

CONFLICT  
OF  
INTEREST

CHAPTER 1, LAWS OF 1973  
INITIATIVE MEASURE NO. 276 TO THE PEOPLE



PUBLIC DISCLOSURE COMMISSION  
OLYMPIA, WASH 98504

Sections 14, 18, 20 and subsection 4 of section 40 were declared unconstitutional by the Thurston County Superior Court. As a result, these sections are currently inoperable. The cases involved are now pending appeal before the State Supreme Court.

July 24, 1973

CHAPTER 1, LAWS 1973  
INITIATIVE MEASURE NO. 276 TO THE PEOPLE  
DISCLOSURE--CAMPAIGN FINANCING--LOBBYING--RECORDS

1 AN ACT relating to campaign financing, activities of lobbyists,  
2 access to public records, and financial affairs of elective  
3 officers and candidates; requiring disclosure of sources of  
4 campaign contributions, objects of campaign expenditures, and  
5 amounts thereof; limiting campaign expenditures; regulating  
6 the activities of lobbyists and requiring reports of their  
7 expenditures; restricting use of public funds to influence  
8 legislative decisions; governing access to public records;  
9 specifying the manner in which public agencies will maintain  
10 such records; requiring disclosure of elective officials' and  
11 candidates' financial interests and activities; establishing  
12 a public disclosure commission to administer the act; and  
13 providing civil penalties.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

15 Section 1. DECLARATION OF POLICY. It is hereby declared by  
16 the sovereign people to be the public policy of the State of Washing-  
17 ton:

18 (1) That political campaign and lobbying contributions and  
19 expenditures be fully disclosed to the public and that secrecy is to  
20 be avoided.

21 (2) That the people have the right to expect from their elec-  
22 ted representatives at all levels of government the utmost of inte-  
23 grity, honesty and fairness in their dealings.

24 (3) That the people shall be assured that the private finan-  
25 cial dealings of their public officials, and of candidates for those  
26 offices, present no conflict of interest between the public trust  
27 and private interests.

1 (4) That our representative form of government is founded on  
2 a belief that those entrusted with the offices of government have  
3 nothing to fear from full public disclosure of their financial and  
4 business holdings, provided those officials deal honestly and fairly  
5 with the people.

6 (5) That public confidence in government at all levels is  
7 essential and must be promoted by all possible means.

8 (6) That public confidence in government at all levels can  
9 best be sustained by assuring the people of the impartiality and hon-  
10 esty of the officials in all public transactions and decisions.

11 (7) That the concept of attempting to increase financial  
12 participation of individual contributors in political campaigns is  
13 encouraged by the passage of the Revenue Act of 1971 by the Congress  
14 of the United States, and in consequence thereof, it is desirable to  
15 have implementing legislation at the state level.

16 (8) That the concepts of disclosure and limitation of election  
17 campaign financing are established by the passage of the Federal Elec-  
18 tion Campaign Act of 1971 by the Congress of the United States, and  
19 in consequence thereof it is desirable to have implementing legisla-  
20 tion at the state level.

21 (9) That small contributions by individual contributors are  
22 to be encouraged, and that not requiring the reporting of small con-  
23 tributions may tend to encourage such contributions.

24 (10) That the public's right to know of the financing of  
25 political campaigns and lobbying and the financial affairs of elected  
26 officials and candidates far outweighs any right that those matters  
27 remain secret and private.

28 (11) That, mindful of the right of individuals to privacy and  
29 of the desirability of the efficient administration of government,  
30 full access to information concerning the conduct of government on  
31 every level must be assured as a fundamental and necessary precondition  
32 to the sound governance of a free society.

33 The provisions of this act shall be liberally construed to

1 promote complete disclosure of all information respecting the fi-  
2 nancing of political campaigns and lobbying, and the financial affairs  
3 of elected officials and candidates, and full access to public rec-  
4 ords so as to assure continuing public confidence in fairness of  
5 elections and governmental processes, and so as to assure that the  
6 public interest will be fully protected.

7 Sec. 2. DEFINITIONS.

8 (1) "Agency" includes all state agencies and all local agen-  
9 cies. "State agency" includes every state office, public official,  
10 department, division, bureau, board, commission or other state  
11 agency. "Local agency" includes every county, city, city and county,  
12 school district, municipal corporation, district, political sub-  
13 division, or any board, commission or agency thereof, or other local  
14 public agency.

15 (2) "Ballot proposition" means any "measure" as defined by  
16 R.C.W. 29.01.110, or any initiative, recall, or referendum proposi-  
17 tion proposed to be submitted to the voters of any specific constitu-  
18 uency which has been filed with the appropriate election officer of  
19 that constituency.

20 (3) "Campaign depository" means a bank designated by a can-  
21 didate or political committee pursuant to section 5 of this act.

22 (4) "Campaign treasurer" and "deputy campaign treasurer"  
23 mean the individuals appointed by a candidate or political committee,  
24 pursuant to section 5 of this act, to perform the duties specified  
25 in that section.

26 (5) "Candidate" means any individual who seeks election to  
27 public office. An individual shall be deemed to seek election when  
28 he first:

29 (a) Receives contributions or makes expenditures or reserves  
30 space or facilities with intent to promote his candidacy for office;  
31 or

32 (b) Announces publicly or files for office.

33 (6) "Commercial advertiser" means any person who sells the

1 service of communicating messages or producing printed material for  
2 broadcast or distribution to the general public or segments of the  
3 general public whether through the use of newspapers, magazines,  
4 television and radio stations, billboard companies, direct mail ad-  
5 vertising companies, printing companies, or otherwise.

6 (7) "Commission" means the agency established under section  
7 35 of this act.

8 (8) "Contribution" includes a loan, gift, deposit, subscrip-  
9 tion, forgiveness of indebtedness, donation, advance, pledge, pay-  
10 ment, transfer of funds between political committees, or transfer of  
11 anything of value, including personal and professional services for  
12 less than full consideration, but does not include ordinary home  
13 hospitality and the rendering of "part time" personal services of  
14 the sort commonly performed by volunteer campaign workers or inciden-  
15 tal expenses not in excess of twenty-five dollars personally paid for  
16 by any volunteer campaign worker. "Part time" services, for the pur-  
17 poses of this act, means services in addition to regular full time  
18 employment, or, in the case of an unemployed person, services not  
19 in excess of twenty hours per week, excluding weekends. For the pur-  
20 poses of this act, contributions other than money or its equivalents  
21 shall be deemed to have a money value equivalent to the fair market  
22 value of the contribution. Sums paid for tickets to fund-raising  
23 events such as dinners and parties are contributions; however, the  
24 amount of any such contribution may be reduced for the purpose of  
25 complying with the reporting requirements of this act, by the actual  
26 cost of consumables furnished in connection with the purchase of  
27 such tickets, and only the excess over actual cost of such consum-  
28 ables shall be deemed a contribution.

29 (9) "Elected official" means any person elected at a general  
30 or special election to any public office, and any person appointed  
31 to fill a vacancy in any such office.

32 (10) "Election" includes any primary, general or special  
33 election for public office and any election in which a ballot pro-

1 position is submitted to the voters.

2 (11) "Election campaign" means any campaign in support of or  
3 in opposition to a candidate for election to public office and any  
4 campaign in support of, or in opposition to, a ballot proposition.

5 (12) "Expenditure" includes a payment, contribution, sub-  
6 scription, distribution, loan, advance, deposit, or gift of money or  
7 anything of value, and includes a contract, promise, or agreement,  
8 whether or not legally enforceable, to make an expenditure. The  
9 term "expenditure" also includes a promise to pay, a payment or a  
10 transfer of anything of value in exchange for goods, services, pro-  
11 perty, facilities or anything of value for the purpose of assisting,  
12 benefiting or honoring any public official or candidate or assisting  
13 in furthering or opposing any election campaign.

14 (13) "Final report" means the report described as a final  
15 report in section 8, subsection 2, of this act.

16 (14) "Immediate family" includes the spouse and children  
17 living in the household and other relatives living in the household.

18 (15) "Legislation" means bills, resolutions, motions, amend-  
19 ments, nominations, and other matters pending or proposed in either  
20 house of the state legislature, and includes any other matter which  
21 may be the subject of action by either house, or any committee of  
22 the legislature and all bills and resolutions which having passed  
23 both houses, are pending approval by the Governor.

24 (16) "Lobby" and "lobbying" each mean attempting to influ-  
25 ence the passage or defeat of any legislation by the legislature of  
26 the State of Washington, or the adoption or rejection of any rule,  
27 standard, rate or other legislative enactment of any state agency  
28 under the state Administrative Procedure Acts, chap. 34.04 R.C.W. and  
29 chap. 28 B.19 R.C.W.

30 (17) "Lobbyist" includes any person who shall lobby either in  
31 his own or another's behalf.

32 (18) "Lobbyist's employer" means the person or persons by  
33 whom a lobbyist is employed and all persons by whom he is compensated

1 for acting as a lobbyist.

2 (19) "Person" includes an individual, partnership, joint  
3 venture, public or private corporation, association, federal, state  
4 or local governmental entity or agency however constituted, candi-  
5 date, committee, political committee, political party, executive  
6 committee thereof, or any other organization or group of persons,  
7 however organized.

8 (20) "Persons in interest" means the person who is the sub-  
9 ject of a record or any representative designated by said person,  
10 except that if such person be under a legal disability, the term  
11 "person in interest" shall mean and include the parent or duly  
12 appointed legal representative.

13 (21) "Political advertising" includes any advertising dis-  
14 plays, newspaper ads, billboards, signs, brochures, articles,  
15 tabloids, flyers, letters, radio or television presentations or  
16 other means of mass communication, used for the purpose of appealing,  
17 directly or indirectly, for votes or for financial or other support  
18 in any election campaign.

19 (22) "Political committee" means any person (except a candi-  
20 date or an individual dealing with his own funds or property) having  
21 the expectation of receiving contributions or making expenditures in  
22 support of, or opposition to, any candidate or any ballot proposi-  
23 tion.

24 (23) "Public office" means any federal, state, county, city,  
25 town, school district, port district, special district, or other  
26 state political subdivision elective office.

27 (24) "Public record" includes any writing containing infor-  
28 mation relating to the conduct of government or the performance of  
29 any governmental or proprietary function prepared, owned, used or  
30 retained by any state or local agency regardless of physical form  
31 or characteristics.

32 (25) "Writing" means handwriting, typewriting, printing,  
33 photostating, photographing, and every other means of recording any

1 form of communication or representation, including letters, words,  
2 pictures, sounds, or symbols, or combination thereof, and all papers,  
3 maps, magnetic or paper tapes, photographic films and prints, mag-  
4 netic or punched cards, discs, drums and other documents.

5 As used in this act, the singular shall take the plural and  
6 any gender, the other, as the context requires.

#### 7 CHAPTER I. CAMPAIGN FINANCING

8 Sec. 3. APPLICABILITY. The provisions of this act relating  
9 to election campaigns shall apply in all election campaigns other  
10 than (a) for precinct committeeman; (b) for the President and Vice  
11 President of the United States; and (c) for an office the constitu-  
12 ency of which does not encompass a whole county and which contains  
13 less than five thousand registered voters as of the date of the most  
14 recent general election in such district.

15 Sec. 4. OBLIGATION OF POLITICAL COMMITTEES TO FILE STATEMENT  
16 OF ORGANIZATION. (1) Every political committee, within ten days  
17 after its organization or, within ten days after the date when it  
18 first has the expectation of receiving contributions or making ex-  
19 penditures in any election campaign, whichever is earlier, shall file  
20 a statement of organization with the commission and with the county  
21 auditor of the county in which the candidate resides (or in the case  
22 of a political committee supporting or opposing a ballot proposition,  
23 the county in which the campaign treasurer resides). Each political  
24 committee in existence on the effective date of this act shall file a  
25 statement of organization with the commission within ninety days after  
26 such effective date.

27 (2) The statement of organization shall include but not be  
28 limited to:

- 29 (a) The name and address of the committee;
- 30 (b) The names and addresses of all related or affiliated com-  
31 mittees or other persons, and the nature of the relationship or  
32 affiliation;
- 33 (c) The names, addresses, and titles of its officers; or if

1 it has no officers, the names, addresses and titles of its respon-  
2 sible leaders;

3 (d) The name and address of its campaign treasurer and cam-  
4 paign depository;

5 (e) A statement whether the committee is a continuing one;

6 (f) The name, office sought, and party affiliation of each  
7 candidate whom the committee is supporting or opposing, and, if the  
8 committee is supporting the entire ticket of any party, the name of  
9 the party;

10 (g) The ballot proposition concerned, if any, and whether the  
11 committee is in favor of or opposed to such proposition;

12 (h) What distribution of surplus funds will be made in the  
13 event of dissolution; and

14 (i) Such other information as the commission may by regula-  
15 tion prescribe, in keeping with the policies and purposes of this act.

16 (3) Any material change in information previously submitted  
17 in a statement of organization shall be reported to the commission  
18 and to the appropriate county auditor within the ten days following  
19 the change.

20 Sec. 5. CAMPAIGN TREASURER AND DEPOSITORIES. (1) Each can-  
21 didate, at or before the time he announces publicly or files for  
22 office, and each political committee, at or before the time it files  
23 a statement of organization, shall designate and file with the com-  
24 mission the names and addresses of:

25 (a) One legally competent individual, who may be the candi-  
26 date, to serve as a campaign treasurer; and

27 (b) One bank doing business in this state to serve as cam-  
28 paign depository.

29 (2) A candidate, a political committee or a campaign treas-  
30 urer may appoint as many deputy campaign treasurers as is considered  
31 necessary and may designate not more than one additional campaign  
32 depository in each other county in which the campaign is conducted.  
33 The candidate or political committee shall file the names and

1 addresses of the deputy campaign treasurers and additional campaign  
2 depositories with the commission.

3 (3) (a) A candidate or political committee may at any time  
4 remove a campaign treasurer or deputy campaign treasurer or change a  
5 designated campaign depository.

6 (b) In the event of the death, resignation, removal, or  
7 change of a campaign treasurer, deputy campaign treasurer or deposi-  
8 tory, the candidate or political committee shall designate and file  
9 with the commission the name and address of any successor.

10 (4) No campaign treasurer, deputy campaign treasurer, or cam-  
11 paign depository shall be deemed to be in compliance with the provi-  
12 sions of this act until his name and address is filed with the  
13 commission.

14 Sec. 6. DEPOSIT OF CONTRIBUTIONS--STATEMENT OF CAMPAIGN  
15 TREASURER--ANONYMOUS CONTRIBUTIONS. (1) All monetary contributions  
16 received by a candidate or political committee shall be deposited by  
17 the campaign treasurer or deputy treasurer in a campaign depository  
18 in an account designated, "Campaign Fund of....."  
19 (name of candidate or political committee).

20 (2) All deposits made by a campaign treasurer or deputy cam-  
21 paign treasurer shall be accompanied by a statement containing the  
22 name of each person contributing the funds so deposited and the amount  
23 contributed by each person: PROVIDED, that contributions not exceed-  
24 ing five dollars from any one person may be deposited without identi-  
25 fying the contributor. The statement shall be in triplicate, upon a  
26 form prescribed by the commission, one copy to be retained by the  
27 campaign depository for its records, one copy to be filed by the  
28 campaign treasurer with the commission, and one copy to be retained  
29 by the campaign treasurer for his records. In the event of deposits  
30 made by a deputy campaign treasurer, the third copy shall be for-  
31 warded to the campaign treasurer to be retained by him for his  
32 records. Each statement shall be certified as correct by the cam-  
33 paign treasurer or deputy campaign treasurer making the deposit.

1 (3) (a) Accumulated anonymous contributions in excess of one  
2 dollar from any individual contributor, and

3 (b) Accumulated anonymous contributions in excess of one per  
4 cent of the total accumulated contributions received to date or three  
5 hundred dollars (whichever is less),

6  
7 shall not be deposited, used or expended, but shall be returned to the  
8 donor, if his identity can be ascertained. If the donor cannot be as-  
9 certained, the contribution shall escheat to the state, and shall be  
10 paid to the state treasurer for deposit in the state general fund.

11 Sec. 7. AUTHORIZATION OF EXPENDITURES AND RESTRICTIONS  
12 THEREON. No expenditures shall be made or incurred by any candidate  
13 or political committee except on the authority of the campaign treas-  
14 urer or the candidate, and a record of all such expenditures shall be  
15 maintained by the campaign treasurer.

16 Sec. 8. CANDIDATES' AND TREASURERS' DUTY TO REPORT. (1) On  
17 the day the campaign treasurer is designated, each candidate or poli-  
18 tical committee shall file with the commission and the county audi-  
19 tor of the county in which the candidate resides (or in the case of a  
20 political committee supporting or opposing a ballot proposition, the  
21 county in which the campaign treasurer resides), in addition to any  
22 statement of organization required under section 4, a report of all  
23 contributions received and expenditures made in the election campaign  
24 prior to that date: PROVIDED, that if the political committee is an  
25 organization of continuing existence not established in anticipation  
26 of any particular election the campaign treasurer shall report, at  
27 the times required by this act, and at such other times as are des-  
28 ignated by the commission, all contributions received and expenditures  
29 made since the date of his or his predecessor's last report. In  
30 addition to any statement of organization required under section 4,  
31 the initial report of the campaign treasurer of such a political  
32 committee in existence at the time this act becomes effective need  
33 include only:

1 (a) The funds on hand at the time of the report, and

2 (b) Such other information as shall be required by the commis-  
3 sion by regulation in conformance with the policies and purposes of  
4 this act.

5 (2) At the following intervals each campaign treasurer shall  
6 file with the commission and the county auditor of the county in which  
7 the candidate resides (or in the case of a political committee sup-  
8 porting or opposing a ballot proposition the county in which the cam-  
9 paign treasurer resides) a further report of the contributions  
10 received and expenditures made since the date of the last report:

11 (a) On the fifth and nineteenth days immediately preceding  
12 the date on which the election is held; and

13 (b) Within ten days after the date of a primary election, and  
14 within twenty-one days after the date of all other elections; and

15 (c) On the tenth day of each month preceding the election in  
16 which no other reports are required to be filed under this section.

17 The report filed under paragraph (b) above shall be the final  
18 report if there is no outstanding debt or obligation, and the campaign  
19 fund is closed, and the campaign is concluded in all respects, and if  
20 in the case of a political committee, the committee has ceased to  
21 function and has dissolved. If the candidate or political committee  
22 has any outstanding debt or obligation, additional reports shall be  
23 filed at least once every six months until the obligation or indebted-  
24 ness is entirely satisfied at which time a final report shall be  
25 filed. A continuing political committee shall file reports as re-  
26 quired by this act until it is dissolved, at which time a final report  
27 shall be filed. Upon submitting a final report, the duties of the  
28 campaign treasurer shall cease and there shall be no obligation to  
29 make any further reports.

30 (3) The campaign treasurer shall maintain books of account in  
31 accordance with generally accepted accounting principles reflecting  
32 all contributions and expenditures on a current basis within three  
33 business days of receipt or expenditure. During the eight days

1 immediately preceding the date of the election the books of account  
2 shall be kept current within one business day and shall be open for  
3 public inspection during normal business hours at the principal cam-  
4 paign headquarters or, if there is no campaign headquarters, at the  
5 address of the campaign treasurer.

6 (4) All reports filed pursuant to this section shall be cer-  
7 tified as correct by the candidate and the campaign treasurer.

8 (5) Copies of all reports filed pursuant to this section  
9 shall be readily available for public inspection at the principal  
10 campaign headquarters or, if there is no campaign headquarters, at  
11 the address of the campaign treasurer.

12 Sec. 9. CONTENTS OF REPORT. (1) Each report required under  
13 section 8 of this act shall disclose for the period beginning at the  
14 end of the period for the last report or, in the case of an initial  
15 report, at the time of the first contribution or expenditure, and  
16 ending not more than three days prior to the date the report is due:

17 (a) The funds on hand at the beginning of the period;

18 (b) The name and address of each person who has made one or  
19 more contributions during the period, together with the money value  
20 and date of such contributions and the aggregate value of all contri-  
21 butions received from each such person during the preceding twelve-  
22 month period: PROVIDED, that contributions not exceeding five  
23 dollars in aggregate from any one person during the election campaign  
24 may be reported as one lump sum so long as the campaign treasurer  
25 maintains a separate and private list of the names and amounts of  
26 each such contributor;

27 (c) Each loan, promissory note or security instrument to be  
28 used by or for the benefit of the candidate or political committee  
29 made by any person, together with the names and addresses of the  
30 lender and each person liable directly, indirectly or contingently  
31 and the date and amount of each such loan, promissory note or secur-  
32 ity instrument:

33 (d) The name and address of each political committee from

1 which the reporting committee or candidate received, or to which that  
2 committee or candidate made, any transfer of funds, together with the  
3 amounts, dates and purpose of all such transfers;

4 (e) All other contributions not otherwise listed or exempted;

5 (f) The name and address of each person to whom an expendi-  
6 ture was made in the aggregate amount of twenty-five dollars or more,  
7 and the amount, date and purpose of each such expenditure;

8 (g) The total sum of expenditures;

9 (h) The surplus or deficit of contributions over expenditures;

10 (i) The disposition made of any surplus of contributions over  
11 expenditures;

12 (j) Such other information as shall be required by the com-  
13 mission by regulation in conformance with the policies and purposes of  
14 this act; and

15 (k) Funds received from a political committee not domiciled in  
16 Washington State and not otherwise required to report under this act  
17 (a "non-reporting committee"). Such funds shall be forfeited to the  
18 State of Washington unless the non-reporting committee has filed with  
19 the commission a statement disclosing: (i) its name and address;  
20 (ii) the purposes of the non-reporting committee; (iii) the names,  
21 addresses and titles of its officers or if it has no officers, the  
22 names, addresses and titles of its responsible leaders; (iv) a state-  
23 ment whether the non-reporting committee is a continuing one; (v) the  
24 name, office sought, and party affiliation of each candidate in the  
25 State of Washington whom the non-reporting committee is supporting,  
26 and, if such committee is supporting the entire ticket of any party,  
27 the name of the party; (vi) the ballot proposition supported or  
28 opposed in the State of Washington, if any, and whether such committee  
29 is in favor of or opposed to such proposition; (vii) the name and  
30 address of each person residing in the State of Washington or corpor-  
31 ation which has a place of business in the State of Washington who  
32 has made one or more contributions to the non-reporting committee  
33 during the preceding twelve month period, together with the money

1 value and date of such contributions; (viii) the name and address of  
2 each person in the State of Washington to whom an expenditure was  
3 made by the non-reporting committee on behalf of a candidate or  
4 political committee in the aggregate amount of twenty-five dollars or  
5 more, the amount, date and purpose of such expenditure, and the total  
6 sum of such expenditures; (ix) such other information as the commis-  
7 sion may by regulation prescribe, in keeping with the policies and  
8 purposes of this act.

9 (2) The campaign treasurer and the candidate shall certify  
10 the correctness of each report.

11 Sec. 10. SPECIAL REPORTS. In addition to the other reports  
12 required by this act

13 (1) Any person who makes an expenditure in support of or in  
14 opposition to any candidate or proposition (except to the extent that  
15 a contribution is made directly to a candidate or political commit-  
16 tee), in the aggregate amount of one hundred dollars or more during  
17 an election campaign, shall file with the commission a report signed  
18 by the contributor disclosing (a) the contributor's name and address,  
19 and (b) the date, nature, amount and recipient of such contribution  
20 or expenditure; and

21 (2) Any person who contributes in the aggregate amount of one  
22 hundred dollars or more during the preceding twelve month period to  
23 any political committee not domiciled in the State of Washington or  
24 not otherwise required to report under this act, if the person  
25 reasonably expects such political committee to make contributions in  
26 respect to any election covered by this act, shall file with the  
27 commission a report signed by the contributor disclosing (a) the con-  
28 tributor's name and address, and (b) the date, nature, amount and  
29 recipient of such contribution, and (c) any instructions given as to  
30 the use or disbursement of such contribution.

31 Sec. 11. COMMERCIAL ADVERTISERS' DUTY TO REPORT. (1) Within  
32 fifteen days after an election each commercial advertiser who has  
33 accepted or provided political advertising during the election

1 campaign shall file a report with the commission which shall be certi-  
2 fied as correct and shall specify:

3 (a) The names and addresses of persons from whom it accepted  
4 political advertising;

5 (b) The exact nature and extent of the advertising services  
6 rendered;

7 (c) The consideration and the manner of paying that consider-  
8 ation for such services; and

9 (d) Such other facts as the commission may by regulation  
10 prescribe, in keeping with the policies and purposes of this act.

11 (2) No report shall be required from any commercial adver-  
12 tiser as to any single candidate or political committee when the total  
13 value of such political advertising does not exceed fifty dollars.

14 Sec. 12. IDENTIFICATION OF CONTRIBUTIONS AND COMMUNICATIONS.

15 No contribution shall be made and no expenditure shall be incurred,  
16 directly or indirectly, in a fictitious name, anonymously, or by one  
17 person through an agent, relative or other person in such a manner as  
18 to conceal the identity of the source of the contribution.

19 Sec. 13. FORBIDS USE OF PUBLIC OFFICE FACILITIES IN CAMPAIGNS.

20 No elective official nor any employee of his office may use or auth-  
21 orize the use of any of the facilities of his public office, directly  
22 or indirectly, for the purpose of assisting his campaign for re-  
23 election to the office he holds or for election to any other office,  
24 or for election of any other person to any office or for the promo-  
25 tion or opposition to any ballot proposition. Facilities of public  
26 office include, but are not limited to, use of stationery, postage,  
27 machines and equipment, use of employees of the office during working  
28 hours, vehicles, office space, publications of the office, and clien-  
29 tele lists of persons served by the office: PROVIDED, that this  
30 section shall not apply to those activities performed by the official  
31 or his office which are part of the normal and regular conduct of the  
32 office.

33 Sec. 14. CAMPAIGN EXPENDITURE LIMITATIONS. (1) The total of

1 expenditures made in any election campaign in connection with any  
2 public office shall not exceed the larger of the following amounts:

3 (a) Ten cents multiplied by the number of voters registered  
4 in the constituency at the last general election for the public  
5 office; or

6 (b) Five thousand dollars; or

7 (c) A sum equal to the public salary which will be paid to  
8 the occupant of the office which the candidate seeks, during the term  
9 for which the successful candidate will be elected: PROVIDED, that  
10 with respect to candidates for the office of governor and lieutenant  
11 governor of the State of Washington only, a sum equal to the public  
12 salary which will be paid the governor during the term sought, multi-  
13 plied by two; and with respect to candidates for the state legisla-  
14 ture only, a sum equal to the public salary which will be paid to a  
15 member of the state senate during his term.

16 (2) In any election campaign in connection with any statewide  
17 ballot proposition the total of expenditures made shall not exceed  
18 one hundred thousand dollars. The total of such expenditures in any  
19 election campaign in connection with any other ballot proposition  
20 shall not exceed ten cents multiplied by the number of voters regis-  
21 tered in the constituency voting on such proposition.

## 22 CHAPTER II. LOBBYIST REPORTING

23 Sec. 15. REGISTRATION OF LOBBYISTS. (1) Before doing any  
24 lobbying, or within thirty days after being employed as a lobbyist,  
25 whichever occurs first, a lobbyist shall register by filing with the  
26 commission a lobbyist registration statement, in such detail as the  
27 commission shall prescribe, showing:

28 (a) His name, permanent business address, and any temporary  
29 residential and business addresses in Thurston County during the leg-  
30 islative session;

31 (b) The name, address and occupation or business of the  
32 lobbyist's employer;

33 (c) The duration of his employment;

1 (d) His compensation for lobbying; how much he is to be paid  
2 for expenses, and what expenses are to be reimbursed; and a full and  
3 particular description of any agreement, arrangement or understanding  
4 according to which his compensation, or any portion thereof, is or  
5 will be contingent upon the success of any attempt to influence legis-  
6 lation.

7 (e) Whether the person from whom he receives said compensation  
8 employs him solely as a lobbyist or whether he is a regular employee  
9 performing services for his employer which include but are not limited  
10 to the influencing of legislation;

11 (f) The general subject or subjects of his legislative inter-  
12 est;

13 (g) A written authorization from each of the lobbyist's em-  
14 ployers confirming such employment;

15 (h) The name and address of the person who will have custody  
16 of the accounts, bills, receipts, books, papers, and documents re-  
17 quired to be kept under this act;

18 (i) If the lobbyist's employer is an entity (including, but  
19 not limited to, business and trade associations) whose members in-  
20 clude, or which as a representative entity undertakes lobbying  
21 activities for, businesses, groups, associations or organizations,  
22 the name and address of each member of such entity or person repre-  
23 sented by such entity whose fees, dues, payments or other consider-  
24 ation paid to such entity during either of the prior two years have  
25 exceeded five hundred dollars or who is obligated to or has agreed  
26 to pay fees, dues, payments or other consideration exceeding five  
27 hundred dollars to such entity during the current year.

28 (2) Any lobbyist who receives or is to receive compensation  
29 from more than one person for his services as a lobbyist shall file  
30 a separate notice of representation with respect to each such person;  
31 except that where a lobbyist whose fee for acting as such in respect  
32 to the same legislation or type of legislation is, or is to be, paid  
33 or contributed to by more than one person then such lobbyist may file

1 a single statement, in which he shall detail the name, business ad-  
2 dress and occupation of each person so paying or contributing, and  
3 the amount of the respective payments or contributions made by each  
4 such person.

5 (3) Whenever a change, modification, or termination of the  
6 lobbyist's employment occurs, the lobbyist shall, within one week of  
7 such change, modification or termination, furnish full information  
8 regarding the same by filing with the commission an amended registra-  
9 tion statement.

10 (4) Each lobbyist who has registered shall file a new regis-  
11 tration statement, revised as appropriate, each January, and failure  
12 to do so shall terminate his registration.

13 Sec. 16. EXEMPTION FROM REGISTRATION. The following persons  
14 and activities shall be exempt from registration and reporting under  
15 sections 15, 17, 19, and 20 of this act:

16 (1) Persons who limit their lobbying activities to appearance  
17 before public sessions of committees of the legislature, or public  
18 hearings of state agencies.

19 (2) News or feature reporting activities and editorial com-  
20 ment by working members of the press, radio, or television and the  
21 publication or dissemination thereof by a newspaper, book publisher,  
22 regularly published periodical, radio station, or television station.

23 (3) Lobbying without compensation or other consideration:  
24 PROVIDED, such person makes no expenditure for or on behalf of any  
25 member of the legislature or elected official or public officer or  
26 employee of the State of Washington in connection with such lobbying.  
27 Any person exempt under this subsection (3) may at his option register  
28 and report under this act.

