

Original sponsor: Rules Committee by
request of the Governor

Offered: 3/18/75
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 62

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to conflicts of interests; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 39.50.020 is amended to read:

10 Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a)
11 A [THE GOVERNOR, THE LIEUTENANT GOVERNOR, EACH LEGISLATOR, EACH] judi-
12 cial officer, [EACH] commissioner, chairman or member of a state commis-
13 sion or board specified in sec. 200(7) of this chapter, [AND EACH]
14 person hired or appointed as head or deputy head of a department in the
15 executive branch, person hired or appointed as director of a division
16 within a department in the executive branch, person appointed as assis-
17 tant to the governor, and person elected in a municipal election, shall
18 file a statement giving his income sources and business interests, under
19 oath and on penalty of perjury, within 30 days after [BEFORE THE TIME]
20 he takes office as [IS HIRED, APPOINTED, CERTIFIED, CONFIRMED, OR
21 APPROVED AND BECOMES] a public official [AND ASSUMES HIS DUTIES].
22 Candidates [EACH CANDIDATE OR INCUMBENT] for [OR IN] state elective
23 office shall file such a statement at the time of filing a declaration
24 of candidacy or within 30 [20] days of the filing of any nominating
25 petition, or within 30 [20] days of becoming a candidate by any other
26 means. Candidates for local elective office shall file such a state-
27 ment at the time of filing a nominating petition, declaration of
28 candidacy, or other required filing for the local elective office.
29 Refusal or failure to file within the time prescribed shall require that

1 the candidate's filing fees, if any, and filing for office be refused or
2 that his previously accepted filing fee be returned and his name removed
3 [LIEUTENANT GOVERNOR REFUSE TO ACCEPT THE CANDIDATE'S FILING FEE OR HIS
4 FILING FOR OFFICE, OR TO RETURN THE FILING FEE AND REMOVE THE NAME OF
5 THE CANDIDATE] from the filing records. A statement shall also be filed
6 by public officials no later than April 15 or 15 days after the person
7 files his federal income tax return in each following year, whichever
8 shall come first. Persons who, on or after December 11, 1974, were
9 members of boards or commissions not named in sec. 200(7) of this chap-
10 ter are not required to file financial statements [, BY ALL PERSONS
11 NAMED IN THIS SUBSECTION].

12 (b) Candidates for the legislature [ELECTIVE OFFICE], each legis-
13 lator, [EACH] commissioner, chairman or member of a commission or board
14 required to report, [AND EACH] head of a department in the executive
15 branch, person hired or appointed as a director of a division within a
16 department in the executive branch, person appointed as assistant to the
17 governor, shall file the statement with the lieutenant governor. Candi-
18 dates for local elective office and incumbents shall file with the
19 municipal clerk or other local official designated to receive their
20 filing for office. Judicial officers shall file with the administrator
21 of courts. The governor and lieutenant governor and candidates for
22 those offices shall file with the Alaska Legislative Council. All such
23 statements are public record.

24 * Sec. 2. AS 39.50.030(a) is amended to read:

25 (a) Each statement shall be an accurate representation of the
26 financial affairs of the public official or candidate and shall contain
27 the same information for each member of his [HOUSEHOLD OR] family, as
28 specified in (b) of this section, to the extent that it is ascertainable
29 by the public official or candidate. An asset or liability under \$500,

1 household goods, and personal effects need not be identified.

2 * Sec. 3. AS 39.50.030(b) is amended to read:

3 (b) Each statement filed by a public official or candidate under
4 this chapter shall include:

5 (1) the source of all income over \$500 [\$100], including
6 capital gains, whether or not taxable, received by him or his spouse or
7 dependent child of his or nondependent child of his who is living with
8 him, [A MEMBER OF HIS HOUSEHOLD] during the preceding calendar year
9 [12 MONTHS]; however, if the candidate or public official rendered
10 personal services as a licensed practitioner in the field of medicine,
11 nursing, psychiatry or psychology, he need only disclose the fact that
12 he rendered such services, unless the income was received from a cor-
13 porate or institutional client, for which the specific identity must
14 also be disclosed;

15 (2) the identity, by name and address, of each business in
16 which he or his spouse or dependent child of his or nondependent child
17 of his who is living with him [A MEMBER OF HIS HOUSEHOLD] was a stock-
18 holder, owner, officer, director, partner, proprietor, or employee
19 during the preceding calendar year [12 MONTHS];

20 (3) the identity and nature of each interest owned by him or
21 his spouse or dependent child of his or nondependent child of his who is
22 living with him, [A MEMBER OF HIS HOUSEHOLD] in any business during the
23 preceding calendar year [12 MONTHS];

