

Introduced: 2/6/74
Referred: State Affairs and
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 578

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to conflict of interest of public
7 officials; and providing for an effective date."

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

9 * Section 1. AS 39.10 is amended by adding new sections to read:

10 ARTICLE 2. CONFLICT OF INTEREST.

11 Sec. 39.10.020. FINDINGS AND PURPOSE. (a) It is found and
12 declared by the legislature

13 (1) that public office is a public trust which should be
14 free from the danger of conflict of interest;

15 (2) that the public has a right to know of the financial
16 and business interests of persons who seek or hold public office;

17 (3) that a compelling state interest requires that
18 candidates for office and office holders disclose their personal and
19 business financial interests; and

20 (4) that reasonable disclosure requirements do not violate
21 an individual's right to privacy where the individual seeks or holds
22 public office and a compelling state interest in the disclosure exists.

23 (b) The purposes of secs. 20 - 130 of this chapter are

24 (1) to discourage public officials from acting upon a
25 private interest in the performance of a public duty;

26 (2) to assure that public officials in their official acts
27 are free of the influence of undisclosed private interests;

28 (3) to develop public confidence in persons seeking or
29 holding public office, enhance the dignity of the offices and make

1 them attractive to citizens who are motivated to public service; and

2 (4) to develop accountability in government by permitting
3 public access to information necessary to judge the credentials and
4 performance of those who seek and hold public office.

5 Sec. 39.10.030. REPORT OF FINANCIAL INTERESTS. (a) The
6 governor, the lieutenant governor, each legislator, each judicial
7 officer, each full-time member of a state commission or board and
8 each person appointed as head of a principal department in the
9 executive branch shall file a financial statement, under oath and
10 on penalty of perjury, within 30 days of the time he first is appointed
11 or assumes his duties. Each candidate for state elective office shall
12 file a financial statement at the time of filing a declaration of
13 candidacy or within 20 days of the filing of a nominating petition,
14 or within 20 days of becoming a candidate by other means. An addi-
15 tional statement shall be filed no later than April 15 in each year
16 following the first filing.

17 (b) Candidates for elective office, each legislator, each full-
18 time member of a commission, and each head of a principal department
19 in the executive branch shall file with the lieutenant governor.
20 Judicial officers shall file with the administrator of courts. The
21 governor and lieutenant governor shall file with the Alaska
22 Legislative Council.

23 Sec. 39.10.040. CONTENTS OF FINANCIAL STATEMENTS. (a) Each
24 financial statement shall be a fair representation of the financial
25 affairs of the public official or candidate. No item of income
26 under \$100 need be reported, nor any asset or liability under \$500.
27 Household goods and personal effects need not be identified.
28 Individual items may be reported by category of amount.

29 (b) Each financial statement shall include the source and

1 amount of each item of income during the preceding calendar year
2 in excess of an aggregate amount of \$100 from any one source. It
3 shall include all capital gains above \$100, whether or not taxable.
4 It shall also include the sources of all income attributable to the
5 official or candidate under the Internal Revenue Code of the United
6 States in effect on the effective date of secs. 20 - 130 of this
7 chapter. If a primary source of income is a partnership or pro-
8 fessional corporation in which the official or candidate is a
9 partner, officer, or director, or received income from the partner-
10 ship or corporation other than on a fixed salary basis with no
11 relation to profits, the statement shall include the identity of
12 each person from whom the partnership or corporation received a fee
13 in excess of an aggregate amount of \$1,500 during the calendar year.
14 If, however, the official rendered personal services as a licensed
15 physician during the year, then as for those services the official
16 need only disclose the total amount of income received.

17 (c) Each financial statement shall also include

18 (1) the identity by name and address of each business in
19 which he or a member of his household was an officer, director,
20 partner, proprietor or employee during the preceding calendar year;

21 (2) the identity, nature, and amount of each interest
22 owned by him in any business during the preceding calendar year and
23 as of the date of filing;

24 (3) the identity, nature, and amount of each interest in
25 real property, including an option to buy, owned by him or by any
26 entity in which he is a partner, officer or director, at any time
27 during the preceding calendar year and as of the date of filing;

28 (4) the identity of each trust or other fiduciary relation
29 in which he held a beneficial interest during the preceding calendar

1 year, a description and identification of the property contained in
2 each trust or relation, and the nature and extent of the beneficial
3 interest therein;

4 (5) the identity of each creditor to whom he is indebted
5 as of the date of filing;

6 (6) a list of all contracts and offers to contract with
7 the state or an instrumentality of the state by the official or
8 candidate, or by a business in which the official or candidate is
9 a partner, officer or director, during the preceding calendar year;
10 and

11 (7) a list and description of all mineral and oil leases
12 or lease offers during the preceding calendar year, in which the
13 official or candidate held a financial interest.

14 (d) For purposes of this section, "primary source of income"
15 means a source which provides at least 25 per cent of the official's
16 or candidate's income.

17 (e) In this section, "category of amount" means categories of

- 18 (1) less than \$1,000;
19 (2) over \$1,000 but less than \$5,000;
20 (3) over \$5,000 but less than \$10,000;
21 (4) over \$10,000 but less than \$25,000; and
22 (5) over \$25,000.

23 Sec. 39.10.050. BLIND TRUSTS. (a) A public official may
24 transfer all or a portion of his assets to a blind trust for the
25 duration of his service in public office. Those assets which are
26 in a blind trust need not be listed in the financial statement filed
27 under sec. 30 of this chapter, but the instrument creating the blind
28 trust must be included with the statement.