29 (4) The Governor.

30 (5) The Lieutenant Governor.

31 (6) Except as provided by section 19(1), members of the leg-  
32 islature.

33 (7) Except as provided by section 19(1), persons employed by

1 the legislature for the purpose of aiding in the preparation and en-  
2 actment of legislation.

3 (8) Except as provided by section 19 elected state officers,  
4 state officers appointed by the Governor subject to confirmation by  
5 the Senate, and employees of any state agency.

6 Sec. 17. REPORTING BY LOBBYISTS. (1) Any lobbyist regis-  
7 tered under section 15 of this act and any person who lobbies shall  
8 file with the commission periodic reports of his activities signed by  
9 both the lobbyist and the lobbyist's employers. The reports shall be  
10 made in the form and manner prescribed by the commission. They shall  
11 be due quarterly and shall be filed within thirty days after the end  
12 of the calendar quarter covered by the report. In addition to the  
13 quarterly reports, while the legislature is in session, any lobbyist  
14 who lobbies with respect to any legislation shall file interim weekly  
15 periodic reports for each week that the legislature is in session,  
16 which reports need be signed only by the lobbyist and which shall be  
17 filed on each Tuesday for the activities of the week ending on the  
18 preceding Saturday.

19 (2) Each such quarterly and weekly periodic report shall con-  
20 tain:

21 (a) The totals of all expenditures made or incurred by such  
22 lobbyist or on behalf of such lobbyist by the lobbyist's employer  
23 during the period covered by the report, which totals shall be segre-  
24 gated according to financial category, including food and refresh-  
25 ments; living accommodations; advertising; travel; telephone; contri-  
26 butions; office expenses, including rent and the salaries and wages  
27 paid for staff and secretarial assistance, or the proportionate  
28 amount thereof, paid or incurred for lobbying activities; and other  
29 expenses or services; PROVIDED HOWEVER, that unreimbursed personal  
30 living and travel expenses of a lobbyist not incurred directly or  
31 indirectly for any lobbying purpose need not be reported; and PRO-  
32 VIDED FURTHER, that the interim weekly reports of legislative lobby-  
33 ists for the legislative session need show only the expenditures for

1 food and refreshments; living accommodations; travel; contributions;  
2 and such other categories as the commission shall prescribe by rule.  
3 Each individual expenditure of more than fifteen dollars for enter-  
4 tainment shall be identified by date, place, amount, and the names of  
5 all persons in the group partaking in or of such entertainment includ-  
6 ing any portion thereof attributable to the lobbyist's participation  
7 therein but without allocating any portion of such expenditure to  
8 individual participants.

9 (b) In the case of a lobbyist employed by more than one em-  
10 ployer, the proportionate amount of such expenditures in each category  
11 incurred on behalf of each of his employers.

12 (c) An itemized listing of each such expenditure in the na-  
13 ture of a contribution of money or of tangible or intangible personal  
14 property to any legislator, or for or on behalf of any legislator.  
15 All contributions made to, or for the benefit of, any legislator  
16 shall be identified by date, amount, and the name of the legislator  
17 receiving, or to be benefited by each such contribution.

18 (d) The subject matter of proposed legislation or rulemaking;  
19 the proposed rules, standards, rates or other legislative enactments  
20 under chap. 34.04 R.C.W. and chap 28B.19 R.C.W. (the state Administra-  
21 tive Procedure Acts) and the state agency considering the same; and  
22 the number of each senate or house bill, resolution, or other legis-  
23 lative activity which the lobbyist has been engaged in supporting or  
24 opposing during the reporting period; PROVIDED, that in the case of  
25 appropriations bills the lobbyist shall enumerate the specific sec-  
26 tion or sections which he supported or opposed.

27 Sec. 18. REPORTS BY EMPLOYERS OF REGISTERED LOBBYISTS. Every  
28 employer of a lobbyist registered under this act shall file with the  
29 commission on or before January 31st of each year a statement disclos-  
30 ing for the preceding twelve months the following information:

31 (1) The name of each elected official, candidate, or any  
32 member of his immediate family to whom such employer has paid any  
33 compensation, the value of such compensation and the consideration

1 given or performed in exchange for such compensation.

2 (2) The name of any corporation, partnership, joint venture,  
3 association, union or other entity of which any elected official,  
4 candidate, or any member of his immediate family is a member, offi-  
5 cer, partner, director, associate or employee and to which  
6 the employer has paid compensation, the value of such compensa-  
7 tion and the consideration given or performed in exchange for such  
8 compensation.

9 Sec. 19. LEGISLATIVE ACTIVITIES OF STATE AGENCIES AND OTHER  
10 UNITS OF GOVERNMENT. (1) Every legislator and every committee of  
11 the Legislature shall file with the commission quarterly reports list-  
12 ing the names, addresses, and salaries of all persons employed by the  
13 person or committee making the filing for the purpose of aiding in  
14 the preparation and enactment of legislation during the preceding  
15 quarter. The reports shall be made in the form and the manner pres-  
16 cribed by the commission and shall be filed between the first and  
17 tenth days of each calendar quarter.

18 (2) Unless expressly authorized by law, no state funds shall  
19 be used directly or indirectly for lobbying: PROVIDED, this shall  
20 not prevent state officers or employees from communicating with a  
21 member of the legislature on the request of that member; or communi-  
22 cating to the legislature, through the proper official channels,  
23 requests for legislative action or appropriations which are deemed  
24 necessary for the efficient conduct of the public business or actu-  
25 ally made in the proper performance of their official duties;  
26 PROVIDED FURTHER, that this subsection shall not apply to the legis-  
27 lative branch.

28 (3) Each state agency which expends state funds in lobbying  
29 pursuant to an express authorization by law or whose officers or  
30 employees communicate to members of the legislature on request of any  
31 member or communicate to the legislature requests for legislation or  
32 appropriations shall file with the commission quarterly statements  
33 providing the following information for the quarter just completed:

1 (a) The name of the agency filing the statement;

2 (b) The name, title, and job description and salary of each  
3 employee engaged in such legislative activity, a general description  
4 of the nature of his legislative activities, and the proportionate  
5 amount of his time spent on such activities.

6 (c) In the case of any communications to a member of the leg-  
7 islature in response to a request from the member, the name of the  
8 member making the request and the nature and subject of the request.

9 The statements shall be in the form and the manner prescribed  
10 by the commission and shall be filed within thirty days after the  
11 end of the quarter covered by the report.

12 (4) The provisions of this section shall not relieve any  
13 state officer or any employee of a state agency from complying with  
14 other provisions of this act, if such officer or employee is not  
15 otherwise exempted.

16 Sec. 20 GRASS ROOTS LOBBYING CAMPAIGNS. (1) Any person  
17 who has made expenditures not reported under other  
18 sections of this act, exceeding five hundred  
19 dollars in the aggregate within any three month  
20 period or exceeding two hundred dollars in the aggregate within any  
21 one month period in presenting a program addressed to the public, a  
22 substantial portion of which is intended, designed, or calculated  
23 primarily to influence legislation shall be required to register  
24 and report, as provided in subsection (2), as a sponsor of a grass  
25 roots lobbying campaign.

26 (2) Within thirty days after becoming a sponsor of a grass  
27 roots lobbying campaign, the sponsor shall register by filing with  
28 the commission a registration statement, in such detail as the com-  
29 mission shall prescribe, showing:

30 (a) The sponsor's name, address, and business or occupation,  
31 and, if the sponsor is not an individual, the names, addresses and  
32 titles of the controlling persons responsible for managing the  
33 sponsor's affairs.

1 (b) The names, addresses, and business or occupation of all  
2 persons organizing and managing the campaign, or hired to assist the  
3 campaign, including any public relations or advertising firms partici-  
4 pating in the campaign, and the terms of compensation for all such  
5 persons.

6 (c) The names and addresses of all persons contributing to the  
7 campaign, and the amount contributed by each contributor.

8 (d) The purpose of the campaign, including the specific legis-  
9 lation, rules, rates, standards or proposals which are the subject  
10 matter of the campaign.

11 (e) The totals of all expenditures made or incurred to date on  
12 behalf of the campaign, which totals shall be segregated according to  
13 financial category, including but not limited to the following:  
14 advertising, segregated by media and, in the case of large expendi-  
15 tures (as provided by rule of the commission), by outlet; contribu-  
16 tions; entertainment, including food and refreshments; office  
17 expenses including rent and the salaries and wages paid for staff and  
18 secretarial assistance, or the proportionate amount thereof paid or  
19 incurred for lobbying campaign activities; consultants; and printing  
20 and mailing expenses.

21 (3) Every sponsor who has registered under this section shall  
22 file monthly reports with the commission, which shall be filed by the  
23 tenth day of the month for the activity during the preceding month.  
24 The reports shall update the information contained in the sponsor's  
25 registration statement and in prior reports and shall show contribu-  
26 tions received and totals of expenditures made during the month, in  
27 the same manner as provided for in the registration statement.

28 (4) When the campaign has been terminated, the sponsor shall  
29 file a notice of termination with the final monthly report, which  
30 notice shall state the totals of all contributions and expenditures  
31 made on behalf of the campaign, in the same manner as provided for in  
32 the registration statement.

1 EMPLOYEES; STATEMENT, CONTENTS AND FILING. If any person registered  
2 or required to be registered as a lobbyist under this act employs, or  
3 if any employer of any person registered or required to be registered  
4 as a lobbyist under this act, employs any member of the legislature,  
5 or any member of any state board or commission, or any employee of the  
6 legislature, or any full-time state employee, if such new employee  
7 shall remain in the partial employ of the State or any agency thereof,  
8 then the new employer shall file a statement under oath with the com-  
9 mission setting out the nature of the employment, the name of the  
10 person to be paid thereunder, and the amount of pay or consideration  
11 to be paid thereunder. The statement shall be filed within fifteen  
12 days after the commencement of such employment.

13 Sec. 22. EMPLOYMENT OF UNREGISTERED PERSONS. It shall be a  
14 violation of this act for any person to employ for pay or any con-  
15 sideration, or pay or agree to pay any consideration to, a person to  
16 lobby who is not registered under this act except upon condition that  
17 such person register as a lobbyist as provided by this act, and such  
18 person does in fact so register as soon as practicable.

19 Sec. 23. DUTIES OF LOBBYISTS. A person required to register  
20 as a lobbyist under this act shall also have the following obliga-  
21 tions, the violation of which shall constitute cause for revocation of  
22 his registration, and may subject such person, and such person's em-  
23 ployer, if such employer aids, abets, ratifies or confirms any such  
24 act, to other civil liabilities, as provided by this act:

25 (1) Such persons shall obtain and preserve all accounts, bills,  
26 receipts, books, papers, and documents necessary to substantiate the  
27 financial reports required to be made under this act for a period of  
28 at least six years from the date of the filing of the statement con-  
29 taining such items, which accounts, bills, receipts, books, papers and  
30 documents shall be made available for inspection by the commission at  
31 any time: PROVIDED, that if a lobbyist is required under the terms of  
32 his employment contract to turn any records over to his employer,  
33 responsibility for the preservation of such records under this

1 subsection shall rest with such employer.

2 (2) In addition, a person required to register as a lobbyist  
3 shall not:

4 (a) Engage in any activity as a lobbyist before registering as  
5 such;

6 (b) Knowingly deceive or attempt to deceive any legislator as  
7 to any fact pertaining to any pending or proposed legislation;

8 (c) Cause or influence the introduction of any bill or amend-  
9 ment thereto for the purpose of thereafter being employed to secure  
10 its defeat;

11 (d) Knowingly represent an interest adverse to any of his em-  
12 ployers without first obtaining such employer's written consent  
13 thereto after full disclosure to such employer of such adverse inter-  
14 est;

15 (e) Exercise any undue influence, extortion, or unlawful re-  
16 taliation upon any legislator by reason of such legislator's position  
17 with respect to, or his vote upon, any pending or proposed legisla-  
18 tion.

#### 19 CHAPTER III. REPORTING OF ELECTED OFFICIALS FINANCIAL AFFAIRS

20 Sec. 24. ELECTED OFFICIALS REPORTS OF FINANCIAL AFFAIRS. (1)  
21 Every elected official (except President, Vice President and precinct  
22 committeemen) shall on or before January 31st of each year, and every  
23 candidate (except for the offices of President, Vice President and  
24 precinct committeeman) shall, within two weeks of becoming a candi-  
25 date, file with the commission a written statement sworn as to its  
26 truth and accuracy stating for himself and his immediate family for  
27 the preceding twelve months:

28 (a) Occupation, name of employer, and business address; and

29 (b) Each direct financial interest in excess of five thousand  
30 dollars in a bank or savings account or cash surrender value of any  
31 insurance policy; each other direct financial interest in excess of  
32 five hundred dollars; and the name, address, nature of entity, nature  
33 and value of each such direct financial interest; and

1 (c) The name and address of each creditor to whom the value of  
2 five hundred dollars or more was owed; the original amount of each  
3 debt to each such creditor; the amount of each debt owed to each cre-  
4 ditor as of the date of filing; the terms of repayment of each such  
5 debt; and the security given, if any, for each such debt: PROVIDED,  
6 that debts arising out of a "retail installment transaction" as de-  
7 fined in chap. 63.14 R.C.W. (Retail Installment Sales Act) need not be  
8 reported; and

9 (d) Every public or private office, directorship and position  
10 as trustee held; and

11 (e) All persons for whom actual or proposed legislation,  
12 rules, rates, or standards has been prepared, promoted, or opposed  
13 for current or deferred compensation; the description of such actual  
14 or proposed legislation, rules, rates or standards; and the amount of  
15 current or deferred compensation paid or promised to be paid; and

16 (f) The name and address of each governmental entity, corpor-  
17 ation, partnership, joint venture, sole proprietorship, association,  
18 union, or other business or commercial entity from whom compensation  
19 has been received in any form of a total value of five hundred dol-  
20 lars or more; the value of such compensation; and the consideration  
21 given or performed in exchange for such compensation; and

22 (g) The name of any corporation, partnership, joint venture,  
23 association, union or other entity in which is held any office, dir-  
24 ectorship or any general partnership interest, or an ownership inter-  
25 est of ten percent or more; the name or title of that office,  
26 directorship or partnership; the nature of ownership interest; and  
27 with respect to each such entity the name of each governmental entity,  
28 corporation, partnership, joint venture, sole proprietorship, associ-  
29 ation, union or other business or commercial entity from which such  
30 entity has received compensation in any form in the amount of five  
31 hundred dollars or more during the preceding twelve months and the  
32 consideration given or performed in exchange for such compensation;  
33 and

1 (h) A list, including legal descriptions, of all real prop-  
2 erty in the State of Washington, the assessed valuation of which  
3 exceeds two thousand five hundred dollars in which any direct finan-  
4 cial interest was acquired during the preceding calendar year, and a  
5 statement of the amount and nature of the financial interest and of  
6 the consideration given in exchange for such interest; and

7 (i) A list, including legal descriptions, of all real prop-  
8 erty in the State of Washington, the assessed valuation of which  
9 exceeds two thousand five hundred dollars in which any direct finan-  
10 cial interest was divested during the preceding calendar year, and a  
11 statement of the amount and nature of the consideration received in  
12 exchange for such interest, and the name and address of the person  
13 furnishing such consideration; and

14 (j) A list, including legal descriptions, of all real prop-  
15 erty in the State of Washington, the assessed valuation of which  
16 exceeds two thousand five hundred dollars in which a direct financial  
17 interest was held: PROVIDED, that if a description of such property  
18 has been included in a report previously filed, such property may be  
19 listed, for purposes of this provision, by reference to such previ-  
20 ously filed report;

21 (k) A list, including legal descriptions, of all real prop-  
22 erty in the State of Washington, the assessed valuation of which  
23 exceeds five thousand dollars, in which a corporation, partnership,  
24 firm, enterprise or other entity had a direct financial interest, in  
25 which corporation, partnership, firm or enterprise a ten percent or  
26 greater ownership interest was held; and

27 (l) Such other information as the commission may deem neces-  
28 sary in order to properly carry out the purposes and policies of  
29 this act, as the commission shall by rule prescribe.

30 (2) Where an amount is required to be reported under sub-  
31 section (1), paragraphs (a) through (k) of this section, it shall be  
32 sufficient to comply with such requirement to report whether the  
33 amount is less than one thousand dollars, at least one thousand

1 dollars but less than five thousand dollars, at least five  
2 thousand dollars but less than ten thousand dollars, at least  
3 ten thousand dollars but less than twenty-five thousand dollars,  
4 or twenty-five thousand dollars or more. An amount of stock may  
5 be reported by number of shares instead of by market value. No  
6 provision of this subsection shall be interpreted to prevent any per-  
7 son from filing more information or more detailed information than  
8 required.

9 (3) Elected official and candidates reporting under this  
10 section shall not be required to file the statements required to be  
11 filed with the Secretary of State under R.C.W. 42.21.060.

#### 12 CHAPTER IV. PUBLIC RECORDS

13 Sec. 25. DUTY TO PUBLISH PROCEDURES. (1) Each state agency  
14 shall separately state and currently publish in the Washington Admin-  
15 istrative Code and each local agency shall prominently display and  
16 make available for inspection and copying at the central office of  
17 such local agency, for guidance of the public:

18 (a) descriptions of its central and field organization and  
19 the established places at which, the employees from whom, and the  
20 methods whereby, the public may obtain information, make submissions  
21 or requests, or obtain copies of agency decisions;

22 (b) statements of the general course and method by which its  
23 operations are channeled and determined, including the nature and  
24 requirements of all formal and informal procedures available;

25 (c) rules of procedure;

26 (d) substantive rules of general applicability adopted as  
27 authorized by law, and statements of general policy or interpreta-  
28 tions of general applicability formulated and adopted by the agency;  
29 and

30 (e) each amendment or revision to, or repeal of any of the  
31 foregoing.

32 (2) Except to the extent that he has actual and timely notice  
33 of the terms thereof, a person may not in any manner be required to

1 resort to, or be adversely affected by, a matter required to be pub-  
2 lished or displayed and not so published or displayed.

3 Sec. 26. DOCUMENTS AND INDEXES TO BE MADE PUBLIC. (1) Each  
4 agency, in accordance with published rules, shall make available for  
5 public inspection and copying all public records. To the extent re-  
6 quired to prevent an unreasonable invasion of personal privacy, an  
7 agency shall delete identifying details when it makes available or  
8 publishes any public record; however, in each case, the justification  
9 for the deletion shall be explained fully in writing.

10 (2) Each agency shall maintain and make available for public  
11 inspection and copying a current index providing identifying informa-  
12 tion as to the following records issued, adopted, or promulgated after  
13 June 30, 1972:

14 (a) final opinions, including concurring and dissenting  
15 opinions, as well as orders, made in the adjudication of cases;

16 (b) those statements of policy and interpretations of policy,  
17 statute and the Constitution which have been adopted by the agency;

18 (c) administrative staff manuals and instructions to staff  
19 that affect a member of the public;

20 (d) planning policies and goals, and interim and final plan-  
21 ning decisions;

22 (e) factual staff reports and studies, factual consultant's  
23 reports and studies, scientific reports and studies, and any other  
24 factual information derived from tests, studies, reports or surveys,  
25 whether conducted by public employees or others; and

26 (f) correspondence, and materials referred to therein, by and  
27 with the agency relating to any regulatory, supervisory or enforce-  
28 ment responsibilities of the agency, whereby the agency determines, or  
29 opines upon, or is asked to determine or opine upon, the rights of the  
30 state, the public, a subdivision of state government, or of any pri-  
31 vate party.

32 (3) An agency need not maintain such an index, if to do so  
33 would be unduly burdensome, but it shall in that event:

1 (a) issue and publish a formal order specifying the reasons  
2 why and the extent to which compliance would unduly burden or inter-  
3 fere with agency operations; and

4 (b) make available for public inspection and copying all in-  
5 dexes maintained for agency use.

6 (4) A public record may be relied on, used, or cited as pre-  
7 cedent by an agency against a party other than an agency and it may  
8 be invoked by the agency for any other purpose only if--

9 (a) it has been indexed in an index available to the public;  
10 or

11 (b) parties affected have timely notice (actual or construc-  
12 tive) of the terms thereof.

13 (5) This act shall not be construed as giving authority to  
14 any agency to give, sell or provide access to lists of individuals  
15 requested for commercial purposes, and agencies shall not do so un-  
16 less specifically authorized or directed by law.

17 Sec. 27. FACILITIES FOR COPYING. Public records shall be  
18 available to any person for inspection and copying, and agencies  
19 shall, upon request for identifiable records, make them promptly  
20 available to any person. Agency facilities shall be made available  
21 to any person for the copying of public records except when and to  
22 the extent that this would unreasonably disrupt the operations of the  
23 agency.

24 Sec. 28. TIMES FOR INSPECTION AND COPYING. Public records  
25 shall be available for inspection and copying during the customary  
26 office hours of the agency: PROVIDED, that if the agency does not  
27 have customary office hours of at least thirty hours per week, the  
28 public records shall be available from nine o'clock a.m. to noon and  
29 from one o'clock p.m. to four o'clock p.m. Monday through Friday,  
30 excluding legal holidays, unless the person making the request and  
31 the agency or its representative agree on a different time.

32 Sec. 29. PROTECTION OF PUBLIC RECORDS. Agencies shall adopt  
33 and enforce reasonable rules and regulations, consonant with the

1 intent of this act to provide full public access to official records,  
2 to protect public records from damage or disorganization, and to pre-  
3 vent excessive interference with other essential functions of the  
4 agency. Such rules and regulations shall provide for the fullest  
5 assistance to inquirers and the most timely possible action on re-  
6 quests for information.

7 Sec. 30. CHARGES FOR COPYING. No fee shall be charged for  
8 the inspection of public records. Agencies may impose a reasonable  
9 charge for providing copies of public records and for the use by any  
10 person of agency equipment to copy public records, which charges  
11 shall not exceed the amount necessary to reimburse the agency for its  
12 actual costs incident to such copying.

13 Sec. 31. CERTAIN PERSONAL AND OTHER RECORDS EXEMPT. (1) The  
14 following shall be exempt from public inspection and copying:

15 (a) Personal information in any files maintained for students  
16 in public schools, patients or clients of public institutions or pub-  
17 lic health agencies, welfare recipients, prisoners, probationers or  
18 parolees.

19 (b) Personal information in files maintained for employees,  
20 appointees or elected officials of any public agency to the extent  
21 that disclosure would violate their right to privacy.

22 (c) Information required of any taxpayer in connection with  
23 the assessment or collection of any tax if the disclosure of the in-  
24 formation to other persons would violate the taxpayer's right to  
25 privacy or would result in unfair competitive disadvantage to such  
26 taxpayer.

27 (d) Specific intelligence information and specific investi-  
28 gative files compiled by investigative, law enforcement and penology  
29 agencies, and state agencies vested with the responsibility to dis-  
30 cipline members of any profession, the non-disclosure of which is  
31 essential to effective law enforcement or for the protection of any  
32 person's right to privacy.

33 (e) Information revealing the identity of persons who file

1 complaints with investigative, law enforcement or penology agencies,  
2 except as the complainant may authorize.

3 (f) Test questions, scoring keys, and other examination data  
4 used to administer a license, employment or academic examination.

5 (g) Except as provided by chap. 8.26 R.C.W., the contents  
6 of real estate appraisals, made for or by any agency relative to the  
7 acquisition of property, until the project is abandoned or until such  
8 time as all of the property has been acquired, but in no event shall  
9 disclosure be denied for more than three years after the appraisal.

10 (h) Valuable formulae, designs, drawings and research data  
11 obtained by any agency within five years of the request for disclo-  
12 sure when disclosure would produce private gain and public loss.

13 (i) Preliminary drafts, notes, recommendations, and intra-  
14 agency memorandums in which opinions are expressed or policies  
15 formulated or recommended except that a specific record shall not be  
16 exempt when publicly cited by an agency in connection with any agency  
17 action.

18 (j) Records which are relevant to a controversy to which an  
19 agency is a party but which records would not be available to another  
20 party under the rules of pretrial discovery for causes pending in the  
21 superior courts.

22 (2) The exemptions of this section shall be inapplicable to  
23 the extent that information, the disclosure of which would violate  
24 personal privacy or vital governmental interests, can be deleted  
25 from the specific records sought. No exemption shall be construed  
26 to permit the nondisclosure of statistical information not descrip-  
27 tive of any readily identifiable person or persons.

28 (3) Inspection or copying of any specific records, exempt  
29 under the provisions of this section, may be permitted if the superior  
30 court in the county in which the record is maintained finds, after a  
31 hearing with notice thereof to every person in interest and the agency,  
32 that the exemption of such records, is clearly unnecessary to protect  
33 any individual's right to privacy or any vital governmental function.

1 (4) Agency responses refusing, in whole or part, inspection of  
2 any record shall include a statement of the specific exemption author-  
3 izing the withholding of the record (or part) and a brief explanation  
4 of how the exemption applies to the record withheld.

5 Sec. 32. PROMPT RESPONSES REQUIRED. Responses to requests for  
6 records shall be made promptly by agencies. Denials of requests must  
7 be accompanied by a written statement of the specific reasons there-  
8 for. Agencies shall establish mechanisms for the most prompt possible  
9 review of decisions denying inspection, and such review shall be  
10 deemed completed at the end of the second business day following the  
11 denial of inspection and shall constitute final agency action for the  
12 purposes of judicial review.

13 Sec. 33. COURT PROTECTION OF RECORDS. The examination of any  
14 specific record may be enjoined if, upon motion and affidavit, the  
15 superior court for the county in which the movant resides or in which  
16 the record is maintained, finds that such examination would clearly  
17 not be in the public interest and would substantially and irreparably  
18 damage any person, or would substantially and irreparably damage vital  
19 governmental functions.

20 Sec. 34. JUDICIAL REVIEW OF AGENCY ACTIONS. (1) Upon the mo-  
21 tion of any person having been denied an opportunity to inspect or copy a  
22 public record by an agency, the superior court in the county in which  
23 a record is maintained may require the responsible agency to show cause  
24 why it has refused to allow inspection or copying of a specific record  
25 or class of records. The burden of proof shall be on the agency to  
26 establish that refusal to permit public inspection and copying is required.

27 (2) Judicial review of all agency actions taken or challenged  
28 under Sections 25 through 32 of this act shall be de novo. Courts  
29 shall take into account the policy of this act that free and open  
30 examination of public records is in the public interest, even though  
31 such examination may cause inconvenience or embarrassment to public  
32 officials or others. Courts may examine any record in camera in any  
33 proceeding brought under this section.

1 (3) Any person who prevails against an agency in any action  
2 in the courts seeking the right to inspect or copy any public record  
3 shall be awarded all costs, including reasonable attorney fees, in-  
4 curred in connection with such legal action. In addition, it shall  
5 be within the discretion of the court to award such person an amount  
6 not to exceed twenty-five dollars for each day that he was denied the  
7 right to inspect or copy said public record.

8 CHAPTER V. ADMINISTRATION AND ENFORCEMENT

9 Sec. 35. COMMISSION--ESTABLISHED--MEMBERSHIP. There is here-  
10 by established a "Public Disclosure Commission" which shall be com-  
11 posed of five members who shall be appointed by the governor, with  
12 the consent of the senate. All appointees shall be persons of the  
13 highest integrity and qualifications. No more than three members  
14 shall have an identification with the same political party. The ori-  
15 ginal members shall be appointed within sixty days after the effec-  
16 tive date of this act. The term of each member shall be five years  
17 except that the original five members shall serve initial terms of  
18 one, two, three, four and five years, respectively, as designated by  
19 the governor. No member of the commission, during his tenure, shall

20 (1) hold or campaign for elective office; (2) be an officer of any  
21 political party or political committee; (3) permit his name to be  
22 used, or make contributions, in support of or in opposition to any  
23 candidate or proposition; (4) participate in any way in any election  
24 campaign; or (5) lobby or employ or assist a lobbyist. No member  
25 shall be eligible for appointment to more than one full term. A  
26 vacancy on the commission shall be filled within thirty days of the  
27 vacancy by the governor, with the consent of the senate, and the  
28 appointee shall serve for the remaining term of his predecessor. A  
29 vacancy shall not impair the powers of the remaining members to exer-  
30 cise all of the powers of the commission. Three members of the com-  
31 mission shall constitute a quorum. The commission shall elect its  
32 own chairman and adopt its own rules of procedure in the manner pro-  
33 vided in chap. 34.04 R.C.W. Any member of the commission may be

1 removed by the governor, but only upon grounds of neglect of duty  
2 or misconduct in office.

3 Members shall serve without compensation, but shall be reim-  
4 bursed for necessary traveling and lodging expenses actually incurred  
5 while engaged in the business of the commission as provided in chap.  
6 43.03 R.C.W.

7 Sec. 36. COMMISSION--DUTIES. The commission shall:

8 (1) Develop and provide forms for the reports and statements  
9 required to be made under this act;

10 (2) Prepare and publish a manual setting forth recommended  
11 uniform methods of bookkeeping and reporting for use by persons re-  
12 quired to make reports and statements under this act;

13 (3) Compile and maintain a current list of all filed reports  
14 and statements;

15 (4) Investigate whether properly completed statements and re-  
16 ports have been filed within the times required by this act;

17 (5) Upon complaint or upon its own motion, investigate and  
18 report apparent violations of this act to the appropriate law en-  
19 forcement authorities;

20 (6) Prepare and publish an annual report to the governor as  
21 to the effectiveness of this act and its enforcement by appropriate  
22 law enforcement authorities; and

23 (7) Enforce this act according to the powers granted it by law.

24 Sec. 37. COMMISSION--ADDITIONAL POWERS. The commission is  
25 empowered to:

26 (1) Adopt, promulgate, amend and rescind suitable administra-  
27 tive rules and regulations to carry out the policies and purposes of  
28 this act;

29 (2) Prepare and publish such reports and technical studies  
30 as in its judgment will tend to promote the purposes of this act,  
31 including reports and statistics concerning campaign financing,  
32 lobbying, financial interests of elected officials, and enforcement  
33 of this act;

1 (3) Make from time to time, on its own motion, audits and  
2 field investigations;

3 (4) Make public the fact that an alleged or apparent violation  
4 has occurred and the nature thereof;

5 (5) Administer oaths and affirmations, subpoena witnesses,  
6 compel their attendance, take evidence and require the production of  
7 any books, papers, correspondence, memorandums or other records which  
8 the commission deems relevant or material for the purpose of any in-  
9 vestigation authorized under this act, or any other proceeding under  
10 this act;

11 (6) Adopt and promulgate a Code of Fair Campaign Practices;

12 (7) Relieve, by published regulation of general applicability,  
13 candidates or political committees of obligations to comply with the  
14 provisions of this act relating to election campaigns, if they have  
15 not received contributions nor made expenditures in connection with  
16 any election campaign of more than one thousand dollars; and

17 (8) Enact regulations prescribing reasonable requirements for  
18 keeping accounts of and reporting on a quarterly basis costs in-  
19 curred by state agencies, counties, cities and other municipalities  
20 and political subdivisions in preparing, publishing and distributing  
21 legislative information. The term "legislative information," for the  
22 purposes of this subsection, means books, pamphlets, reports and  
23 other materials prepared, published or distributed at substantial  
24 cost, a substantial purpose of which is to influence the passage or  
25 defeat of any legislation. The state auditor in his regular exami-  
26 nation of each agency under chap. 43.09 R.C.W. shall review such  
27 regulations, accounts and reports and make appropriate findings,  
28 comments and recommendations in his examination reports concerning  
29 those agencies.

