

Offered: 4/26/85
Referred: Judiciary

Original sponsors: Koponen, Thompson
and Marrou

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 327 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the disclosure of information."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 * Section 1. FINDING. The legislature finds that free access to infor-
9 mation at all levels of state government and concerning issues before the
10 legislature is critical to the exercise of legislative responsibilities
11 under Article II of the Alaska constitution. The legislature further finds
12 that retaliation for providing information to a legislator impairs the
13 people's rights to freedom of speech and to petition the government under
14 Article I of the Alaska constitution.
15 * Sec. 2. AS 39.51.020(c) is amended to read:
16 (c) A violation of this section is a class A misdemeanor.
17 * Sec. 3. AS 39.51 is amended by adding new sections to read:
18 Sec. 39.51.040. LEGISLATIVE ACCESS TO PUBLIC INFORMATION. (a)
19 An employee of a public agency shall cooperate with the request of a
20 legislator for public information or a public record under AS 09.25.-
21 110 and 09.25.120.
22 (b) A public agency may not impose restrictions on the release
23 of information to a legislator or a legislative committee unless those
24 restrictions apply equally to the release of information to other
25 members of the public.
26 (c) A violation of this section is a class A misdemeanor.
27 Sec. 39.51.050. RETALIATION FOR COMMUNICATING PROHIBITED. (a)
28 Except as provided in (b) of this section, a public agency may not
29 dismiss, demote, suspend, lay off, or otherwise subject an employee to

1 disciplinary action for communicating to a legislator or legislative
2 committee information relevant to a legislative inquiry unless disclo-
3 sure of the information is prohibited by law. A public agency may
4 require an employee who is communicating to a legislator or legisla-
5 tive committee on behalf of a person or entity other than the agency
6 to state clearly to the legislator or committee that the communication
7 is not on behalf of the agency and may prohibit the employee from
8 making the communication during the employee's hours of work. How-
9 ever, an agency may not unreasonably deny an employee's request for
10 annual or personal leave or leave without pay to present information
11 to the legislature.

12 (b) A public agency may discipline an employee who has principal
13 responsibility for the determination of policy or who has principal
14 responsibility for the way in which policies are implemented for
15 communicating an opinion contrary to the agency's official opinion to
16 a legislator or legislative committee about a job-related matter.
17 However, an agency may not discipline the employee for communicating
18 information about a violation or suspected violation of statute or
19 regulation.

20 (c) If an employee believes that a public agency has taken
21 disciplinary action in violation of (a) of this section, the employee
22 may request a legislative committee to investigate the matter. The
23 committee's investigation is not a public record under AS 09.25.110.
24 Committee meetings on the matter may be held in executive session
25 under AS 44.62.320.

26 (d) At the request of an employee, a legislative committee may
27 refer a violation of this section to the attorney general. The attor-
28 ney general shall investigate each referral and report the results of
29 the investigation to the committee.

1 (e) If an employee is disciplined within 90 days after communi-
2 cating to a legislator or a legislative committee, the public agency
3 shall provide the committee with information and justification for the
4 disciplinary action if a legislative committee requests the informa-
5 tion. However, a public agency may not disclose personnel records
6 that are confidential by law or regulation to a legislative committee
7 under (c) or (e) of this section unless the disciplined employee
8 waives the confidentiality in writing.

9 (f) An employee who has been disciplined in violation of (a) of
10 this section has a private cause of action against the agency for
11 reinstatement, lost wages, other compensation and damages, and for
12 reasonable attorneys fees incurred in connection with the disciplinary
13 action.

14 (g) A public agency shall advise an employee in writing at the
15 time of hiring of the employee's rights under this section.

16 (h) The protections of this section do not apply to an employee
17 if the employee knowingly communicated false information or if the
18 employee violated a law in making the communication.

19 (i) A violation of this section is a class A misdemeanor.

20 * Sec. 4. Sec. 39.51.900. DEFINITION. In this chapter, "public
21 agency" includes the state, a public or quasi-public corporation or author-
22 ity established by law, the University of Alaska, a political subdivision
23 of the state, and the Alaska Railroad.

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