



COMMITTEE REPORT

HOUSE

FIN added 5/15

3/9/81

FURTHER:

Finance

(7)

Date:

5/15/81

Mr. Speaker: (State Affairs waived 3/6)

The Committee on JUDICIARY has had HB 153

"An Act relating to ethics in government and establishing the Legislative Commission on Governmental Ethics; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[x] replace with CS for HB 153 (jud) same title new title and recommends it do pass

[x] AND attaches a "Letter of Intent" [x] New Fiscal Note to Follow Committee letter to follow reports it back without recommendation

[x] referred to the Finance Committee

MEMBERS SIGNING DO PASS

Handwritten signatures of members signing do pass.

MEMBERS HAVING OTHER RECOMMENDATIONS:

Handwritten signatures and notes for other recommendations, including "De Not Rec unless amended & practical" and "No rec".

Handwritten signature of the Chairman.

CHAIRMAN

Berrier  
12-0443

Original sponsor: Rules Committee

Offered: 5/15/81  
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 153 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the responsibilities of the Alaska  
7 Public Offices Commission; establishing standards of  
8 conduct for public officials; and providing for an  
9 effective date."

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

11 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that it is  
12 essential in the conduct of public business that public officials hold the  
13 respect and confidence of the people. Public officials need to avoid conduct  
14 which violates the trust that the people have placed in them or which creates  
15 a justifiable impression among the public that the public trust is being  
16 violated. To ensure and preserve public confidence, persons serving in  
17 state and municipal government should have the benefit of specific standards  
18 to guide their conduct. In order to strengthen the faith and confidence  
19 that the governmental process reflects the will of the people and that each  
20 public official considers and makes decisions affecting the public according  
21 to the best interests of the public, AS 39.49 is enacted in sec. 2 of this  
22 Act.

23 \* Sec. 2. AS 39 is amended by adding a new chapter to read:

24 CHAPTER 49. STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS.

25 Sec. 39.49.010. GIFTS. A public official may not solicit,  
26 directly or indirectly, a gift, whether in the form of money, service,  
27 or benefit, under circumstances which the public official knows are  
28 intended to influence the performance of official action or are intended  
29 as a reward for official action.

1           Sec. 39.49.020. ABUSE OF OFFICE. (a) A public official may not  
2 use or attempt to use his office to

3           (1) seek employment or to contract for services for himself  
4 or a member of his household;

5           (2) solicit or accept compensation for the performance of  
6 official duties or responsibilities for himself or others except as  
7 provided by law;

8           (3) use public time, equipment, or facilities for any  
9 private or business purposes for himself or others;

10          (4) use public time, equipment, or facilities for political  
11 or campaign purposes;

12          (5) solicit or engage in a financial transaction with a  
13 subordinate or a person or business which the public official inspects  
14 or supervises;

15          (6) use information which is confidential by law for personal  
16 gain or in a manner not connected with the performance of official  
17 action.

18          (b) The provisions of (a)(3) and (4) of this section do not apply  
19 to an elected public official. However, an elected public official may  
20 not use state or municipal equipment for any private, business, or  
21 campaign purpose.

22           Sec. 39.49.030. CONFLICT OF INTEREST. (a) Except as provided in  
23 AS 39.49.040 and 39.49.050, a public official may not take official  
24 action which he knows or has reason to know would affect

25           (1) a business or property in which the public official has  
26 a financial interest; or

27           (2) a business or property for which the public official  
28 acts as legal counsel, advis-2- consultant, or representative.

29          (b) A public official has not acquired a financial interest in a

1 business which may be involved in official action under this section if  
2 no benefit or detriment accrues to him beyond that which accrues uni-  
3 formly to the members of the profession, occupation, or group affected  
4 by the official action.

5 (c) A public official of the state may not assist a person before  
6 a state agency for compensation that is conditioned on the success of  
7 the transaction in a transaction involving the state. A public official  
8 who is a member of the legislature or employed in the legislative  
9 branch of the state government may not assist a person or business  
10 before a state agency for compensation. A public official who is a  
11 member of the governing body of a municipality or an employee of a  
12 municipality may not assist a person or business before the municipal  
13 governing body or an agency of the municipality for compensation.