30 (9) The commission, after hearing, by order may suspend or  
31 modify any of the reporting requirements hereunder in a particular  
32 case if it finds that literal application of this act works a  
33 manifestly unreasonable hardship and if it also finds that such

1 suspension or modification will not frustrate the purposes of the  
2 act. Any such suspension or modification shall be only to the  
3 extent necessary to substantially relieve the hardship. The  
4 commission shall act to suspend or modify any reporting require-  
5 ments only if it determines that facts exist that are clear  
6 and convincing proof of the findings required hereunder. Any  
7 citizen shall have standing to bring an action in Thurston County  
8 Superior Court to contest the propriety of any order entered  
9 hereunder within one year from the date of the entry of such order.

10 Sec. 38. SECRETARY OF STATE, ATTORNEY GENERAL--DUTIES.

11 (1) The secretary of state, through his office, shall perform  
12 such ministerial functions as may be necessary to enable the com-  
13 mission to carry out its responsibilities under this act. The  
14 office of the secretary of state shall be designated as the  
15 place where the public may file papers or correspond with the  
16 commission and receive any form or instruction from the commis-  
17 sion.

18 (2) The attorney general, through his office, shall supply  
19 such assistance as the commission may require in order to carry  
20 out its responsibilities under this act. The commission may  
21 employ attorneys who are neither the attorney general nor an  
22 assistant attorney general to carry out any function of the  
23 attorney general prescribed in this section.

24 Sec. 39. CIVIL REMEDIES AND SANCTIONS. (1) One or  
25 more of the following civil remedies and sanctions may be im-  
26 posed by the court order in addition to any other remedies pro-  
27 vided by law:

28 (a) If the court finds that the violation of any provision  
29 of this act by any candidate or political committee probably affec-  
30 ted the outcome of any election, the result of said election may be  
31 held void and a special election held within sixty days of such finding.  
32 Any action to void an election shall be commenced within one year of  
33 the date of the election in question. It is intended that this

1 remedy be imposed freely in all appropriate cases to protect the  
2 right of the electorate to an informed and knowledgeable vote.

3 (b) If any lobbyist or sponsor of any grass roots lobbying  
4 campaign violates any of the provisions of this act, his registration  
5 may be revoked or suspended and he may be enjoined from receiving  
6 compensation or making expenditures for lobbying: PROVIDED, however,  
7 that imposition of such sanction shall not excuse said lobbyist from  
8 filing statements and reports required by this act.

9 (c) Any person who violates any of the provisions of this  
10 act may be subject to a civil penalty of not more than ten thousand  
11 dollars for each such violation.

12 (d) Any person who fails to file a properly completed state-  
13 ment or report within the time required by this act may be subject to  
14 a civil penalty of ten dollars per day for each day each such delin-  
15 quency continues.

16 (e) Any person who fails to report a contribution or expendi-  
17 ture may be subject to a civil penalty equivalent to the amount he  
18 failed to report.

19 (f) The court may enjoin any person to prevent the doing of  
20 any act herein prohibited, or to compel the performance of any act  
21 required herein.

22 Sec. 40. ENFORCEMENT. (1) The attorney general and the  
23 prosecuting authorities of political subdivisions of this state may  
24 bring civil actions in the name of the state for any appropriate civil  
25 remedy, including but not limited to the special remedies provided in  
26 Section 39.

27 (2) The attorney general and the prosecuting authorities of  
28 political subdivisions of this state may investigate or cause to be  
29 investigated the activities of any person who there is reason to be-  
30 lieve is or has been acting in violation of this act, and may require  
31 any such person or any other person reasonably believed to have in-  
32 formation concerning the activities of such person to appear at a  
33 time and place designated in the county in which such person resides

1 or is found, to give such information under oath and to produce all  
2 accounts, bills, receipts, books, papers, and documents which may be  
3 relevant or material to any investigation authorized under this act.

4 (3) When the attorney general or the prosecuting authority of  
5 any political subdivision of this state requires the attendance of  
6 any person to obtain such information or the production of the ac-  
7 counts, bills, receipts, books, papers, and documents which may be  
8 relevant or material to any investigation authorized under this act,  
9 he shall issue an order setting forth the time when and the place  
10 where attendance is required and shall cause the same to be delivered  
11 to or sent by registered mail to the person at least fourteen days  
12 before the date fixed for attendance. Such order shall have the same  
13 force and effect as a subpoena, shall be effective state-wide, and,  
14 upon application of the attorney general or said prosecuting author-  
15 ity, obedience to the order may be enforced by any superior court  
16 judge in the county where the person receiving it resides or is found,  
17 in the same manner as though the order were a subpoena. The court,  
18 after hearing, for good cause, and upon application of any person  
19 aggrieved by the order, shall have the right to alter, amend, revise,  
20 suspend, or postpone all or any part of its provisions. In any case  
21 where the order is not enforced by the court according to its terms,  
22 the reasons for the court's actions shall be clearly stated in writ-  
23 ting, and such action shall be subject to review by the appellate  
24 courts by certiorari or other appropriate proceeding.

25 (4) Any person who has notified the attorney general in writ-  
26 ting that there is reason to believe that some provision of this act  
27 is being or has been violated may himself bring in the name of the  
28 state any of the actions (hereinafter referred to as a citizen's  
29 action) authorized under this act if the attorney general has failed  
30 to commence an action hereunder within forty days after such notice  
31 and if the attorney general has failed to commence an action within  
32 ten days after a notice in writing delivered to the attorney general  
33 advising him that a citizen's action will be brought if the attorney

1 general does not bring an action if the person who brings the citi-  
2 zen's action prevails, he shall be entitled to one-half of any judg-  
3 ment awarded, and to the extent the costs and attorney's fees he  
4 has incurred exceed his share of the judgment, he shall be entitled  
5 to be reimbursed for such costs and fees by the State of Washington.  
6 PROVIDED, that in the case of a citizen's action which is dismissed  
7 and which the court also finds was brought without reasonable cause,  
8 the court may order the person commencing the action to pay all costs  
9 of trial and reasonable attorney's fees incurred by the defendant.

10 (5) In any action brought under this section, the court may  
11 award to the state all costs of investigation and trial, including a  
12 reasonable attorney's fee to be fixed by the court. If the violation is  
13 found to have been intentional, the amount of the judgment, which shall  
14 for this purpose include the costs, may be trebled as punitive damages.  
15 If damages or treble damages are awarded in such an action brought  
16 against a lobbyist, the judgment may be awarded against the lobbyist,  
17 and the lobbyist's employer or employers joined as defendants, jointly  
18 severally, or both. If the defendant prevails, he shall be awarded all  
19 costs of trial, and may be awarded a reasonable attorney's fee to be  
20 fixed by the court to be paid by the State of Washington.

21 Sec. 41. LIMITATION ON ACTIONS. A y action brought under the  
22 provisions of this act must be commenced within six years after the  
23 date when the violation occurred.

24 Sec. 42. DATE OF MAILING DEEMED DATE OF RECEIPT. When any  
25 application, report, statement, notice, or payment required to be  
26 made under the provisions of this act has been deposited post-paid  
27 in the United States mail properly addressed, it shall be deemed to  
28 have been received on the date of mailing. It shall be presumed that  
29 the date shown by the post office cancellation mark on the envelope  
30 is the date of mailing.

31 Sec. 43. CERTIFICATION OF REPORTS. Every report and state-  
32 ment required to be filed under this act shall identify the person  
33 preparing it, and shall be certified as complete and correct, both by

1 the person preparing it and by the person or whose behalf it is filed.

2 Sec. 44. STATEMENTS AND REPORTS PUBLIC RECORDS. All state-  
3 ments and reports filed under this act shall be public records of the  
4 agency where they are filed, and shall be available for public inspec-  
5 tion and copying during normal business hours at the expense of the  
6 person requesting copies, provided that the charge for such copies  
7 shall not exceed actual cost to the agency.

8 Sec. 45. DUTY TO PRESERVE STATEMENTS AND REPORTS. Persons  
9 with whom statements or reports or copies of statements or reports  
10 are required to be filed under this act shall preserve them for not  
11 less than six years. The commission, however, shall preserve such  
12 statements or reports for not less than ten years.

13 Sec. 46. SEVERABILITY. If any provision of this act or its  
14 application to any person or circumstance is held invalid, the re-  
15 mainder of the act, or the application of the provision to other  
16 persons or circumstances is not affected.

17 Sec. 47. CONSTRUCTION. The provisions of this act are to be  
18 liberally construed to effectuate the policies and purposes of this  
19 act. In the event of conflict between the provisions of this act and  
20 any other act, the provisions of this act shall govern.

21 Sec. 48. CHAPTER AND SECTION HEADINGS NOT PART OF LAW. Chap-  
22 ter and section captions or headings as used in this act do not  
23 constitute any part of the law.

24 Sec. 49. EFFECTIVE DATE. The effective date of this act  
25 shall be January 1, 1973.

26 Sec. 50. REPEALS. Chap. 9, Laws of 1965, as amended by  
27 sec. 9, chap. 150, Laws of 1965 ex. sess., and R.C.W. 29.18.140, and  
28 chap. 131, Laws of 1967 ex. sess. and R.C.W. 44.64; and chap. 42,  
29 Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 24  
30 and chap. 98, Laws of 1972 (42nd Leg. 2nd Ex. Sess. and Referendum  
31 Bill No. 25 are each hereby repealed.

None under Comm not Lt. gov.  
exemption less than \$1000

exemption on and not frustrate's purpose of law

Sec 30 exemption of records

P-24-  
P-26 2,500 limit on real property

report in ranges on property value

Stock reported by no. of shares

interest of \$,000 in banks

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

FINANCIAL DISCLOSURES AND LIMITATIONS AFFECTING POLITICAL CAMPAIGNS, PUBLIC OFFICIALS AND LOBBYISTS -- OTHER MATTERS. INITIATIVE. REQUIRES REPORTS OF RECEIPTS AND EXPENDITURES IN CAMPAIGNS FOR STATE AND LOCAL OFFICES AND BALLOT MEASURES. LIMITS EXPENDITURES FOR STATE-WIDE CANDIDATES AND MEASURES. PROHIBITS PUBLIC OFFICIALS FROM PARTICIPATING IN GOVERNMENTAL DECISIONS AFFECTING THEIR "FINANCIAL INTERESTS." REQUIRES DISCLOSURE OF CERTAIN ASSETS AND INCOME BY CERTAIN PUBLIC OFFICIALS. REQUIRES "LOBBYISTS" TO REGISTER AND FILE REPORTS SHOWING RECEIPTS AND EXPENDITURES IN LOBBYING ACTIVITIES. CREATES FAIR POLITICAL PRACTICES COMMISSION. REVISES BALLOT PAMPHLET REQUIREMENTS. PROVIDES CRIMINAL AND CIVIL SANCTIONS FOR VIOLATIONS. ENACTS AND REPEALS STATUTES ON OTHER MISCELLANEOUS AND ABOVE MATTERS. IF THE PROPOSED INITIATIVE IS ADOPTED, UNDEFINED ADDITIONAL FINANCING FROM STATE SOURCES WILL BE REQUIRED IN THE AMOUNTS OF \$930,000 FOR FISCAL YEAR 1974-75, \$1,630,000 IN EACH SUBSEQUENT FISCAL YEAR IN WHICH A GENERAL ELECTION IS HELD AND \$1,100,000 IN EACH FISCAL YEAR IN WHICH NO GENERAL ELECTION IS HELD.

The People of the State of California do enact as follows:

SECTION 1. Title 9 is added to the Government Code as follows:

TITLE 9. POLITICAL REFORM
CHAPTER 1. GENERAL

81000. This title shall be known and may be cited as the "Political Reform Act of 1974."

81001. The people find and declare as follows:
(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth.

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.

(c) Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from lobbyists and organizations who thereby gain disproportionate influence over governmental decisions.

(d) The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate.

(e) Lobbyists often make their contributions to incumbents who cannot be effectively challenged because of election laws and abusive practices which give the incumbent an unfair advantage.

(f) The wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions.

(g) The influence of large campaign contributors in ballot measure elections is increased because the ballot pamphlet mailed to the voters by the state is difficult to read and almost impossible for a layman to understand.

(h) Previous laws regulating political practices have suffered from inadequate enforcement by state and local authorities.

81002. The people enact this title to accomplish the following purposes:
(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The amounts that may be expended in statewide elections should be limited in order that the importance of money in such elections may be reduced.

(c) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(d) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(e) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(f) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(g) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

81003. This title should be liberally construed to accomplish its purposes.

81004. All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete. A report or statement filed by a committee shall be signed and verified by the treasurer, and a report or statement filed by any other organization shall be signed and verified by a responsible officer of the organization or by an attorney or a certified public accountant. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which he knows to be false is guilty of perjury.

81005. Reports and statements required by this title shall be filed as follows:

(a) Reports and statements required by Chapter 6 and reports and statements of statewide elected officers, candidates for statewide elective office, committees supporting such candidates, state central committees of political parties, and committees supporting or opposing statewide measures -- one original and one copy with the Secretary of State and, except for reports and statements required by Chapter 6, two copies with the clerk of Los Angeles County and two copies with the clerk of the City and County of San Francisco.

(b) Reports and statements of candidates for and persons holding the office of superior court judge, member of the State Legislature, and member of the Board of Equalization, and of committees supporting such candidates -- one original and one copy with the Secretary of State, and two copies with the clerk of each county which in whole or in part is included in the district.

(c) Reports and statements of candidates for and persons holding any elective office not mentioned above which is voted upon in more than one county, of committees supporting such candidates and committees supporting or opposing measures to be voted on in more than one county but not statewide -- one original and one copy with the clerk of the county having the largest population, and two copies with the clerk of each additional county wholly or partially included in the district.

(d) Reports and statements of candidates for and persons holding any elective office not mentioned above which is voted upon wholly within one city, of committees supporting such candidates and committees supporting or opposing measures to be voted upon wholly within one city -- one original and one copy with the city clerk.

(e) Reports and statements of candidates for and persons holding any elective office not mentioned above, of committees supporting such candidates and committees supporting or opposing measures to be voted upon in not more than one county -- one original and one copy with the county clerk.

(f) All reports and statements required by Chapter 7 -- one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body.

81006. No fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared, except that lobbyists may be charged not more than twenty-five dollars (\$25) per year for registration.

81007. When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first-class registered mail, addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him on the date of the deposit in the mail. It shall be presumed until the contrary is established that the date shown by the post office cancellation mark on the envelope containing the report or statement is the date it was deposited in the mail.

81008. Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from such persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. Campaign statements shall be open for public inspection and reproduction from 9:00 a.m. to 5:00 p.m. on the Saturday and Sunday preceding a statewide election.

81009. Original reports and statements filed pursuant to this title shall be preserved by the filing officer. One copy shall be preserved by each additional officer with whom copies are filed for four years, and may thereafter be destroyed.

81010. With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

- (a) Supply the necessary forms and manuals prescribed by the Commission;
(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;
(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;
(d) Report apparent violations of this title to the appropriate agencies; and
(e) Compile and maintain a current list of all reports and statements filed with his office.

81011. Whenever in this title the amount of goods, services, facilities or anything of value other than money is required to be reported, the amount shall be the estimated fair market value at the time received or expended, and a description of the goods, services, or facilities shall be appended to the report or statement.

81012. This title may be amended or repealed by the procedures set forth in this section. If any portion of subsection (a) is declared invalid, then subsection (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring and signed by the governor, if at least forty days prior to passage in each house the bill in its final form has been delivered to the Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

81013. Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

81014. Whenever any reference is made in this title to a federal or state statute and that statute has been or is subsequently repealed or amended, the Commission may promulgate regulations to carry out the intent of this title as nearly as possible.

81015. If any provision of this title, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this title to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this title are severable.

81016. Chapter 8 of this title shall go into effect immediately. The Director of Finance shall make sufficient funds available to the Secretary of State out of the emergency fund or any other fund of the state for the immediate implementation of Chapter 8. The remainder of this title shall go into effect on January 7, 1975. Whenever reference is made in this title to the effective date of this title, the date referred to is January 7, 1975.

CHAPTER 2. DEFINITIONS

81020. Unless the contrary is stated or clearly appears from the context, the definitions set forth in this chapter shall govern the interpretation of this title.

81021. "Adjusting an account for cost of living changes" means multiplying the amount by a multi-year deflator issued at the beginning of each year by the Director of Finance to reflect changes in the price level, and the change between the beginning and the end of the year.

82002. "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency, of any rule, regulation or other action in any rule-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 4.5 of Division 3 of Title 2 of the Government Code (beginning with Section 11371).

82003. "Agency" means any state agency or local government agency.

82004. "Agency official" means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity.

82005. "Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

82006. "Campaign statement" means an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by Chapter 4 of this title.

82007. "Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or makes an expenditure or gives his consent for any other person to receive a contribution or make an expenditure with a view to bringing about his nomination or election to any elective office, whether or not the specific elective office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he has announced his candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any officeholder who is the subject of a recall election. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971.

82008. "City" means a general law or a chartered city.

82009. "Civil service employee" means any state employee who is covered by the state civil service system or any employee of a local government agency who is covered by a similar personnel system.

82009.5. "Clerk" refers to the city or county clerk unless the city council or board of supervisors has designated any other agency to perform the specified function.

82010. "Closing date" means the date through which any report or statement filed under this title is required to be complete.

82011. "Code revising body" means:  
(a) The Commission, with respect to the Conflict of Interest Code of a state agency, a county board of supervisors, a city council, or any local government agency with jurisdiction in more than one county;  
(b) The board of supervisors, with respect to the Conflict of Interest Code of any county agency other than the board of supervisors, and of any local government agency, other than a city agency, with jurisdiction wholly within the county;  
(c) The city council, with respect to the Conflict of Interest Code of any city agency other than the city council; and  
(d) The Attorney General, with respect to the Conflict of Interest Code of the Commission.

82012. "Commission" means the Fair Political Practices Commission.

82013. "Committed" means any person or combination of persons who directly or indirectly receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party, whether national, state or local, in:  
(a) Contributions received total five hundred dollars (\$500) or more in a calendar year;  
(b) Expenditures and contributions made, other than contributions described in subsection (c), total five hundred dollars (\$500) or more in a calendar year; or  
(c) Contributions of cash, checks and other cash equivalents paid directly to candidates and committees total five thousand dollars (\$5,000) or more in a calendar year. Persons or combinations of persons who are covered by this subsection but not by subsections (a) or (b) are deemed to be committed only for purposes of Chapter 4 of this title.

82014. "Conflict of Interest Code" means a set of rules and regulations adopted by an agency pursuant to Chapter 7 of this title.

82015. "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the request of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer, unless full and adequate consideration is received for making the expenditure.  
The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund raising events, the candidate's own money or property used on behalf of his campaign; the granting of discounts or rebates not extended to the public generally; or the granting of discounts or rebates by telephone and mail services not previously not extended on an equal basis to all consumers for the same services; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.  
The term "contribution" further includes any transfer of anything of value received by a committee from another committee.  
The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.  
Notwithstanding the foregoing definition of "contribution," the term does not include substantial personal services or payments made by any individual for his own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him.

82016. "Controlled committee" means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

82017. "County" includes a city and county.

82018. "Cumulative amount" in a campaign statement means the amount contributed or expended since the closing date of the most recent post-closing statement which has been filed by the filer. If the filer has not previously filed a campaign statement pursuant to any of these sections, the cumulative amount is the amount contributed or expended since the effective date of this title.

82019. "Designated employee" means any officer, employee, member or consultant of any agency whose position with the agency:  
(a) Is exempt from the state civil service system by virtue of subdivisions (a), (c), (d), (e), (f), (g), or (h) of Section 4 of Article XXIV of the Constitution, unless the position is elective or solely secretarial, clerical or manual;  
(b) Is elective, other than an elective state officer; or  
(c) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.  
"Designated employee" does not include an elected state officer or any unsalaried member of any board or commission which serves a solely advisory function.

82020. "Elected officer" means any person who holds an elective office or has been elected to an elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer.

82021. "Elected state officer" means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

82022. "Election" means any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title.

82023. "Elective office" means any state, regional, county, municipal, district or district office which is filled at an election. "Elective office" also

82024. "Elective state office" means the office of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, member of the Legislature and member of the State Board of Equalization.

82025. "Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

82026. "Filer" means the person filing or required to file any statement or report under this title.

82027. "Filing officer" means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with him shall be signed in the original and shall be deemed the original copy.

82028. "Gift" means any payment to the extent that consideration of equal or greater value is not received. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term "gift" does not include informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

82029. "Immediate family" means the spouse and dependent children. Whenever disclosure of investments or interest in real property is required by this title, investments and interests in real property of members of the immediate family shall also be disclosed.

82030. (a) "Income" means, except as provided in subsection (b), income of any nature from any source, including but not limited to any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.  
(b) "Income" does not include:

- (1) Campaign contributions required to be reported under Chapter 4 of this title;
- (2) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization;
- (3) Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals;
- (4) Gifts which are not used and which, within thirty days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;
- (5) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered income if the donor is acting as an agent or intermediary for any person not covered by this paragraph;
- (6) Any devise or inheritance;
- (7) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or governmental agency;
- (8) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States Government.

82031. "Independent committee" means a committee which is not controlled either directly or indirectly by a candidate or controlled committee, and which does not act jointly with a candidate or controlled committee in connection with the making of expenditures. A committee may be controlled with respect to one or more candidates and independent with respect to other candidates.

82032. "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision of use of information, statistics, studies or analysis.

82033. "Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction if the fair market value of the interest is greater than one thousand dollars (\$1,000). Interest in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.

82034. "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value exceeds one thousand dollars (\$1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, or any bond or other debt instrument issued by any government or governmental agency. Investments of an individual includes a pro rata share of investments of any business entity of that in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the Commission.

82035. "Jurisdiction" means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. Real property shall be deemed to be "within the jurisdiction" with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

82036. "Late contribution" means any contribution of one thousand dollars (\$1,000) or more received after the closing date of the last campaign statement required to be filed prior to an election.

82037. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. "Legislative action" also means the action of the Governor in approving or vetoing any bill.

82038. "Legislative official" means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

82039. "Lobbyist" means any person who is employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his agents with any elective state official, agency official or legislative official for the purpose of influencing legislation or administrative action, if a substantial or regular portion of the activities for which he receives consideration is for the purpose of influencing legislation or administrative action. No person is a lobbyist by reason of activities described in Section 66300.

82040. "Lobbyist's account" means any fund, account or trust controlled by a lobbyist in connection with his activities as a lobbyist.

82041. "Local government agency" means a county, city or district of any kind including special district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of them, but does not include any court or any agency in the judicial branch of government.

82041.5. "Mass mailing" means two hundred or more identical or nearly identical pieces of mail, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry.

82042. "Mayor" of a city includes mayor of a city and county.

82043. "Measure" means any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a

82044. "Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

82045. "Payment to influence legislative or administrative action" means any of the following types of payment:

(a) Direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;

(b) Payment in support or assistance of a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(c) Payment which directly or indirectly benefits any elective state official, legislative official or agency official or a member of the immediate family of any such official;

(d) Payment, including compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official;

(e) Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

82046. "Period covered" by a statement or report required to be filed by this title means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which has been filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the effective date of this title. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

82047. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

82048. "Public official" means every member, officer, employee or consultant of a state or local government agency.

82049. "State agency" means every state office, department, division, bureau, board and commission, and the Legislature, but does not include the courts or any agency in the judicial branch of government.

82050. "State candidate" means a candidate who seeks nomination or election to any elective state office.

82051. "State measure" means any measure which is submitted or is intended to be submitted to the voters of the state.

82052. "Statewide candidate" means a candidate who seeks election to any statewide elective office.

82052.5. "Statewide election" means an election for statewide elective office.

82053. "Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer and Superintendent of Public Instruction.

82054. "Statewide petition" means a petition to qualify a proposed state measure.

82055. "Voting age population" means the population of the state aged eighteen years or over as determined by the United States Secretary of Commerce pursuant to Section 104 (a) (5) of the Federal Election Campaign Act of 1971. If for any reason no such determination is made, the Commission shall from time to time determine the voting age population from the best readily available sources of information.

### CHAPTER 3. FAIR POLITICAL PRACTICES COMMISSION

83100. There is hereby established in state government the Fair Political Practices Commission. The Commission shall have five members, including the chairman. No more than three members of the Commission shall be members of the same political party.

83101. The chairman and one additional member of the Commission shall be appointed by the Governor. The Governor's appointees shall not be members of the same political party.

83102. (a) The Attorney General, the Secretary of State and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of State and the Controller are all members of the same political party, the chairman of the state central committee of any other political party with a registration of more than five hundred thousand shall submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller's initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, his appointment shall be made from one of such lists.

83103. Members and the chairman of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are qualified, except that the initial appointees under Section 83102 shall serve six-year terms. No member or chairman who has been appointed at the beginning of a term is eligible for reappointment. All initial appointments shall be made by February 1, 1975.

83104. Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or chairman whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

83105. Each member of the Commission shall be an elector, no member of the Commission, during his tenure, shall hold or seek election to any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist. Members of the Commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

83106. The chairman of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which he engages in official duties. The members and chairman of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

83107. The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

83108. The Commission may delegate authority to the chairman or the executive director to act in the name of the Commission between meetings of the Commission.

83109. For purposes of Section 14801 of the Government Code, no nonclassified position under the Commission shall be included in the same class as the civil service classification plan with any position of any other department or agency.

83110. The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

83111. The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

83112. The Commission may adopt, amend and repeal rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11321 et seq.) and shall be consistent with this title and other applicable law.

83113. The Commission shall, in addition to its other duties:

(a) Prepare forms for reports, statements, notices and other documents required by this title;

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explain the duties of persons and

(c) Provide assistance to agencies and public officials in administering the provisions of this title.

83114. Any person may request the Commission to issue an opinion with respect to his duties under this title. The Commission shall, within fourteen days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the Commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The Commission's opinions shall be public records and may from time to time be published.

83115. Upon the sworn complaint of any person or on its own initiative, the Commission shall investigate possible violations of this title relating to any state agency, state official, state election, lobbyist or state legislative or administrative action. Within fourteen days after receipt of a complaint under this section, the Commission shall notify in writing the person who made the complaint of the action, if any, the Commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within fourteen days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

83116. When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter.

When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:

(a) Cease and desist violation of this title;

(b) File any reports, statements or other documents or information required by this title;

(c) Pay a monetary penalty of up to two thousand dollars (\$2,000) to the General Fund of the state.

When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

83117. The Commission may:

(a) Accept grants, contributions and appropriations;

(b) Contract for any services which cannot satisfactorily be performed by its employees;

(c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

83118. The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

83119. The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of him may tend to incriminate him. No individual shall be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, act, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. No immunity shall be granted to any witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

83120. An interested person may seek judicial review of any action of the Commission.

83121. If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

83122. There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974-1975, and the sum of one million dollars (\$1,000,000), adjusted for cost of living changes, during each fiscal year thereafter, for expenditure in support of the operations of the Commission pursuant to this title. The expenditures of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title.

The definition of "expenditure" in Section 82005 is not applicable to this section.

### CHAPTER 4. CAMPAIGN DISCLOSURE

#### Article 1. Organization of Committees

84100. (a) Every committee shall have a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer.

(b) No expenditure shall be made by or on behalf of a committee without the authorization of the treasurer or that of his designated agent.

(c) All contributions received by a person acting as an agent of a candidate shall be reported promptly by such person to the candidate or any of his designated agents, and contributions received by a person acting as an agent of a committee shall be reported promptly by the recipient to the committee's treasurer or any of his designated agents. "Promptly" as used in this section means not later than five days before the closing date of the campaign statement required to be filed by the treasurer, and immediately if the contribution was received less than five days before the closing date. All contributions shall be segregated from and may not be commingled with any personal funds of the recipient or any other person.

(d) It shall be the duty of each candidate, treasurer and elected officer to keep such detailed accounts, records, bills and receipts as shall be required by regulations adopted by the Commission to expedite the performance of all obligations imposed by this chapter.

84101. Every committee which is a committee by virtue of Section 82013 (a) shall file with the Secretary of State a statement of organization within ten days after it is formed as a committee. Each such committee in existence at the date of enactment of this chapter shall file a statement with the Secretary of State within thirty days after the effective date of this chapter. The Secretary of State shall assign a number to each committee which files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the clerk of each county which he deems appropriate.

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee;

(b) The name, street address and telephone number of each person, if any, with which the committee is affiliated or connected;

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers;

(d) The full name and office sought by each candidate and the title and ballot number, if any, of each measure, which the committee supports or opposes;

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;

(f) The disposition of surplus funds which will be made in the event of dissolution;

(g) Such other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

84103. Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within ten days to reflect the change.

#### Article 2. Filing of Campaign Statements

84200. Each candidate and each committee supporting or opposing a candidate or candidates shall file campaign statements not later than ten days prior to the election, or later than twelve days prior to the election, and not later than forty-five days after the election.

84201. Notwithstanding the provisions of Section 84200, when a special, general or runoff election is held less than sixty days before the regular

prior to the primary, not later than seven days prior to the primary, not later than seven days prior to the special, general or runoff election, and not later than sixty-five days after the special, general or runoff election.

84202. (a) Not later than sixty-five days after a measure has been qualified for the ballot, the proponent shall file a campaign statement; the closing date of which shall be the fifty-eighth day following the qualification of the measure.

(b) If any proposed measure does not qualify for the ballot, the proponent shall file a campaign statement within sixty-five days after the final deadline for circulating the petition, the closing date of which shall be the fifty-eighth day following the deadline.

84203. Each committee supporting or opposing a measure shall file a campaign statement not later than thirty-five days prior to the election, not later than seven days prior to the election and not later than seventy days after the election.

