 (3) when the conduct of a particular person is under inquiry
18 and the board decides to hold a hearing on the matter, give the person
19 a notice of the charges and an opportunity to present evidence, cross-
20 examine witnesses and be represented by counsel at that hearing;

21 (4) administer the disclosure provisions of secs. 130 - 160
22 of this chapter, AS 44.17.090 and 44.19.015.

23 (b) The board may

24 (1) designate a subcommittee of the board to conduct hearings
25 under (a) of this section;

26 (2) in its discretion, hold hearings in closed session,
27 because hearings may in some cases involve alleged misconduct; however,
28 a person who has received a notice of a hearing under (a) of this
29 section may require that the hearing be public;

1 (3) or any member of it may issue subpoenas to compel
2 attendance of witnesses or the production of books or other records;

3 (4) seek the aid of the district court of the state to compel
4 obedience to subpoenas;

5 (5) publish written reports of its inquiries, findings and
6 conclusions, and in an appropriate case may report the results of its
7 inquiry to the appropriate house and to the attorney general or other
8 appropriate law enforcement officer; however, if the board finds no
9 violation it shall, unless requested to make public its findings by the
10 person involved in the inquiry, retain the findings in confidence;

11 (6) recommend legislation relating to legislative ethics
12 and other matters included in this chapter, AS 44.17.040(b), 44.19.010(b),
13 44.17.090, and 44.19.015;

14 (7) provide a continuing program of education, assistance
15 and information to legislators with regard to legislative ethics;

16 (8) upon request, provide advice and assistance to officials
17 in the executive and judicial branches and the University of Alaska
18 with regard to ethical problems arising in those branches and at the
19 university, respectively;

20 (9) make rules for its own functioning and exercise the
21 powers that may be appropriate for the discharge of its duties and
22 responsibilities under this chapter, AS 44.17.090 and 44.19.015.

23 Sec. 24.55.040. FURNISHING AND CONFIDENTIALITY OF INFORMATION:
24 PENALTY. (a) Notwithstanding any other provision of law, every state
25 agency, local governmental agency, and units or subdivisions of these
26 shall furnish to the board any document, record, data, statement or
27 other information which the board designates as being necessary for
28 the exercise of its functions.

29 (b) All information received by the board in the course of its

1 inquiries other than that disclosed at a public hearing is confidential
2 and may not be divulged except to the extent that the board finds there
3 is good cause for releasing it; a person who violates this confidenti-
4 ality provision is, upon conviction, punishable by a fine of not more
5 than \$5,000, or by imprisonment for not more than one year, or by both.

6 ARTICLE 2. CONDUCT

7 Sec. 24.55.050. ETHICAL PRINCIPLES FOR LEGISLATORS. (a) When
8 feasible, and taking into account the fact that legislative service
9 is part time, a legislator should avoid accepting or retaining an
10 economic opportunity which presents a substantial threat to his indepen-
11 dence of judgment.

12 (b) When a legislator must take official action on a legislative
13 matter as to which he has a conflict situation created by a personal,
14 family, or client legislative interest, he should consider the possi-
15 bility of eliminating the interest creating the conflict situation.
16 If that is not feasible, he should consider the possibility of abstain-
17 ing from the official action. In making his decision as to abstention,
18 the following factors should be considered:

19 (1) whether a substantial threat to his independence of
20 judgment has been created by the conflict situation;

21 (2) the effect of his participation on public confidence
22 in the integrity of the legislature;

23 (3) whether his participation is likely to have any signi-
24 ficant effect on the disposition of the matter;

25 (4) the need for his particular contribution, such as special
26 knowledge of the subject matter, to the effective functioning of the
27 legislature.

28 (c) A legislator need not abstain if he decides to participate in
29 a manner contrary to the economic interest which creates the conflict

1 situation.

2 (d) When, despite the existence of a conflict situation, a
3 legislator chooses to take official action on a matter, he should serve
4 the public interest and not the interest of any person individually.

5 (e) No legislator should accept a representation case unless he
6 believes there is merit to the position he is asked to represent.
7 When feasible, a legislator participating in a representation case
8 shall arrange for another person to make whatever appearance before the
9 state agency may be necessary.

10 (f) The principles set out in this section are intended only as
11 guides to conduct, and not as rules meant to be enforced by penalties.
12 The board of ethics may not inquire into a suspected violation of this
13 section.