14 (d) A public official may not for compensation attempt to secure  
15 passage or defeat of a bill or appropriation or to obtain a contract,  
16 claim, transaction, or proposal in which he has participated or will  
17 participate as a public official. A public official may not assist a  
18 person or business for compensation on the bill, contract, claim,  
19 transaction, or proposal before the legislature, a state agency, or a  
20 municipality.

21 (e) A public official may not assist a person before a state  
22 agency or a municipality for compensation as to a bill, contract,  
23 claim, transaction, or proposal involving official action by the state  
24 agency or municipality over which the public official has authority.

25 (f) A former public official may not

26 (1) use information which is confidential by law for personal  
27 gain;

28 (2) within 12 months after separation from employment assist  
29 a person or business for compensation on a case or transaction upon

1 which he took official action when he was a public official; for pur-  
2 poses of this paragraph "official action" does not include voting by an  
3 elected public official.

4 Sec. 39.49.040. ACTION ON CONFLICT BY PUBLIC OFFICIAL OF THE  
5 STATE. (a) A public official of the state who is unable to disqualify  
6 himself in an action prohibited by AS 39.49.030 or whose participation  
7 is necessary in order to constitute a quorum for official action does  
8 not violate AS 39.49.030 if he has complied with AS 39.50.020 and if he  
9 announces the nature of his conflict at the time he takes the official  
10 action.

11 (b) A public official in the executive branch of the state govern-  
12 ment who has a conflict in his discharge of official duties shall

13 (1) prepare a statement describing the duties requiring  
14 official action and the nature of the conflict of interest with respect  
15 to the official action; and

16 (2) deliver copies of the statement to the commission and to  
17 his immediate superior or to the governor.

18 (c) A public official who is a member of a board or commission  
19 who has a conflict of interest shall state the conflict to the board or  
20 commission at the time of taking the official action.

21 (d) On receipt of a statement prepared under (b) of this section,  
22 a public official's superior or the governor shall assign the official  
23 action to a public official who does not have a conflict of interest.

24 (e) The governor and a public official without a superior in the  
25 executive branch of the state government comply with this section if  
26 the statement described in (b)(1) of this section is delivered to the  
27 commission.

28 (f) The executive director of the commission shall review all  
29 statements filed under (b) of this section.

1           Sec. 39.49.050. ACTION ON CONFLICT BY A PUBLIC OFFICIAL OF A  
2 MUNICIPALITY. (a) A public official of a municipality who has a  
3 conflict in his discharge of official duties shall

4           (1) prepare a statement describing the duties requiring  
5 official action and the nature of the conflict of interest with respect  
6 to the official action; and

7           (2) deliver copies of the statement to the commission and to  
8 his immediate superior or to the presiding officer of the governing  
9 body of the municipality.

10          (b) On receipt of a statement prepared under (a) of this section,  
11 a public official's superior shall assign the official action to a  
12 public official who does not have a conflict of interest.

13          (c) A public official who is a member of the governing body of a  
14 municipality complies with this section if the statement described in  
15 (a)(1) of this section is delivered to the commission.

16          (d) A public official who is a member of the governing body of a  
17 municipality who has a conflict of interest shall state the conflict to  
18 the governing body before taking the official action.

19          (e) The executive director of the commission shall review all  
20 statements filed under (a) of this section.

21           Sec. 39.49.900. DEFINITIONS. In this chapter,

22           (1) "commission" means the Alaska Public Offices Commission  
23 established under AS 15.13.020;

24           (2) "compensation" means money, a thing of value, or economic  
25 benefit conferred on or received by a person in return for services  
26 rendered or to be rendered by himself for another;

27           (3) "employment" means services performed for compensation;

28           (4) "financial interest" means an interest held by an indi-  
29 vidual or a member of his household which is

- 1 (A) an ownership interest in a business;  
2 (B) a creditor interest in an insolvent business;  
3 (C) employment;  
4 (D) prospective employment for which negotiations have  
5 begun;  
6 (E) an ownership interest in real or personal property;  
7 (F) a loan or other debtor interest;  
8 (G) a directorship or officership in a business;

9 (5) "member of his household" means

10 (A) a person who is the spouse, child, ward, brother,  
11 sister, or parent of a public official or of the spouse of a  
12 public official, and who shares a common residence with the public  
13 official; or