84204. If a committee is required to file campaign statements with respect to both candidates and measures on the ballot at the same election, the committee may file its campaign statements according to the schedule of any section in this article which is applicable.

84205. The closing date for each campaign statement filed under Sections 84200, 84201 and 84203 is three days prior to the filing deadline, except that when the filing deadline is sixty-five or seventy days after an election, the closing date is seven days prior to the filing deadline. Any campaign statement required by Section 84202, and any campaign statement required to be filed after an election by Sections 84200, 84201 and 84203 may be filed prior to the closing date if all liabilities of the filer have been paid and no additional contributions or expenditures are anticipated.

84206. Every candidate and committee that receives contributions or makes expenditures during the periods specified in this section, and every elected officer, except as provided below, shall file campaign statements as provided in this section, unless the candidate, committee or elected officer is required to file campaign statements in connection with any election or elections held within the periods specified in subsections (a) and (b):

(a) For the period January 1 through June 30, campaign statements shall be filed not later than July 31.

(b) For the period July 1 through December 31, campaign statements shall be filed not later than January 31.

If a campaign statement was filed in connection with an election held during the six-month period immediately prior to a period specified in this section, the period covered by the campaign statement filed pursuant to this section shall begin from the day after the closing date of the previous campaign statement. This section is not applicable to elected officers whose salaries are less than one hundred dollars (\$100) a month or to judges, unless such an elected officer or judge is a candidate or committee who receives contributions or makes expenditures during the specified periods.

84207. Notwithstanding the provisions of Section 84200, a candidate for reelection for judicial office whose name does not appear on the ballot by reason of Section 25304 of the Elections Code shall file his campaign statement within seventeen days following the date of the general election and shall not be required to file any additional campaign statements. His campaign statement shall include contributions and expenditures in connection with his candidacy at both the primary and general elections. If such a candidate's name does not appear on the ballot at the primary election but does appear on the ballot at the general election, he shall file the campaign statements required by Section 84200 before and after the general election, and such campaign statements shall include contributions and expenditures in connection with his candidacy at both the primary and general elections. This section is not applicable to a committee supporting one or more candidates for judicial office, and each such committee shall observe the requirements of Section 84200.

84208. Every person who is required by Section 102 (a) of the Federal Election Campaign Act of 1971 (2 U.S.C.A. section 432 (a)) to file a copy of any statement or report with the Secretary of State of California shall, at the time such filing is required, file two copies of each such statement or report with the Secretary of State, one of which shall have an original signature, and two copies with:

(a) The clerk of Los Angeles County and the clerk of the City and County of San Francisco in the case of reports relating to a campaign for nomination or election of a candidate to the office of President or Vice-President of the United States, or United States Senator;

(b) The clerk of each county in which the congressional district is located in the case of reports relating to the campaign for nomination or election of a candidate to the office of Representative in Congress.

84209. A candidate shall verify his campaign statement and the campaign statement of each committee subject to his control. His verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his knowledge the treasurer of each controlled committee made all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

84210. Each campaign statement required by this article shall contain the following information:

(a) Under the heading "receipts," the total amount of contributions received, and under the heading "expenditures," the total amount of expenditures made during the period covered by the campaign statement and the cumulative amount of such totals (provided that if any loans have been repaid during the period covered by the campaign statement, the amount of such repayment shall be subtracted from the total amount of contributions received and expenditures made, and provided further that the amount of a loan or payment of a loan by a third party shall not be included in such total);

(b) The total amount of contributions received during the period covered by the campaign statement from persons who have given fifty dollars (\$50) or more;

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given less than fifty dollars (\$50);

(d) The total amount of expenditures made during the period covered by the campaign statement to persons who have received fifty dollars (\$50) or more;

(e) The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received less than fifty dollars (\$50);

(f) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;

(g) The full name of each person from whom a contribution or contributions totaling fifty dollars (\$50) or more has been received, together with his street address, occupation, and the name of his employer, if any, or the principal place of business if he is self-employed, the amount he contributed, the date on which each contribution was received during the period covered by the campaign statement, and the cumulative amount he contributed. In the case of committees which are listed as contributors, the campaign statement shall also contain the number assigned to the committee by the Secretary of State or if no such number has been assigned, the full name and street address of the treasurer of the committee. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated in regard to the lender and any person who is liable directly, indirectly or contingently on the loan, together with the date and amount of the loan and, if the loan has been repaid, the date of repayment and by whom paid;

(h) The full name and street address of each person to whom an expenditure or expenditures totaling fifty dollars (\$50) or more has been made, together with the amount of each separate expenditure to each person during the period covered by the campaign statement, a brief description of the consideration for which the expenditure was made; the full name and street address of the person providing the consideration for which any expenditure was made if different from the payee, and in the case of committees which are listed, the number assigned to each such committee by the Secretary of State or if no such number has been assigned, the full name and street address of the treasurer of the committee;

(i) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each such candidate or measure;

(j) The full name, residential and business addresses and telephone numbers of the filer or, in the case of a campaign statement filed by a committee, the name and telephone number of the committee and the committee's street address and telephone number;

(k) In a campaign statement filed by a candidate, the full name and street address of any committee of which he has knowledge, which has received contributions or made expenditures on behalf of the candidate, along with the full name, street address and telephone number of the treasurer of such committee;

84211. In order to determine for purposes of subsections (b), (c), (d), (e), (f) and (h) of Section 84210 whether fifty dollars (\$50) has been contributed by or expended to any person, only those contributions and expenditures which are included within the cumulative amount shall be considered.

84212. Whenever any provision of this chapter requires the filing of a campaign statement by a candidate, the candidate may in lieu thereof file a

84213. Two or more committees which act jointly in support of or in opposition to any candidate or measure may file consolidated campaign statements under this chapter.

84214. Each late contribution shall be reported by filing with the filing officer within forty-eight hours of its receipt the full name, street address, occupation, and the name of employer, if any, or the principal place of business if self-employed, of the contributor. Filing of a report of late contributions may be by any written means of communication, including but not limited to telegram or letter, and need not contain an original signature. Late contributions shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

### Article 3. Prohibitions

84300. No contribution or expenditure of fifty dollars (\$50) or more shall be made in cash. Any contribution of fifty dollars (\$50) or more other than an in-kind contribution shall be made by a written instrument containing the name of the donor and the name of the payee.

84301. No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

84302. No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

84303. No expenditure shall be made, other than overhead or normal operating expenses, by an agent or independent contractor, including but not limited to an advertising agency, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee. If the expenditure were made directly by the candidate or committee, unless the agent or independent contractor files a campaign statement reporting the expenditures, the agent or independent contractor shall make known to the candidate or committee all information required to be reported by this section.

84304. No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling fifty dollars (\$50) or more in a calendar year. An anonymous contribution of fifty dollars (\$50) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

84305. No person shall make an expenditure for the purpose of sending a mass mailing unless the postage is paid by postage meter or the mail is sent by first class or third class bulk rate mail. The bulk rate number or meter number shall be stated in a campaign statement, and a copy of every mass mailing in support of or in opposition to a state candidate or state measure shall be sent to the Commission. Such copies sent to the Commission shall be public records.

## CHAPTER 5. LIMITATIONS ON EXPENDITURES

### Article 1. Statewide Candidates

85100. Aggregate expenditures by a statewide candidate, his agents and controlled committees during the five months prior to an election shall not exceed the following amounts, adjusted in all years after 1974 for cost of living changes:

(a) For a primary election for Governor, seven cents (\$0.07) multiplied by the voting age population;

(b) For an election for Governor other than a primary election, nine cents (\$0.09) multiplied by the voting age population;

(c) For a primary or general election for any statewide elective office other than Governor, three cents (\$0.03) multiplied by the voting age population.

85101. The amounts set forth in Section 85100 shall be reduced by ten percent for an incumbent who is seeking reelection to the same statewide elective office.

85102. The state central committee of a political party, and committees and subcommittees which it controls, shall not make expenditures during the five months prior to a statewide election aggregating more than one percent (1.0%) multiplied by the voting age population and adjusted for cost of living changes. For purposes of this section, a county central committee is not a committee or subcommittee controlled by a state central committee.

85103. Except as provided in Sections 85102 or 85104, no independent committees shall make expenditures aggregating more than ten thousand dollars (\$10,000) during the five months preceding a statewide election in support of or in opposition to the candidate seeking a nomination or election to a single statewide elective office. Two or more independent committees which act jointly in making expenditures shall be considered a single independent committee for purposes of this chapter.

85104. Not less than sixty days prior to an election an independent committee may file with the Commission a statement of intent to make expenditures aggregating ten thousand dollars (\$10,000) in support of a statewide candidate. The Commission shall immediately notify all candidates for the nomination or office in question of the statement of intent and shall require the candidate being supported to file a verified statement of whether or not the committee is independent of him. The Commission shall approve the statement of intent not more than thirty-nine days prior to the election if it finds that the committee is an independent committee, that it is in good faith in supporting the candidate, and that it has the intention and ability to incur the expenditures. If the statement of intent is approved, the Commission shall notify each candidate for the nomination or office in question of the statement of intent supported by the independent committee that the limits contained in Section 85100 may be increased by the amount in the statement of intent filed by the independent committee, except to the extent that statements of intent to make expenditures in support of such other candidates are also approved. The Commission shall not approve statements of intent for support of a candidate aggregating more than one cent (1.0%) multiplied by the voting age population and adjusted for cost of living changes. If statements of intent exceeding this amount are submitted, the Commission shall apportion the expenditures among the independent committees which have filed statements of intent on the basis of a strictly arithmetic formula which shall be prescribed by regulation.

85105. Expenditures incurred by an independent committee for communication directed to its own members or employees shall not be included within the limitations contained in Sections 85103 and 85104.

85106. If an expenditure is incurred in support of more than one candidate, the entire amount is charged to each candidate for purposes of Section 85100 and a proportionate amount is charged to each candidate for purposes of Sections 85102 and 85104.

85107. The provisions of Section 82095 to the contrary notwithstanding, for purposes of this chapter an expenditure is made during the five-month period before the election if either payment is made or the consideration is received during that period. However, if the consideration is received before the primary election and payment is made after the primary election, the expenditure shall be charged only to the primary election and not to the general election.

85108. Payments made for the purpose of registering voters or for bringing voters to the polls, here are not expenditures within the meaning of this chapter. This section does not affect the duty to disclose such payments under Chapter 8 of this title.

### Article 2. Circulation of Statewide Petitions

85200. No person shall incur any expenditure in furtherance of the circulation or qualification of a statewide petition without the express or implied authorization of the proponent. For purposes of this article, "expenditure" does not include:

(a) Unreimbursed expenses incurred by a circulator incidental to his circulation of the petition;

(b) Expenditures for advertising or speech regarding the measure unless the advertising or speech is directly incidental to circulation of the petition.

85201. Not more than twenty-five cents (25¢) multiplied by the number of signatures required for qualification, adjusted for cost of living changes, shall be spent in furtherance of the circulation or qualification of a statewide petition.

... by clear and convincing evidence would not have qualified but for a violation of this article. The proponents of the measure shall be a party or real party in interest to any action brought under this section. Actions under this section may be initiated by the Commission or any voter. No judgment shall be issued under this section later than the day prior to the election. If a judgment against the proponent under this section is reversed after the election or after it is too late to submit the measure to the voters on the scheduled day of the election, the proposed measure will be deemed to have qualified on the day of the reversal of the judgment.

85203. Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county clerk, nor any additional information regarding a signer other than the information required to be written by the signer.

### Article 3. Statewide Measures

85300. "Expenditures" as used in this article means expenditures to influence the action of the voters for or against the adoption of any state measure which has qualified to be placed on the ballot.

85301. No committee shall make expenditures with respect to any state measure in excess of ten thousand dollars (\$10,000) without complying with the requirements of this article. For purposes of this article, two or more committees which act jointly in making expenditures shall be deemed a single committee.

85302. Any committee which intends to make expenditures in excess of ten thousand dollars (\$10,000) with respect to any state measure shall, not later than twenty-eight days prior to the election, file a statement of intent with the Commission, which shall identify the measure and state whether the committee intends to support or oppose the measure and the amount the committee intends to spend. The Commission shall approve the statement of intent, subject to the limitations set forth in this article, if it finds that the committee is in good faith in supporting or opposing the measure and that it has the intention and ability to incur the expenditures. Not less than twenty-one days prior to the election the Commission shall notify each committee whose statement of intent has been approved of the limitation on expenditures that is applicable to the committee.

85303. Aggregate expenditures in support of or in opposition to a state measure shall not exceed the lower of the amounts set forth in subsection (a) or (b) of this section.

(a) Eight cents (\$.08) multiplied by the voting age population, adjusted for cost of living changes.

(b) Five hundred thousand dollars (\$500,000) plus the aggregate amount set forth in the approved statements of intent filed by committees on the opposite side of the issue.

85304. If the aggregate amounts set forth in the approved statements of intent filed in support of or in opposition to a state measure exceed the limitations contained in Section 85303, the Commission shall apportion the permissible expenditures among the committees which have filed statements of intent on the basis of a strictly arithmetic formula which shall be prescribed by regulation.

85305. Expenditures incurred by a committee for communication directed to its own members or employees shall not be included within the limitations imposed by this article.

## CHAPTER 6. LOBBYISTS

### Article 1. Registration and Reporting

86100. Any person employed or retained as a lobbyist shall register with the Secretary of State before doing anything to influence legislative or administrative action.

86101. Each lobbyist shall register by filing with the Secretary of State a recent 3-inch by 4-inch black-and-white photograph of himself, a written authorization to act as a lobbyist from each person by whom he is employed or with whom he contracts, and a statement containing:

(a) His full name, business address, and telephone number;

(b) The name and business address of each person by whom he is employed or with whom he contracts for lobbying purposes, and the form of his employment or contract if known;

(c) A listing of each state agency whose administrative actions he will attempt to influence as a substantial or regular portion of his activities as a lobbyist; and

(d) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

86102. Each registered lobbyist shall renew his registration by filing a new photograph, authorization and registration statement within twenty days after the opening of each regular session of the Legislature.

86103. If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed within twenty days after the change. Each registered lobbyist shall file a notice of termination within thirty days after he ceases the activity which required his registration. He shall remain subject to Sections 86202 and 86203 for six months after filing his notice of termination.

86104. All information listed on any registration statement and on any amendment, renewal or notice of termination shall be printed in the journals of the Senate and Assembly within thirty days after filing. Within one hundred twenty days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered lobbyists. He shall publish, from time to time, such supplements to the directory as may be necessary.

86105. Every lobbyist who incurs expenses or expects to incur expenses in connection with his activities as a lobbyist shall establish one or more accounts, each of which shall be designated by a name. All payments received by a lobbyist for the purpose of paying expenses incurred by him in connection with his activities as a lobbyist shall be deposited without delay into his account. A lobbyist may deposit other funds, including his own personal funds, into his account.

86106. (a) Except as provided in subsection (b) of this section, no person shall pay any expense incurred by a lobbyist in connection with his activities as a lobbyist unless such payment is made directly from the lobbyist's account. Any lobbyist who makes a gift to an elected state officer, legislative official or an agency official is deemed to be acting in connection with his activities as a lobbyist.

(b) The Commission shall promulgate regulations permitting the use of cash which has been withdrawn from a lobbyist's account to defray petty cash items.

86107. Every lobbyist shall file periodic reports containing:

(a) The monetary value of all payments, including but not limited to salary, fees, and reimbursement of expenses, received in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action, and the full name and address of each person from whom amounts or things of value have been received and the total monetary value received from each person;

(b) With respect to each account controlled by the lobbyist at any time during the period covered by the reports:

(1) The name of the account;

(2) The amount deposited in the account during the period;

(3) The full name and address of each person who is the source of any amounts deposited into the account, together with the amount attributable to each source;

(4) The date and amount of each disbursement from the account during the period, together with the full name and address of the payee, a specific description of the consideration, if any, for which the disbursement was made and the full name and address of official position of the beneficiary. If the beneficiary is other than the payee or the lobbyist, in the case of disbursements for gifts of food and beverages, the full name of the person and the official position, if any, who received the food and beverages, and the amount paid for each person shall be stated. In the case of any disbursement which covers more than one item, an itemization shall be shown that would be required if a separate disbursement had been made for each item. The Commission may by regulation provide for the reporting of overhead expenditures without detailed itemization; and

(5) The cash balance of the account at the beginning and end of the period covered by the report.

(c) With respect to any expenses in furtherance of his activities as a lobbyist which, pursuant to Section 86106(b), are not made directly from an account, such information as regulations of the Commission shall require:

(1) The name and official position of each elected state official, legislative official and agency official, the name of each state candidate, and the name of each member of the immediate family of any such official or candidate with whom the lobbyist has engaged in an exchange of money, goods, services or anything of value and the nature and date of each such exchange and the monetary value exchanged;

(2) The name and address of any business entity in which the lobbyist knows or has reason to know that an elective state official, legislative official, agency official or state candidate is a proprietor, partner, director, officer or manager, or has more than a fifty percent ownership interest, with

anything of value and the nature and date of each exchange and the monetary value exchanged, if the total value of such exchanges is five hundred dollars (\$500) or more in a calendar year;

(3) A specific description of legislative or administrative action which the lobbyist has influenced or attempted to influence, and the agencies involved, if any;

(4) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

86108. Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86107:

(a) Any person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons; and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of two hundred fifty dollars (\$250) or more in value in any month, unless all of the payments are of the type described in Section 82045(c).

86109. Every person described in Section 86108 shall file periodic reports containing:

(a) The name, business address and telephone number of the person making the report;

(b) Information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of his employer, if any, or his principal place of business if he is self-employed, and a description of the business activity in which he or his employer is engaged;

(2) If the filer is a business entity, a description of the business activity in which it is engaged;

(3) If the filer is an industry, trade or professional association, a description of the industry, trade or profession which it represents including a specific description of any portion or faction of the industry, trade or profession which the association exclusively or primarily represents and, if the association has no more than fifty members, the names of the members; and

(4) If the filer is not an individual, business entity or industry, trade or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

The information required by this subsection (b) need be stated only in the first report filed during a calendar year, except to reflect changes in the information previously reported.

(c) The total amount of payments to influence legislative and administrative action during the period, and the name and address of each person to whom such payments in an aggregate value of twenty-five dollars (\$25) or more have been made during the period by the filer, together with the date, amount, and a description of the consideration received for each such expenditure, and the name of the beneficiary of each expenditure if other than the filer or the payee.

(d) The name and official position of each elective state official, legislative official and agency official, the name of each state candidate, and the name of each member of the immediate family of any such official or candidate with whom the filer has engaged in an exchange of money, goods, services or anything of value and the nature and date of each such exchange and the monetary value exchanged, if the fair market value of either side of the exchange exceeded one thousand dollars (\$1,000).

(e) The name and address of any business entity in which the person making the report knows or has reason to know that an elective state official, legislative official, agency official or state candidate is a proprietor, partner, director, officer, manager, or has more than a fifty percent ownership interest, with whom the person making the report has engaged in an exchange of money, goods, services or anything of value and the nature and date of each such exchange and the monetary value exchanged, if the total value of such exchanges is one thousand dollars (\$1,000) or more in a calendar year;

(f) The date and amount of each contribution made by the filer and the name of the recipient of each contribution.

(g) A specific description of legislative or administrative action which the person making the report has attempted to influence;

(h) The name of each lobbyist employed or retained by the person making the report, together with the total amount paid to each lobbyist and the portion of that amount which was paid for specific purposes, including salary, fees, general expenses and any special expenses.

(i) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

86110. Reports required by Sections 86107 and 86109 shall be filed during the month following each month during any part of which the Legislature was in session and during the month following each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the month prior to the month during which the report is filed, except that the period covered shall not include any month covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date.

86111. All information contained in reports filed pursuant to this article shall be printed in a supplement to the Senate and Assembly journals within ninety days after they are filed.

### Article 2. Prohibitions

86200. "Contribution" as used in this article means a contribution made to a state candidate, a committee supporting a state candidate, or an elected state officer.

86201. "Gift" as used in this article means a gift made directly or indirectly to a state candidate, an elected state officer, a legislative official or an agency official.

86202. It shall be unlawful for a lobbyist to make a contribution, or to act as an agent or intermediary in the making of any contribution, or to arrange for the making of any contribution by himself or by any other person.

86203. It shall be unlawful for a lobbyist to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

86204. It shall be unlawful for any person knowingly to receive any contribution or gift which is made unlawful by Section 86202 or 86203.

### 86205. No lobbyist shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to him or to his employer;

(b) Engage in activities in excess of any elected state officer, legislative official, agency official or state candidate with respect to any material fact pertinent to any pending or proposed legislative or administrative action;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat;

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or in cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person;

(e) Represent falsely, directly or indirectly, that he can control the official action of any elected state officer, legislative official, or agency official;

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action.

### Article 3. Exemptions

86300. The provisions of this chapter are not applicable to:

(a) Any elected public official acting in his official capacity, or any employee of the State of California acting within the scope of his employment;

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which is the ordinary course of business publishing news items, editorials, or other communications, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, employee or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person who representing a bona fide church or religious society acting for the purpose of protecting the public right to practice the disciplines of such church.

## CHAPTER 7. CONFLICTS OF INTEREST

### Article 1. General Prohibitions

87100. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position

87101. Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 and 3 of this chapter and any Conflict of Interest Code adopted thereunder. No provision of Chapter 11 of this title is applicable to this article except the provisions of Section 91003. The remedies provided in that section may be sought against any public official other than an elected state officer, and those remedies are the exclusive remedies for a violation or threatened violation of Section 87100.

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

- Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000);
  - Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars (\$1,000);
  - Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received by or promised to the public official within twelve months prior to the time when the decision is made; or
  - Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent or behalf of a public official, by any business entity controlled by the public official or by a trust in which he has a substantial interest. A business entity is controlled by a public official if the public official, his agents, spouse and dependent children hold more than fifty percent of the ownership interest in the entity. A public official has a substantial interest in a trust when the official, his spouse and dependent children have a present or future interest worth more than one thousand dollars (\$1,000).

## Article 2. Disclosure

87200. This article is applicable to elected state officers, members of the board of supervisors and chief administrative officers of counties, mayors, city managers, chief administrative officers and members of city councils of cities, and to candidates for any of these offices at any election.

87201. Every candidate for an office specified in Section 87200 shall file with his declaration of candidacy a statement disclosing his investments and his interests in real property.

87202. Every person who is elected to an office specified in Section 87200 shall, within thirty days after assuming such office, file a statement disclosing his investments and his interests in real property. Every person who is appointed to an office specified in Section 87200 shall file such a statement not less than ten days prior to assuming office. Persons who hold an office mentioned in Section 87200 on the effective date of this article shall file such a statement within thirty days after the effective date of this article.

87203. Every person who holds an office specified in Section 87200 shall, within thirty days after each anniversary of assuming office, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

87204. Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing his investments, his interests in real property, and his income during the period since the previous statement filed under Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

87205. (a) For purposes of determining the anniversary of assuming an office, the date on which the term of office began is deemed the date of assuming office, whether or not the person holding the office actually assumed the office on that date.

(b) A person who completes a term of an office specified in Section 87200 and on the same day begins a term of the same office or another such office of the same jurisdiction is not deemed to assume office or leave office. The day on which the new term begins shall be deemed an anniversary of assuming the office.

87206. When an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

- A statement of the nature of the investment or interest;
- The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
- The address or other precise location of the real property;
- A statement whether the fair market value of the investment or interest in real property exceeds ten thousand dollars (\$10,000), and whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;
- In the case of an investment which constitutes fifty percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;
- In the case of a statement filed under Sections 87201 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

87207. (a) When income is required to be reported under this article, the statement shall contain, except as provided in subsections (b) and (c):

- The name and address of each source of income aggregating two hundred and fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
- A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000), and whether it was greater than ten thousand dollars (\$10,000);
- A description of the consideration, if any, for which the income was received;
- In the case of a gift, the amount and the date on which the gift was received.

(b) When income of a business entity, including income of a sole proprietorship, is required to be reported under this article, the statement shall contain:

- The name, address, and a general description of the business activity of the business entity;
- In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000);
- In the case of a business entity not covered by paragraph (2), the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

## Article 3. Conflict of Interest Codes

87300. Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

87301. It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be deemed an agency for purposes of Section 87300 shall be resolved by the code reviewing body.

87302. Each Conflict of Interest Code shall contain the following provisions:

- Specific enumeration of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest;
- Requirements that each designated employee file annual statements disclosing investable investment, interests in real property and income. The Conflict of Interest Code shall set forth for each position or category of positions enumerated under subsection (a) of this section the specific types of investments, interests in real property and income which are reportable and the manner of reporting each item. An investment, interest in real property, or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee while in that position. The manner of reporting reportable items shall be substantially equivalent to the requirements of Article 2 of this chapter. The first statement filed under this section by a designated employee shall disclose all reportable investments and interests in real property. Statements shall be filed by each designated employee within thirty days after the effective date of the Conflict of Interest Code. Thereafter, new civil service designated

employees shall file statements within thirty days after assuming office. All other new designated employees shall file statements not less than ten days before assuming office or, if subject to confirmation, ten days before being confirmed, unless an earlier assumption of office is required by emergency circumstances. The provisions of the Conflict of Interest Code adopted under this subsection shall not be applicable to any designated employee who is covered by Article 2 of this chapter.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making or participating in the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself with respect to any matter which could not legally be acted upon or decided without his participation.

87303. No Conflict of Interest Code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed Conflict of Interest Code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for any agency in existence on April 1, 1975, shall not be earlier than April 1, 1976. The deadline for any agency not in existence on April 1, 1975, shall be six months after it comes into existence. Within ninety days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall:

- Approve the proposed code as submitted;
- Revise the proposed code and approve it as revised; or
- Return the proposed code to the agency for revision and resubmission within sixty days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed Conflict of Interest Code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

87304. If any agency fails to submit a proposed Conflict of Interest Code or amendments within the time limits prescribed pursuant to Sections 87303 or 87305, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a Conflict of Interest Code for the agency.

87305. If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

87306. Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to Section 87302 (a) and relevant changes in the duties assigned to existing positions. Proposals for amendments or revisions shall be submitted to the code reviewing body within ninety days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of such changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

87307. An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body. The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

87308. Judicial review of any action of a code reviewing body under this chapter may be sought by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

87309. No Conflict of Interest Code or amendment shall be approved by the code reviewing body or signed by a court if it:

- Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be detected or prevented;
- Fails to provide to each affected person a clear and specific statement of his duties under the Code; or
- Fails to adequately differentiate between designated employees with different powers and responsibilities.

87310. If the duties of a designated employee are so broad or indefinite that the requirements of Section 87302 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

87311. The review of proposed Conflict of Interest Codes by the commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local governmental agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

87312. The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility for adopting a Conflict of Interest Code appropriate to its individual circumstances.

## CHAPTER 8. BALLOT PAMPHLET

88000. There shall be a state ballot pamphlet which shall be prepared by the Secretary of State.

88001. The ballot pamphlet shall contain:

- A complete copy of each state measure;
- A copy of the specific constitutional or statutory provision, if any, which would be repealed or revised by each state measure;
- A copy of the arguments and rebuttals for and against each state measure;
- A copy of the analysis of each state measure;
- Tables of contents, indexes, art work, graphics and other materials which the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

88002. The ballot pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

- Upon the top portion of the first page and not exceeding one-third of the page shall appear:
  - The identification of the measure by number and title;
  - The official summary prepared by the Attorney General;
  - The total number of votes cast for and against the measure in both the State Senate and Assembly if the measure was passed by the Legislature.
- Upon the lower portion of the first left page and upon the top half of the right page, if necessary, shall appear the analysis prepared by the legislative analyst.

(c) If arguments for and against the measure have been submitted, then the text of the measure shall appear on the right page facing the analysis. If the text does not fit on that page, it shall be continued in the back of the pamphlet. Arguments for and against the measure shall be placed on the next left and right pages, respectively. The rebuttals shall be placed immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis. The text of the measure shall be printed in the back of the pamphlet.

(e) The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(f) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency."

88003. The legislative analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenues or cost to state or local government. The analysis shall be written in clear and concise terminology which will easily be understood by the average voter, and shall explain the use of technical terms whenever necessary. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The legislative

Analyst may cooperate with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The legislative analyst may also request the assistance of any state department, agency, or official in preparing his analysis. The title of the measure which appears on the ballot shall be amended to contain a summary of the legislative analyst's estimate of the net state and local government financial impact.

88004. Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

88005. The ballot pamphlet shall be printed according to the following specifications:

- (a) The pages of the pamphlet shall be not smaller than 8 1/2 x 11 inches in size;
- (b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8 point type;
- (c) It shall be printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters;
- (d) The pamphlet shall contain a certificate of correctness by the Secretary of State.

88005.5 The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

88006. Not less than twenty days before he submits the copy for the ballot pamphlet to the state printer, the Secretary of State shall make such copy available for public examination. Any voter may seek a writ of mandate requiring any such copy to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading or inconsistent with the requirements of this chapter or the Elections Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the state printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the state printer shall be named as the respondent.

88007. Notwithstanding the provisions of Section 81012, the Legislature may without restriction amend this chapter to add to the ballot pamphlet information regarding candidates or any other information.

## CHAPTER 9. INCUMBENCY

88008. Any provision of law to the contrary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

88009. No legislative newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected state officer after the elected state officer has filed a declaration of candidacy for any office.

## CHAPTER 10. AUDITING

90000. Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to reports and statements filed with the Secretary of State under Chapters 4 and 6 of this title.

90001. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

- (a) Each lobbyist required to register or file with the secretary of State;
- (b) Each candidate who has received more than fifteen percent of the total vote cast for the office for which he was running in either a general or special election;
- (c) Each candidate running in a primary, general, or special election for whom the Franchise Tax Board determines more than twenty-five thousand dollars (\$25,000) of expenditures have been made, whether by the candidate or by a committee or committees supporting his candidacy;
- (d) Each committee, other than a committee defined in Section 82013(c), supporting one or more such candidates, insofar as its reports and statements relate to the support of such candidates;
- (e) Each committee, other than a committee defined in Section 82013(c), which is required to register or file reports or statements with the Secretary of State, and which the Franchise Tax Board determines has spent more than ten thousand dollars (\$10,000) during any calendar year.

90002. (a) Audits and investigations of all lobbyists shall be performed annually and shall cover all reports and statements filed since the previous audit and investigation.

(b) No audit or investigation of any candidate or committee in connection with a report or statement required by Chapter 4 of this title, other than a report or statement required by Section 84205, shall begin until after the last date for filing the first report or statement following the general or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated. When the campaign statements of a candidate or a committee supporting a candidate are audited and investigated, the audit and investigation shall cover all campaign statements filed in connection with the primary and general or special elections and any previous campaign statements filed pursuant to Section 84205 since the last campaign statement filed in connection with an election.