24 (4) the identity and nature of each interest in real prop-
25 erty, including an option to buy, owned by him or his spouse or depen-
26 dent child of his or nondependent child of his who is living with him,
27 [A MEMBER OF HIS HOUSEHOLD] at any time during the preceding calendar
28 year [12 MONTHS];

29 (5) the identity of each trust or other fiduciary relation in

1 which he or his spouse or dependent child of his or nondependent child
2 of his who is living with him, [A MEMBER OF HIS HOUSEHOLD] held a
3 beneficial interest during the preceding calendar year [12 MONTHS], a
4 description and identification of the property contained in each trust
5 or relation, and the nature and extent of the beneficial interest in it;

6 (6) any loan or loan guarantee made to him or his spouse or
7 dependent child of his or nondependent child of his who is living with
8 him, [A MEMBER OF HIS HOUSEHOLD] and the identity of the maker of the
9 loan or loan guarantor and the identity of each creditor to whom he or
10 his spouse or dependent child of his or nondependent child of his who is
11 living with him [THE PERSON OR A MEMBER OF HIS HOUSEHOLD] owed \$500 or
12 more;

13 (7) a list of all contracts and offers to contract with the
14 state, or an instrumentality of the state, during the preceding calendar
15 year [12 MONTHS], held, bid or offered by him, his spouse, dependent
16 child of his or nondependent child of his who is living with him, his
17 mother or father or a partnership or professional corporation of which
18 he is a member, or a corporation in which he or his spouse or his
19 children, or a combination of them, hold a controlling interest [THE
20 PERSON OR MEMBER OF HIS FAMILY, OR HOUSEHOLD]; and

21 (8) a list of all mineral, timber, oil, or any other natural
22 resource lease held, or lease offer made, during the preceding calendar
23 year by him, a dependent child of his or nondependent child of his who
24 is living with him, his mother or father or a partnership or profes-
25 sional corporation of which he is a member, or a corporation in which he
26 or his spouse or his children, or a combination of them, hold a con-
27 trolling interest [HELD BY HIM OR A MEMBER OF HIS HOUSEHOLD OR FAMILY
28 DURING THE PROCEEDING 12 MONTHS].

29 * Sec. 4. AS 39.50 is amended by adding a new section to read:

1 Sec. 39.50.035. EXEMPTIONS. No person subject to this chapter is
2 exempt from any of its provisions except to the extent state courts
3 determine that legally privileged professional relationships preclude
4 complete compliance.

5 * Sec. 5. AS 39.50.040(a) is amended to read:

6 (a) A public official may transfer all or a portion of his assets
7 to a blind trust for the duration of his service in public office. The
8 original [THOSE] assets placed in the [WHICH ARE IN A] blind trust shall
9 be listed by the official in the statement required to be filed under
10 this chapter. The instrument creating the blind trust must be included
11 with the statement.

12 * Sec. 6. AS 39.50.060 is amended to read:

13 Sec. 39.50.060. PENALTY FOR WILFUL VIOLATION OF DISCLOSURE RE-
14 QUIREMENTS. (a) A person required to file a report of financial or
15 business interests under this chapter who refuses or knowingly fails to
16 disclose required information within the time required in this chapter,
17 or who provides false or misleading information, knowing it to be false
18 or misleading, is guilty of a misdemeanor and upon conviction is punish-
19 able by a fine of not less than \$100 [\$500] nor more than \$1,000
20 [\$5,000], or by imprisonment for a period of not more than six months
21 [UP TO ONE YEAR], or by both.

22 (b) Any person failing to or refusing to comply with the require-
23 ments of this chapter, in addition to the penalties prescribed, shall
24 forfeit his nomination to office and shall not be seated or installed in
25 office if he has not complied. Nominated, hired, or appointed offi-
26 cials, commissioners, chairmen or members of commissions or boards
27 specified in sec. 200(7) of this chapter shall not be confirmed by the
28 legislature if compliance has not been made. In the case of elected
29 officials, the lieutenant governor, or other certifying authority,

1 shall not certify a person's nomination for office or his election to
2 office if compliance was not made within the time required. The nomi-
3 nation to office or election to office shall be certified [BY THE
4 LIEUTENANT GOVERNOR] to the highest vote getter for that nomination for
5 that office or election to that office who has complied within the times
6 required and who shall be declared nominated or elected.