14 (B) a person who is the child, ward, brother, sister,  
15 or parent of a public official or of the spouse of a public offi-  
16 cial, and over whose financial interests the public official has  
17 legal, actual, or joint control, whether or not they share a  
18 common residence;

19 (C) a person who shares a common residence with the  
20 public official as though a spouse;

21 (6) "municipality" includes

22 (A) a city or borough of any class;

23 (B) a municipality unified under AS 29.68.240 - 29.68.-  
24 44C;

25 (C) a school district or a regional educational atten-  
26 dance area;

27 (7) "official action" means a decision, recommendation,  
28 approval, disapproval, or other action, including inaction, which  
29 involves discretion;

1 (8) "public official" means a member or employee of the  
2 legislature, the governor and lieutenant governor, appointed officers  
3 and employees of a state agency, elected and appointed officers and  
4 employees of a municipality of the state;

5 (9) "public time" means the regular work hours established  
6 by or under law, regulation, ordinance, or collective bargaining agree-  
7 ment for public officials;

8 (10) "state agency" means a department, board, board of  
9 regents, commission, council, committee, institution, office, cor-  
10 poration, authority or organization in the executive or legislative  
11 branch of the state government, and includes the University of Alaska  
12 and public corporations having a separate and independent legal exis-  
13 tence.

14 \* Sec. 3. AS 15.13.030 is repealed and reenacted to read:

15 Sec. 15.13.030. DUTIES OF THE COMMISSION. (a) The commission  
16 shall

17 (1) develop and provide all forms for the reports and state-  
18 ments required to be made under this chapter, AS 24.45, AS 39.49 and  
19 AS 39.50;

20 (2) prepare and publish a manual setting out uniform methods  
21 of bookkeeping and reporting for use by persons required to make reports  
22 and statements under this chapter, AS 24.45, AS 39.49, and AS 39.50 and  
23 otherwise assist candidates, groups, and individuals in complying with  
24 the requirements of this chapter, AS 24.45, AS 39.49, and AS 39.50;

25 (3) receive and hold open for public inspection reports and  
26 statements required to be made under this chapter, AS 24.45, AS 39.49,  
27 and AS 39.50 and, upon request, furnish copies at cost to interested  
28 persons;

29 (4) compile and maintain a current list of all reports and

1 statements filed with the commission;

2 (5) prepare a summary of reports filed with the commission  
3 and make copies of the summary available to interested persons at cost;

4 (6) notify, by registered or certified mail, all persons who  
5 are delinquent in filing reports and statements required to be made  
6 under this chapter, AS 24.45, AS 39.49, or AS 39.50;

7 (7) examine, investigate and compare reports, statements and  
8 actions required by this chapter, AS 24.45, AS 39.49, and AS 39.50 and  
9 report to the attorney general the names of persons or groups which the  
10 commission has substantial reason to believe have violated this chapter,  
11 AS 24.45, AS 39.49, or AS 39.50;

12 (8) prepare and publish an annual report to the legislature  
13 concerning the activities of the commission, the effectiveness of this  
14 chapter, AS 24.45, AS 39.49, and AS 39.50, the enforcement by the  
15 attorney general of this chapter, AS 24.45, AS 39.49 and AS 39.50, and  
16 recommendations and proposals for change;

17 (9) subject to the provisions of the Administrative Procedure  
18 Act (AS 44.62), adopt regulations necessary to implement and clarify  
19 this chapter, AS 24.45, AS 39.49, and AS 39.50;

20 (10) appoint an executive director.

21 (b) The commission may delegate to the executive director powers  
22 and duties given it by AS 15.13.031; it may not delegate to the execu-  
23 tive director the power to issue a determination under AS 15.13.034.

24 (c) The commission, a commissioner, the executive director, or an  
25 employee authorized by the commission may administer oaths, certify to  
26 all official acts, and issue subpoenas, subpoenas duces tecum, and  
27 other process to compel the attendance of witnesses and the production  
28 of testimony, records, papers, accounts and documents in an inquiry,  
29 investigation, hearing or proceeding before the commission. The com-

1 mission, a commissioner, or the executive director may petition a court  
2 of this state to enforce its subpoenas, subpoenas duces tecum and other  
3 process.