The Franchise Tax Board shall determine from its audit and investigation if there is probable cause to believe that any candidate, committee or proponent of a state measure has exceeded the limitations provisions of Chapter 5. Any such finding shall be reported to the Commission and the Attorney General.

90003. In addition to the audits and investigations required by Section 90001, the Franchise Tax Board and the Commission may make investigations and audits with respect to any reports or statements required by Chapters 4 or 6 of this title.

90004. The Franchise Tax Board shall periodically prepare reports which shall be sent to the Commission and the Attorney General. The reports of the Franchise Tax Board shall be public documents and shall contain in detail the Franchise Tax Board's findings with respect to the accuracy and completeness of each report and statement reviewed and its findings with respect to any report or statement that would have been but was not filed.

90005. No member, employee or agent of the Franchise Tax Board shall divulge or make known in any manner any particulars of any reports, documents, or information which he receives by virtue of this chapter, except in furtherance of the work of the Franchise Tax Board or in connection with any court proceeding or any lawful investigation of any agency.

90006. Audits and field investigations of candidates for Controller and member of the Board of Equalization and of committees supporting such candidates shall be made by the Commission instead of the Franchise Tax Board.

## CHAPTER 11. ENFORCEMENT

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within two years after the date on which the violation occurred.

91001. (a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The city and district attorneys of any city or county in which a violation occurs have concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is prima facie responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the Commission with respect to the state or any state agency, the city attorney with respect to a city or city agency, and the district attorney with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction.

91002. No person convicted of a misdemeanor under this title shall be a candidate for any public office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of not guilty shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

91003. (a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require the plaintiff to file a complaint with the Commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent injunctive relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

91003.5 Any person who violates a provision of Article 2 or 3 of Chapter 7 is subject to discipline by his agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations and procedures.

91004. Any person who intentionally or negligently violates any of the reporting requirements of this act shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

91005. (a) Any person who makes or receives a contribution, gift or expenditure in violation of Section 84300, 84304, 86202, 86203 or 86204, or makes an expenditure in violation of Chapter 5 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to five hundred dollars (\$500) or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater.

(b) Any designated employee who realizes an economic benefit as a result of a violation of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

91006. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

91007. Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond within forty days after receipt of the request, indicating whether he intends to file a civil action. If the civil prosecutor indicates in the affirmative, and files suit within forty days thereafter, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

91008. Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

91009. In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

91010. No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 of this title until the time when an audit and investigation could be begun under Section 90002 (b).

91011. No action shall be filed under Sections 91004 or 91005 more than two years after the first day on which a request to the civil prosecutor could be filed.

91012. The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title his costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

91013. If any person files a statement or report, or a copy of a statement or report, after any deadline imposed by the act, he shall, in addition to any other penalties or remedies established by this act, be liable to the filing officer or other officer with whom the copy is required to be filed for the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed. The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

91014. Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

SECTION 2: Chapter 1 (commencing with Section 11500) of Division B of the Elections Code is repealed.

### ~~§ 11500. Definitions~~

~~Unless the context otherwise clearly requires, the definitions set forth in this article shall govern the construction of this chapter.~~

### ~~11501. Candidates~~

~~"Candidate" means any person who seeks nomination or election to a federal, state, county, or local office, or a district office, or to a nonpartisan office in a general law or official law election, or to a primary election held within this state. "Candidate" also includes persons seeking election to a county advisory committee at the time of a primary election.~~

### ~~§ 11502. Committee~~

~~"Committee" means a committee or group of persons organized for the purpose or charged with the duty of conducting the election campaign of any political party or of any candidate or group of candidates.~~

### ~~§ 11503. Campaign statement~~

~~"Campaign statement" means an itemized statement prepared in duplicate by a candidate and by the treasurer of a committee, including under each of the subdivisions of Section 11504:~~

~~(a) In detail all money paid, loaned, contributed, or otherwise furnished, directly or indirectly, to the candidate or treasurer or for the use of the candidate or treasurer, in aid of the candidate's nomination or election;~~

~~(b) All money contributed, loaned or expended, directly or indirectly, by the candidate or treasurer or through any other person in aid of the candidate's nomination or election;~~

~~(c) The names of all persons who paid, loaned, contributed, or otherwise furnished, directly or indirectly,~~

~~and the amount of all moneys to which such money was so contributed, donated or paid.~~

(1) The services performed and by whom any services were performed.

(2) The purpose for which the money was expended, contributed or loaned.

#### § 11504. Lawful expenses

Lawful expenses are expenses for the following purposes only:

(a) For the preparing, printing, circulating, and verifying of nomination papers and for the candidate's official filing fee.

(b) For the personal traveling expenses of the candidate and of campaign personnel.

(c) For rent, furnishing, and maintaining headquarters and halls and rooms for public meetings, including light, heat, and telephone.

(d) For payment of the following personnel:

1. Campaign managers.
2. Advertising agencies and publicity agents.
3. Stenographers and clerks.
4. Precinct workers.
5. Speakers.
6. Entertainers.

(e) For the preparing, printing, and posting of billboards, signs and posters.

(f) For the preparing, printing, and distribution of literature by direct mail, including postage, throwaways, and handbills.

(g) For newspaper advertising.

(h) For radio and television advertising and speech time.

(i) For office supplies, precinct lists, postage other than that provided for in subdivision (f), expressage, and telegraphing relative to candidacy.

(j) For making canvasses of voters and public opinion surveys.

(k) For conveying voters to and from the polls.

(l) For supervising the registration of voters.

(m) For watching the polling and counting of votes cast.

(n) For photographs, maps, cuts, art work, and displays.

(o) For party cash items relative to candidacy.

#### § 11530. Treasurer appointed by committee

Each committee shall appoint a treasurer who shall receive, disburse, and keep a true account of all money contributed and disbursed for campaign purposes, and who shall, in the same manner and on the same type of forms as required of candidates, file a campaign statement. The county clerk upon request shall furnish the treasurer with the necessary forms for submitting the campaign statement on behalf of him by this section.

#### § 11531. Candidate as treasurer

A candidate may act as the cashier (g) treasurer of his committee but may not act as treasurer for another candidate. When acting as a campaign treasurer, the candidate may sign the campaign statement of the committee.

#### § 11560. Filing of verified campaign statement

Except as provided in Section 11501, each candidate and the treasurer of each committee shall make and file a campaign statement following the election or primary, as the case may be.

A campaign statement filed with respect to a primary election shall be verified. The verification shall state that the candidate or treasurer has used all reasonable diligence in its preparation, and that it is true and is as full and explicit as he is able to make it.

#### § 11561. Exception to filing requirement

A candidate or nominee for a municipal office or for election to the office of governing body of a town or district need not file a campaign statement if the lawful receipts and expenses of his campaign do not exceed two hundred dollars (\$200). However, elected candidates or candidates nominated at a primary election shall file a written declaration to that effect if their campaign receipts and expenses do not exceed two hundred dollars (\$200).

#### § 11562. Disclaimer of responsibility for illegal payment

If a candidate at any election other than a primary seeks to avoid the responsibility of any illegal payment made by any other person in his behalf, he shall set out that illegal payment in the campaign statement and disclaim responsibility for it.

#### § 11563. Time for filing

All candidates for either nomination or election and the treasurer of each committee shall file their campaign statements within 15 days after the election or primary, or not later than the day preceding the day upon which the candidate takes office, whichever first occurs.

#### § 11564. Place of filing

Candidates for office to be filled by the voters of the state or of any political division smaller than a county, for members of the Senate or Assembly, Representative in Congress, members of the State Board of Equalization, judges of the superior court, and prosecutors of counties for such candidates, shall file one copy of their campaign statements in the office of the Secretary of State and one copy with the clerk of the county in which the candidate resides.

Candidates for all other offices, except municipal offices and treasurers of committees for those candidates, shall file one copy of their campaign statements in the office of the clerk of the county where the election is held.

Notwithstanding any provision of law to the contrary, the treasurer of the state central committee of each political party shall file a campaign statement only in the office of the Secretary of State.

#### § 11565. Filing of campaign statement; mailing of forms

No officer shall issue any certificate of nomination or election to any person until his campaign statement or the written declaration

persons shall be required. The officers with whom campaign statements or written declarations must be filed pursuant to Sections 11561, 11563, or 11565 shall send to the candidate, not more than three days after the election, the necessary forms for submitting his campaign statement.

#### § 11566. Fee

No fee or charge shall be made or collected by any officer for the verifying, filing, or recording of any campaign statement.

#### § 11567. Preservation of statements

Campaign statements shall be held by the officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term. Thereafter they may be destroyed by that officer.

#### 11568. Filing statement with city clerk

Candidates for municipal offices and treasurers of committees for those candidates shall file their campaign statements, or written declarations as required in Section 11561, in the office of the clerk of the city in which the election is held.

#### § 11590. Expenditures

Neither a candidate nor committee nor any body of superior authority to which the committee is subject, whether before, during, or after an election or primary, may directly or indirectly pay, expend or contribute any money or other valuable thing, or promise to do, except for lawful expenses.

#### § 11591. Rental of premises where alcoholic beverages are sold

No payment of money shall be made by a committee or candidate for the rent of any premises to be used as a committee room or headquarters, for holding a meeting, for the purpose of promoting the election or nomination of a candidate, or on account of or in respect to the conduct or management of an election, where alcoholic beverages are sold for consumption on the premises or are supplied to members of any club, society or association.

Nothing in this section applies to any part of the premises which is ordinarily let for the purposes of office or for holding public meetings, if that part has a separate entrance and no direct communication with any part of the premises on which any alcoholic beverages are sold or supplied.

#### § 11592. Printed matter

Every bill, placard, poster, pamphlet, or other printed matter having reference to an election or to any candidate shall bear upon its face the name and address of the printer and publisher.

No payment therefor shall be made or allowed unless the name and address is so printed.

#### § 11620. Time for presentment of claims to committee

Every claim payable by a committee on account of or in respect to any expense incurred in the conduct and management of an election held within this State or on behalf of the candidate of the political party, organized assembly, or body which the committee represents shall be presented to the committee within 15 days after the election. If not so presented, the claim shall not be paid and no action shall be commenced or maintained on it.

#### § 11621. Time for payment by committee

All expenses incurred by and properly presented to a committee shall be paid within 15 days after the election and not otherwise.

#### § 11622. Time for presentment of claim to candidate

Every claim for expenses incurred by or on behalf of a candidate for the conduct or management of an election held within this State shall be presented to the candidate within 10 days after the day of election. If not so presented the claim shall not be paid, and no action shall be commenced or maintained on it.

#### § 11623. Time for payment by candidate

All expenses incurred by and properly presented to a candidate shall be paid within 15 days after the day of election and not otherwise.

#### § 11624. Misdemeanor

Any person who makes a payment in contravention of this article is guilty of a misdemeanor.

#### § 11625. Superior court proceedings; powers of the court

The superior court of the county in which a campaign statement is filed or is required to be filed may, on the completion of proper proceedings by either the committee or candidate or a creditor of either, allow:

(a) A campaign statement to be filed after the time limits specified in this chapter.

(b) An incorrect campaign statement to be corrected.

(c) Any claim to be presented and paid after the time limits prescribed by this article.

#### § 11626. Creditor's application

If the application is made by a creditor, the court may, under like conditions and upon a like showing, order the claim to be paid. A creditor is entitled to his costs.

#### § 11627. Joinder of claims

The claims of one or more creditors may be united in the same application, but the amount and specific nature of each claim shall be fully stated.

#### § 11628. Grounds for relief

A person may obtain from the superior court the relief specified in Section 11565 if he shows by competent evidence that the failure

with or the part of the applicant but by:

- (a) The absence, illness or death of the candidate
- (b) The absence, illness or death of the treasurer of the campaign committee
- (c) The misconduct of any person other than the applicant
- (d) Inadvertence or excusable neglect
- (e) Any other reasonable cause.

§ 11629. Proper proceedings

- Proper proceedings, as used in this article, consist of:
  - (a) The filing of an application in the office of the clerk of the superior court showing facts sufficient to entitle the applicant to relief.
  - (b) Such notice of the application as the court may require.
  - (c) Satisfactory proof by competent evidence of the allegations of the application.

§ 11630. Effect of court order

An order of the superior court relieving the applicant from any liability or consequences under this chapter in respect of the matters excused by the order.

§ 11631. Filing of statement after court order

After an order by a superior court allowing a claim to be paid, and after payment, the committee or candidate shall file in the same office as the original campaign statement of the committee or candidate was filed:

- (a) An amended campaign statement in the same form and containing the same information as supplemented, as the original campaign statement.
- (b) A certificate of its allowance.

SECTION 3: Chapter 2 (commencing with Section 11800) of Division 8 of the Elections Code is repealed.

§ 11800. Definitions generally; "Measure"

Unless the context otherwise clearly requires, the definitions set forth in this chapter shall govern the construction of this chapter.

"Initiative" means a proposed law or constitutional amendment or other proposal submitted to a popular vote at any election, including any initiative or referendum or recall petition, whether or not it qualifies for the ballot.

§ 11801. "Association"

"Association" means any person, committee, firm, association, public or private corporation, or other organized entity, whether incorporated or not, that for the purpose of expending its own or other funds or the funds of another person, committee, or other organized entity, or both, for the purpose of influencing the election of any officer, candidate, or other person to any office or position of authority.

(a) Collection of more than one thousand dollars (\$1,000) in any manner from all sources more than one thousand dollars (\$1,000) in any manner or funds.

§ 11802. "Expenses"

"Expenses" means the cost of:

- (a) Soliciting signatures to initiative or referendum or recall petitions.
- (b) Circulating initiative or referendum or recall petitions.
- (c) Holding and conducting public meetings.
- (d) Printing and circulation prior to an election.
- (1) Specimen ballots.
- (2) Handbills.
- (3) Cards.
- (4) Other papers.
- (e) Advertising.
- (f) Postages.
- (g) Long distance.
- (h) Telephoning.
- (i) Telephoning.
- (j) All salaries and expenses of:
  - (1) Campaign headquarters.
  - (2) Lecturers.
  - (3) Entertainers.
  - (4) Agents.
- (k) All persons employed in transacting business at headquarters or branch offices.
- (l) Maintaining headquarters and branch offices.
- (m) Renting of rooms for the transaction of business of an association.

§ 11803. "Treasurer"

"Treasurer" means the treasurer, manager, secretary, agent, board of directors, board of trustees, or other person who is responsible for the receipt and disbursement of the funds of the association, whether or not such person is an officer of the association.

§ 11809. Receipts and expenses; time for filing after qualification

Not later than 45 days after a person or organization qualifies for the ballot as the sponsor of a measure, the person or organization shall file a statement of receipts and expenses:

§ 11830. Receipts and expenses; time for filing before election

Not more than 45 days before the election, every association shall file a statement of receipts and expenses.

§ 11831. Form and number; availability of blank forms

The secretary of state shall provide, at no charge, to any person or organization, a sufficient number of blank forms to be used for the filing of statements of receipts and expenses.

An amended in this section, "county clerk" shall mean the clerk of the court.

Blank forms for the preparation of statements of receipts and expenses shall be available at all election offices and shall be available to any person or organization by the secretary of state, the county clerk, and the city clerk, respectively.

§ 11832. Contents of statement

Every statement of receipts and expenses required to be filed under this article shall show:

- (a) The name and address of the association and its treasurer.
- (b) The name and address of each person, firm or corporation that has contributed, promised, loaned or advanced to the association, during the statement period, a sum of money or other thing of value in the amount of more than twenty dollars (\$20) in any one sum, and the amount or sum contributed, promised, loaned or advanced by each.
- (c) The total sum contributed, promised, loaned or advanced during the statement period by the association or for its use.
- (d) The total sum contributed, promised, loaned or advanced for the filing of the statement, from the sum of money or other thing of value contributed, promised, loaned or advanced to the association from all sources, reduced by the amount of money or other thing of value contributed, promised, loaned or advanced to the association from the same source.
- (e) The name and address of each person, firm or corporation to whom or to which the sum of money or other thing of value contributed, promised, loaned, or advanced or advanced to the association during the statement period, in the amount of more than twenty dollars (\$20) in any one sum, has been paid, and the amount of money or other thing of value so paid.
- (f) The total sum contributed, promised, loaned or advanced or promised to the association by any person, firm or corporation in the amount of more than twenty dollars (\$20) in any one sum.
- (g) The amount of money or other thing of value contributed, promised, loaned or advanced to the association by the association or for its use.
- (h) Expenses of the association.

§ 11833. Supplemental statement; time for filing before election; contents

Not later than 45 days before the election, every association shall file a supplemental statement of receipts and expenses:

- (a) If the association has received, promised, loaned or advanced to it, during the statement period, a sum of money or other thing of value in the amount of more than twenty dollars (\$20) in any one sum, from a source other than the source from which the sum of money or other thing of value was first received, promised, loaned or advanced to the association.
- (b) If the association has received, promised, loaned or advanced to it, during the statement period, a sum of money or other thing of value in the amount of more than twenty dollars (\$20) in any one sum, from a source other than the source from which the sum of money or other thing of value was first received, promised, loaned or advanced to the association.

§ 11834. Final statement; time for filing after election; contents

Within 45 days after the election, every association shall file a final statement of receipts and expenses:

- (a) If the association has received, promised, loaned or advanced to it, during the statement period, a sum of money or other thing of value in the amount of more than twenty dollars (\$20) in any one sum, from a source other than the source from which the sum of money or other thing of value was first received, promised, loaned or advanced to the association.
- (b) If the association has received, promised, loaned or advanced to it, during the statement period, a sum of money or other thing of value in the amount of more than twenty dollars (\$20) in any one sum, from a source other than the source from which the sum of money or other thing of value was first received, promised, loaned or advanced to the association.

§ 11836. Petition not qualifying; time for filing statement

If any petition does not qualify for the ballot, the person or organization sponsoring the petition shall file a statement of receipts and expenses:

§ 11860. Transmittal of statements to county clerk

After the filing of a statement of receipts and expenses, the person or organization sponsoring the statement shall transmit a copy of the statement to the county clerk of the county in which the person or organization sponsoring the statement resides.

§ 11861. Copies to county clerk

The secretary of state shall furnish the copies of the statements required by this chapter to the county clerk of the county in which the person or organization sponsoring the statement resides.

§ 11862. Copies open to public inspection

The copies of statements furnished to county clerks as provided in this article and the statements required to be filed under this chapter shall be kept on file and shall be open to public inspection.

§ 11890. Civil action

In addition to any other penalties prescribed, each association, whether an individual or a corporate person, that fails to comply with the provisions of this chapter shall be liable to a penalty of one thousand dollars (\$1,000) to be recovered in a civil action brought by any citizen of the state.

§ 11891. Penalty for single offense

Not more than one civil penalty may be recovered for a single offense.

§ 11892. Statute of limitations

No statute of limitations applies to the bringing of an action under this article.

SECTION 4: Section 12053 of the Elections Code is repealed.

§ 12053. Violation of chapter 2

Every person or organization who violates any article or provision of Chapter 2 commencing with Section 11800 of the Elections Code shall be liable to a penalty of one thousand dollars (\$1,000) to be recovered in a civil action brought by any citizen of the state.

SECTION 5: Division 4.5 (commencing with Section 3600) of Title 1 of the Government Code is repealed.

§ 3600. Legislative matters

The provisions of this section shall not apply to any person or organization who is a member of the legislature.

(b) The provisions of this section shall not apply to any person or organization who is a member of the legislature.

between the public and private interests.  
(c) The representative form of government is founded upon a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings provided those officers deal honestly and fairly with the people.  
To these ends, the legislature creates this division. The Legislature hereby intends to assure, to the extent possible, public confidence in government at all levels, by assuring the people of the impartiality and honesty of their officials in all governmental transactions and decisions.  
The provisions of this division are to be construed liberally, to the end that the public interest be fully protected.

§ 3601. Public agency defined

As used in this division, the term "public agency" means the state, a city, a county, a city and county, or a district or any subdivision, department, board, committee, body or agency of the foregoing, and includes any public corporation or public authority. The term "public agency" does not include a commission or board the functions of which are purely advisory in nature.

§ 3602. Corporation defined

As used in this division, the term "corporation" does not include a charitable corporation which qualifies for exemption from the corporation tax under Section 2370d of the Revenue and Taxation Code.

§ 3603. Investments defined

As used in this division, the term "investments" means real property held for income or gain, and does not include a home or property used primarily for personal or recreational purposes.

§ 3604. Ownership of shares defined

As used in this division, the term "ownership of shares" and the term "investments," respectively, include shares and investments owned by either person or corporation which is a corporation in which the ownership of shares exceeds 25 percent, or by a trust under which either spouse or minor child thereof is trustee of the trust or trustee, or a beneficiary or holds a reversionary interest.

§ 3605. Public officer defined

As used in this division, "public officer" means a member of the legislature, a secretary of the government, the chief clerk of the Senate or the Assembly, the Secretary and the Sergeant at Arms of the Senate, an administrative or legislative committee member of the Legislature, a constitutional officer, and any other officer of a public agency and includes a volunteer as a public officer who is classified as career executive and the appointive civil servant employee of the highest class of grade in each department, bureau, division, or other administrative subdivision of a public agency and includes a appointive employee of the public agency but does not include other civil servants of a public agency.

§ 3606. Business entity defined

As used in this division, the term "business entity" includes and pertains to a partnership, sole proprietorship, or any other assignment of interest in a sole proprietorship other than a charitable corporation, described in Section 23702.

§ 3607. Law governing

To the extent that any provision of this division imposes a strict limitation on the disclosure of ownership of shares in a corporation, or the disclosure of political contributions, that provided elsewhere with regard to particular public officers or public agencies, the provisions of this division shall prevail.

To the extent that any other provision of law imposes a stricter limit on the disclosure of ownership of shares in a corporation, or the disclosure of political contributions, with respect to particular public officers or public agencies than provided in this division, such provision of law shall prevail.

§ 3700. Statement of investments by public officer - filing - minimum investment

From to the 15th of April of each year, every public officer shall file a public record statement disclosing the nature and extent of his investments, including the ownership of shares in any corporation or the ownership of a financial interest in any business entity, which is subject to regulation by any state or local public agency, if such investment in excess of ten thousand dollars (\$10,000) in value at the time of this statement.

§ 3701. Supplemental statement of changes

Any person who filed a statement under Section 3700 in the preceding year may comply with the requirements of Section 3700 by filing a supplemental statement listing only the changes in the nature and extent of his investments, including the ownership of shares in any corporation or the ownership of a financial interest in any business entity, or stating that no change occurred if such is the case.

§ 3702. Filing of statement by candidate for public office

Each candidate as defined in Section 2752 for state or local public office, within 30 days after he files his declaration of candidacy or declaration of acceptance shall file a public record statement identical to the statement required by Section 3700.

§ 3703. Place of filing

Candidates and elected officials required to file statements under this chapter shall file in the same place specified in Section 2650 of the Elections Code for the filing of nomination statements.

with the Secretary of State. Other local officials and employees required to file statements under this chapter shall file with the county clerk in the county in which they reside.

§ 3704. Violations

Any person who violates a provision of this chapter is guilty of a misdemeanor, and any person who violates a provision of this chapter with the knowledge of the unlawfulness of such act or omission is guilty of a felony.

§ 3750. Statement by candidate; contents; filing

Each candidate for state or local public office, and each political committee supporting such candidate, shall file, as a public record, a cumulative statement listing each person or organization (including contribution or contributions) that have been received that total more than five hundred dollars (\$500) and that have been or may be expended on behalf of his campaign, together with the specific amounts contributed by each person or organization.

Statements for candidates for state office shall be filed with the Secretary of State, and statements for candidates for local office shall be filed with the county clerk of the county in which the candidate resides.

§ 3751. Time for filing

Statements required under Section 3750 shall be filed at the following times:

- (a) Between 20 and 25 days prior to the election;
- (b) Between 30 and 35 days after the election.

§ 3752. Combination with campaign statement

A statement required under the section (b) of Section 3751 may be combined with a campaign statement as defined in Section 11502 of the Elections Code.

§ 3753. Definitions

As used in this chapter:

(a) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution. The term "contribution" includes the services of an employer or donor of an employer or other person who is a contributor and is included in the name of the employer.

(b) The term "campaign statement" is a payment, distribution, or advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to do so as a candidate.

(c) The term "political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of a candidate or candidates or the nomination of a political party, whether or not such committee is formed by a business corporation, partnership, or group of business corporations or enterprises, which regularly makes political contributions from all persons or employees and which makes such contributions available to political candidates or a bipartisan base provided that the amounts contributed by it to each political candidate shall be set forth by the candidate in her statement required under Section 3750.

(d) The term "candidate" means any person who seeks nomination or election to a state, county, or local office or to a municipal office in a general law or charter city or any election or primary conducted within this state. "Candidate" also includes persons seeking election to a county central committee or the direct primary election.

§ 3754. Violations

Any person who violates a provision of this chapter is guilty of a misdemeanor, and any person who violates a provision of this chapter with the knowledge of the unlawfulness of such act or omission is guilty of a felony.

SECTION 61 Sections 3566, 3566.3, 3568, 3569, 3570, 3571 and 3572 of the Elections Code are repealed.

§ 3566. Analysis of measure

Whenever any measure qualifies for a place on the ballot the Secretary of State shall transmit a copy of the measure to the Legislative Council. The Legislative Council shall prepare an impartial analysis of general laws having what effect they and the vote will have on the general public and report the substance of the measure, the work and effect of the measure on the existing law and the operation of the measure. The analysis of general laws shall be printed in the first part of the ballot pamphlet between the ballot title and the arguments for and against the measure and shall be printed in the ballot pamphlet between the general analysis and the arguments of all candidates for nomination or election. The analysis shall be printed in the ballot pamphlet between the general analysis and the arguments of all candidates for nomination or election. The analysis shall be printed in the ballot pamphlet between the general analysis and the arguments of all candidates for nomination or election.

§ 3566.3. Estimate of financial impact of measure

Whenever any measure qualifies for a place on the ballot the Secretary of State shall transmit a copy of the measure to the Legislative Council. The Legislative Council shall prepare an impartial analysis of general laws having what effect they and the vote will have on the general public and report the substance of the measure, the work and effect of the measure on the existing law and the operation of the measure. The analysis of general laws shall be printed in the first part of the ballot pamphlet between the ballot title and the arguments for and against the measure and shall be printed in the ballot pamphlet between the general analysis and the arguments of all candidates for nomination or election. The analysis shall be printed in the ballot pamphlet between the general analysis and the arguments of all candidates for nomination or election.





**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS**

**FINANCIAL DISCLOSURES AND LIMITATIONS AFFECTING POLITICAL CAMPAIGNS, PUBLIC OFFICIALS AND LOBBYISTS -- OTHER MATTERS. INITIATIVE. REQUIRES REPORTS OF RECEIPTS AND EXPENDITURES IN CAMPAIGNS FOR STATE AND LOCAL OFFICES AND BALLOT MEASURES. LIMITS EXPENDITURES FOR STATE-WIDE CANDIDATES AND MEASURES. PROHIBITS PUBLIC OFFICIALS FROM PARTICIPATING IN GOVERNMENTAL DECISIONS AFFECTING THEIR "FINANCIAL INTERESTS." REQUIRES DISCLOSURE OF CERTAIN ASSETS AND INCOME BY CERTAIN PUBLIC OFFICIALS. REQUIRES "LOBBYISTS" TO REGISTER AND FILE REPORTS SHOWING RECEIPTS AND EXPENDITURES IN LOBBYING ACTIVITIES. CREATES FAIR POLITICAL PRACTICES COMMISSION. REVISES BALLOT PAMPHLET REQUIREMENTS. PROVIDES CRIMINAL AND CIVIL SANCTIONS FOR VIOLATIONS. ENACTS AND REPEALS STATUTES ON OTHER MISCELLANEOUS AND ABOVE MATTERS. IF THE PROPOSED INITIATIVE IS ADOPTED, UNDEFINED ADDITIONAL FINANCING FROM STATE SOURCES WILL BE REQUIRED IN THE AMOUNTS OF \$930,000 FOR FISCAL YEAR 1974-75, \$1,630,000 IN EACH SUBSEQUENT FISCAL YEAR IN WHICH A GENERAL ELECTION IS HELD AND \$1,100,000 IN EACH FISCAL YEAR IN WHICH NO GENERAL ELECTION IS HELD.**

Off. Use	SIGNATURE (as registered)	DATE month/day	PRINT (last name)	PRINT ADDRESS (as registered)	CITY	ZIP	Off. Use
1		-73					
2		-73					
3		-73					
4		-73					
5		-73					
6		-73					
7		-73					
8		-73					
9		-73					
10		-73					
11		-73					
12		-73					
13		-73					
14		-73					
15		-73					
16		-73					
17		-73					
18		-73					
19		-73					
20		-73					
21		-73					
22		-73					

*(Do not sign as circulator until you send in petition. Petition need NOT be notarized.)*

**DECLARATION OF CIRCULATOR**

I am registered to vote in the County (or City and County) of.....and of the State of California. Each of the signatures to this petition was signed in my presence. Each signature of this petition is, to the best of my knowledge and belief, the genuine signature of the person whose name it purports to be. I circulated the petition in the above County (or City and County) and no other County. I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF PETITION CIRCULATOR \_\_\_\_\_ STREET ADDRESS \_\_\_\_\_ CITY OR TOWN \_\_\_\_\_ ZIP \_\_\_\_\_ DATE \_\_\_\_\_  
 Print Last Name \_\_\_\_\_

~~5. To abstain from soliciting any employment as a legislative advocate except on the basis of his experience or knowledge of the business or field of activity in which his proposed employer is engaged or is interested.~~

~~6. To abstain from any attempt to create a fictitious appearance of public favor or disfavor of any legislative proposal or to cause any communication to be sent to any Member of the Legislature, the Lieutenant Governor, or the Governor, in the name of any fictitious person or in the name of any real person, except with the consent of such real person.~~

~~7. Not to encourage the activities of or to have any business dealings relating to legislation or the Legislature with any person whose registration to act as a legislative advocate has been suspended~~

~~or revoked.~~

~~8. Not to represent, either directly or indirectly, through word of mouth or otherwise, that he can control or obtain the vote or action of any Member or committee of the Legislature, or the approval or veto of any legislation by the Governor of California.~~

~~9. Not to represent an interest adverse to his employer nor to represent employers whose interests are known to him to be adverse.~~

~~10. To retain all books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of two years.~~

~~5-9911. Legislative advocate, definition. For the purpose of Sections 9909 and 9910, the term "legislative advocate" includes any person registered or required to be registered under Section 9909.~~

This is not part of the legal document!