14 Sec. 24.55.060. ETHICAL PRINCIPLES FOR CLOSE ECONOMIC ASSOCIATES
15 AND PERSONS WITH LEGISLATIVE INTERESTS. (a) No person with a legis-
16 lative interest should offer to or confer upon a legislator an economic
17 opportunity with intent to influence that legislator's official conduct
18 or to create good will on the part of the legislator toward any person
19 with a legislative interest. Those in positions of counsel to, or
20 agents of, these persons should restrain them from violation of this
21 ethical principle.

22 (b) No person with whom a legislator maintains a close economic
23 association should accept an economic opportunity when he knows, or
24 should know, of the substantial possibility that it is being offered
25 with intent to influence that legislator's official conduct. When
26 feasible, a person with a close economic association with a legislator
27 should also decline to accept an economic opportunity which presents a
28 substantial threat to the legislator's independence of judgment.

29 (c) No person with whom a legislator maintains a close economic

1 association should accept a representation case where there is sub-
2 stantial reason for him to believe that it is being offered with intent
3 to obtain improper influence over a state agency.

4 (d) The principles set out in this section are intended only as
5 guides to conduct, and not as rules meant to be enforced by penalties.
6 However, under sec. 30 of this chapter the board of ethics has the
7 power to inquire into a suspected violation of this section, to make
8 findings of fact and to communicate its findings to the legislature,
9 prosecutors, professional associations and other interested persons.

10 Sec. 24.55.070. LOBBYING BY LEGISLATORS. (a) No legislator may
11 lobby if he accepts compensation specifically attributable to the
12 lobbying, other than that provided by law for members of the legisla-
13 ture.

14 (b) A legislator who violates this section is, upon conviction,
15 punishable by a fine of not more than \$5,000, or by imprisonment for
16 not more than one year, or by both.

17 Sec. 24.55.080. LOBBYING BY CLOSE ECONOMIC ASSOCIATES OF
18 LEGISLATORS. (a) If a person with whom a legislator maintains a
19 close economic association is known by the legislator to be engaged
20 in compensated lobbying, that legislator shall immediately disclose
21 that fact to the board of ethics in a written statement identifying
22 the person so engaged, specifying the particular legislative matter
23 which is the object of the lobbying activity, and describing the
24 general type of economic activity of the client or principal on whose
25 behalf that person is lobbying. The identity of that client or prin-
26 cipal need not be disclosed, however. These statements are available
27 for public inspection.

28 (b) A person who violates this section is, upon conviction,
29 punishable by a fine of not more than \$500.

1 Sec. 24.55.090. COMPENSATION FOR LEGISLATIVE SERVICES. (a) No
2 legislator may accept compensation, other than that provided by law
3 for members of the legislature, for performance of his legislative
4 duties. No person, other than a state official or employee performing
5 his duty in paying members of the legislature as provided by law, may
6 pay or offer to pay a legislator compensation for performance of his
7 legislative duties.

8 (b) A legislator may accept contributions from private sources
9 for use in defraying the expenses necessarily related to the adequate
10 performance of his legislative duties, but a legislator accepting
11 such a contribution shall file with the board of ethics, at the time,
12 in the manner, and in the detail, which the board prescribes, a written
13 statement describing the amount of the contribution and the use to
14 which it is put. This statement may be retained in confidence by the
15 board.

16 (c) A person who violates a provision of this section is, upon
17 conviction, punishable by a fine of not more than \$500.

18 Sec. 24.55.100. LEGISLATOR PARTICIPATING IN REPRESENTATION CASE.

19 (a) No legislator may accept or participate in any way in a repre-
20 sentation case when the state is the respondent. This does not pro-
21 hibit participation in such a representation case by a person with
22 whom the legislator maintains a close economic association, unless
23 the fact of that association is used to influence or attempt to
24 influence the state agency in rendering its decision.

25 (b) A person who violates a provision of this section is, upon
26 conviction, punishable by a fine of not more than \$5,000, or by im-
27 prisonment for not more than one year, or by both.

28 Sec. 24.55.110. CONDUCT WHICH IS PUNISHABLE ONLY BY LEGISLATURE.

29 (a) No legislator may solicit, accept, or agree to accept a gift,

1 loan, gratuity, discount, favor, hospitality, or service, having an
2 aggregate value of \$100 or more in any calendar year from a person
3 known by the legislator, or who reasonably should have been known by
4 him, to have a legislative interest, under circumstances from which it
5 could reasonably be inferred that a major purpose of the donor is to
6 influence him in the performance of his official duties. However, this
7 does not apply to

8 (1) a political contribution, in cash or in kind, if the
9 contribution is actually used for campaign expenses generally recognized
10 as necessary;

11 (2) the purchase of tickets to, or advertisements in journals
12 for, political or testimonial dinners; or

13 (3) a commercially reasonable loan made in the ordinary
14 course of business.