4 \* Sec. 4. AS 15.13 is amended by adding new sections to read:

5 Sec. 15.13.031. ~~POWERS OF COMMISSIONER.~~ ~~POWERS OF COMMISSIONER.~~ (a) The commission shall  
6 administer this ~~chapter~~, AS 24.45, AS 39.49, and AS 39.50 and may

7 (1) issue an advisory opinion under AS 15.13.032(a) on the  
8 request of a public official or former public official;

9 (2) in its discretion issue an advisory opinion under  
10 AS 15.13.032(c) upon the request of any person;

11 (3) issue a determination under AS 15.13.034;

12 (4) accept or initiate complaints concerning a violation of  
13 a law administered by the commission, initiate investigations, and hold  
14 hearings;

15 (5) subpoena witnesses, administer oaths, and take testimony  
16 relating to matters before the commission and require the production  
17 for examination of books or papers relating to a matter under investi-  
18 gation by the commission.

19 (b) A complaint may be accepted by the commission and a complaint  
20 may be initiated by the commission on a violation of AS 39.49 no later  
21 than one year after separation from employment by a public official.  
22 This subsection does not prevent a proceeding against a person who by  
23 fraud prevents discovery of a violation of AS 39.49.

24 Sec. 15.13.032. ADVISORY OPINIONS. (a) A public official or a  
25 former public official may request an advisory opinion as to whether  
26 stated facts and circumstances describe a violation of AS 39.49.  
27 Unless material facts were omitted or misstated in the request

28 (1) if an advisory opinion is not issued within 30 days  
29 after the request is filed with the commission, the facts and circum-

1 stances stated in the request do not describe a violation of AS 39.49;  
2 and

3 (2) the advisory opinion issued or the facts and circum-  
4 stances stated in the request is binding in a charge subsequent to the  
5 request concerning the public official or former public official.

6 (b) If an advisory opinion is issued under (a) of this section,  
7 the executive director shall provide the public official or former  
8 public official with the opinion.

9 (c) The commission may in its discretion, upon the request of any  
10 person, issue an advisory opinion if the commission determines that the  
11 request states a matter of general applicability or first impression  
12 under AS 39.49. The advisory opinion shall be based on facts and  
13 circumstances stated in the request and may not be used as a substitute  
14 for a complaint charging a violation of AS 39.49 under AS 15.13.031(4).

15 (d) The commission may publish summaries of advisory opinions  
16 issued under AS 15.13.033(b) and determinations issued under AS 15.-  
17 13.034 with deletions in the summary to prevent disclosure of the  
18 identity of a person involved in an advisory opinion or determination.

19 (e) The commission may authorize its executive director to issue  
20 advisory opinions requested under (a) or (c) of this section.

21 Sec. 15.13.033. COMPLAINT PROCEDURES. (a) A complaint concerning  
22 a violation of a law administered by the commission must be in writing  
23 and signed by the complainant under oath. A complaint initiated by the  
24 commission must be signed by three members of the commission. The  
25 executive director shall notify each person against whom a complaint is  
26 filed and afford the person an opportunity to explain the conduct  
27 stated to be a violation. The executive director shall investigate  
28 complaints involving a violation of AS 39.49 on a confidential basis.

29 (b) The executive director shall provide the public official who

1 is the subject of a complaint under (a) of this section with a decision  
2 indicating whether a probable violation has been found. If the decision  
3 indicates a probable violation, the person who is the subject of the  
4 complaint may request a determination from the commission or comply  
5 with the decision.

6 (c) If the person who is the subject of the complaint fails to  
7 comply with the decision, a copy of a complaint shall be served on the  
8 person. The person has 20 days after service to reply to the complaint.  
9 Information on the face of the complaint is public information.

10 (d) Upon service of a complaint under (c) of this section, the  
11 commission shall set a time and place for a hearing with notice to the  
12 complainant and the person charged with a violation.

13 (e) Each party may have an opportunity to (1) be heard, (2)  
14 subpoena witnesses and require the production of books or papers relat-  
15 ing to the proceedings, (3) be represented by counsel, and (4) have the  
16 right of cross-examination. The hearings shall be held under AS 44.62.  
17 A witness shall testify under oath.

18 Sec. 15.13.034. DETERMINATIONS. (a) When the commission, after  
19 hearings under AS 15.13.033(d), determines that there is sufficient  
20 cause to believe that a public official removable only by impeachment  
21 has committed a wilful violation of a provision of AS 39.49, it shall  
22 issue a determination and refer the determination to the senate for  
23 proceedings under art. II, sec. 20 of the state constitution. The  
24 determination shall contain a statement of the facts describing the  
25 violation.