7 * Sec. 7. AS 39.50.070 is amended to read:

8 Sec. 39.50.070. FAILURE TO REPORT BY DEPARTMENT HEADS. A person
9 hired or appointed as the head of a department in the executive branch
10 who refuses or fails to file a report of financial interests required
11 under this chapter when due may not hold office or have his name sub-
12 mitted to the legislature for confirmation until he complies. He may
13 not be confirmed, hired, or appointed, and he forfeits and may not be
14 paid any salary or per diem and travel expenses until he complies. If,
15 after installation as a department head, he refuses or fails to file the
16 required statement when due, he is guilty of a misdemeanor and upon
17 conviction is punishable by a fine of not less than \$100 [\$500] nor
18 more than \$1,000 [\$5,000] and shall be removed from office if compliance
19 is not made within 30 days after the due date of the report.

20 * Sec. 8. AS 39.50.080 is amended to read:

21 Sec. 39.50.080. FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR-
22 MAN OR MEMBER. A person hired or appointed as a commissioner, chairman
23 or member of a state commission or board specified in sec. 200(7) of
24 this chapter who fails to file a report of financial interests required
25 under this chapter when due shall not [BE HIRED OR APPOINTED OR] hold
26 office or have his name submitted to the legislature until he complies.
27 He may not be confirmed, and he forfeits and shall not be paid any
28 salary or per diem or travel expenses until he complies. If, after
29 being seated as commissioner, chairman or member of such a commission or

1 board he refuses or fails to file the required statement when due, he is
2 guilty of a misdemeanor and upon conviction is punishable by a fine of
3 not less than \$100 [\$500] nor more than \$1,000 [\$5,000] and shall be
4 removed from office if compliance is not made within 30 days after the
5 due date.

6 * Sec. 9. AS 39.50.090 is amended to read:

7 Sec. 39.50.090. PROHIBITED ACTS. (a) No public official may use
8 his official position or office for the primary purpose of obtaining
9 [TO OBTAIN] financial gain for himself, or his spouse, child, mother,
10 or father, [A MEMBER OF HIS FAMILY] or business with which he is associ-
11 ated or owns stock.

12 (b) No person may offer or pay to a public official, and no public
13 official may solicit or receive money for legislative advice or assis-
14 tance, or for advice or assistance given in the course of the public
15 official's employment or relating to his employment. However, this
16 prohibition does not apply to a chairman or member of a state commission
17 or board if the subject matter of the legislative advice or assistance
18 is not related directly to the function of the commission or board; this
19 exception from the general prohibition does not apply to one whose
20 service on the commission or board constitutes him a full-time state
21 employee under AS 39.

22 (c) No public official may represent a client before a state
23 [REGULATORY] agency for a fee. However, this prohibition does not apply
24 to a chairman or member of a state commission or board except with
25 regard to representation before his own commission or board; this
26 exception from the general prohibition does not apply to one whose
27 service on the commission or board constitutes him a full-time state
28 employee under AS 39.

29 (d) Violation of this section is a misdemeanor, punishable upon

1 conviction by a fine of not less than \$500 [\$1,000], nor more than
2 \$2,000 [\$10,000], by imprisonment up to one year, or by both.

3 (e) In this section, "public official" includes, in addition to
4 the persons specified in sec. 200 of this chapter, chairmen and members
5 of all commissions and boards created by statute or administrative
6 action as agencies of the state.

7 * Sec. 10. AS 39.50.100 is amended to read:

8 Sec. 39.50.100. ENFORCEMENT BY PRIVATE CITIZENS. A qualified
9 Alaska voter may bring a civil action to enforce any of the sections of
10 this chapter. A defendant sued for failure to comply with this chapter
11 who prevails shall be entitled to recover costs and fees associated with
12 his defense from the unsuccessful plaintiff.

13 * Sec. 11. AS 39.50.110 is amended to read:

14 Sec. 39.50.110. REPORT OF FINANCIAL INTERESTS OF JUDICIAL OFFI-
15 CERS. Each judicial officer as defined in sec. 200 of this chapter
16 shall file reports of financial and business interests required by this
17 chapter. A judicial officer who refuses or fails to file a report
18 when it is due forfeits and may not be paid his salary, per diem, and
19 travel expenses after the due date, until he complies, and is guilty of
20 a misdemeanor and upon conviction is punishable by a fine of not less
21 than \$100 [\$500] nor more than \$1,000 [\$5,000]. He may not be appointed
22 by the governor or other authority until he complies. Upon failure or
23 refusal to comply within 30 days of the due date, he forfeits his office
24 and shall be removed from office.