This is not part of the legal document!

BECAUSE OF THE PAPER SHORTAGE - WE ARE PLACING THESE BRIEF CHAPTER OUTLINES IN THIS SPACE FOR YOUR CONVENIENCE. FOR A LONGER, MORE DETAILED OUTLINE CONTACT ANY COMMON CAUSE OFFICE.

**CHAPTER 1. Statement of Purpose.** Government has become unresponsive to the needs of the people, largely as a result of the domination of well-financed special interests. To reduce the excessive influence of money on the political process and to return politics to the citizen are primary goals of this initiative. This measure requires regulation, on state and local levels, of lobbyist activities, disclosure and disqualification of specified officials with conflicts of interest, campaign finance disclosure and ceilings on upward-spiraling campaign spending, and the reduction of incumbents' advantage. All reports are public. Chapter 8 is enacted immediately. All other sections are enacted January 7, 1975. Amendments require two-thirds vote of both houses of the legislature.

**CHAPTER 2. Definitions.**

**CHAPTER 3. Fair Political Practices Commission.** The Commission shall be a five member, multi-partisan, independent administrative and investigatory body. The Governor appoints the chairman and an additional member from a different political party. The Attorney General, Secretary of State, and Controller will each appoint one member. The Commission is empowered to subpoena records and witnesses, publicize information, investigate violations, issue injunctive relief and levy fines. The Commission will receive \$1 million for each fiscal year.

**CHAPTER 4. Campaign Disclosure.** All campaign contribution and expenditures of \$50 or more must be reported by all candidates for state and local elective office, with the name, address, occupation and employers' name of the contributor. This information must be filed 40 and 12 days prior to, and 65 days after election day and every six months while in office. Committees supporting or opposing candidates or ballot measures must also file under similar rules. All statements will be filed with the Secretary of State and audited by the Franchise Tax Board.

**CHAPTER 5. Limitations of Expenditures.** Candidates for Governor will be limited to spending 7½ times the number of voting age citizens in a primary election (\$980,000), and 9½ in a general election (\$1.26 million). The other six state Constitutional officers will be limited to 3½ per voting age citizen in each election (\$420,000). For incumbents, amounts are reduced by 10%. In addition, independent committees each may spend up to \$10,000. The state central committee of a political party and the committees it controls may spend up to \$420,000. Proponents of statewide initiatives are limited to spending \$0,000 to qualify a measure. Supporters and opponents of ballot measures are restricted to spending 8½ per voting age citizen during the campaign (\$1.12 million). No side in an initiative campaign may outspend the other by more than \$500,000. All figures will be adjusted for cost-of-living changes.

**CHAPTER 6. Lobbyists.** Lobbyists are prohibited from making or arranging any political contributions or from making gifts to state officials of more than \$10 per month. Lobbyists must submit monthly statements to the Secretary of State detailing all expenditures made, including the name of the beneficiary, in attempting to influence legislative or administrative action. The employers of lobbyists and anyone spending over \$250 in a month to influence legislation must also register and file monthly reports. Lobbyists must make all expenditures through a special account and can be audited by the Franchise Tax Board. All reports are public.

**CHAPTER 7. Conflict of Interest.** Covers all state and local officials whose financial interests could be affected by their decision-making. They must file annual statements of their financial interests which could be affected, including sources of income, investments and property. They must report the nature of the interest and whether the interest is more than \$10,000 and more than \$100,000. Every candidate for these offices must file a similar statement with their declaration of candidacy. All state and local agencies must adopt precise conflict of interest codes governing their employees. Public officials, as specified, may not participate in any decisions that affect any business or property in which the official has more than a \$1,000 interest, or from which the official receives more than \$250 within 12 months before the decision, or in which the official holds a major management position.

**CHAPTER 8. Ballot Pamphlet Reform.** The ballot pamphlet mailed to all voters before each statewide election will be revised to be understandable and easily readable. It will be written in simple and concise language, avoiding technical terms. Type size and page size of the booklet will be increased. The booklet will be available to the public prior to final printing, and perceived inaccuracies may be challenged in court by any voter.

**CHAPTER 9. Incumbency.** No legislative newsletter or other mass mailing shall be sent at public expense by an elected state officer after the officer has filed a declaration of candidacy. The order of candidate names on the ballot shall be determined without regard to whether the candidate is an incumbent.

**CHAPTER 10. Auditing.** To insure the accuracy and completeness of all reports filed in connection with this act, the Franchise Tax Board shall make audits and field investigations of campaign statements and lobbyist reports. The Commission may also audit and investigate these reports. Any violation of law will be reported to the Fair Political Practices Commission and the Attorney General.

**CHAPTER 11. Enforcement.** Any person who violates a provision of this measure is guilty of a misdemeanor and is subject to fines up to triple the amount of the violation for improper reporting or unlawful contributions or expenditures. No person convicted of a violation can be a candidate for elective office or act as a lobbyist for four years following the date of conviction. The Fair Political Practices Commission and appropriate local officials in whose jurisdiction violations occur can bring civil action to stop violations or recover damages. If these officials fail to act, any private citizen can sue. If a citizen wins, they may be reimbursed for court costs.

#### COMMON CAUSE OFFICES

SAN FRANCISCO - 2152 Union Street, 94123 (415) 346-7600

LOS ANGELES - 601 N. Vermont Ave. #105, 90004 (213) 664-9135

SAN DIEGO - 3469 Noell, 92110 (714) 299-3760

OUR ONLY FINANCING IS THROUGH YOUR PERSONAL SUPPORT!

MAKE CHECKS PAYABLE TO "COMMON CAUSE" (UNITED STATES)

November 14, 1974

Mr. Norman Gorsuch, Attorney General  
Department of Law  
Fouch K  
Juneau, Alaska 99801

Dear General:

The Legislative Council, one of the permanent interim arms of the Legislative branch of government, held a regular business session in Anchorage on November 8. One of the matters discussed at that meeting was Initiative No. 2 approved by the voters on August 27, 1974, relating to conflict of interest of public officials. During the course of the discussions concerning the ramifications for the affected officials, it became evident that there is much confusion and trepidation concerning exactly what is required under the provisions of the act and it became equally clear that definitive answers are needed as to how certain provisions of the act are to be applied and interpreted. The end result of the Council's deliberations was that this office, on behalf of the Legislature and all other persons within the purview of the act, was directed to request a formal opinion from the Attorney General concerning many questions surrounding the provisions of the act. The questions posed to you at this time are by no means intended to be all inclusive, but are illustrative of the questions and concerns of the members of the Legislature and most likely of all other persons covered by the act. Some of the specific questions which the Council desires an opinion on are the following.

One of the most important issues to be determined concerns the effective date of the act and who is covered. The actual effective date of the act is December 11, 1974. However, AS 39.50.150 requires that every person who is a public official on the effective date of the act must file the required statements within 60 days of the effective date which would appear to be by February 9, 1975. What effect does the latter provision have on newly elected officials who will not be "public officials" on December 11? Are they exempt from this provision? Equally, does the section require incumbent legislators who are "public officials" on December 11, but will not be on February 9 to file the required statements?

Mr. Norman Coraugh, Attorney General

November 14, 1978

Further confusing the issue is the fact that AS 39.50.060(b) states in effect that no covered person may be seated (in the case of legislators who have failed to comply with the provisions of the act). If the reports are not due until February 9, can legislators take office on January 20 in lieu of this provision?

Again, a subsidiary issue raised by the latter section is what effect does it have on the well-established principal that the Legislature alone is the sole judge of the qualifications of its members?

The above seemingly conflicting provisions are among the most important issues to be decided, i.e. when and who must file. In addition to the above, a myriad of other questions present themselves, some of which are as follows:

1. Must a person's assets and liabilities be listed in toto or must they be itemized?

2. Hypothetically, would a grocery store owner have to list all of his customers who have made purchases over \$100 in value?

3. It was the feeling of the Council that the guidelines pertaining to covered officials who may have professional dealings with the state require clarification.

4. The question arises as to the law requiring professional persons to violate confidentiality agreements.

5. As a hypothetical case, would an attorney be permitted to sue the state on behalf of a client, or vice versa, could an attorney represent the state, or likewise, could a covered official appointed by the state or a private individual act as an arbitrator in a dispute between a private party and the state?

6. To what degree must investments, debts, etc. of family members be disclosed?

7. Must assets such as a painting which has more than a \$500 value be declared even if it cost the person nothing, i.e. a gift?

8. When declaring the value of household articles, etc., may the official make his own assessment or must he have them appraised? If the latter, is he to bear the cost of the appraisal?

Mr. Norman Borzuch, Attorney General

November 14, 1974

9. If land is involved, may the assessed value be utilized, your own evaluation, or an independent appraisal, or any of the above?

10. What responsibility does a covered official have if his or her spouse should refuse to divulge the information required under the act?

11. What date is appropriate for evaluating items whose value might fluctuate greatly from day to day or week to week, etc.?

12. To what extent must sources of income be itemized, i.e. must an attorney list his clients by name and/or those of his partners? What if there is a conflict between a professional person's canon of ethics and the requirements of the law? Again, hypothetically, would a banker legislator reveal the names of all of his depositors and borrowers when over \$100 is involved?

13. Do the reporting requirements apply to adult children who may be living in the home?

The above questions are not meant by any means to be exhaustive of all of the questions that could or might be raised concerning the implementation of Initiative No. 2, but are certainly illustrative of the many uncertainties and dilemmas facing those public officials covered by the act. In view of the time element involved, it is respectfully requested that an opinion covering the above questions and all other matters that should be known to all officials covered by the act be issued as expeditiously as possible and that the opinion receive the widest immediate dissemination possible to all officials covered by the act and to the public as well.

Equally important from the Council's point of view is that along with definitive answers to the various questions posed, the opinion contain a list of things that need not be done, accounted for, etc.

Your immediate attention to this request is greatly appreciated.

Very truly yours,

John M. Elliott  
Executive Director

JME:pmk

cc: Legislative Council members

# STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL

JUNEAU 99801

November 29, 1974

Mr. John M. Elliott  
Executive Director  
Alaska Legislative Council  
Pouch Y  
Juneau, Alaska 99811

Re: AS 39.50, Conflict of  
Interest

Dear Mr. Elliott:

We will attempt to answer, point by point, the questions raised by the Legislative Council concerning the Conflict of Interest Initiative, which you have forwarded to us in your letter of November 14, 1974.

Attached hereto is a copy of an opinion given to the lieutenant governor concerning the first reporting date for newly elected legislators, which opinion answers your introductory inquiry concerning whether newly elected legislators can be deemed incumbent public officials. (With respect to a person who is a public official on December 11, 1974, but not on February 9, 1975, such person must file the necessary reports.) By this time, you probably have also received from the lieutenant governor a copy of the reporting forms and instruction and the reporting regulations.

We will consider now your numbered questions, and the answers we have been able to arrive at.

1. Assets and liabilities should be itemized to the extent of identification of each interest so far as source, description, or obligee is concerned. The Act requires disclosure of persons and organizations, not the amount of involvement.

2. The conclusion is inescapable that the owner of a grocery store, if unincorporated, would be required to list the names of his customers who have paid over \$100.

Mr. John M. Elliott  
Executive Director

November 29, 1974

- 2 -

3. It is certainly true that AS 39.50.090(c), for example, which prohibits a "public official" from representing a client before a state regulatory agency for a fee, appears to be extremely restrictive, but once again the language is not ambiguous.

4. As the Act now reads, only the Supreme Court can exclude certain disclosures because of professional ethical considerations. AS 39.50.030(c).

5. AS 39.50.090 contains only the prohibition in subsection (c) we mentioned in our comment on your third numbered question, although a real conflict of interest could be present in the situations you hypothesize.

6. Financial interests of family or "household" members must be disclosed as fully as those of the official, insofar as they can be ascertained by the public official.

7. Generally the existence of an interest, not its basis, would be the controlling factor. The painting you hypothesize would probably be considered among household goods, which by AS 39.50.030(a) need not be identified even if over \$500. But the ownership of an inherited lot may have significance even though it cost the official nothing.

8. Household articles are not required to be reported. Assessments of other items would be necessary only to determine the \$500 cut-off. Professional appraisal in such instances would not seem to be required. The thrust of the Act is disclosure of interests over \$500 and not the value of such interests.

9. No evaluation is required.

10. AS 39.50.030(a) would seem to require a good faith effort on the part of the official or candidate, as an interest of a household member must be listed "to the extent that it is ascertainable".

11. Again, no value need be disclosed.

Mr. John M. Elliott  
Executive Director

November 29, 1974

- 3 -

12. Sources of income (i.e., clients) received by a partnership or a professional corporation must be reported by a member public official. With the exception of professional corporations, the source of income for a corporate employee is the corporation. ~~+~~

13. We have interpreted "household" as including all who live in the official's home, except domestic employees.

If you have any further questions, we remain available.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: *Richard L. Peter*  
Richard L. Peter  
Assistant Attorney General

RLP:md

RECEIVED  
NOV 29 1974  
LEGISLATIVE AFFAIRS  
AGENCY

November 19, 1974

The Honorable H. A. "Red" Boucher  
Lieutenant Governor  
Office of the Governor  
Pouch AA  
Juneau, Alaska 99811

Re: Time for Filing Reports  
Under AS 39.50.010 et seq.

Dear Lieutenant Governor Boucher:

Recently you have asked if legislators elected in the recent November election are to be deemed incumbent public officials for purposes of determining when such legislators must file their conflict of interest information. It is the opinion of this department that such legislators should be considered incumbent public officials, and thus their conflict of interest statements are not due until February 9, 1975. The rationale for such a conclusion is set forth below. The time at which a legislator is supposed to file a conflict of interest statement is set forth in AS 39.50.020(a), which reads as follows:

The governor, the lieutenant governor, each legislator, each judicial officer, each commissioner, chairman or member of a state commission or board, and each person hired or appointed as head of a department in the executive branch shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days before the time he is hired, appointed, certified, confirmed, or approved and becomes a public official and assumes his duties. Each candidate or incumbent for or in state elective office shall file such a statement at the time of filing a declaration of candidacy within 20 days of the filing of any nominating petition, or within 20 days of becoming a candidate by any other means. Refusal or failure to file within the time pre-

RECEIVED  
NOV 29 1974

LEGISLATIVE AFFAIRS  
AGENCY

The Honorable H. A. "Red" Boucher  
Lieutenant Governor

November 19, 1974

- 2 -

scribed shall require that the lieutenant governor refuse to accept the candidate's filing fee or his filing for office, or to return the filing fee and remove the name of the candidate from the filing records. A statement shall also be filed no later than April 15 or 15 days after the person files his federal income tax return in each following year whichever shall come first, by all persons named in this subsection. (Emphasis added.)

Because the conflict of interest statute was not in effect at the time of declaration of candidacy of the legislators who ran in the recent November election, the reporting provision which deals specifically with legislative officials is inapplicable. The question then becomes what time for filing conflict of interest information is appropriate for such legislators. This department concludes that the incumbent filing date is the appropriate filing date. The justification for such conclusion is simply that the results of the legislative election will have been certified by the Lieutenant Governor prior to the effective date of the conflict of interest statute, and thus, the legislators can be viewed as having a vested interest in office. Also, the incumbent filing provision - AS 39.50.150 - was meant to provide for an orderly implementation of the conflict of interest law. 1/ Any interpretation of the conflict of interest law which would require new lawmakers to file conflict of interest information 30 days before the legislature convenes on January 20, 1975, would not promote an orderly implementation of the law in view of the extremely complex provisions of the statute. Finally, the goals of the conflict of interest statute are not undermined in any way by use of the incumbent filing date in this instance.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

Richard L. Peter  
Assistant Attorney General

RLP:md

1/ AS 39.50.150 reads as follows:

Every person who is a public official as defined in this chapter on the effective date of this chapter shall file the required statements required by the chapter within 60 days of the effective date of this chapter.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, Governor

POUCH K - STATE CAPITOL  
JUNEAU 99801

December 24, 1974

The Honorable Jay S. Hammond  
Governor  
State of Alaska

Re: Conflict of Interest  
Initiative,  
AS 39.50

Dear Governor Hammond:

You have requested from the Department of Law an opinion on the construction and constitutional validity of AS 39.50, an initiated act relating to conflict of interest of public officials. Specifically, you have asked:

- (1) Whether the disclosure requirements are constitutional.
- (2) Whether those provisions of the Act (AS 39.50.090(a), (b) & (c)) which prohibit public officials from engaging in certain areas of activity are valid constitutional restrictions.
- (3) Whether the Act can legally require attorneys and accountants to disclose the identity of their clients.
- (4) Whether members of all state boards and commissions are subject to the Act.

It is the opinion of this department that:

- (1) The disclosure requirements of AS 39.50 are constitutional.
- (2) The prohibitions contained in AS 39.50.090 are valid.
- (3) The initiative's requirement that attorneys and accountants disclose their clients' identity does not violate the professional ethics of those groups.
- (4) Members of all state boards and commissions are subject to AS 39.50, specifically including members of advisory, regulatory and professional licensing boards.

Discussion

On August 27, 1974, 71.1% of those voting on Initiative No. 2 approved it. Initiative No. 2 was codified as AS 39.50 and became effective December 11, 1974. This opinion will refer to sections of the codified law.

In construing that law, it is important to keep in mind that there is no essential difference between measures enacted by initiative and those created through the usual legislative process. 1/ In both cases, if the law is ambiguous, the primary aim of construction is to give effect to the intent of the legislative body. 2/ When the legislative body is the people, their collective intent becomes the object of any search for legislative intent. 3/

With those general principles in mind, we now turn to an analysis of AS 39.50.

(1) The Disclosure Requirements of AS 39.50 Are Constitutional.

The principal constitutional challenge to the disclosure requirements of AS 39.50 is that they invade rights of privacy guaranteed by Article I, §22, of the Alaska Constitution and certain provisions of the United States Constitution applied to the states by the Fourteenth Amendment of the United States Constitution. It is established, both in Alaska and at the federal level, that when a state law encroaches upon fundamental personal liberties, the state must show that the law serves a state interest that is "compelling" and necessary to the accomplishment of a permissible state policy. 4/ The Alaska Supreme Court has specifically noted that where a law impinges upon the constitutionally guaranteed right of privacy, the statute may be upheld only if it is necessary to further a "compelling" state interest. 5/

Comprehensive disclosure statutes similar to Alaska's, challenged upon similar grounds, have been upheld by the Supreme Courts of California, 6/ Illinois, 7/ and Washington. 8/

---

1/ Washington State Department of Revenue v. Hoppe, 512 P.2d 1094 (Wash.1973); Anthony v. Veatch, 221 P.2d 575 (Ore.1950), appeal dismissed, 340 U.S. 923 (1951).

2/ Concerned Citizens of So. Kenai Pen. Bor. v. Kenai Pen. Bor., 527 P.2d 447 (Alaska 1974).

3/ Washington State Department of Revenue, 512 P.2d 1096.

4/ Roe v. Wade, 410 U.S. 113 (1973); Griswold v. Connecticut, 381 U.S. 479 (1965).

5/ Gray v. State, 525 P.2d 524 (Alaska 1974).

6/ County of Nevada v. MacMillen, 522 P.2d 1345 (Cal.1974).

7/ Stein v. Howlett, 289 N.E. 2d 409 (Ill.1972); Illinois State Employees Assn. v. Walker, 315 N.E. 2d 9 (Ill.1974), cert. denied, Dec. 9, 1974, N. Y. Times, Dec. 10, 1974, at 26 col. 3.

8/ Fritze v. Gorton, 517 P.2d 911 (Wash.1974), appeal dismissed,

The United States Supreme Court dismissed an appeal from the Washington decision for want of a substantial federal question 9/ and denied certiorari recently on an appeal from a decision upholding the Illinois statute. 10/ These decisions have justified disclosure laws on a dual basis. First, courts have recognized that the state interest involved is in fact "compelling". Second, it has been generally held that an individual makes at least a partial waiver of his right to privacy when he becomes a public official or a candidate for public office. These justifications will be discussed separately.

(a) Compelling State Need.

The public's need for an honest and impartial government has been held to be "compelling" by those state courts that have recently upheld California's 11/, Illinois' 12/, and Washington's 13/ disclosure laws. The compelling need for voters to gain as much knowledge as possible about candidates for office was also noted recently by the Alaska Supreme Court when it upheld a three-year residency requirement for candidates. 14/

Initiative No. 2 was proposed and voted upon in what can be best described as "the age of Watergate". Public opinion polls frequently show the public's low level of confidence in government and government officials at this time. Confidence is dependent not only on avoiding actual conflict of interest, but upon avoiding even the appearance of conflict of interest by public officials. 15/ It is elementary that confidence in government is essential to the very fabric of our society, and accordingly, measures to restore that confidence through disclosure are readily held to constitute a compelling state interest.

---

9/ Id.

10/ Illinois State Employees Assn. v. Walker, 315 N.E. 2d 9.

11/ County of Nevada v. MacMillen, 522 P.2d 1353.

12/ Illinois State Employees Assn. v. Walker, 315 N.E. 2d 17.

13/ Fritz v. Gorton, 517 P.2d 924.

14/ Gilbert v. State, 526 P.2d 1131, 1136 (Alaska 1974).

15/ Canon 9, Code of Professional Responsibility, states: "A Lawyer Should Avoid Even the Appearance of Professional Impropriety".

Both the Alaska Supreme Court 16/ and the United States Supreme Court have indicated that the right to privacy is not absolute. 17/ For instance, the Court noted in Roe v. Wade, 410 U.S. 113 (1973) (apropos of abortion) that the state interest at some point becomes sufficiently compelling to interfere with a woman's right to privacy. 18/ In the specific context of disclosure laws, the Illinois Supreme Court has said that:

[I]n the balancing of the individual employee's fundamental right to privacy and the state's compelling need for efficient, ethical government, the state's interest predominates. To promote its interest, the state is requiring complete financial disclosure. Such a means is substantially related to the end and is not overbroad. While full financial disclosure is burdensome, anything less would be ineffective in accomplishing the goal. 19/

AS 39.50.030 of course requires not merely the disclosure of an individual's finances but the disclosure of the finances of members of his family. It might be alleged, accordingly, that while the public need for disclosure of the finances of a public official is compelling, the need for disclosure of the finances of his family or household is not. This claim was considered and rejected by the California Supreme Court which noted that such provisions ". . . are reasonably necessary to promote the act's underlying purposes, for otherwise an official could defeat the disclosure provisions by the simple means of transferring record title to his spouse or dependent children. . . . [T]he Act serves the legitimate purpose of assuring that the official disclose the fact that his spouse or dependent children own property which might be materially affected by his official actions." 20/ The California Supreme Court went on to note that "[a]lthough the 1973 act may, to some extent, invade the privacy of the official's spouse or dependent children, we think the public's interest in an honest and impartial government outweighs the interest of such persons in maintaining complete privacy in their financial affairs." 21/

---

16/ Gray v. State, 525 P.2d 524.

17/ Roe v. Wade, 410 U.S. 113.

18/ Id. at 154.

19/ Illinois State Employees Assn. v. Walker, 315 N.E. 2d 17.

20/ County of Nevada v. MacMillen, 522 P.2d 1353.

21/ Id., at 1353 fn. 10.

The need for disclosure of financial information in order to reveal possible conflicts of interest has been recognized by a number of other governmental units. 22/ At least seven states presently have statutory disclosure provisions for public officials. 23/ One of the seven states has gone so far as to incorporate the disclosure requirement into its state constitution. 24/ The judiciary in Alaska is already subject to disclosure requirements. 25/ Finally, it is worth noting that the United States Supreme Court has recently upheld rather sweeping bank recordkeeping and disclosure requirements, despite a challenge that the provision violated the customer's right of privacy, suggesting that when the public need for disclosure is substantial, the right of privacy must give way. 26/ So, in our opinion, must rights of privacy give way in this instance, for the need for disclosure is clear.

(b) Waiver of Right to Privacy.

The Washington Supreme Court recently noted in upholding Washington's disclosure statute that "the candidate who enters a public arena voluntarily presents or thrusts himself forth as a subject of public interest and scrutiny." 27/ The Washington Court's decision was but the latest of a series of decisions holding that a public personality substantially waives (or loses) his right to privacy by entering public office or becoming a public personality. 28/ Each of the cases indicates a growing awareness of the loss of privacy for public or noteworthy persons and a corresponding interest of the public in obtaining information about those persons. This of course does not mean that a public official or candidate for office waives all rights of privacy. The public here is not intruding upon the official's right of privacy as to those matters which embrace solely his personal as opposed to his official or public life. The public does require, however, that the financial affairs of persons who seek or occupy positions of high public trust be disclosed. Admittedly, one's finances are personal, but not solely personal. Possible financial conflicts

---

22/ See for example Executive Order No. 11222, 18 U.S.C. §201.

23/ Arkansas Stat. Ann. (1973 ed.) §§12-3001--12-3008; California Gov. Code §3600 et seq.; Illinois, S.H.A. ch. 127, §§601-101 et seq., 607-101; Kansas Stat. Ann. §§75-4301--75-4306; Tennessee Code Ann. §§8-4125--8-4129; Rev. Code of Washington ch. 42.17; West Virginia Ann. Code ch. 6B.

24/ Illinois, S.H.A. Const. 1970, art. 13, §2.

25/ Alaska Code of Judicial Conduct, Canon 6.

26/ California Bankers Assn. v. Shultz, 416 U.S. 21 (1974).

27/ Fritz v. Gorton, 517 P.2d 923.

28/ Rosenbloom v. Metromedia, 403 U.S. 29 (1971); Monitor Patriot Co. v. Roy, 401 U.S. 265 (1971); Time, Inc. v. Hill, 385 U.S. 374 (1967); Garrison v. Louisiana, 379 U.S. 64 (1964); New York Times v. Sullivan, 376 U.S. 254 (1964).

of interest clearly touch one's official or public life. They relate to one's qualifications for public office. Accordingly, the law can require candidates and office holders to waive their rights of privacy in this area.

(2) The Prohibitions Contained in AS 39.50.090  
Are Constitutional.

AS 39.50.090 provides that: (a) No public official may use his official position or office to obtain financial gain for himself, a member of his family or business with which he is associated or owns stock.

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

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

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

AS 39.50.090(a)

AS 39.50.090(a) is basically a codification of the common law rule that public officers are not permitted to place themselves in a position in which personal interests may come into conflict with the duty owed to the public. <sup>29/</sup> However, because AS 39.50.090(d) makes a violation of the prohibition a crime, the statute must be scrutinized more carefully to insure that constitutional safeguards applicable to criminal statutes generally are equally applicable here.

Specifically, it has been suggested that there is a problem of vagueness within AS 39.50.090(a). The section, on its face, appears to prohibit both innocent and wrongful acts, with the result that a public official must act at his peril, exposing himself to criminal penalties for actions he might not understand to be prohibited. For example, a commissioner of revenue might wish to testify favorably before a legislative committee which is considering a cost-of-living pay raise for all state employees

---

<sup>29/</sup> See generally 67 C.J.S. Officers §116.

(governor, commissioners and legislators included). A governor might wish to approve a similar act if it were passed by the legislature. Some "financial gain" would obviously flow to both officials if the pay raise was enacted. Therefore, both a governor and a commissioner of revenue might be reluctant to act, since a literal reading of AS 39.50.090(a) and (d) would indicate prohibition of and penalty for such action. 30/ Similarly, a member of the Fish and Game Board might wish to vote for a regulation which he considered beneficial to the majority of Alaskans, but which would also incidentally benefit him.

Although AS 39.50.090(a) may be read literally to prohibit the actions contemplated by the public official in all three examples, it is unlikely that those voting in favor of Initiative No. 2 intended to penalize seemingly innocent actions that provide only incidental benefit to the official. 31/ This logical conclusion is buttressed by the existence of established legal principles of statutory interpretation, which require a limitation of such an apparently broad criminal statute. 32/

The Alaska Supreme Court has stated that "[p]enal statutes which provide for serious penalties are generally construed to require criminal intent." 33/ Therefore, a reasonable construction

---

30/ Legislators voting for such a pay raise might also appear subject to penalty. However, Alaska Const. art II, §6 would prohibit holding a legislator criminally liable for his vote in the legislature.

31/ Contrast with these, the actions prohibited by AS 39.50.090(b) and (c). Those prohibited actions would clearly provide financial benefit to the public official intentionally, rather than incidentally.

32/ CSC v. Letter Carriers, 413 U.S. 548 (1973). The Court has stated in Harriss that, "...no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed." United States v. Harriss, 347 U.S. 612, 617 (1954). However, the Court in Harriss did note that "...if the general class of offenses to which the offense is directed is plainly within its terms, the statute will not be struck down as vague, even though marginal cases could be put where doubts might arise." Id. at 618.

33/ Thomas v. State, 522 P.2d 528, 530 (Alaska 1974). Although the United States Supreme Court has indicated that mens rea (criminal intent) is not required for certain regulatory violations, this is not thought to be such a provision. See, e.g. United States v. Dotterweich, 320 U.S. 277 (1943); United States v. Balint, 258 U.S. 250 (1922).

needs to be placed on AS 39.50.090(a) in order to make it constitutionally acceptable. <sup>34/</sup> Due to the apparent sweeping application of the section and the corresponding lack of evidence that strict criminal liability was intended, this office has concluded that a requirement of "wrongful or improper" use of a public official's office or position must be read into the statutory prohibition. We mean by this that AS 39.50.090(a) must be understood to prohibit the "corrupt" use of an official's office or position to intentionally benefit himself, family member or business. An innocent action by an official which incidentally benefits him, but only as part of the general benefit conferred upon the public would not be prohibited. For example, in Commonwealth v. McSorley <sup>35/</sup> (alleged misfeasance of office by official who provided state-paid chauffeur for former official), the court searched for evidence of a "corrupt motive" by examining the facts to see if the motive could be inferred from the surrounding circumstances. After noting the presumption that a public official acts with good faith and proper motive, the court in McSorley recognized that the state had benefited by the official's act, and therefore, in the absence of evidence of personal benefit to the official, held that there was no "corrupt motive." We believe a similar investigation of motive is implied by AS 39.50.090(a). <sup>36/</sup>

AS 39.50.090(b)

AS 39.50.090(b) (prohibition on payment for legislative advice by public official) does not appear subject to significant constitutional challenge since, as will be seen in the following discussion of AS 39.50.090(c), the relationship between the action prohibited and the state interest to be protected is sufficiently clear to avoid a problem of overbreadth.