29 (b) For a trust to qualify under this section

1 (1) assets transferred to the trust must be marketable;
2 (2) the trustee must be a bank or other institutional
3 fiduciary;

4 (3) the trustee must have full authority to manage the
5 trust, including the purchase, sale and exchange of its assets in
6 accordance with fiduciary principles;

7 (4) information regarding the identity and the nature of
8 its assets shall be confidential from the trustor for the duration
9 of the trust; and

10 (5) the trustee must be required to report any known breach
11 of confidentiality or the termination of the trust to the office where
12 the trustor is required to file financial statements under sec. 30 of
13 this chapter.

14 Sec. 39.10.060. ADMINISTRATION AND INSPECTION. (a) The
15 lieutenant governor shall prepare and keep available for distribution,
16 forms on which the reports required by sec. 30 and sec. 40 of this
17 chapter may be filed.

18 (b) The lieutenant governor may promulgate regulations to
19 implement and interpret the provisions of sec. 20 - 100 of this
20 chapter.

21 (c) The lieutenant governor may exercise the same investigative
22 powers available to the Department of Revenue under AS 43.05.040
23 to ascertain the correctness of reports and to enforce the provisions
24 of secs. 20 - 110 of this chapter. Evidence of probable violations
25 shall be reported to the attorney general.

26 Sec. 39.10.070. PUBLIC RECORDS. Reports filed under sec. 30
27 and sec. 40 of this chapter shall be kept on file for at least six
28 years and are public records.

29 Sec. 39.10.080. VIOLATION OF DISCLOSURE REQUIREMENTS. A person

1 required to file a report of financial interests under sec. 30 and
2 sec. 40 of this chapter who knowingly fails to disclose required
3 information, or who knowingly provides false or misleading information
4 is guilty of a misdemeanor and upon conviction is punishable by a
5 fine up to \$5,000 or by imprisonment for up to one year or both.

6 Sec. 39.10.090. FAILURE TO REPORT BY DEPARTMENT HEADS. A person
7 appointed as the head of a principal department in the executive
8 branch who fails to file a report of financial interests required
9 under sec. 30 and sec. 40 of this chapter when due may not have his
10 name submitted to the legislature for confirmation until he complies.
11 He may not be confirmed, and he forfeits his salary and per diem and
12 travel expenses after the due date and until he complies.

13 Sec. 39.10.100. FAILURE TO REPORT BY COMMISSION MEMBER. A
14 person appointed as a full-time member of a state commission or board
15 who fails to file a report of financial interests required under
16 sec. 30 and sec. 40 of this chapter when due may not have his name
17 submitted to the legislature until he complies. He may not be con-
18 firmed, and he forfeits his salary and per diem and travel expenses
19 after the due date and until he complies.

20 Sec. 39.10.110. PROHIBITED ACTS. (a) No public official may
21 use his official position or office to obtain financial gain for
22 himself, a member of his household or business with which he is
23 associated.

24 (b) No person may offer or pay to a public official and no
25 public official may solicit or receive money for legislative advice
26 or assistance, or for advice or assistance given in the course of the
27 public official's employment or relating to his employment.

28 (c) No public official may represent a client before a state
29 regulatory agency for a fee.

1 (d) Violation of this section is a misdemeanor, punishable by a
2 fine up to \$5,000 or imprisonment up to one year.

3 Sec. 39.10.120. ENFORCEMENT BY PRIVATE CITIZENS. A qualified
4 Alaska voter may bring a civil action to enforce secs. 20 - 110 of
5 this chapter.

6 Sec. 39.10.130. DEFINITIONS. As used in secs. 20 - 110 of
7 this chapter

8 (1) "public official" means a judicial officer, a member of
9 the legislature, the governor, the lieutenant governor, a person
10 appointed as the head of a principal department in the executive
11 branch, a person appointed as a full-time member of any commission,
12 board, or council of the state government, members of the Alaska
13 State Housing Authority, and a person who becomes a candidate for
14 state elective office;

15 (2) "judicial officer" means a person appointed as a
16 justice to the supreme court or as a judge to the superior court or
17 district court.

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

19 Sec. 22.20.015. REPORT OF FINANCIAL INTERESTS. Each judicial
20 officer as defined in AS 39.10.120 shall file reports of financial
21 interests required by AS 39.10.030 and AS 39.10.040. A judicial
22 officer who fails to file a report when it is due forfeits his
23 salary and per diem and travel expenses after the due date and
24 until he complies.

25 * Sec. 3. AS 24.05 is amended by adding a new section to read:

26 Sec. 24.05.035. REPORT OF FINANCIAL INTERESTS. (a) Each
27 legislator shall file the reports of financial interests required by
28 AS 39.10.030 and 39.10.040. A legislator who fails to file the report
29 when due forfeits his salary and per diem and travel expenses after

1 the due date and until he complies.

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

3 Sec. 44.19.055. REPORT OF FINANCIAL INTEREST. (a) The
4 governor and lieutenant governor shall each file a report of
5 financial interests required by AS 39.10.030 and 39.10.040. If the
6 governor or lieutenant governor fails to file the report when due,
7 he forfeits his salary and per diem and travel expenses after the
8 due date and until he complies.

9 * Sec. 5. Every person who is a public official as defined in AS
10 39.10.120 on the effective date of this Act shall file the financial state-
11 ment required by AS 39.10.030 - AS 39.10.040 within 60 days of the effective
12 date of this Act.

13 * Sec. 6. This Act takes effect January 1, 1975.
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