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Legislative Reform
and State Affairs

1 IN THE SENATE

BY JOSEPHSON

2

SENATE BILL NO. 198

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to ethics in the legislature; and
7 providing for an effective date."

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

9 * Section 1. STATEMENT OF PURPOSE. (a) The legislature declares as
10 the public policy of the state that a public office is a public trust and
11 shall be held for the sole benefit of the people. To enhance the faith of
12 the people in the integrity and impartiality of public officers, adequate
13 guidelines are required to show the appropriate separation between the
14 roles of persons who are both public servants and private citizens.

15 (b) The purpose of AS 24.60 as enacted in sec. 2 of this Act is to

16 (1) prescribe standards of conduct for state legislators and for
17 the staff of legislators;

18 (2) educate the citizens of the state on ethics in the legisla-
19 ture; and

20 (3) establish an ethics commission to render advisory opinions
21 and enforce the provisions of the law so that public confidence in the
22 legislature will be preserved.

23 * Sec. 2. AS 24 is amended by adding a new chapter to read:

24 CHAPTER 60. LEGISLATIVE ETHICS.

25 Sec. 24.60.010. CONSTRUCTION. This chapter shall be liberally
26 construed to promote high standards of ethical conduct in the state
27 legislature.

28 Sec. 24.60.020. APPLICABILITY. This chapter applies to a legis-
29 lator, a former legislator, and to each person on the staff of a

1 legislator.

2 Sec. 24.60.030. GIFTS. (a) A legislator and a person on the
3 staff of a legislator may not solicit, accept, or receive, directly or
4 indirectly, a gift, whether in the form of money, services, a loan,
5 travel, entertainment, hospitality, or in any other form, under cir-
6 cumstances in which it may reasonably be inferred that the gift is
7 intended to influence the legislator in the performance of the duties
8 of the legislator or is intended as a reward for an official action on
9 the part of the legislator.

10 (b) Acceptance by a legislator and by a person on the staff of a
11 legislator of an invitation to attend a meal or social event that does
12 not exceed \$25.00 in value received by the legislator for each meal or
13 event and that does not exceed \$125.00 in value received by the legis-
14 lator cumulatively during the calendar year does not constitute a gift
15 under this section.

16 Sec. 24.60.040. CONFIDENTIAL INFORMATION. A legislator and a
17 person on the staff of a legislator may not disclose or use for per-
18 sonal gain or for the benefit of anyone else information that by law
19 is not available to the public and that the legislator and a person on
20 the staff of a legislator acquires in the course of official duties.

21 Sec. 24.60.050. CONFLICT OF INTEREST. (a) A legislator and a
22 person on the staff of a legislator may not appear on behalf of a
23 person before a state department, agency, board, commission, institu-
24 tion, or instrumentality in any manner for which the legislator is
25 being compensated by the person.

26 (b) The provisions of (a) of this section do not apply to

27 (1) a judicial proceeding;

28 (2) an administrative hearing or proceeding

29 (A) which is adversary in character;

1 (B) on which a record is made by the agency involved;
2 or

3 (C) in which the appearance is a matter of public
4 record.

5 (c) A legislator may not participate in the consideration of
6 legislation in which the legislator or the immediate family of the
7 legislator has a substantial personal interest unless the legislator
8 has complied with this chapter, AS 39.50.020, and with the rules of
9 the commission. A legislator has a substantial personal interest in
10 legislation within the meaning of this subsection if the legislator or
11 the immediately family of the legislator has a direct personal pecun-
12 iary interest in the legislation in a manner or to a degree that is
13 different from the interest of a member of the public.

14 (d) The provisions of (c) of this section do not prevent a
15 legislator or the immediate family of a legislator from participation
16 in state loan programs that are available to the public at large.

17 (e) A legislator may not be a party to or have an interest in
18 the profits or benefits of a state contract unless the contract is let
19 by competitive bidding or the total annual amount of the state con-
20 tract equals \$1,000 or less. A legislator has an interest in the
21 profits or benefits of a state contract under this subsection if the
22 contract is awarded to

23 (1) the legislator or a member of the family of the legis-
24 lator;

25 (2) a firm, corporation, or association in which the legis-
26 lator or a member of the family of the legislator owns 10 percent of
27 the stock of the firm, corporation, or association; or

28 (3) a partnership in which a legislator or a member of the
29 family of the legislator is a partner.