26 (b) When the commission determines after hearings under AS 15.-  
27 13.033(d) that there is sufficient cause to believe that a public  
28 official other than a public official removable only by imperment has  
29 committed a wilful violation of a provision of AS 39.49, it shall refer

1 (1) to the governor a determination concerning a public  
2 official in the executive branch;

3 (2) to the proper presiding officer of the legislature or to  
4 both presiding officers of the legislature a determination concerning a  
5 public official in the legislative branch;

6 (3) to the chairman of the Board of Regents a determination  
7 concerning a public official in the University of Alaska; or

8 (4) to the presiding officer of the governing body of the  
9 municipality a determination concerning a public official of the muni-  
10 cipality.

11 (c) Any action of the governor, legislature, chairman of the  
12 Board of Regents, or the governing body of a municipality in response  
13 to a determination of the commission is public information.

14 (d) A determination of the commission must be based on competent  
15 and substantial evidence. Testimony and evidence taken at the hearing  
16 shall be recorded. A determination of the commission regarding a  
17 violation shall be approved by three members of the commission. A  
18 determination is public information.

19 Sec. 15.13.035. CONTRACTS VOIDABLE. (a) In addition to any  
20 other penalty provided by law, a contract entered into by the state or  
21 a municipality of the state in violation of AS 39.49, is voidable by  
22 the state or a municipality of the state.

23 (b) In an action to void a contract entered into by the state or  
24 a municipality of the state in violation of AS 39.49, the interests of  
25 innocent parties who may be damaged by the action shall be protected  
26 and the action to void the transaction must be brought within 60 days  
27 of a determination of a violation of AS 39.49.

28 Sec. 15.13.036. VIOLATION. (a) The state or a municipality may  
29 recover the compensation received by a person as a result of a violation

1 of AS 39.49 by a public official or former public official. An action  
2 under this section shall be brought within two years of the violation.

3 (b) The appointing authority may discipline, reprimand, put on  
4 probation, demote, suspend, or discharge an appointed public official  
5 found to have violated a provision of AS 39.49.

6 Sec. 15.13.037. CIVIL PENALTIES. (a) The commission may assess  
7 a civil penalty in an amount not to exceed twice the benefit determined  
8 by the commission to have been obtained by a violation of this chapter,  
9 AS 24.45, AS 39.49, or AS 39.50, or \$2,000, whichever is less, against  
10 a public official.

11 (b) If the commission determines that a public official received  
12 no economic benefit from a violation of this chapter, AS 24.45, AS 39.-  
13 49, or AS 39.50, it may assess a civil penalty not to exceed \$2,000.

14 \* Sec. 5. AS 15.13.122 is repealed and reenacted to read:

15 Sec. 15.13.122. LEGAL COUNSEL. (a) The attorney general is  
16 legal counsel for the commission and shall advise the commission in  
17 legal matters arising in the discharge of its duties and represent the  
18 commission in actions to which it is a party.

19 (b) If, in the opinion of the commission, the public interest  
20 warrants, the commission may request the chief justice of the supreme  
21 court to appoint special counsel to represent the commission in a  
22 proceeding involving a law administered by the commission and to pursue  
23 appropriate remedies including criminal prosecution.

24 (c) The commission may employ temporary legal counsel in matters  
25 in which the commission is involved.

26 \* Sec. 6. AS 15.13.130 is amended by adding new paragraphs to read:

27 (8) "commission" means the Alaska Public Offices Commission;

28 (9) "public official" means a member or employee of the  
29 legislature, the governor and lieutenant governor, appointed officers

1 and employees of a state agency, elected and appointed officers and  
2 employees of a municipality of the state, and a person under a personal  
3 services contract to a state agency or to a municipality of the state;

4 (10) "state agency" means a department, board, board of  
5 regents, commission, council, committee, institution, office, corpora-  
6 tion, authority or organization in the executive or legislative branch  
7 of the state government, and includes the University of Alaska and  
8 public corporations having a separate and independent legal existence.