15 (b) No legislator may accept an economic opportunity, under
16 circumstances in which he knows or should know that there is a sub-
17 stantial possibility that the opportunity is being afforded him with
18 intent to influence his conduct in the performance of his official
19 duties.

20 (c) No legislator may charge to or accept from a person known
21 to have a legislative interest a price, fee, compensation or other
22 consideration for the sale or lease of property or the furnishing of
23 services which is substantially in excess of that which the legislator
24 would charge in the ordinary course of business.

25 (d) No legislator, in order to further his own economic interests,
26 or those of any other person individually, may disclose or use con-
27 fidential information acquired in the course of his official duties.

28 (e) No legislator may accept a representation case when there is
29 substantial reason for him to believe that it is being offered with

1 intent to obtain improper influence over a state agency; no legislator
2 may use or attempt to use improper means to influence a state agency in
3 a representation case in which the legislator or a person with whom he
4 maintains a close economic association is participating.

5 (f) No legislator may engage in other conduct which is unbecoming
6 to a legislator or which constitutes a breach of public trust.

7 (g) A suspected violation of a provision of this section shall
8 be inquired into by the board of ethics, under sec. 30 of this chapter,
9 but disciplinary action against a person found in violation shall be
10 administered only by the legislative house of which he is a member.

11 Sec. 24.55.120. PENALTY FOR FALSE CHARGE. A person who malicious-
12 ly files with the board a false charge of misconduct on the part of a
13 legislator or other person is, upon conviction, punishable by a fine of
14 not more than \$5,000, or by imprisonment for not more than one year, or
15 by both.

16 ARTICLE 3. ECONOMIC DISCLOSURE.

17 Sec. 24.55.130. DISCLOSURE OF ECONOMIC INTERESTS. Every legis-
18 lator and every candidate for the legislature shall file with the
19 board of ethics, at the time, in the manner, and in the detail the
20 board prescribes, a written statement of economic interests and re-
21 lationships likely to create conflicts of interest. The statement
22 shall include the following information:

23 (1) a list of economic interests, in entities subject to
24 regulation by a state agency or which have a legislative interest,
25 of the person making the disclosure and of his spouse and minor
26 children, whether in the form of stocks, bonds, realty, equity or
27 creditor interests in a proprietorship or partnership, or otherwise;
28 exempted from disclosure are

29 (A) accounts in banks and in savings and loan

1 associations;

2 (B) equity interests valued at less than \$5,000 and
3 representing less than five per cent of the total equity interests
4 in the entity;

5 (2) a list of every office, directorship and salaried
6 employment, during the period covered by the report, of the person
7 making the disclosure and of his spouse and minor children, in any
8 entity subject to regulation by a state agency or which has a legislative
9 interest; an office, a directorship or salaried employment in a political,
10 religious, charitable or educational entity need not be reported if
11 compensation of less than \$1,000 per year is being received;

12 (3) a list of all entities with a legislative interest,
13 actual or probable, to which the legislator furnished compensated
14 service valued at more than \$1,000 during the period covered by the
15 report; and a list of these entities to which the service was furnished
16 by a person with a close economic association with the legislator, if
17 the legislator knows of the service;

18 (4) a list of other interests which could create a serious
19 conflict of interests, if so determined by the board.

20 Sec. 24.55.140. VALUE OF INTEREST AND IDENTIFICATION OF ENTITY.
21 The value of an interest required to be reported under sec. 130 of
22 this chapter need not be disclosed. An entity required to be reported
23 need not be identified by name; it may instead be identified by the
24 principal type of economic activity in which it engages, together with
25 additional detail, to be prescribed by the board, that will fairly
26 indicate its legislative interests. If disclosure is required because
27 of legal services rendered to it the entity may also be identified, in
28 the discretion of the person making disclosure and after written
29 approval by the board, by the type of legal service rendered. If the

1 entity is a registered lobbyist, or is listed as a principal by a
2 registered lobbyist, it shall be identified by name.

3 Sec. 24.55.150. STATEMENT OPEN TO INSPECTION. A statement filed
4 with the board is open to public inspection, and, in the case of a
5 legislator, shall be promptly reported by the board to the clerk of
6 the appropriate house of the legislature and promptly published in the
7 journal for that house. However, the board may in exceptional circum-
8 stances, and when necessary to avoid serious hardship to a third party,
9 by a vote of three members of the board, retain particular items of
10 information in confidence.