1 Sec. 24.60.060. LEGISLATIVE ETHICS COMMISSION. (a) There is
2 established within the legislative branch of the state government the
3 Legislative Ethics Commission.

4 (b) The commission consists of seven members selected as fol-
5 lows:

6 (1) the president of the senate shall appoint one member to
7 the commission from the senate;

8 (2) the speaker of the house of representatives shall
9 appoint one member to the commission from the house of representa-
10 tives;

11 (3) the president of the senate shall appoint to the com-
12 mission two persons who are citizens of the United States and resi-
13 dents of the state who have not held an elected public office;

14 (4) the speaker of the house of representatives shall
15 appoint to the commission two persons who are citizens of the United
16 States and residents of the state who have not held an elected public
17 office;

18 (5) one member of the commission shall be a former legisla-
19 tor of the state who is appointed by the other members of the commis-
20 sion.

21 (c) No more than four members of the commission may be members
22 of the same political party or residents of the same borough or of the
23 unorganized borough.

24 (d) The term of office of a member of the commission is four
25 years from the February 1 of the year of appointment and until a
26 successor is appointed and qualifies. A legislator appointed to the
27 commission may not serve beyond the expiration of the legislative term
28 of office. A commission member may not serve more than one full term.

29 (e) A member of the commission may not

- 1 (1) hold or seek elective office;
- 2 (2) be an officer of a political party, political commit-
- 3 tee, or group;
- 4 (3) support or oppose a candidate, proposition, or question
- 5 or make a contribution in support of or in opposition to a candidate
- 6 for the legislature;
- 7 (4) participate in an election campaign for a legislator or
- 8 contribute to a political party; or
- 9 (5) lobby or employ a lobbyist.

10 (f) The provisions of (e) of this section do not apply to the

11 members of the commission appointed under (b)(1) and (2) of this

12 section.

13 (g) A vacancy on the commission shall be filled under (b) of

14 this section for the balance of the term.

15 (h) The commission may employ an executive director and staff as

16 it considers necessary. A member of the commission may not serve as

17 executive director or on the staff of the commission.

18 (i) A member of the commission receives no compensation for

19 service on the commission. Members of the commission are entitled to

20 travel expenses and per diem authorized by law for members of boards

21 and commissions under AS 39.20.180, but a member of the commission who

22 is a legislator is not entitled to travel expenses and per diem from

23 the commission if the legislator is receiving travel expenses and per

24 diem as a legislator.

25 Sec. 24.60.070. DUTIES OF THE COMMISSION. The commission shall

26 (1) adopt regulations to facilitate the receipt of inquir-

27 ies and prompt rendition of its opinions;

28 (2) adopt forms and procedures for the submission of state-

29 ments of financial disclosure and maintain files of the statements of

1 financial disclosure; a statement of financial disclosure filed with
2 the commission is public information;

3 (3) advise the attorney general and the legislature of
4 noncompliance with the financial disclosure requirement;

5 (4) recommend to the legislature legislation as the commis-
6 sion considers desirable or necessary to promote and maintain high
7 standards of ethical conduct in government;

8 (5) subpoena witnesses, administer oaths, and take testi-
9 mony relating to matters before the commission, and may require the
10 production for examination of any books or papers relating to any
11 matter under investigation before the commission;

12 (6) shall distribute its publications without cost to the
13 public and shall initiate programs to educate the citizens of the
14 state, legislators, and members of the staff of a legislator on ethics
15 in government;

16 (7) shall publish yearly summaries of decisions, advisory
17 opinions and informal advisory opinions, with sufficient deletions in
18 the summaries to prevent disclosing the identity of the persons
19 involved in the decisions or opinions which have remained confiden-
20 tial;

21 (8) may adopt regulations to implement, clarify, and inter-
22 pret this chapter.

23 Sec. 24.60.080. ADVISORY OPINIONS. The commission shall issue
24 an advisory opinion on the request of a legislator, a former legis-
25 lator, a person on the staff of a legislator, or a person formerly on
26 the staff of a legislator as to whether the facts and circumstances of
27 a particular case constitute a violation of ethical standards. If an
28 advisory opinion is not issued within 30 days after the request is
29 filed with the commission, the facts and circumstances of the

1 particular case do not constitute a violation of the ethical stan-
2 dards. The opinion issued or considered issued is binding on the
3 commission and in any subsequent proceedings concerning the facts and
4 circumstances of the particular case unless material facts were omit-
5 ted or misstated in the request for the advisory opinion.