AS 39.50.090(c)

In analyzing the constitutional validity of AS 39.50.090(c) (prohibition on public officials practicing before state agencies), we commence with the established proposition that there is no absolute legal right to serve in public office. Once one becomes a public official, he may be subject to various limitations and

---

<sup>34/</sup> Similarly, a requirement of "criminal intent" should be read into AS 39.50.140, a felony provision. The word "corruptly" is used to supply the criminal intent element in AS 11.30.050, from which AS 39.50.140 was drafted.

<sup>35/</sup> Commonwealth v. McSorley, 189 Pa. Super. 223, 150 A.2d 570 (1959).

<sup>36/</sup> Although potentially vague statutes may be made constitutionally acceptable by a reasonable construction, this is an area appropriate for consideration (and possible amendment) by the legislature.

prohibitions, which are valid if reasonably related to the state interest to be protected. 37/ For example, Art. II, §5 of the Alaska Const. has been held to prohibit a legislator from serving as superintendent of a state-operated school district during his term as legislator. 38/ Similarly, no employee of the Alaska court system may engage directly or indirectly in the practice of law in any Alaskan court during his term of employment. 39/ Somewhat more analogous to AS 39.50.090(c) is 18 U.S.C. §205 which provides, in part, that:

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties--

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest--

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both. 40/

---

37/ E.g., 18 U.S.C. §§201-208; Alaska Const., art. II, §5; art. IV, §14; Ill. S.H.A. ch. 127, §§602-104, 603-105; N.Y.C.L.S. Pub. Officers L. §73.

38/ Begich v. Jefferson, 441 P.2d 27 (Alaska 1968).

39/ Alaska Admin. Rule 2(d).

40/ The federal statute does distinguish between full-time and part-time employees, placing lesser burdens on the latter. Such a distinction with respect to members of advisory boards might well be the subject of an amendment to the initiative.

Accordingly, a prohibition on a public official's engaging in private practice before public agencies or in otherwise engaging in activities which may create a conflict of interest or the appearance of a conflict is not unusual and has been judicially upheld. It follows that AS 39.05.090(c) (and to somewhat the same extent, AS 39.05.090(b)) should be similarly upheld. 41/

In two recent cases 42/, the United States Supreme Court has upheld federal and state authority to prohibit all classified (civil service) employees from engaging in all forms of partisan political activity. The Court upheld the government prohibitions in the face of attacks for vagueness, denial of equal protection, and infringement on First Amendment freedoms. The Court's reasoning is instructive:

It seems fundamental in the first place that employees in the Executive Branch of the Government, or those working for any of its agencies, should administer the law in accordance with the will of Congress. . . . They are expected to enforce the law and execute the programs of the Government without bias or favoritism. . . . Forbidding activities like these will reduce the hazards to fair and effective government.

\* \* \* \*

There is another consideration in this judgment: it is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent. 43/

In these two cases, the Court upheld sweeping prohibitions on otherwise constitutionally protected activities against a single class of persons, civil servants. The prohibitions of AS 39.05.090(b) and (c) are not nearly so broad and their application is limited solely to those public officials who, because of their positions, are able to shape public policy, establish or amend the law, and regulate the affairs of the public. The prohibitions are, in our

---

41/ See Petition of Moody, 524 P.2d 1261 (Alaska 1974) (lawyer-employee of judicial system totally prohibited from practice of law).

42/ CSC v. Letter Carriers, 413 U.S. 548 (1973) and Broadrick v. Oklahoma, 413 U.S. 601 (1973).

43/ CSC v. Letter Carriers, 413 U.S. 564-565 (Emphasis added).

opinion, constitutional. 44/

- (3) The Initiative's Requirement That Attorneys and Accountants Disclose Their Client's Identity Does Not Violate the Professional Ethics of Those Groups.

A review of the rules of professional ethics for attorneys and accountants has led this office to conclude that they permit the disclosure of a client's identity when required by law. 45/ Specifically, "a lawyer may reveal confidences or secrets when permitted under disciplinary rules or required by law or court order." 46/ Similarly, "[u]nless required by law or court order, an accountant shall not violate a confidence of his client." 47/

This issue is also resolved from another viewpoint. Courts have generally held that the identity of a client is not included in the attorney-client privilege since it is not confidential information. 48/ Moreover, no confidential accountant-client privilege is recognized under federal or Alaska law. 49/ Accordingly, in our view, the disclosure act may validly require attorneys and accountants to list their clients.

---

44/ Cf. *Mancuso v. Taft*, 476 F.2d 187 (1st Cir. 1973). See also *Sugarman v. Dougall*, 413 U.S. 634 (1973) (distinction on equal protection rights, general civil service as opposed to policy-making positions).

45/ Since this opinion concludes that professional privilege does not prevent compliance with AS 39.50, it is not necessary to consider whether AS 39.50.030(c) violates Alaska Const., art. XI, §7 by limiting the jurisdiction of superior courts.

46/ Code of Professional Responsibility, Disciplinary Rule 4-101(C)(2).

47/ 12 AAC 04.020. Somewhat differently, Rule 301, Rules of Conduct, American Institute of Certified Public Accountants, provides that, "a member shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client." This rule does not alter the conclusion reached in this opinion since, by analogy to the court rulings on attorney-client privilege, the client's identity is not "confidential information".

48/ *Frank v. Tomlinson*, 351 F.2d 384 (5th Cir. 1965), cert. denied, 382 U.S. 1028 (1966); *Colton v. United States*, 306 F.2d 533 (2nd Cir. 1962); *United States v. Pape*, 144 F.2d 778 (2nd Cir. 1944), cert. denied, 323 U.S. 752 (1944); *United States v. Dickinson*, 308 F.Supp. 900 (D. Ariz. 1969), affd. mem. 421 F.2d 702 (9th Cir. 1970); *State v. Alexander*, 503 P.2d 777 (Ariz. 1972).

49/ *Cough v. United States*, 409 U.S. 322 (1973); Alaska R. Civ. P. 43 (h).

- (4) Members of All State Boards and Commissions Are Subject to AS 39.50, Specifically Including Members of Advisory, Regulatory and Professional Licensing Boards.

Expressio unius est exclusio alterius. 50/ AS 39.50.020 requires that "each" member of a state commission or board file a statement. The statute does not exclude part-time members or draw distinctions between members of advisory boards, members of regulatory and licensing boards and commissions or any other boards or commissions. The logical inference is that all are included. While the wisdom of coverage this sweeping may be open to question, that is a subject not open for review in this opinion.

Should any ambiguity arise in applying the statute to a particular set of circumstances, the overriding concept is that the general intent of the act be followed. 51/ It seems clear that AS 39.50 was intended to promote as much disclosure by as many board and commission members as possible. 52/

It has been suggested that there is an ambiguity in the coverage of the act because AS 39.50.020(a) requires "each" member of a state board or commission to file, while AS 39.50.200(1) defines board or commission members covered by the Act if they are "hired or appointed" by the state. Examples of members of boards or commissions who are not directly "hired or appointed" by the state include the Board of Governors of the Alaska Bar Association 53/, the Judicial Council (attorney members), and Fish and Game advisory

---

50/ "Generally, when people say one thing they do not mean something else." 2A Sutherland, Statutory Construction §§47.23, 47.24 (4th ed. 1973).

51/ See Concerned Citizens of So. Kenai Pen. Bor. v. Kenai Pen. Bor., 527 P.2d 447 (Alaska 1974).

52/ Although its weight as an indicator of legislative intent is open to question, it is worth noting that Initiative No. 2 is basically SB 82 (8th Alaska Legislature) with only a few wording changes. One of the wording changes is found in the section comparable to AS 39.50.020(a) where SB 82 required "full time" members of commissions or boards to file. The omission of "full time" seems to indicate that broader coverage was desired, including part-time board and commission members.

53/ It should be noted that the Board of Governors does not appear to differ significantly from other state licensing and regulatory boards listed in AS Title 8. While the Board of Governors also operates under mandates from the Alaska Supreme Court, this is not viewed as a substantial difference since the justices are also subject to AS 39.50.

The Honorable Jay S. Hammond  
Governor

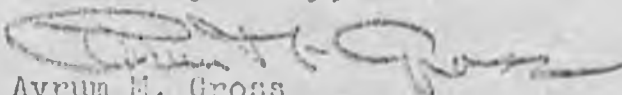
December 24, 1974

- 13 -

committees. In our opinion, these board or commission members are covered by AS 39.50 for several reasons. First, each board or commission is a creation and instrumentality of the State of Alaska. 54/ Although members of most boards and commissions are appointed by the governor, the appointment power for these particular bodies has been delegated to another group. Appointment by such another group would nonetheless represent state action. 55/ Second, even if we assume an ambiguity exists (i.e. one section includes certain persons within the act while another section excludes them), we would still conclude that the broader coverage is the rule. Faced with a determination of which section should prevail, we choose the section that would carry out the overall intent of the initiative 56/, i.e., comprehensive coverage. 57/

We recognize that we have not in this opinion covered every conceivable question which could arise under the conflict of interest measure. Many of those questions will have to be treated on a case by case basis. Nor have we attempted to identify, except in isolated cases, areas where we feel the initiative lends itself to amendment. The entire question of amendment, whether the initiative should be amended at all and, if so, to what extent, involve policy questions which are beyond the scope of this opinion. We will of course be happy to indicate our opinion on the validity of such amendments if and when they are proposed either by your office or by the legislature directly.

Yours very truly,



Avrum M. Gross  
Attorney General

AMG:as

---

54/ The Board of Governors is created by AS 08.08.040; the Judicial Council is created by Alaska Const. art. IV, §8; the Fish and Game Advisory Committees are authorized by AS 16.05.260.

55/ See Lathrop v. Donohue, 367 U.S. 820, 824 (1961).

56/ 2A Sutherland, Statutory Construction §45.05 (4th ed. 1973). Comparison of SB 82 on this point reveals that Initiative No. 2 added to the definition of public official by including board and commission members. This again appears to represent a desire to obtain disclosure by as many public officials as possible.

57/ In preparing this opinion it was noted that AS 39.50.060(b) (prohibiting officials, who fail to file, from running for or taking office) may be construed as imposing a qualification for office beyond those set forth in the Alaska Constitution. E.g., Alaska Const., art. II, §2; art. III, §§2, 7, 25, 26. If construed as an additional qualification, it may be invalid. See 1963 Op. Att'y: Gen., No. 6. However, even if this provision (AS 39.50.060(b)) is considered invalid as to constitutional officials, those officials would remain subject to the criminal penalties of the act if they failed to file the required information, and accordingly, the coverage of the act is still clear.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

December 9, 1974

MEMORANDUM

TO : Members and Members-Elect of the Alaska  
Legislature

FROM : Frances A. Ulmer, Legislative Counsel *Fu*

SUBJECT: Conflict of Interest - AS 39.50

At the direction of John Elliott, Executive Director of the Legislative Affairs Agency, I am sending to you all of the information regarding AS 39.50 (Conflict of Interest), which this office has received from the executive branch to date.

Hope that this information is useful to you.

FAU:hg  
Enclosures

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

November 29, 1974

MEMORANDUM

TO: Members of the Legislative Council  
FROM: John M. Elliott, Executive Director  
SUBJECT: AS 39.50, Conflict of Interest

Enclosed please find the Attorney General's response to my letter of November 14 to him regarding implementation of the new conflict of interest legislation, together with an opinion issued on November 19 regarding the time for filing reports. Also enclosed are copies of proposed regulation changes for the Office of the Governor and copies of the forms which will be used.

JME:pmk

Enclosures

November 14, 1974

Mr. Norman Gorsuch, Attorney General  
Department of Law  
Pouch K  
Juneau, Alaska 99801

Dear General:

The Legislative Council, one of the permanent interim arms of the Legislative branch of government, held a regular business session in Anchorage on November 8. One of the matters discussed at that meeting was Initiative No. 2 approved by the voters on August 27, 1974, relating to conflict of interest of public officials. During the course of the discussions concerning the ramifications for the affected officials, it became evident that there is much confusion and trepidation concerning exactly what is required under the provisions of the act and it became equally clear that definitive answers are needed as to how certain provisions of the act are to be applied and interpreted. The end result of the Council's deliberations was that this office, on behalf of the Legislature and all other persons within the purview of the act, was directed to request a formal opinion from the Attorney General concerning many questions surrounding the provisions of the act. The questions posed to you at this time are by no means intended to be all inclusive, but are illustrative of the questions and concerns of the members of the Legislature and most likely of all other persons covered by the act. Some of the specific questions which the Council desires an opinion on are the following.

One of the most important issues to be determined concerns the effective date of the act and who is covered. The actual effective date of the act is December 11, 1974. However, AS 39.50.150 requires that every person who is a public official on the effective date of the act must file the required statements within 60 days of the effective date which would appear to be by February 9, 1975. What effect does the latter provision have on newly elected officials who will not be "public officials" on December 11? Are they exempt from this provision? Equally, does the section require incumbent legislators who are "public officials" on December 11, but will not be on February 9 to file the required statements?

Further confusing the issue is the fact that AS 39:50.050(b) states in effect that no covered person may be seated (in the case of legislators who have failed to comply with the provisions of the act). If the reports are not due until February 2, can legislators take office on January 20 in lieu of this provision?

Again, a subsidiary issue raised by the latter section is what effect does it have on the well-established principle that the Legislature alone is the sole judge of the qualifications of its members?

The above seemingly conflicting provisions are among the most important issues to be decided, i.e. when and who must file. In addition to the above, a myriad of other questions present themselves, some of which are as follows:

1. Must a person's assets and liabilities be listed in toto or must they be itemized?

2. Hypothetically, would a grocery store owner have to list all of his customers who have made purchases over \$100 in value?

3. It was the feeling of the Council that the guidelines pertaining to covered officials who may have professional dealings with the state require clarification.

4. The question arises as to the law requiring professional persons to violate confidentiality agreements.

5. As a hypothetical case, would an attorney be permitted to sue the state or behalf of a client, or vice versa, could an attorney represent the state, or likewise, could a covered official appointed by the state or a private individual act as an arbitrator in a dispute between a private party and the state?

6. To what degree must investments, debts, etc. of family members be disclosed?

7. Must assets such as a painting which has more than a \$500 value be declared even if it cost the person nothing, i.e. a gift?

8. When declaring the value of household articles, etc., may the official make his own assessment or must he have them appraised? If the latter, is he to bear the cost of the appraisal?

Mr. Norman Gursuch, Attorney General

November 19, 1978

9. If land is involved, may the assessed value be utilized, your own evaluation, or an independent appraisal, or any of the above?

10. What responsibility does a covered official have if his or her spouse should refuse to divulge the information required under the act?

11. What date is appropriate for evaluating items whose value might fluctuate greatly from day to day or week to week, etc.?

12. To what extent must sources of income be itemized, i.e. must an attorney list his clients by name and/or those of his partners? What if there is a conflict between a professional person's canon of ethics and the requirements of the law? Again, hypothetically, would a banker legislator reveal the names of all of his depositors and borrowers when over \$100 is involved?

13. Do the reporting requirements apply to adult children who may be living in the home?

The above questions are not meant by any means to be exhaustive of all of the questions that could or might be raised concerning the implementation of Initiative No. 2, but are certainly illustrative of the many uncertainties and dilemmas facing those public officials covered by the act. In view of the time element involved, it is respectfully requested that an opinion covering the above questions and all other matters that should be known to all officials covered by the act be issued as expeditiously as possible and that the opinion receive the widest immediate dissemination possible to all officials covered by the act and to the public as well.

Equally important from the Council's point of view is that along with definitive answers to the various questions posed, the opinion contain a list of things that need not be done, accounted for, etc.

Your immediate attention to this request is greatly appreciated.

Very truly yours,

John M. Elliott  
Executive Director

JME:pml

cc: Legislative Council members

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WILLIAM A. EGAN, GOVERNOR

POUCH K - STATE CAPITOL  
JUNEAU 99801

November 29, 1974

Mr. John M. Elliott  
Executive Director  
Alaska Legislative Council  
Pouch Y  
Juneau, Alaska 99811

Re: AS 39.50, Conflict of  
Interest

Dear Mr. Elliott:

We will attempt to answer, point by point, the questions raised by the Legislative Council concerning the Conflict of Interest Initiative, which you have forwarded to us in your letter of November 14, 1974.

Attached hereto is a copy of an opinion given to the lieutenant governor concerning the first reporting date for newly elected legislators, which opinion answers your introductory inquiry concerning whether newly elected legislators can be deemed incumbent public officials. (With respect to a person who is a public official on December 11, 1974, but not on February 9, 1975, such person must file the necessary reports.) By this time, you probably have also received from the lieutenant governor a copy of the reporting forms and instruction and the reporting regulations.

We will consider now your numbered questions, and the answers we have been able to arrive at.

1. Assets and liabilities should be itemized to the extent of identification of each interest so far as source, description, or obligee is concerned. The Act requires disclosure of persons and organizations, not the amount of involvement.

2. The conclusion is inescapable that the owner of a grocery store, if unincorporated, would be required to list the names of his customers who have paid over \$100.

Mr. John M. Elliott  
Executive Director

November 29, 1974

- 2 -

3. It is certainly true that AS 39.50.090(c), for example, which prohibits a "public official" from representing a client before a state regulatory agency for a fee, appears to be extremely restrictive, but once again the language is not ambiguous.

4. As the Act now reads, only the Supreme Court can exclude certain disclosures because of professional ethical considerations. AS 39.50.030(c).

5. AS 39.50.090 contains only the prohibition in subsection (c) we mentioned in our comment on your third numbered question, although a real conflict of interest could be present in the situations you hypothesize.

6. Financial interests of family or "household" members must be disclosed as fully as those of the official, insofar as they can be ascertained by the public official.

7. Generally the existence of an interest, not its basis, would be the controlling factor. The painting you hypothesize would probably be considered among household goods, which by AS 39.50.030(a) need not be identified even if over \$500. But the ownership of an inherited lot may have significance even though it cost the official nothing.

8. Household articles are not required to be reported. Assessments of other items would be necessary only to determine the \$500 cut-off. Professional appraisal in such instances would not seem to be required. The thrust of the Act is disclosure of interests over \$500 and not the value of such interests.

9. No evaluation is required.

10. AS 39.50.030(a) would seem to require a good faith effort on the part of the official or candidate, as an interest of a household member must be listed "to the extent that it is ascertainable".

11. Again, no value need be disclosed.

Mr. John M. Elliott  
Executive Director

November 29, 1974

- 3 -

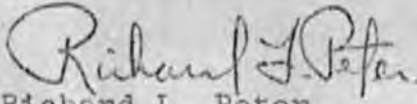
12. Sources of income (i.e., clients) received by a partnership or a professional corporation must be reported by a member public official. With the exception of professional corporations, the source of income for a corporate employee is the corporation.

13. We have interpreted "household" as including all who live in the official's home, except domestic employees.

If you have any further questions, we remain available.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Richard L. Peter  
Assistant Attorney General

RLP:md

RECEIVED  
NOV 29 1974

LEGISLATIVE AFFAIRS  
AGENCY

November 19, 1974

The Honorable H. A. "Red" Boucher  
Lieutenant Governor  
Office of the Governor  
Pouch AA  
Juneau, Alaska 99811

Re: Time for Filing Reports  
Under AS 39.50.010 et seq.

Dear Lieutenant Governor Boucher:

Recently you have asked if legislators elected in the recent November election are to be deemed incumbent public officials for purposes of determining when such legislators must file their conflict of interest information. It is the opinion of this department that such legislators should be considered incumbent public officials, and thus their conflict of interest statements are not due until February 9, 1975. The rationale for such a conclusion is set forth below. The time at which a legislator is supposed to file a conflict of interest statement is set forth in AS 39.50.020(a), which reads as follows:

The governor, the lieutenant governor, each legislator, each judicial officer, each commissioner, chairman or member of a state commission or board, and each person hired or appointed as head of a department in the executive branch shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days before the time he is hired, appointed, certified, confirmed, or approved and becomes a public official and assumes his duties. Each candidate or incumbent for or in state elective office shall file such a statement at the time of filing a declaration of candidacy within 20 days of the filing of any nominating petition, or within 20 days of becoming a candidate by any other means. Refusal or failure to file within the time pre-

RECEIVED  
NOV 20 1974

LEGISLATIVE AFFAIRS  
AGENCY

The Honorable H. A. "Red" Boucher  
Lieutenant Governor

November 19, 1974

- 2 -

scribed shall require that the lieutenant governor refuse to accept the candidate's filing fee or his filing for office, or to return the filing fee and remove the name of the candidate from the filing records. A statement shall also be filed no later than April 15 or 15 days after the person files his federal income tax return in each following year whichever shall come first, by all persons named in this subsection. (Emphasis added.)

Because the conflict of interest statute was not in effect at the time of declaration of candidacy of the legislators who ran in the recent November election, the reporting provision which deals specifically with legislative officials is inapplicable. The question then becomes what time for filing conflict of interest information is appropriate for such legislators. This department concludes that the incumbent filing date is the appropriate filing date. The justification for such conclusion is simply that the results of the legislative election will have been certified by the Lieutenant Governor prior to the effective date of the conflict of interest statute, and thus, the legislators can be viewed as having a vested interest in office. Also, the incumbent filing provision - AS 39.50.150 - was meant to provide for an orderly implementation of the conflict of interest law. 1/ Any interpretation of the conflict of interest law which would require new lawmakers to file conflict of interest information 30 days before the legislature convenes on January 20, 1975, would not promote an orderly implementation of the law in view of the extremely complex provisions of the statute. Finally, the goals of the conflict of interest statute are not undermined in any way by use of the incumbent filing date in this instance.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

Richard L. Peter  
Assistant Attorney General

RLP:md

1/ AS 39.50.150 reads as follows:

Every person who is a public official as defined in this chapter on the effective date of this chapter shall file the required statements required by the chapter within 60 days of the effective date of this chapter.

*Guidelines for  
State Legislation  
on  
Government Ethics  
and  
Campaign Financing*

*Published by*  
The Council of State Governments  
*for*  
The National Legislative Conference  
Committee on Legislative Ethics and  
Campaign Financing

*Guidelines for*  
*State Legislation*  
*on*  
Government Ethics  
*and*  
Campaign Financing



**THE COUNCIL OF STATE GOVERNMENTS**  
Iron Works Pike  
Lexington, Kentucky 40511

*Published January 1974 by  
The Council of State Governments  
Iron Works Pike  
Lexington, Kentucky 40511*

*RM-522  
Price: \$1.50*

National Legislative Conference  
Committee on Legislative Ethics  
and Campaign Financing  
1973-74

Representative Joe Clarke, Kentucky, *Chairman*

Representative Victor H. Ashe, Tennessee

Senator William S. Ballenger, Michigan

Representative Audrey Beck, Connecticut

Representative Harry C. Geisinger, Georgia

Speaker E. L. Henry, Louisiana

Senator S. H. Runyan, Arizona

Representative Harry A. Sieben, Jr., Minnesota

Mr. Patrick Flahaven, Secretary of the Senate,  
Minnesota

Karl T. Kurtz, Committee Staff

# Contents

Introduction.....	vii
1. Campaign Financing.....	1
2. Open Government.....	4
3. Conflict of Interest.....	6
4. Lobbying.....	9
List of Sources .....	11

## Introduction

Recent public opinion surveys reveal what any legislator who goes from door-to-door in his district already knows: that public trust and confidence in government officials is at an all-time low. The attitude of many citizens toward the revelations surrounding the Watergate break-in seems to be, "So what? This is little different from what politicians have always done." Thus, the current crisis of public confidence seems to be more widespread than just the current problems of the Administration in Washington.

One of the results of the Watergate revelations has been a focusing of public attention on how elections are won and on how legislation and administrative regulations are enacted at all levels of government. The news media appear to be delving into every election from mayor to state legislator to President in the hope of uncovering some peccadillo worthy of page one coverage. Public-spirited and reform-minded lobbying organizations are renewing their calls for stronger laws concerning government ethics and campaign financing as a partial means of removing the worst ills and restoring public confidence.

One practical result of this furor is that virtually every Legislature which meets in 1974 will be faced with a barrage of legislative proposals on ethics and campaign financing. Recognizing this fact, the National Legislative Conference's Committee on Legislative Ethics and Campaign Financing (LECF) felt there was a need for a set of guidelines and recommendations concerning the key points of legislation in this field, drafted not by persons who have never run for office, but by a committee of legislators with years of experience in the legislative and electoral processes, representing all political points of view, and from all parts of the country. Therefore, the LECF Committee submits the following recommendations concerning the subjects of campaign financing, open government, conflict of interest, and lobbying to all of the States for their consideration.

In the drafting of these guidelines, two considerations were uppermost in the minds of the Committee members. One consideration, which differentiates these recommendations from those of many other reform groups, was that, as practical politicians, the Committee members did not wish to recommend legislation (like the Federal Corrupt

Practices Act of 1925) so restrictive that even the most honest and forthright public officials would seek every loophole in the law and the courts would often overlook the violations made necessary by the unrealistic strictures of the law. The second consideration was the belief that the best check on potential abuses of the public trust lies with the public disclosure of information. The Committee feels that the line between legitimate and illegitimate, moral and immoral behavior by public officials is frequently so fine that the distinction is difficult to write into law. But if all relevant information is disclosed and made available, the public will have the opportunity to make its own judgments.

The four subject areas of these guidelines—campaign financing, open government, conflict of interest, and lobbying—are obviously very broad. The LECF Committee did not attempt to cover every aspect, to draft specific legislative language, or to resolve those problems and customs which vary substantially from State to State and region to region. Even with the broad guidelines here, however, each State will find it necessary to respond to each recommendation based upon its own unique customs and traditions. Virtually all issues which were regarded as key to the drafting of good legislation are addressed in the guidelines. One exception to this is the subject of public financing of elections at the state level, which is pending further study.

The guidelines which follow should be regarded as the preliminary rather than the final output of the NLC Committee on Legislative Ethics and Campaign Financing, brought about by the pressure of time and public events. In the future, the Committee intends to carry out an evaluation of the impact of existing legislation on ethics and campaign financing in several sample States, leading to a publication containing noteworthy and recommended pieces of legislation from across the country. This project, however, can be carried out only over a longer period of time.

Finally, I should note that these guidelines are the result of the consensus which could be achieved within the NLC Committee on Legislative Ethics and Campaign Financing, and do not necessarily reflect the position of the entire National Legislative Conference, since the Conference has not yet had the opportunity to vote on them.

Representative Joe Clarke, Kentucky  
*Chairman, National Legislative Conference  
Committee on Legislative Ethics and  
Campaign Financing*

January 1974

# 1. Campaign Financing

## Recommendation 1.1

All campaign finance legislation should be written in such a manner as to encompass all political activities, including all primary and general elections, ballot propositions, constitutional amendments, recall, initiative, referendum, etc.

## Recommendation 1.2

Each State should adopt an overall limitation on campaign spending based upon [       ] cents per capita in each electoral district, or \$ [       ], whichever is more.

*Comment:* The LECF Committee feels that the most equitable system for limiting campaign expenditures is on a size-of-district basis. Some consideration, however, should be given to those very small electoral districts in which, if a per capita ceiling were set, candidates would be prohibited from spending even a minimal amount of money on their campaigns. The Committee therefore recommends that each State adopt specific monetary limitations based upon local campaign expenditure costs, traditions, and attitudes.

## Recommendation 1.3

Each candidate for political office or political committee should be required to designate a treasurer through whom all expenditures or contributions are required to be made.

*Comment:* This provision is not meant to exclude the candidate from designating himself as treasurer, in the event that his campaign is small enough that he chooses to manage it himself. States which are considering adoption of this accounting mechanism for expenditure limitations should take note of a recent U.S. District Court for the District of Columbia's decision (*American Civil Liberties Union, Inc. v. Jennings*, November 13, 1973), which held that it is unconstitutional to impose a prior restraint on the right of freedom of expression by requiring political committees and organizations (or at least nonpartisan ones like the ACLU) to receive permission from any political candidate whose name is mentioned before they are permitted to place an advertisement in the news media. This case referred to the Federal Elections Campaign Act of 1971 and will almost certainly be appealed to the U.S. Supreme Court.

## Recommendation 1.4

Each candidate or political committee should be required to report the amount and purpose of all aggregate expenditures of \$100 or more in statewide campaigns or \$25 or more in less than statewide campaigns.

*Comment:* The term "aggregate" is used in this and the succeeding recommendation to prevent a series of expendi-

turns or contributions of \$24 which would not otherwise have to be reported.

#### **Recommendation 1.5**

Each candidate or political committee should be required to report the source and amount of all contributions in the aggregate of \$25 or more, made for the purpose of election to office or for influencing an election, including the name, address, and occupation of the contributor.

*Comment:* The LECF Committee does not recommend limitations on campaign contributions, feeling instead that thorough disclosure provisions are an adequate check on excessive campaign-giving.

#### **Recommendation 1.6**

"Contribution" should be defined in such a manner as to include loans and "anything of value."

#### **Recommendation 1.7**

The reports on expenditures and contributions should be required at a minimum of three different times: between 30 and 40 days prior to any election, between 5 and 10 days prior to the election, and within 30 days after the election.

*Comment:* In considering the proper dates for reporting requirements, States may wish to take into account the requirements of federal law so as not to overburden candidates for federal office in the State with conflicting reporting dates.

#### **Recommendation 1.8**

The reports should be made to a designated state central agency (see Recommendation 1.9) for statewide races or to a designated county central agency for smaller districts with a copy sent to the state central agency. In less than statewide races with multicounty districts, reports should be filed with all counties contained in the district.

#### **Recommendation 1.9**

Each State should set up an independent Elections Commission with full-time paid staff whose responsibilities should include preparing forms for reports by candidates, preparing and publishing a manual on the requirements of the law, and otherwise informing and advising candidates concerning the requirements of the law. The Elections Commission should also be the agency responsible for receiving, preparing summaries of, and making available to the public the reports that are filed on statewide races.

**Recommendation 1.10**

Each State should adopt stringent and effective penalty provisions for failure to comply with the law in the above areas.

*Comment:* In this and all succeeding sections of the guidelines, enforcement mechanisms have not been spelled out, partly because of the diversity of state traditions and partly because the LECF Committee wishes to make a thorough study of this problem before making specific recommendations.

## 2. Open Government

### **Recommendation 2.1**

"Meeting" should be defined as the convening of a governing body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.

### **Recommendation 2.2**

"Governing body" should be defined in such a manner as to include any board, commission, department, committee, or agency within the executive or legislative branches of the state, regional council, city, county, and district governments, but to exclude the political caucuses of a Legislature.

### **Recommendation 2.3**

Except in certain circumstances (see Recommendation 2.6), all meetings of a governing body should be open to the public, and all persons should be permitted to attend any meeting.