11 Sec. 24.55.160. PENALTY FOR FALSE STATEMENT AND FOR FAILURE TO
12 FILE. (a) A person who knowingly fails to file a statement, or files
13 a false statement, knowing it to be false, relating to a provision
14 of sec. 130 of this chapter is, upon conviction, punishable by a fine
15 of not more than \$500. In addition, the board of ethics, after pro-
16 ceeding under sec. 30 of this chapter, may report a violation to the
17 appropriate house of the legislature or to the appropriate prosecutor.

18 (b) In addition to penalties provided in (a) of this section,
19 the petition or declaration of candidacy of a candidate for the legis-
20 lature shall be considered invalid if he fails to file his statement
21 of economic interests within 10 days after the last date for filing
22 these petitions and declarations, or if, before the election, he is
23 convicted of filing a false statement.

24 ARTICLE 4. GENERAL PROVISIONS.

25 Sec. 24.55.170. DEFINITIONS. In this chapter, unless the context
26 requires otherwise,

27 (1) "board" or "board of ethics" means the board of ethics
28 established by sec. 10 of this chapter;

29 (2) "compensation" means money, thing of value, or economic

1 benefit conferred on or received by a person in return for services
2 rendered or to be rendered by himself or another;

3 (3) "economic opportunity" means a purchase, sale, lease,
4 contract, option, or other transaction or arrangement involving property
5 or services by which a legislator may gain an economic benefit; the term
6 does not include gifts;

7 (4) "legislative interest" means a substantial economic
8 interest, distinct from that of the general public, in a legislative
9 matter;

10 (5) "legislative matter" means a bill, resolution, executive
11 confirmation, or other issue or proposal pending before the legislature
12 or a committee or subcommittee of it;

13 (6) "legislator" means a member or member-elect of the state
14 legislature;

15 (7) "lobbying" means promoting or opposing in any manner
16 the passage by the legislature of a legislative matter affecting the
17 interests of any person as distinct from those of the general public;

18 (8) "lobbyist" means a person required to be registered
19 under chapter 45 of this title;

20 (9) "person" or "entity" means, in addition to the
21 definition of "person" in AS 01.10.060(7), a governmental agency,
22 unit, or subdivision;

23 (10) "person with whom the legislator maintains a close
24 economic association" means a person associated with the legislator
25 in a partnership, association or professional service corporation,
26 whether as partner, officer, employee, associate, or otherwise;

27 (11) "representation case" means the professional represen-
28 tation of a person, client, or principal, with or without compensation,
29 in a matter before a state agency where the action or nonaction of the

1 agency involves the exercise of substantial discretion; the term does
2 not include inquiries for information or other services rendered in a
3 legislative capacity on behalf of a constituent or other member of the
4 public;

5 (12) "state agency" means a department, office, commission,
6 board or authority within the executive branch, and includes the
7 University of Alaska.

8 Sec. 24.55.180. SHORT TITLE. This chapter may be cited as the
9 Alaska Legislative Ethics Act.

10 * Sec. 2. AS 22.20 is amended by adding a new section to read:

11 ARTICLE 4. DISCLOSURE OF ECONOMIC INTERESTS.

12 Sec. 22.20.150. STATEMENT OF ECONOMIC INTERESTS. (a) Every
13 judicial officer shall file with the Alaska Supreme Court or with a
14 person designated by that court, at the time, in the detail, and in
15 the manner the supreme court prescribes, a written statement of his
16 economic interests likely to create a conflict of interests. The
17 statement shall include the following information:

18 (1) a list of economic interests of the person making the
19 disclosure and of his spouse and minor children, whether in the form
20 of stocks, bonds, realty, equity or creditor interests in a proprietor-
21 ship or partnership, or otherwise; exempted from disclosure are

22 (A) accounts in banks and in savings and loan associ-
23 ations;

24 (B) equity interests valued at less than \$5,000 and
25 representing less than five per cent of the total equity interests
26 in the entity;

27 (2) a list of every office, directorship and salaried
28 employment during the period covered by the report, of the person
29 making the disclosure and of his spouse and minor children; an office,

1 a directorship or salaried employment in a political, religious,
2 charitable or educational entity need not be reported if compensation
3 of less than \$1,000 per year is being received;

4 (3) a list of other economic interests and relationships
5 which could create a substantial conflict of interests, if so deter-
6 mined by the supreme court.

