

Introduced: 1/26/73
Referred: Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 82

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST 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) The purposes of secs.
12 20 - 100 of this chapter are

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

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

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

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

24 (b) The legislature finds and declares (1) that public office is
25 a public trust which should be free from the danger of conflict of
26 interest; (2) that the public has a right to know of the financial
27 interests of persons who seek or hold public office; (3) that a com-
28 pelling state interest requires that candidates for office and office-
29 holders disclose their personal financial interests; (4) that

1 reasonable disclosure requirements do no violate an individual's
2 right to privacy where the individual seeks or holds public office and
3 a compelling state interest in the disclosure exists; (5) that
4 reasonable disclosure requirements do not have the effect of chilling
5 the exercise of the right of a qualified person to seek or hold public
6 office.

7 Sec. 39.10.030. REPORT OF FINANCIAL INTERESTS. (a) The
8 governor, the lieutenant governor, each legislator, each judicial
9 officer, each full-time member of a state commission and each person
10 appointed as head of a principal department in the executive branch
11 shall file a financial statement, under oath and on penalty of perjury,
12 within 30 days of the time he first becomes a public official and
13 assumes his duties. Each candidate for state elective office shall
14 file a financial statement at the time of filing a declaration of can-
15 didacy or within 20 days of the filing of any nominating petition, or
16 within 20 days of becoming a candidate by other means. An additional
17 statement shall be filed no later than the later of April 15 or 15 days
18 after the person files his federal income tax return in each following
19 year.

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

26 Sec. 39.10.040. CONTENTS OF FINANCIAL STATEMENTS. (a) Each fi-
27 nancial statement shall be a fair representation of the financial af-
28 fairs of the public official or candidate and shall contain the same
29 information for each member of his household to the extent that it is

1 actually known or ascertainable by the public official or candidate.
2 No item of income under \$100 need be reported, nor any asset or liability
3 under \$1,000. Household goods and personal effects need not be
4 identified. Individual items may be reported by category of amount.

5 (b) Each financial statement filed by a public official or a
6 candidate under sec. 30 of this chapter shall include

7 (1) the source and amount of all income, including capital
8 gains, whether or not taxable, received by him or a member of his
9 household during the preceding calendar year;

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

13 (3) the identity, nature, and amount of each interest owned
14 by him or a member of his household in any business during the pre-
15 ceding calendar year and as of the date of filing;

16 (4) the identity, nature, and amount of each interest in
17 real property, including an option to buy, owned by him or a member of
18 his household at any time during the preceding calendar year and as of
19 the date of filing;

20 (5) the identity of each trust or other fiduciary relation
21 in which he or a member of his household held a beneficial interest
22 during the preceding calendar year, a description and identification
23 of the property contained in each trust or relation, and the nature
24 and extent of the beneficial interest therein;

25 (6) the identity of each creditor to whom he or a member of
26 his family is indebted as of the date of filing;

27 (7) a list of all contracts and offers to contract with the
28 state or an instrumentality of the state during the preceding calendar
29 year; and

1 (8) a list of all mineral and oil leases or lease offers
2 held by him or a member of his household during the preceding calendar
3 year.

4 (c) In this section, "category of amount" means categories of

- 5 (1) less than \$1,000;
6 (2) over \$1,000 but less than \$5,000;
7 (3) over \$5,000 but less than \$10,000;
8 (4) over \$10,000 but less than \$25,000; and
9 (5) over \$25,000.

10 (d) If the person required to file a financial statement is a
11 practicing attorney or other fiduciary whose client or trustor insists
12 upon preserving as confidential the fact of the existence of the re-
13 lationship, the person required to file a financial statement need not
14 include the identity of the client or trustor if it would otherwise be
15 required, but need only disclose the income or interest derived and
16 certify that as to that item, his client has affirmatively stated that
17 he does not consent to a disclosure of the relationship.

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

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

- 25 (1) assets transferred to the trust must be marketable;
26 (2) the trustee must be a bank or other institutional
27 fiduciary;
28 (3) the trustee must have full authority to manage the
29 trust, including the purchase, sale and exchange of its assets in

1 accordance with fiduciary principles;

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

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

9 Sec. 39.10.060. ADMINISTRATION AND INSPECTION. (a) The lieu-
10 tenant governor shall prepare and keep available for distribution,
11 forms on which the reports required by sec. 30 and sec. 40 of this
12 chapter may be filed.