9 \* Sec. 7. AS 15.13.130 is amended by adding a new subsection to read:

10 (b) In AS 15.13.010 and 15.13.040 - 15.13.125, "municipality"  
11 means a home rule or general law borough or city including but not  
12 limited to a unified municipality organized under AS 29.68.240 - 29.68.-  
13 440. In the implementation of AS 39.49 by the commission under AS 15.-  
14 13.030 - 15.13.037, "municipality" includes

15 (1) a city or borough of any class;

16 (2) a municipality unified under AS 29.68.240 - 29.68.440;

17 (3) a school district or a regional educational attendance

18 area.

19 \* Sec. 8. AS 15.13.045, 15.13.130(6), and AS 39.50.090(a) - (c) are  
20 repealed.

21 \* Sec. 9. (a) AS 39.49 enacted in sec. 2 of this Act applies to the  
22 conduct of a public official of the state after the effective date of this  
23 Act. AS 39.49 applies to public officials of a municipality of the state on  
24 and after July 1, 1982, unless the municipality adopts standards of conduct  
25 for its public officials, submits the standards to the Alaska Public Offices  
26 Commission, and the Alaska Public Offices Commission determines before  
27 July 1, 1982, that the municipal standards of conduct are substantially  
28 similar to the standards of conduct adopted in AS 39.49.

29 (b) The legislature does not intend that each municipality adopt a

1 code establishing standards of conduct as comprehensive as the standards of  
2 conduct established in AS 39.49 enacted in sec. 2 of this Act. In deter-  
3 mining whether a municipal code establishing a standard of conduct is sub-  
4 stantially similar to the standards of conduct established in AS 39.49, the  
5 Alaska Public Offices Commission shall consider the standards of conduct  
6 established in the municipal code with reference to the size of the munic-  
7 pal government and recent budgets of the municipality, procedures adopted by  
8 the municipality for the regulation of fiscal procedures, and other matters  
9 submitted to the commission by the municipality.

10 \* Sec. 10. This Act takes effect July 1, 1981.  
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Brodley  
12-0443

Introduced: 2/13/81  
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 HOUSE BILL NO. 153

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ethics in government and estab-  
7 lishing the Legislative Commission on Governmental  
8 Ethics; and providing for an effective date."

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

10 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that it is  
11 essential in the conduct of public business that state officials and state  
12 employees hold the respect and confidence of the people. State officials  
13 and state employees need to avoid conduct which violates the trust that the  
14 people have placed in them or which creates a justifiable impression among  
15 the public that the public trust is being violated. To ensure and preserve  
16 public confidence, persons serving in government should have the benefit of  
17 specific standards to guide their conduct. In order to strengthen the faith  
18 and confidence that the governmental process reflects the will of the people  
19 and that each state official considers and makes decisions affecting the  
20 public according to the best interests of the public, the Legislative Commis-  
21 sion on Governmental Ethics is established.

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

23 CHAPTER 60. LEGISLATIVE COMMISSION ON GOVERNMENTAL ETHICS.

24 Sec. 24.60.010. LEGISLATIVE COMMISSION ON GOVERNMENTAL ETHICS.

25 The Legislative Commission on Governmental Ethics is established in the  
26 legislative branch of the state government.

27 Sec. 24.60.020. MEMBERSHIP OF THE COMMISSION. (a) The presiding  
28 officer and the floor leaders of the two major political parties in  
29 each house of the legislature shall each nominate one member of the

COMMITTEE COPY

1 commission during January of an even-numbered year. The nominations  
2 made under this subsection are subject to confirmation by the members  
3 of the house in which the nominations were made.

4 (b) The members of the commission nominated and confirmed under  
5 (a) of this section shall by a vote of at least five members elect a  
6 seventh member who is the presiding officer of the commission.

7 (c) The presiding officer and the members of the commission serve  
8 a term of two years and until a successor is appointed or elected and  
9 qualifies.

10 Sec. 24.60.030. QUALIFICATIONS OF MEMBERS OF THE COMMISSION. (a)  
11 The members of the commission shall be persons of recognized judgment,  
12 probity, and objectivity. A person may not be nominated or confirmed  
13 to the commission who

- 14 (1) is a member of the legislature;  
15 (2) was a member of the previous legislature;  
16 (3) was a declared candidate for a federal, state, or municipi-  
17 pal elective position within the two years before nomination; or  
18 (4) holds an elective federal, state, or municipal office.

19 (b) A member of the commission may not participate in a matter  
20 involving the member.