7 (b) In providing the information required by (a) of this
8 section, the person making the disclosure shall specify names,
9 identities, types of association or involvement, and other information
10 the court requires, but need not specify the value of an interest.

11 (c) A person who knowingly fails to file a statement, or files a
12 false statement, knowing it to be false with regard to a provision
13 of this section, shall be reported to the Commission on Judicial
14 Qualifications.

15 * Sec. 3. AS 44.17.040 is amended by adding a new subsection to read:

16 (b) The principal executive officer of each department shall
17 establish a detailed code of conduct for appointed officers and
18 employees within his jurisdiction. These codes may include require-
19 ments for disclosure of economic interests and conflict situations
20 relating to the performance of official duties by the officers and
21 employees. Administration and enforcement of these codes may be
22 delegated by the department head to a subordinate officer or agency.

23 * Sec. 4. AS 44.17 is amended by adding a new section to read:

24 Sec. 44.17.090. DISCLOSURE OF ECONOMIC INTERESTS. (a) The
25 principal executive officer of each department shall file with the
26 board of ethics, established by AS 24.55.010, a written statement of
27 economic interests and relationships likely to create a conflict of
28 interests. The statement shall be filed at the times, in the detail
29 and in the manner prescribed by the board, and shall include the

1 following information:

2 (1) a list of economic interests of the person making
3 the disclosure and of his spouse and minor children, whether in the
4 form of stocks, bonds, realty, equity or creditor interests in a
5 proprietorship or partnership, or otherwise; exempted from disclosure
6 are

7 (A) accounts in banks and in savings and loan
8 associations;

9 (B) equity interests valued at less than \$5,000 and
10 representing less than five per cent of the total equity interests
11 in the entity;

12 (2) a list of every office, directorship and salaried
13 employment during the period covered by the report, of the person
14 making the disclosure and of his spouse and minor children; an office,
15 a directorship or salaried employment in a political, religious,
16 charitable or educational entity need not be reported if compensation
17 of less than \$1,000 per year is being received;

18 (3) a list of all entities with a substantial economic
19 interest, distinct from that of the general public, in a matter likely
20 to come before the person making the disclosure in his official capacity,
21 to which he furnished compensated services valued at more than \$1,000
22 during the period covered by the report; and list of these entities to
23 which the service was furnished by a person with a close economic
24 association with the person making the disclosure, if the latter knows
25 of the service;

26 (4) a list of other interests which could create a serious
27 conflict of interests, if so determined by the board.

28 (b) The board may also require disclosure of conflict situations
29 as they arise, if it determines that disclosure of interests is

1 insufficient.

2 (c) The value of an interest required to be reported under this
3 section need not be disclosed. An entity required to be reported need
4 not be identified by name; it may instead be identified by the principal
5 type of economic activity in which it engages, together with additional
6 detail, to be prescribed by the board, that will fairly indicate its
7 interests before the executive branch. If disclosure is required because
8 of legal services rendered to it, the entity may also be identified, in
9 the discretion of the person making the disclosure and after written
10 approval by the board, by the type of legal service rendered.

11 (d) A statement filed with the board is open to public inspection.
12 However, the board may in exceptional circumstances, and when necessary
13 to avoid serious hardship to the entity, by a vote of three members of
14 the board, retain particular items of information in confidence.

15 (e) A person who knowingly fails to file a statement, or files
16 a false statement, knowing it to be false with regard to any provision
17 of this section, is, upon conviction, punishable by a fine of not more
18 than \$500.

19 * Sec. 5. AS 44.19.010 is amended by adding a new subsection to read:

20 (b) The governor shall establish a detailed code of conduct for
21 appointed officers and employees within his office. This code may
22 include requirements for disclosure of economic interests and conflict
23 situations relating to the performance of official duties by the
24 officers and employees. Administration and enforcement of this code
25 may be delegated by the governor to a subordinate officer or agency.

26 * Sec. 6. AS 44.19 is amended by adding a new section to read:

27 Sec. 44.19.015. DISCLOSURE OF ECONOMIC INTERESTS. The governor
28 and the secretary of state, and each candidate for either of these
29 offices, shall file with the board of ethics a written statement of

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economic interests and relationships likely to create a conflict of interests. The statement shall be filed at the times, in the detail and in the manner prescribed by the board; it shall contain the information specified in AS 44.17.090 and is subject to all other provisions of that section, including the penalty for failure to file or for filing a false statement.