### **Recommendation 2.4**

Except in certain circumstances (see Recommendation 2.6), no quorum of a governing body should be permitted to meet in private for the purpose of deciding on or deliberating toward a decision on any matter.

### **Recommendation 2.5**

All governing bodies should be required to give public notice, reasonably calculated to give actual notice to interested persons, of the time and place of public meetings.

### **Recommendation 2.6**

All exceptions to the rule of open meetings should be clearly specified in the law and should be reserved primarily for sensitive issues such as: the acquisition of public property; the employment, evaluation, discipline, or dismissal of public employees; and security personnel and devices.

### **Recommendation 2.7**

All information collected, assembled, or maintained by governmental bodies should be declared public information and available to the public, with the exception of certain specifically defined information involving sensitive issues, matters sub-

ject to judicial or executive decree, or drafts and working papers involved in the preparation of proposed legislation.

**Recommendation 2.8**

Accurate records should be required of all meetings of a governing body. The records may be kept by means of a full transcription, a recording, or written minutes which give a true reflection of the matters discussed at the meeting and the views of the participants.

### 3. Conflict of Interest

*Comment:* The recommendations which follow touch only on those aspects of conflict of interest which the Committee feels should be written into law, irrespective of the codes of ethics adopted by most Legislatures which may go considerably further than these provisions.

#### Recommendation 3.1

Conflict of interest regulations should apply to all state and local public officials, including the legislative, executive, and judicial branches.

#### Recommendation 3.2

All public officials should be required to file a statement disclosing: (a) the names of all offices, directorships, and salaried employment of the official and his immediate family (defined as spouse and dependent children); (b) all financial interests of the public official and his immediate family in excess of \$1,000, by type; (c) the names of all financial interests held by the public official and his immediate family which do business with the State; (d) the names of all entities which do business with the State for which the public official, his immediate family, his firm, or partnership has rendered compensated services within the last year in excess of \$500 in value.

*Comment:* The Committee's intent in this recommendation is to find some compromise between the right of privacy which belongs to all citizens and the special duties and responsibilities which attend service as a public official. Thus, (a) does not require the amount of a public official's income to be disclosed and (b) does not require either the specific amount or the specific name of his financial interests to be disclosed; but, (c) does require the names of his financial assets, and (d) the names of his clients to be disclosed whenever state business is involved.

#### Recommendation 3.3

The financial disclosure statements should be required to be filed once a year by office-holders. Candidates for public office should be required to file a statement within 10 days of filing for office.

#### Recommendation 3.4

The penalties for these provisions should be the same as those applying to the regulation of lobbying and the reporting of campaign expenditures, and all filings should be open to public inspection.

**Recommendation 3.5**

No penalties (such as divestment of interest or removal from office) should be imposed for holding conflicting interests other than the penalties for failure to disclose.

*Comment:* The LECF Committee feels that the line between legitimate interest and conflict of interest is frequently so fine that the best check is that of the public's judgment based upon full disclosure.

**Recommendation 3.6**

No legislator, or his firm, should be permitted to practice law before a state agency.

*Comment:* States may wish to adopt exceptions to this rule for agencies like workman's compensation boards or other quasi-judicial bodies which may be within the executive branch.

**Recommendation 3.7**

No legislator should be permitted to serve as paid lobbyist with the Legislature or any state agency or to receive a retainer to introduce, to influence, or to vote upon legislation.

**Recommendation 3.8**

No public official should be permitted to disclose or use confidential information acquired in the course of his official duties to further his own economic interests or those of anyone else.

**Recommendation 3.9**

Effective and appropriate penalty provisions should be adopted for violations of Recommendations 3.6 through 3.8.

*Comment:* See comment to Section 1.10.

**Recommendation 3.10**

Any legislator who holds an obvious major financial interest in a piece of legislation should be required to disqualify himself from voting on the issue.

**Recommendation 3.11**

The majority of the members of any standing legislative committee should not be permitted to be legislators with a substantial financial interest in the subject matter of the committee.

**Recommendation 3.12**

Each State should establish an Ethics Commission or Board consisting of both legislators and other public officials and citizens. The Ethics Commission should be responsible for drafting rules and

regulations regarding the disclosure of financial information and for receiving and filing financial disclosure statements. The commission should be empowered to initiate, receive, and consider charges of alleged violations of codes of conduct or appropriate statutory provisions. It should be authorized to render advisory opinions on these allegations.

## 4. Lobbying

### **Recommendation 4.1**

The following persons should be required to register as lobbyists: (a) a person who makes a total expenditure in excess of \$200 in a calendar quarter, not including travel expenses, for communicating directly with member(s) of the legislative or executive branch to influence legislation or administrative regulations; (b) a person who receives compensation or reimbursement from another to communicate directly with member(s) of the legislative or executive branch to influence legislation or administrative regulations; (c) a person, other than a member of the judicial, legislative, or executive branch, who, in the pursuit of official duties and as part of his regular employment, communicates directly with member(s) of the legislative or executive branch to influence legislation or administrative regulations, whether or not any compensation in addition to regular salary is received for the communication.

### **Recommendation 4.2**

Exceptions to the above should be made for newspaper and television reporters, owners, publishers, and editors, so long as they are pursuing normal reportorial and editorial duties.

### **Recommendation 4.3**

All registered lobbyists should be required to file a quarterly report, including the names and addresses of all clients or principals for whom lobbying is done, the fields of legislative and specific measures which are the object of lobbying activity, the form and amount of compensation received from each client or principal, the total amount expended during the period in pursuit of lobbying activities, and the object and amount of all expenditures in excess of \$25.

### **Recommendation 4.4**

All files on lobbying should be open to public inspection.

### **Recommendation 4.5**

All contingency-fee lobbying should be prohibited.

*Comment:* The Committee feels that the practice of paying lobbyists a fee contingent upon the passage or defeat of legislation is one which leads particularly to efforts to buy and sell votes and should be outlawed.

**Recommendation 4.6**

A "gift" should be defined as a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received.

**Recommendation 4.7**

No person should be permitted to give a gift to a public official under circumstances in which it could reasonably be inferred that the gift would be made to influence him in his official duties.

**Recommendation 4.8**

Appropriate and effective penalty provisions should be adopted for any violations of these regulations.

*Comment:* See comment to Section 1.10.

## List of Sources

American Law Division, Congressional Research Service, Library of Congress, *Federal-State Election Law Survey: An Analysis of State Legislation, Federal Legislation and Judicial Decisions* (Washington, D.C., General Accounting Office, 1973).

California Assembly Office of Research and the Assembly Committee on Governmental Organization, *Ethical Conduct and Governmental Integrity: The Conflict of Interest Issue* (Sacramento, California: Assembly of the State of California, 1970).

Committee on Legislative Rules of the National Legislative Conference, *Conflict of Interest and Related Regulations for State Legislatures* (Lexington, Kentucky: The Council of State Governments, 1971).

The Council of State Governments, *1968 Suggested State Legislation*, vol. XXVII (Lexington, Kentucky: 1967), pp. A-4-A-5.

Federal Elections Campaign Act of 1971, Public Law 92-225, 92d Congress.

Gilson, Lawrence, *Money and Secrecy: A Citizen's Guide to Reforming State and Federal Practices* (New York: Praeger Publishers, 1972).

Rhodes, Robert M., "Enforcement of Legislative Ethics: Conflict within the Conflict of Interest Laws," *Harvard Journal on Legislation*, vol. X (1973), pp. 373-406.

Smith, C. Lynwood, Jr., "State Legislative Conflicts of Interest: An Analysis of the Alabama Ethics Committee Recommendations," *Alabama Law Review*, vol. XXIII, no. 2 (Spring 1971).

### Statutes:

Florida, Committee Substitute for House Bill No. 466, 1973.

Illinois, Senate Bill No. 506, 1968.

Michigan, Final Report of the Special Senate Study Committee on Political Ethics, 1973.

New Jersey, Public Law 1973, Chapter 83.

Oregon, Senate Bill No. 5, 1973.

Texas, House Bill No. 1, 1973.

———, House Bill No. 2, 1973.

———, House Bill No. 3, 1973.

———, House Bill No. 4, 1973.

———, House Bill No. 6, 1973.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

December 31, 1974

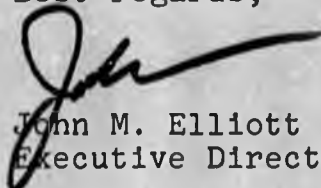
Representative Terry Gardiner  
Box 1092  
Ketchikan, Alaska 99901

Dear Terry:

In response to your recent note, please find enclosed a copy of Norm Gorsuch's opinion on the Conflict of Interest Law; Av Gross' opinion on the same law; and copies of of the Washington and California conflict of interest laws, both of which were also passed by the initiative process. The California and Washington laws are all inclusive, i.e. they include both conflict of interest laws and campaign limitation laws but I believe you will be able to separate the two. Other states have recently passed conflict of interest laws but Washington and California are typical.

Finally, also enclosed is a booklet published in recent months which contains, in part, recommendations by the National Legislative Conference's Committee on Legislative Ethics and Campaign Financing on recommended provisions for conflict of interest laws which you may find interesting.

Best regards,



John M. Elliott  
Executive Director

JME:pmk

Enclosures

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS  
OF THE OFFICE OF THE LIEUTENANT GOVERNOR  
IN THE OFFICE OF THE GOVERNOR

Notice is hereby given that the Office of the Lieutenant Governor, under authority vested by AS 39.50.050(b), proposes to adopt regulations in Title 6 of the Alaska Administrative Code to implement AS 39.50.010 - 39.50.200 as follows:

6 AAC 29.010. MEMBERS OF ADVISORY BOARDS AND COMMISSIONS. (Exempts members of advisory boards and commissions from the conflict of interest statute.)

6 AAC 29.020. MEMBER OF FAMILY OR HOUSEHOLD. (As used in AS 39.50.030 and AS 39.50.090 defines member of household or family to be a person living in the home of the public official.)

6 AAC 29.030. SOURCE OF INCOME. (As used in AS 39.50.030 (b)(2) defines source of income to mean the person or institution for whom a service is performed. For self employed persons, including professional corporations, the client is the source of income. For rental income, the name of the renter has to be listed.)

6 AAC 29.040. IDENTITY OF INTEREST IN A BUSINESS. (As used in AS 39.50.030(b)(3) means the name and address of the business.)

6 AAC 29.050. NATURE OF INTEREST IN A BUSINESS. (As used in AS 39.50.030(b)(3) means the nature of ownership.)

6 AAC 29.060. IDENTITY OF INTEREST IN REAL PROPERTY. (As used in AS 39.50.030(b)(4) means the location and brief description of real property.)

6 AAC 29.070. NATURE OF INTEREST IN REAL PROPERTY. (As used in AS 39.50.030(b)(4) means the quality and extent of the proprietary interest in the real property.)

6 AAC 29.080. NATURE AND EXTENT OF BENEFICIAL INTEREST IN A TRUST. (As used in AS 39.50.030(b)(5) means the share due the public official or member of his household.)

6 AAC 29.090. LOANS. (As used in AS 39.50.030(b)(6) means any lending transaction.)

6 AAC 29.110. LIST OF CONTRACTS. (As used in AS 39.50.030(b)(7) means a general description of the goods or services which are the subject of each individual contract.)

6 AAC 29.120. OFFER TO CONTRACT. (As used in AS 39.50.030(b)(7) includes bids.)

6 AAC 29.130. STATE OR INSTRUMENTALITY OF THE STATE. (As used in AS 39.50.030(b)(7) means any state department or agency, the University of Alaska and the Alaska State Housing Authority.)

6 AAC 29.140. LIST OF LEASES. (As used in AS 39.50.030(b)(8) means identification of the particular type of resource which is the subject of lease, location and description of lease tract and official designation of lease.)

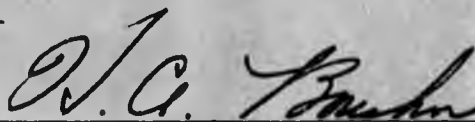
6 AAC 29.150. TIME OF FILING. (For judicial officer at least 30 days prior to appointment to office; for department head or board or commission member, at least 30 days prior to legislative confirmation; for legislative or gubernatorial candidate, on filing declaration of candidacy or within 20 days after filing nominating petition; for all public officials, April 15 of each year or within 15 days after filing federal income tax return.)

6 AAC 29.160. DEFINITIONS.

Notice is also given that any person interested may send written statements or written arguments relevant to the action proposed to the Office of the Lieutenant Governor, Capitol Building, Pouch AA, Juneau, Alaska 99811. To be considered, such statements must be received before 4:30 p.m. on December 27, 1974. Copies of the regulations and of the reporting forms and instructions can be obtained by writing the Lieutenant Governor at the foregoing address or by personal pickup at the Office of the Governor in Anchorage or Fairbanks. The Office of the Lieutenant Governor, upon its own motion or at the instance of an interested person, may thereafter

adopt the above proposals substantially as set out above  
without further notice.

DATE NOVEMBER 20, 1974

A handwritten signature in cursive script, appearing to read "H. A. Boucher", written over a horizontal line.

H. A. Boucher  
Lieutenant Governor

WHO	WHEN	WHERE
Justices, Judges, and Magistrates	Within 30 days before appointment	Administrator of Courts
Department Heads, Board and Commission Members and Chairmen	Within 30 days before confirmation	Lieutenant Governor's Office
Legislative Candidates	On filing declaration of candidacy or within 20 days after filing nominating petition.	Lieutenant Governor's
Candidates for Governor and Lieutenant Governor	On filing declaration of candidacy or within 20 days after filing nominating petition.	Alaska Legislative Council
<p>The above individuals, except unsuccessful candidates, must also report each April 15, or 15 days after they file their federal income tax returns, whichever comes first.</p> <p><u>THE FIRST REPORT FOR INCUMBENTS IS DUE</u> <u>BEFORE FEBRUARY 9, 1975.</u></p>		

Register

6 AAC 29.010  
6 AAC 29.040

TITLE 6. GOVERNOR'S OFFICE  
CHAPTER 29. CONFLICT OF INTEREST

6 AAC 29.010. MEMBERS OF ADVISORY BOARDS AND COMMISSIONS. A member of an advisory board or commission is not subject to the requirements of AS 39.50.010 - .220. (Eff. / / , Register )

AUTHORITY: AS 39.50.010  
AS 39.50.050(b)

6 AAC 29.020. MEMBER OF FAMILY OR HOUSEHOLD. As used in AS 39.50.030 and AS 39.50.090, "member of family" or "member of household" means a relative or other person, not a domestic employee, living in the home of the public official. (Eff. / / , Register )

AUTHORITY: AS 39.50.030  
AS 39.50.090  
AS 39.50.050(b)

6 AAC 29.030. SOURCE OF INCOME. (a) As used in AS 39.50.030(b)(2), "source of income" means the person or institution for whom a service is performed or who is otherwise the origin of payment.

(b) If the person for whom the report is made is employed by another, his employer is the source of his income, but if he is self-employed, the source must be listed as the name of the client or customer.

(c) For rental income, the name of the renter shall be listed as well as the address of the rental property. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(2)  
AS 39.50.050(b)

6 AAC 29.040. IDENTITY OF INTEREST IN A BUSINESS. As used in AS 39.50.030(b)(3), "identity of interest in a business" means the name and address of the business. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(3)  
AS 39.50.050(b)

Register

6 AAC 29.050  
6 AAC 29.090

6 AAC 29.050. NATURE OF INTEREST IN A BUSINESS. As used in AS 39.50.030(b)(3), "nature of interest in a business" means the nature of ownership such as shareholder, partner or sole proprietor. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(3)  
AS 39.50.050(b)

6 AAC 29.060. IDENTITY OF INTEREST IN REAL PROPERTY. As used in AS 39.50.030(b)(4), "identity of interest in real property" means the location and a brief description of the real property. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(4)  
AS 39.50.050(b)

6 AAC 29.070. NATURE OF INTEREST IN REAL PROPERTY. As used in AS 39.50.030(b)(4), "nature of interest in real property" means the quality and the extent of the proprietary interest in the real property which the public official or member of his household has. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(4)  
AS 39.50.050(b)

6 AAC 29.080. NATURE AND EXTENT OF BENEFICIAL INTEREST IN A TRUST. As used in AS 39.50.030(b)(5), "nature and extent of beneficial interest" is the share due to the public official or member of his household as a beneficiary. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(5)  
AS 39.50.050(b)

6 AAC 29.090. LOANS. As used in AS 39.50.030(b)(6), "loan" means any lending transaction including both secured and unsecured transfers of funds or other property. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(6)  
AS 39.50.050(b)

Register

6 AAC 29.110  
6 AAC 29.150

6 AAC 29.110. LIST OF CONTRACTS. As used in AS 39.50.030(b)(7), "list of contracts" means a general description of the goods or the work or services which are subject of each individual contract or offer to contract and the official designation of the contract. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(7)  
AS 39.50.050(b)

6 AAC 29.120. OFFER TO CONTRACT. As used in AS 39.50.030(b)(7), "offer to contract" includes bids. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(7)  
AS 39.50.050(b)

6 AAC 29.130. STATE OR INSTRUMENTALITY OF THE STATE. As used in AS 39.50.030(b)(7), "state or instrumentality of the state" means any state department or agency, the University of Alaska and the Alaska State Housing Authority. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(7)  
AS 39.50.050(b)

6 AAC 29.140. LIST OF LEASES. As used in AS 39.50.030(b)(8), "list of leases" means identification of the particular type of resource which is the subject of the lease, the location and description of the tract containing the resource, and the official designation of the lease. (Eff. / / , Register )

AUTHORITY: AS 39.50.030(b)(8)  
AS 39.50.050(b)

6 AAC 29.150. TIME OF FILING. (a) A judicial officer shall file the information required by AS 39.50.010 - .220 at least 30 days prior to appointment to office.

(b) A department head or board or commission member shall file the information required by AS 39.50.010 - .220 at least 30 days prior to confirmation by the legislature of the appointment.

Register

6 AAC 29.150

6 AAC 29.160

(c) A legislative, gubernatorial or lieutenant governor candidate shall file the information required by AS 39.50.010 - .220 on filing declaration of candidacy or within 20 days after filing a nominating petition.

(d) A public official, except an unsuccessful candidate, shall also file the information required by AS 39.50.010 - .220 by April 15 of each year or within 15 days after filing his federal income tax return, whichever comes first.  
(Eff. / / , Register )

AUTHORITY: AS 39.50.020(a)  
AS 39.50.050(b)

6 AAC 29.160. DEFINITIONS. In this chapter,

(1) "advisory board or commission" means any board or commission which does not exercise quasi-legislative or quasi-judicial functions or a regulatory function.

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

(3) "public official" means a judicial officer, a member of the legislature, the governor, the lieutenant governor, a person hired or appointed as a head of a department in the executive branch, a person hired or appointed as chairman or member of a board, or commissioner or member on the Alaska Transportation Commission, Alaska Public Utility Commission, or the Alaska Pipeline Commission, or any other state commission or board where the state makes such appointment, or a person who becomes a candidate for a state elective office.

(4) "self-employed" means a person who engages in business or a profession by means of a sole proprietorship, partnership or professional corporation. (Eff. / / , Register )

AUTHORITY: AS 39.50.020(1)  
AS 39.50.020(2)  
AS 39.50.050(1)



STATE OF ALASKA  
LIEUTENANT GOVERNOR  
JUNEAU

November 20, 1974

TO: ALL STATE OF ALASKA LEGISLATORS  
DEPARTMENT HEADS

For your information in regard to the recently approved Conflict of Interest initiative, the following information is enclosed:

- (1) Copy of Alaska Statutes re Conflict of Interest
- (2) Notice of proposed regulations regarding this subject
- (3) Copy of proposed regulations to be adopted

Should you be required by these statutes to file reports, please note that the first report for incumbents is due before FEBRUARY 9, 1975. (The attached form indicates when and where those affected must file reports. Reporting forms can be obtained by writing to the Lieutenant Governor, or by personal pickup at the Office of the Governor in Anchorage or Fairbanks.)

Should you have further questions, feel free to contact this office.

Sincerely yours,

A handwritten signature in cursive script that reads "Lawrence W. Jones".

Lawrence W. Jones  
Administrative Assistant

Enclosure

### INSTRUCTIONS TO TRUSTEE

1. This report must be accompanied by a copy of the trust instrument.
2. If confidentiality is breached, or the trust is terminated before the trustor has left public office, the trustee must notify the same office to which this report is made.
3. Blind trusts established by candidates, legislators, heads of state departments, and members of boards and commissions, must be reported to the lieutenant governor; those of judicial officers to the Administrator of Courts; and those of the governor and lieutenant governor to the Alaska Legislative Council.
4. Failure of the trustee to report a Blind Trust will subject the official who is the trustor to the penalties provided by statute.

REPORT OF TRUSTEE OF BLIND TRUST

\_\_\_\_\_ of \_\_\_\_\_  
(Bank or other trust institution) (Address)

\_\_\_\_\_, is the Trustee of a Blind

Trust established on \_\_\_\_\_, 19\_\_ by

\_\_\_\_\_ of \_\_\_\_\_  
(Official) (Address)

who is \_\_\_\_\_  
(Office)

The original assets transferred by the Trustor to the Trustee consisted of the following property:

(Nature)	(Identity)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Signed: \_\_\_\_\_  
(Trust Officer)

DATED: \_\_\_\_\_, 19\_\_.

SUBSCRIBED and SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

JAY S. HAMMOND  
GOVERNOR



STATE OF ALASKA  
LIEUTENANT GOVERNOR  
JUNEAU

LOWELL THOMAS, JR.  
LIEUTENANT GOVERNOR

*File in conflict  
of interest*

February 20, 1975

Representative Hugh Malone  
State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Malone: *Hugh -*

Many thanks for the timely filing of your financial statement. In reference to your comment that there is no statutory requirement for disclosure of assets over \$500, you are correct. The Department of Law recently informed me that page eleven had been included by mistake. As you stated, AS 30.50.030 (b) (1)--(8) refer to the areas which must be disclosed. No mention of assets over \$500 is indicated.

I appreciate your comments on this matter. If I can be of additional assistance, please contact me.

Sincerely yours,

Lowell Thomas, Jr.  
Lieutenant Governor

COPIES TO ALL LEGISLATORS

BACKGROUND INFORMATION AND INSTRUCTIONS  
FOR CONFLICT OF INTEREST FORMS

An Act "relating to conflict of interest of public officials" was enacted into law by the people of Alaska as Initiative No. 2 on August 27, 1974. (The initiative has been codified as AS 39.50.010-.220). The outcome of the initiative election was certified by the Lieutenant Governor on September 12, 1974. The effective date of the measure is 90 days after certification - i.e., December 11, 1974. Persons who are public officials on the effective date must submit their first financial report within 60 days, which means not later than February 9, 1975.

The conflict of interest law describes the persons who must file financial reports as follows:

"Public official" means a judicial officer, a member of the legislature, the governor, the lieutenant governor, a person hired or appointed as a head of a department in the executive branch, a person hired or appointed as chairman or member of a board, or commissioner or member on the Alaska Transportation Commission, Alaska Public Utility Commission, or the Alaska Pipeline Commission, or any other state commission or board where the state makes such appointment, or a person who becomes a candidate for a state elective office. 1/ AS 39.50.200(1)

"Judicial Officer" means a person appointed as a justice to the supreme court or as a judge to the superior court, district court or magistrate court. AS 39.50.200(2)

(PAGE 1)

Enter the title of public office sought or held, and the length of dates of term if applicable. If the length or dates of the term is not known, indicate "indeterminate".

---

1/ The above language has been construed not to encompass members of advisory boards and commissions. See, 6 AAC 25.010.

"Member of household" means a relative or other person, not a domestic employee, living in the home of the public official.

Reporting period refers to the twelve months preceding the filing of the report.

(Page 2)

"Source of income" means the person or institution for whom a service is performed or who is otherwise the origin of payment. If the person for whom the report is made is employed by another, his employer is the source of his income, but if he is self-employed, the source must be listed as the name of the client or customer. A person is self-employed if he engages in business or a profession by means of a sole proprietorship, partnership or professional corporation.

For rental income, the name of the renter must be listed, not merely the address of the rental property.

All capital gains in excess of \$100 must be listed, even if they are not taxable.

Every source of income over \$100 must be reported, if it is from an otherwise unreported source. For example, if A receives \$600 in two \$300 payments from B, B should be listed only once as a source. However, if A receives \$200 each from B, C and D, each of these sources must be identified.

(Page 3)

"Nature of ownership" means a shareholder, partner or sole owner. For example, shareholder in IBM corporation  
. . . .

(Page 4)

"Nature of involvement" means non-ownership participation in the affairs of a business such as officer, director or employee. A person listed on this page as a director who

is also a shareholder will be required to furnish appropriate information on page three also.

(Page 5)

"Identity of property" means the location and a brief description, such as "one quarter acre at northwest corner of Wise and Girdwood Road, Anchorage."

"Nature of interest" means the quality and the extent of the proprietary interest in the described property which the person for whom the report is made has, such as "undivided one half interest in the southeast one quarter", or "option to buy southeast one quarter".

(Page 6)

"Trustor" is the person who has established the trust.

"Property" means the assets of the trust.

"Extent of interest" is the share due to the public official or member of his household as a beneficiary.

Other trust information required: If the public official has transferred marketable assets into a blind trust, for which the trustor is a bank or other institutional fiduciary, for the duration of his government service, the trustee must report the nature of the original assets on the appropriate form available from the Lieutenant Governor. Failure to do so will cause a penalty to be imposed on the official.

(Page 7)

"Loan" means any lending transactions including both secured (e.g., home mortgages) and unsecured transfers of funds or other property.

(Page 8)

"Other financial obligations" means debts of \$500

or more owed to another.

(Page 9)

"State or instrumentality of the State" means any state department or agency, the University of Alaska, and the Alaska State Housing Authority.

"Offer to contract" includes bids.

"Other contracting party" means the State or instrumentality of the State with whom the contract has or would have been entered.

"Identity of contract" means a general description of the goods or the work or services which are the subject of the contract or the offer to contract; for example, "paving Totem Road extension, Ketchikan" or "providing nursing home services". The appropriate official designation of the contract should also be provided.

(Page 10)

"Identity" means identification of the particular type of resource (e.g., timber, gas, or gold) and location and description of the tract containing the resource.

(Page 11)

"Other assets" are those which do not fit in any of the previous categories and are worth much more than \$500. Household goods and personal effects are not to be counted.

(Page 12)

The initiative provides for penalties as follows:

A person required to file a report of financial or business interests under this Act who refuses or fails to disclose required information within the time required in the Act, or who provides false or misleading information is guilty of a misdemeanor and upon conviction is punishable by a fine not less than \$500, nor more than \$5,000, or by imprisonment for up to one year, or both. AS 39.50.060(a)

Other sections of the conflict of interest law also penalize refusal or failure to file reports by forfeiture of nomination, election, confirmation, or possession of office, as well as by loss of salary, per diem and travel expenses which would otherwise be due the public official.

*Conflict of Interest*

January 24, 1975

Mr. William J. Fullan  
320 Bawden St., Suite 313  
Box 975  
Ketchikan, Ak. 99901

Dear Mr. Fullan:

Thank you for the copy of the letter sent to Governor Hammond. From talking to many of the legislators it seems that there is a general consensus that something must be done to work out the rough spots in the conflict of interest initiative. In Governor Hammond's State of the State message he outlined several amendments that the administration would propose to the conflict of interest statute. Of course, until the bill is submitted we do not know exactly what these amendments are.

As a person who supported the purpose of conflict of interest it was not my intention to force persons to violate individual members rules of ethics. I am hopeful that the legislature will be able to iron out the problem areas of the conflict of interest statute.

Sincerely,

Terry Gardiner  
Representative

## WILLIAM J. FULLAN

CERTIFIED PUBLIC ACCOUNTANT

320 Bawden Street, Suite 313, Box 975  
KETCHIKAN, ALASKA 99901

January 9, 1975

The Honorable Jay S. Hammond  
Governor  
State of Alaska  
Juneau, Alaska 99811

Sir:

The purpose of this letter is to comply with a request of Mr. J. Ray Roady in his letter of December 30, 1974, a photocopy of which is enclosed, in which he requests that I reconsider my recent resignation from the Board of Public Accountancy.

It was with extreme reluctance that my resignation from the Board was made as I thoroughly enjoyed the privilege of having served on the Board. My resignation was made necessary by the provisions of the so called "conflict of interest bill"; particularly these areas:

- (1) Having to make financial disclosures which would have made compliance contrary to the rules of professional ethics
- (2) Having to limit my practice to preclude representing clients before state regulatory agencies

It appears highly improbable that the legislature intended for members of state boards to commit any acts in violation of individual members' rules of ethics; moreover, it is highly unlikely that the electorate intended for any individual members to suffer a loss of income when it passed Initiative #2. Nevertheless, those are the results of the passage of Initiative #2, which situation left me no alternative but to resign.

However, if the legislature can enact some sort of enabling legislation, or if a favorable court decision were handed down which would alleviate the objections listed above, I would be most happy to reconsider my decision and would be highly honored to accept reappointment to the Board.

As a member of only one board, I realize the seriousness of the problems created for your administration by the passage of Initiative #2 and I trust some fair and workable solution can be accomplished.

Mrs. Fullan joins me in congratulating you upon your election and we wish you much success in your administration.

Respectfully yours,

William J. Fullan, CPA

WJF:ebm

cc: Mr. J. Ray Roady  
Senator Robert Ziegler  
Representative Oral Freeman  
Representative Terry Gardiner ✓

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL LICENSING

JAY S. HAMMOND, Governor

POUCH D - JUNEAU 99801

Phone 907/465-2535

December 30, 1974

William J. Fullan, CPA  
P.O. Box 975  
Ketchikan, Alaska 99901

Dear Mr. Fullan:

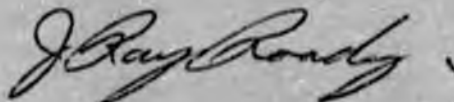
We have your resignation from the Board of Accountancy on hand. We would, however, be very nappy to have you re-consider your decision and send a letter to the Governor indicating that you might consider re-appointment.

The expertise you have gained during your service is of considerable value in carrying out the business of licensing and regulating of the Accountancy profession in Alaska. It is a shame to waste the background knowledge of procedures that you have gained in board functions.

Considerable time and experience will be necessary to develop and orient a new board member to the point of effectiveness that you have already acquired.

A letter to the Governor with a copy to this office indicating your willingness to accept re-appointment would be very much appreciated. We need you with your expertise and judgment on the board.

Very sincerely,



J. Ray Rody  
Director