6 Sec. 24.60.090. COMPLAINTS. (a) The commission may initiate,
7 receive and consider complaints alleging a violation of this chapter.

8 (b) Before the commission may exercise power authorized in (c)
9 of this section, the commission shall by resolution, supported by a
10 vote of three members of the commission, define the nature and scope
11 of the inquiry.

12 (c) The commission may investigate a violation of this chapter
13 in a proceeding begun within one year after termination of state
14 service by a legislator or a member of the staff of a legislator.
15 Nothing in this subsection bars proceedings against a person who by
16 fraud prevents discovery of a violation of this chapter. A proceeding
17 is commenced by the signing of a complaint by three members of the
18 commission.

19 (d) A complaint concerning a legislator or a former legislator,
20 or a member or a former member of the staff of a legislator, must be
21 in writing, signed by the person making the complaint and under oath.
22 A complaint may also be initiated by three or more members of the
23 commission. The commission shall notify in writing each legislator,
24 each former legislator, and each member or former member of a staff of
25 a legislator against whom a complaint is received and afford the
26 person an opportunity to explain the conduct alleged to be a violation
27 of this chapter.

28 (e) The commission shall investigate the charges filed under
29 this section and issue an advisory opinion to the person alleged to

1 have violated a provision of this chapter. The commission shall
2 investigate all complaints on a confidential basis. If the advisory
3 opinion indicates a probable violation, the legislator, former legis-
4 lator, member or former member of the staff of a legislator may re-
5 quest a formal opinion or comply with the advisory opinion. If the
6 legislator, former legislator, member or former member of the staff of
7 a legislator fails to comply with the advisory opinion or if a major-
8 ity of the members of the commission determine that there is probable
9 cause for belief that a violation of this chapter has occurred, the
10 commission shall file a complaint against the person charged with a
11 violation of this chapter and the complaint and statement of the
12 alleged violation shall be personally served on the person charged.
13 The alleged violator has 20 days after service of the complaint and
14 statement to respond in writing to the commission.

15 (f) The commission may set a time and place for a hearing with
16 notice to the complainant, if any, and to the person charged with a
17 violation of this chapter. The executive director of the commission
18 and the person charged with a violation of this chapter shall have an
19 opportunity to be heard, to subpoena witnesses and require the produc-
20 tion of books or papers relating to the proceedings, to be represented
21 by counsel, and to have the right of cross-examination. Each witness
22 shall testify under oath and the hearings are closed to the public
23 unless the person charged with a violation of this chapter requests an
24 open hearing. The commission is not bound by the rules of evidence
25 but the commission's findings must be based upon competent and sub-
26 stantial evidence. The testimony taken at the hearing shall be re-
27 corded and evidence shall be maintained. A copy of transcripts of the
28 testimony is available only to the staff of the commission and to the
29 person charged with a violation of this chapter. If the person

1 charged with the violation of a provision of this chapter requests a
2 copy of the transcript of testimony, the commission may assess one
3 half of the cost of the preparation of the transcript of testimony
4 against the person charged.

5 (g) A decision of the commission shall be in writing and signed
6 by three or more members of the commission.

7 (h) If the commission issues a decision that a member of the
8 legislature has violated a provision of this chapter, it shall refer
9 the decision to the presiding officers of the legislature. The deci-
10 sion shall contain a statement of the facts determined to constitute
11 the violation. If within 30 days after the referral, a committee of
12 the legislature has not reported action on the decision, the commis-
13 sion shall make the decision public. Days during which the
14 legislature is not in session may not be counted in determining the
15 30-day period.

16 (i) If the four members of the commission agree to a decision
17 that a former member of the legislature or a member or a former member
18 of the staff of a legislator has violated a provision of this chapter,
19 the commission may issue a public statement of its decision. The
20 attorney general may exercise whatever remedies may be available to
21 the state.

22 (j) If a legislator is determined by the commission to have
23 violated this chapter or if a legislator declines or refuses to coop-
24 erate with the commission, it may refer its determinations and its
25 records to the presiding officers of the legislature for action the
26 legislature considers appropriate.

27 (k) A commission member or individual who divulges information
28 concerning the charge before the filing of a complaint by the
29 commission, except as permitted by this chapter, is guilty of a class

1 C felony.

2 Sec. 24.60.900. DEFINITIONS. In this chapter, "commission"
3 means the Legislative Ethics Commission.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).