

Introduced: 2/25/74
Referred: State Affairs and
Judiciary

BY PARKER AND HUBER
BY REQUEST

1 IN THE HOUSE

2 HOUSE BILL NO. 703

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."

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

9 * Section 1. AS 11 is amended by adding a new chapter to read:

10 CHAPTER 62. CONFLICT OF INTEREST OFFENSES.

11 Sec. 11.62.010. FINDINGS AND PURPOSE. (a) It is hereby found
12 and declared that the purposes of this chapter are to

13 (1) discourage public officials from acting upon a private
14 or business interest in the performance of a public duty;

15 (2) assure that public officials in their official acts are
16 free of the influence of undisclosed private or business interests;

17 (3) develop public confidence in persons seeking or holding
18 public office, enhance the dignity of the offices, and make them attrac-
19 tive to citizens who are motivated to public service; and

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

23 (b) It is found and declared that

24 (1) public office is a public trust which should be free
25 from the danger of conflict of interest;

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

28 (3) a compelling state interest requires that candidates
29 for office and officeholders disclose their personal and business

1 financial interests;

2 (4) reasonable disclosure requirements do not violate an
3 individual's right to privacy where the individual seeks or holds
4 public office and a compelling state interest in the disclosure exists;
5 and

6 (5) reasonable disclosure requirements do not have the
7 effect of chilling the exercise of the right of a qualified person to
8 seek or hold public office.

9 Sec. 11.62.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a)
10 The governor, the lieutenant governor, each legislator, each judicial
11 officer, each commissioner, chairman, or member of a state commission
12 or board, and each person hired or appointed as head of a department
13 in the executive branch shall file a statement giving his income
14 sources and business interests, under oath and on penalty of perjury,
15 within 30 days before the time he is hired, appointed, certified,
16 confirmed, or approved and becomes a public official and assumes his
17 duties. Each candidate or incumbent for or in state elective office
18 shall file the statement at the time of filing a declaration of candi-
19 dacy or within 20 days of the filing of a nominating petition, or
20 within 20 days of becoming a candidate by any other means. Refusal or
21 failure to file within the time prescribed requires that the lieutenant
22 governor refuse to accept the candidate's filing fee or his filing for
23 office, or to return the filing fee and remove the name of the candi-
24 date from the filing records. A statement shall also be filed no
25 later than April 15 or 15 days after the person files his federal
26 income tax return in each following year, whichever comes first, by
27 all persons named in this section.

28 (b) Each candidate for elective office, each legislator, each
29 commissioner, chairman, or member of a commission or board, and each

1 head of a department in the executive branch shall file with the
2 lieutenant governor. Judicial officers shall file with the adminis-
3 trator of courts. The governor and lieutenant governor shall file
4 with the Alaska Legislative Council. All statements are public record.

5 Sec. 11.62.030. CONTENTS OF STATEMENTS. (a) Each statement shall
6 be an accurate representation of the financial affairs of the public
7 official or candidate and shall contain the same information for each
8 member of his household or family to the extent that it is ascertainable
9 by the public official or candidate. An asset or liability under \$500
10 or household goods and personal effects need not be identified.

11 (b) Each statement filed by a public official or candidate under
12 this chapter shall include

13 (1) the source of all income over \$100, including capital
14 gains, whether or not taxable, received by him or a member of his house-
15 hold during the preceding 12 months;

16 (2) the identity by name and address of each business in
17 which he or a member of his household was a stockholder, owner, officer,
18 director, partner, proprietor, or employee during the preceding 12
19 months;

20 (3) the identity and nature of each interest owned by him
21 or a member of his household in any business during the preceding 12
22 months;

23 (4) the identity and nature of each interest in real property,
24 including an option to buy, owned by him or a member of his household
25 at any time during the preceding 12 months;

26 (5) the identity of each trust or other fiduciary relation
27 in which he or a member of his household held a beneficial interest
28 during the preceding 12 months, a description and identification of the
29 property contained in each trust or relation, and the nature and extent

1 of the beneficial interest;

2 (6) all loans or loan guarantees made to the person or a
3 member of his household and the identity of the maker of the loan or
4 loan guarantor and the identity of each creditor to whom the person or
5 a member of his household owed \$500 or more;

6 (7) a list of all contracts and offers to contract with the
7 state, or an instrumentality of the state, during the preceding 12 months,
8 bid or offered by the person or a member of his family or household; and

9 (8) a list of all mineral, timber, oil, or any other natural
10 resource leases, or lease offers, held by him or a member of his house-
11 hold or family during the preceding 12 months.