13 (b) The lieutenant governor may promulgate regulations to imple-
14 ment and interpret the provisions of secs. 20 - 100 of this chapter.

15 (c) Reports filed under sec. 30 and sec. 40 of this chapter shall
16 be kept on file for at least six years and are public records.

17 Sec. 39.10.070. WILFULL VIOLATION OF DISCLOSURE REQUIREMENTS.
18 A person required to file a report of financial interests under sec.
19 30 and sec. 40 of this chapter who wilfully fails to disclose required
20 information, or who wilfully provides false or misleading information
21 is guilty of a misdemeanor and upon conviction is punishable by a fine
22 up to \$5,000 or by imprisonment for up to one year or both.

23 Sec. 39.10.080. FAILURE TO REPORT BY DEPARTMENT HEADS. A person
24 appointed as the head of a principal department in the executive
25 branch who fails to file a report of financial interests required under
26 sec. 30 and sec. 40 of this chapter when due may not have his name sub-
27 mitted to the legislature for confirmation until he complies. He may
28 not be confirmed, and he forfeits his salary and per diem and travel
29 expenses after the due date and until he complies.

1 Sec. 39.10.090. FAILURE TO REPORT BY COMMISSION MEMBER. A person
2 appointed as a full-time member of a state commission who fails to file
3 a report of financial interests required under sec. 30 and sec. 40 of
4 this chapter when due may not have his name submitted to the legis-
5 lature until he complies. He may not be confirmed, and he forfeits his
6 salary and per diem and travel expenses after the due date and until he
7 complies.

8 Sec. 39.10.100. PROHIBITED ACTS. (a) No public official may
9 use his official position or office to obtain financial gain for him-
10 self, a member of his household or business with which he is
11 associated.

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

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

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

20 Sec. 39.10.110. ENFORCEMENT BY PRIVATE CITIZENS. A qualified
21 Alaska voter may bring a civil action to enforce secs. 20 - 80 of this
22 chapter.

23 Sec. 39.10.120. DEFINITIONS. As used in secs. 20 - 100 of this
24 chapter

25 (1) "public official" means a judicial officer, a member of
26 the legislature, the governor, the lieutenant governor, a person
27 appointed as the head of a principal department in the executive
28 branch, a person appointed as a full-time commissioner on the Alaska
29 Transportation Commission, the Alaska Public Utility Commission or the

1 Alaska Pipeline Commission, and a person who becomes a candidate for
2 state elective office;

3 (2) "judicial officer" means a person appointed as a
4 justice to the supreme court or as a judge to the superior court or
5 district court.

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

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

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

14 Sec. 24.05.035. REPORT OF FINANCIAL INTERESTS. (a) Each
15 legislator shall file the reports of financial interests required by
16 AS 39.10.030 and 39.10.040. A legislator who fails to file the report
17 when due forfeits his salary and per diem and travel expenses after
18 the due date and until he complies.

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

20 Sec. 44.19.055. REPORT OF FINANCIAL INTERESTS. (a) The
21 governor and lieutenant governor shall each file a report of
22 financial interests required by AS 39.10.030 and 39.10.040. If the
23 governor or lieutenant governor fails to file the report when due,
24 he forfeits his salary and per diem and travel expenses after the
25 due date and until he complies.

26 * Sec. 5. AS 11.30.050 is amended to read:

27 Sec. 11.30.050. ACCEPTING BRIBE. A judicial or executive
28 officer, or a legislator, who [CORRUPTLY] accepts or receives
29 a gift, gratuity, valuable consideration, or thing, or a promise of

1 one of them, or a promise to do or cause to be done an act beneficial
2 to him, with the understanding or agreement, express or implied, that
3 the person [OFFICER] will give his vote, opinion, decision or
4 judgment in a particular manner in a matter, question, duty, cause,
5 or proceeding which then is or may by law come or be brought before
6 him, or with the understanding or agreement that the person [OFFICER]
7 will in his official capacity act in a particular manner to produce
8 or prevent a particular result, upon conviction, is punishable by
9 imprisonment [IN THE PENITENTIARY] for not less than five years nor
10 more than 15 years.

11 * Sec. 6. Every person who is a public official as defined in AS 39.10
12 .120 on the effective date of this Act shall file the financial statement
13 required by AS 39.10.030 - AS 39.10.040 within 60 days of the effective
14 date of this Act.

15 * Sec. 7. This Act takes effect January 1, 1974.
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