25 * Sec. 12. AS 39.50.120 is amended to read:

26 Sec. 39.50.120. REPORT OF FINANCIAL INTERESTS OF LEGISLATORS.
27 Each legislator shall file the reports of financial or business inter-
28 ests required by this chapter. A legislator who refuses or fails to
29 file the report when due forfeits and shall not be paid his salary and

1 per diem and travel expenses after the due date until he complies and is
2 guilty of a misdemeanor and upon conviction is punishable by a fine of
3 not less than \$100 [\$500] nor more than \$1,000 [\$5,000].

4 * Sec. 13. AS 39.50.130 is amended to read:

5 Sec. 39.50.130. REPORT OF FINANCIAL INTERESTS OF GOVERNOR AND
6 LIEUTENANT GOVERNOR. The governor and lieutenant governor shall each
7 file a report of financial interests required by this chapter. If the
8 governor or lieutenant governor fails to file the report when due, he
9 forfeits and may not be paid his salary and per diem and travel expenses
10 after the due date and until he complies, and is guilty of a misdemeanor
11 and upon conviction is punishable by a fine of not less than \$100 [\$500]
12 nor more than \$1,000 [\$5,000].

13 * Sec. 14. AS 39.50.150 is amended to read:

14 Sec. 39.50.150. INITIAL FILING DATE FOR [INCUMBENT] PUBLIC OFFI-
15 CIALS. Every person who is a public official or a public official-elect
16 on December 11, 1974 [AS DEFINED IN THIS CHAPTER ON THE EFFECTIVE DATE
17 OF THIS CHAPTER] shall file the [REQUIRED] statements required by this
18 [THE] chapter before April 1, 1975 [WITHIN 60 DAYS OF THE EFFECTIVE DATE
19 OF THIS CHAPTER]. However, a public official who resigned his office or
20 whose term of office expired on or after December 11, 1974 but before
21 April 1, 1975, need not file a financial statement.

22 * Sec. 15. AS 39.50.200(1) is amended to read:

23 (1) "public official" means a judicial officer, a member of
24 the legislature, the governor, the lieutenant governor, a person hired
25 or appointed as the head or deputy head of a department in the executive
26 branch, director of a division within a department in the executive
27 branch, an assistant to the governor, [A PERSON HIRED OR APPOINTED AS]
28 chairman or member of a state commission or board, and each candidate
29 elected to local elective office [BOARD, OR COMMISSIONER OR MEMBER ON

1 THE ALASKA TRANSPORTATION COMMISSION, THE ALASKA PUBLIC UTILITY COMMIS-
2 SION, OR THE ALASKA PIPELINE COMMISSION, OR ANY OTHER STATE COMMISSION
3 OR BOARD TO WHICH THE STATE APPOINTS THE MEMBERS, OR A PERSON WHO BECOMES
4 A CANDIDATE FOR STATE ELECTIVE OFFICE];

5 * Sec. 16. AS 39.50.200 is amended by adding new paragraphs to read:

6 (3) "child" includes a biological child, an adoptive child,
7 and a stepchild;

8 (4) "instrumentality of the state" means a state department
9 or agency, whether in the legislative, judicial, or executive branch,
10 including such entities as the University of Alaska and the Alaska State
11 Housing Authority;

12 (5) "local elective office" includes but is not limited to
13 the office of borough or city mayor, borough assemblyman, city council-
14 man, school board member or elected utility board member within a home
15 rule or general law city or borough, including but not limited to a
16 unified municipality under AS 29.68;

17 (6) "mother or father" includes a biological parent, an
18 adoptive parent, and a step-parent;

19 (7) "source of income" means the entity for which service is
20 performed or which is otherwise the origin of payment; if the person
21 whose income is being reported is employed by another, his employer is
22 the source of his income; but if he is self-employed by means of a sole
23 proprietorship, partnership, professional corporation, or a corporation
24 in which he or his spouse or his children, or a combination of them,
25 hold a controlling interest, the "source" is the client or customer of
26 the proprietorship, partnership or corporation; if the entity which is
27 the origin of payment is not the same as the client or customer for
28 whom the service is performed, both are considered the source;