12 (c) No public official or candidate is excluded from any of these
13 requirements unless it is determined by the state supreme court that by
14 law he cannot fully comply with all of the provisions because of his
15 profession. Only those sections which are invalidated by the state
16 supreme court shall be exempted.

17 Sec. 11.62.040. BLIND TRUSTS. (a) A public official may transfer
18 all or a portion of his assets to a blind trust for the duration of his
19 service in public office. Those assets which are in a blind trust shall
20 be listed in the statement required to be filed under this chapter. The
21 instrument creating the blind trust must be included with the statement.

22 (b) For a trust to qualify under this section,

23 (1) assets transferred to the trust shall be marketable;

24 (2) the trustee shall be a bank or other institutional
25 fiduciary;

26 (3) the trustee shall have full authority to manage the
27 trust, including the purchase, sale, and exchange of its assets in
28 accordance with fiduciary principles;

29 (4) information regarding the identity and the nature of its

1 assets shall be confidential from the trustor for the duration of the
2 trust;

3 (5) the trustee shall be required to report any known breach
4 of confidentiality or the termination of the trust to the office where
5 the trustor is required to file statements under this chapter; and

6 (6) the trustee on behalf of the trustor shall file the state-
7 ment as required under this chapter under the same requirements and
8 penalties that the trustor as a public official is bound; if the trustee
9 refuses or fails to file the statement as required of the trustor, the
10 requirements of the chapter, including penalties regarding election and
11 seating of public officials under this chapter, shall be enforced against
12 the trustor.

13 Sec. 11.62.050. ADMINISTRATION AND INSPECTION. (a) The lieutenant
14 governor shall prepare and keep available for distribution forms on
15 which the reports required by this chapter shall be filed.

16 (b) The lieutenant governor may promulgate regulations to imple-
17 ment and interpret the provisions of this chapter, consistent with the
18 intent and purpose of this chapter. The regulations are subject to
19 review under the Administrative Procedure Act (AS 44.62).

20 (c) Reports filed under this chapter shall be kept on file for
21 at least six years and are public records.

22 Sec. 11.62.060. WILFUL VIOLATION OF DISCLOSURE REQUIREMENTS. A
23 person required to file a report of financial or business interests
24 who refuses or fails to make timely disclosure of required information,
25 or who provides false or misleading information, is guilty of a mis-
26 demeanor and upon conviction is punishable by a fine of not less than
27 \$500 nor more than \$5,000, or by imprisonment for up to one year, or
28 by both.

29 Sec. 11.62.070. FAILURE TO REPORT BY DEPARTMENT HEADS. A person

1 hired or appointed as the head of a department in the executive branch
2 who refuses or fails to file a report of financial interests required
3 under this chapter when due may not hold office or have his name sub-
4 mitted to the legislature for confirmation until he complies. He may
5 not be confirmed, hired, or appointed, and he forfeits and may not be
6 paid a salary or per diem and travel expenses until he complies. If,
7 after installation as a department head, he refuses or fails to file
8 the required statement when due, he is guilty of a misdemeanor and upon
9 conviction is punishable by a fine of not less than \$500 nor more than
10 \$5,000 and, if compliance is not made within 30 days after the due date,
11 shall be removed from office.

12 Sec. 11.62.080. FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR-
13 MAN OR MEMBER. A person hired or appointed as a commissioner, chairman,
14 or member of a state commission or board who fails to file a report of
15 financial interests required under this chapter when due may not be
16 hired or appointed or hold office or have his name submitted to the
17 legislature until he complies. He may not be confirmed, and he forfeits
18 and may not be paid a salary or per diem or travel expenses until he
19 complies. If, after being seated as a commissioner, chairman, or member
20 of a commission or board, he refuses or fails to file the required
21 statement when due, he is guilty of a misdemeanor and upon conviction
22 is punishable by a fine of not less than \$500 nor more than \$5,000 and,
23 if compliance is not made within 30 days after the due date, shall be
24 removed from office.

25 Sec. 11.62.090. PROHIBITED ACTS. (a) No public official may
26 use official position or office to obtain financial gain for himself,
27 a member of his family, or a business with which he is associated or
28 in which he owns stock.

29 (b) No person may offer or pay to a public official, and no public

1 official may solicit or receive money for legislative advice or assis-
2 tance, or for advice or assistance given in the course of the public
3 official's employment or relating to his employment.

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

6 (d) Violation of this section is a misdemeanor, punishable by a
7 fine of not less than \$1,000 nor more than \$10,000, by imprisonment
8 for up to one year, or by both.

9 Sec. 11.62.100. ENFORCEMENT BY PRIVATE CITIZENS. A qualified
10 Alaska voter may bring a civil action to enforce any of the sections
11 of this chapter.

12 Sec. 11.62.110. REPORT OF FINANCIAL INTERESTS BY JUDICIAL OFFI-
13 CERS. Each judicial officer shall file reports of financial and
14 business interests required in secs. 20 and 30 of this chapter. A
15 judicial officer who refuses or fails to file a report when it is due
16 forfeits and may not be paid his salary, per diem and travel expenses
17 after the due date until he complies, is guilty of a misdemeanor, and
18 upon conviction is punishable by a fine of not less than \$500 nor more
19 than \$5,000. He may not be appointed by the governor or other authority
20 until he complies. Upon failure or refusal to comply within 30 days
21 he shall forfeit his office and shall be removed from office.

22 Sec. 11.62.120. REPORT OF FINANCIAL INTERESTS BY LEGISLATORS.
23 Each legislator shall file the reports of financial or business inter-
24 ests required in secs. 20 and 30 of this chapter. A legislator who
25 refuses or fails to file the report when due forfeits and may not be
26 paid his salary and per diem and travel expenses after the due date
27 until he complies, is guilty of a misdemeanor, and upon conviction is
28 punishable by a fine of not less than \$500 nor more than \$5,000.

29 Sec. 11.62.130. REPORT OF FINANCIAL INTERESTS BY EXECUTIVE. The

1 governor and lieutenant governor shall each file a report of financial
2 interests required in secs. 20 and 30 of this chapter. If the governor
3 or lieutenant governor fails to file the report when due, he forfeits
4 and may not be paid his salary and per diem and travel expenses after
5 the due date until he complies, is guilty of a misdemeanor, and upon
6 conviction is punishable by a fine of not less than \$500 nor more than
7 \$5,000.

8 Sec. 11.62.140. ACCEPTING BRIBE. A public official who accepts
9 or receives a gift, loan, gratuity, valuable consideration, or thing, or
10 a promise of one of them, or a promise to do or cause to be done an act
11 beneficial to him, with the understanding or agreement, express or
12 implied, that the public official will give his vote, opinion, decision
13 or judgment in a particular manner in a matter, question, duty, cause,
14 or proceeding which then is or may by law come or be brought before him,
15 or with the understanding or agreement that the public official will in
16 his official capacity act in a particular manner to produce or prevent
17 a particular result, upon conviction, is punishable by imprisonment for
18 not less than five years nor more than fifteen years.

19 Sec. 11.62.150. FILING DATE FOR INCUMBENT PUBLIC OFFICIALS. Every
20 person who is a public official on the effective date of this chapter
21 shall file the required statements within 60 days of the effective date
22 of this chapter.

23 Sec. 11.62.160. ADDITIONAL PENALTIES FOR NONCOMPLIANCE. A person
24 who fails or refuses to comply with the requirements of this chapter,
25 in addition to the penalties prescribed, forfeits his nomination to
26 office and may not be seated or installed in office. Nominated, hired,
27 or appointed officials, commissioners, chairmen or members of commis-
28 sions or boards may not be confirmed by the legislature if compliance
29 has not been made. The lieutenant governor may not certify an elected

1 official's nomination for office or his election to office if compliance
2 was not made within the time required. The lieutenant governor shall
3 certify as nominated or elected the person who received the highest
4 number of votes for that office and who has complied with the require-
5 ments of this chapter.

6 Sec. 11.62.170. DEFINITIONS. In this chapter

7 (1) "judicial officer" means a person appointed as a justice
8 to the supreme court or as a judge to the superior court, district court
9 or magistrate court;

10 (2) "public official" means a judicial officer, a member of
11 the legislature, the governor, the lieutenant governor, a person hired
12 or appointed as the head of a department in the executive branch, a per-
13 son hired or appointed as chairman or member of a board, or commissioner
14 or member on the Alaska Transportation Commission, the Alaska Public
15 Utilities Commission, or the Alaska Pipeline Commission, or any other
16 state commission or board, or a person who becomes a candidate for
17 state elective office.
18
19
20
21
22
23
24
25
26
27
28
29