29 (8) "state commission or board" means the

- 1 (A) Agricultural Loan Advisory Board (created adminis-
2 tratively to assist in administration of AS 03.10);
- 3 (B) Alaska State Council on the Arts (AS 44.19.900);
- 4 (C) Alcoholic Beverage Control Board (AS 04.05.060);
- 5 (D) State Assessment Review Board (AS 43.56.040);
- 6 (E) Capital Selection Committee (Initiative #1, 1974);
- 7 (F) Board of Education (AS 14.07.075);
- 8 (G) Educational Broadcasting Commission (AS 14.58.020);
- 9 (H) Alaska Election Campaign Commission (AS 15.13);
- 10 (I) Employment Security Advisory Council (AS 23.20.025);
- 11 (J) Board of Fish and Game (AS 16.05.220);
- 12 (K) Alaska Commercial Fisheries Entry Commission
13 (AS 16.40.010);
- 14 (L) Fishermen's Fund Advisory and Appeals Council
15 (AS 23.35.010);
- 16 (M) Alaska State Housing Authority (AS 18.55.020);
- 17 (N) State Commission for Human Rights (AS 18.80.010);
- 18 (O) State Investment Advisory Committee (AS 37.10.020);
- 19 (P) Alaska Judicial Council (art. IV, sec. 8, Alaska
20 Constitution);
- 21 (Q) Commission on Judicial Qualifications (art. IV,
22 sec. 10, Alaska Constitution);
- 23 (R) Governor's Commission on the Administration of
24 Justice (AS 44.19.746);
- 25 (S) State Section of Joint Federal-State Land Use
26 Planning Commission (AS 41.40);
- 27 (T) Local Boundary Commission (AS 44.19.250);
- 28 (U) Occupational Safety and Health Review Board
29 (AS 18.60.057);

- 1 (V) State Board of Parole (AS 33.15.010);
2 (W) State Personnel Board (AS 39.25.060);
3 (X) Alaska Pipeline Commission (AS 42.06);
4 (Y) Public Employees Retirement Board (AS 39.35.030);
5 (Z) Alaska Public Utilities Commission (AS 42.05.010);
6 (AA) University of Alaska Board of Regents (AS 14.40.120);
7 (BB) Alaska Royalty Oil and Gas Development Advisory
8 Board (AS 38.06);
9 (CC) Small Business Development Corporation of Alaska
10 (AS 44.60.020);
11 (DD) Alaska State Development Corporation (AS 44.59.010);
12 (EE) Board of Directors, State-Operated Schools
13 (AS 14.08.060);
14 (FF) Alaska Teachers' Retirement Board (AS 14.25.035);
15 (GG) Alaska Transportation Commission (AS 42.07.010);
16 (HH) Workmen's Compensation Board (AS 32.30.005);

17 (9) "assistant to the governor" includes any executive,
18 legislative, special, administrative or press assistant to the governor,
19 and any person similarly employed.

20 * Sec. 17. AS 11.30.040 is amended to read:

21 Sec. 11.30.040. BRIBERY. A person who corruptly gives, offers,
22 or promises to give a gift, gratuity, valuable consideration or other
23 thing, or corruptly promises to do or causes to be done an act bene-
24 ficial to a peace officer, judicial officer, [OR] executive officer or
25 public official, with intent to influence the vote, opinion, decision,
26 judgment, or official conduct of the officer or official in a matter,
27 question, duty, cause, or proceeding which is or by law may come or be
28 brought before him, or with intent to influence the person [OFFICER] to
29 act in his official capacity in a particular manner to produce or pre-

1 vent a particular result, upon conviction, is punishable by imprisonment
2 [IN THE PENITENTIARY] for not less than two years nor more than 10
3 years.

4 * Sec. 18. AS 11.30.050 is amended to read:

5 Sec. 11.30.050. ACCEPTING BRIBE. A peace officer, judicial
6 officer, [OR] executive officer or public official who corruptly accepts
7 or receives a gift, gratuity, valuable consideration, or thing, or a
8 promise of one of them, or a promise to do or cause to be done an act
9 beneficial to him, with the understanding or agreement, express or
10 implied, that the officer or official will give his vote, opinion,
11 decision, or judgment in a particular manner in a matter, question,
12 duty, cause or proceeding which then is or may by law come or be brought
13 before him, or with the understanding or agreement that the person
14 [OFFICER] will in his official capacity act in a particular manner to
15 produce or prevent a particular result, upon conviction, is punishable
16 by imprisonment [IN THE PENITENTIARY] for not less than five years nor
17 more than 15 years.

18 * Sec. 19. AS 11.30 is amended by adding a new section to read:

19 Sec. 11.30.075. PUBLIC OFFICIAL DEFINED. For the purposes of
20 secs. 40 and 50 of this chapter, the definitions contained in AS 39.50.-
21 200(1), as supplemented by AS 39.50.090(e), shall be controlling.

22 * Sec. 20. AS 39.50.030(c) and 39.50.040(b)(6) are repealed.

23 * Sec. 21. This Act takes effect immediately in accordance with AS 01.10.-
24 070(c).

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