21 Sec. 24.60.040. AUTHORITY OF THE COMMISSION. (a) The commission  
22 may on request advise a state official or state employee whether his  
23 personal circumstances and his official duties may constitute a viola-  
24 tion of the provisions of AS 15.13, AS 24.45, or AS 39.50.

25 (b) The commission may accept a complaint which alleges a viola-  
26 tion of the provisions of AS 15.13, AS 24.45, or AS 39.50.

27 Sec. 24.60.050. ADVISORY OPINIONS. (a) A request for an advisory  
28 opinion shall be filed with the commission and be signed by the state  
29 official or state employee requesting the advisory opinion.

1 (b) In reviewing a request for an advisory opinion and in prepar-  
2 ing the opinion, the commission may investigate the matters raised in  
3 the request.

4 (c) The advisory opinion of the commission shall be sent to the  
5 state official or state employee who requested the opinion. If the  
6 state official or state employee who requested the advisory opinion is  
7 in the executive branch of the state government, a copy of the opinion  
8 shall be sent to the head of the department employing the state official  
9 or state employee. If the state official or state employee who re-  
10 quested the opinion is in the legislative branch of the state govern-  
11 ment, a copy of the opinion shall be sent to the presiding officer of  
12 the house to which the member belongs and the rules committee of that  
13 house or to the head of the agency or office in the legislative branch  
14 who employs the state official or state employee. If the state official  
15 or state employee who requested the opinion is in the judicial branch  
16 of the state government, a copy of the opinion shall be sent to the  
17 chief justice of the supreme court and to the administrative director  
18 of courts.

19 (d) The commission records involving a request for an advisory  
20 opinion are public records on the issuance by the commission of its  
21 advisory opinion.

22 Sec. 24.60.060. COMPLAINTS. (a) A person may file with the  
23 commission a verified complaint which alleges facts constituting a  
24 violation by a state official or state employee. A copy of the com-  
25 plaint shall be sent by the commission to the person alleged to have  
26 committed the violation. The complaint filed under this section is  
27 confidential.

28 (b) A person who is the subject of a complaint may present infor-  
29 mation relative to the complaint to the commission and may review and

1 make copies of the evidence in the files of the commission relating to  
2 the charges against him.

3 (c) The commission shall conduct a preliminary investigation to  
4 determine whether the facts stated in the complaint constitute a viola-  
5 tion. If the commission determines that the facts alleged in the  
6 complaint do not constitute a violation or that the allegations in the  
7 complaint are not substantially accurate, the complaint shall be dis-  
8 missed and the person filing the complaint and the person against whom  
9 the violation is alleged shall be advised. The complaint and the  
10 records of the investigation conducted under this subsection remain  
11 confidential.

12 (d) When the commission tentatively determines after a preliminary  
13 investigation that the complaint states facts that may constitute a  
14 violation, it shall advise the person against whom the violation is  
15 alleged of its tentative determination and offer him an opportunity to  
16 present information in his own behalf. The complaint, the records of  
17 the investigation conducted under this subsection, and the tentative  
18 determination of the commission remain confidential.

19 (e) If, after a review of evidence presented by a state official  
20 or state employee, the commission continues to believe that a violation  
21 occurred, it shall advise the state official or state employee of its  
22 tentative determination and advise him of his right to a public hearing.  
23 The complaint, the records of the investigation, and the deliberations  
24 of the commission conducted under this subsection, including the tenta-  
25 tive determination, remain confidential.

26 (f) If a hearing is held, the commission shall present its wit-  
27 nesses or evidence and permit the person tentatively determined to have  
28 committed a violation to present witnesses or evidence in his behalf.

29 (g) The commission shall consider the evidence presented at the

1 hearing, determine whether it believes that a violation occurred, and  
2 issue its final determination.

3 (h) A complaint under this section and the results of the investi-  
4 gation are public records on the issuance by the commission of its  
5 determination.

6 (i) A tentative determination of the commission under (d) or (e)  
7 of this section and a final determination of the commission under (g)  
8 of this section shall be made on the affirmative vote of at least four  
9 members of the commission.

10 (j) If the commission determines that a violation was committed  
11 by a member of the legislature, a copy of the determination shall be  
12 sent to the presiding officer of the house to which the member belongs  
13 and to the rules committee of that house. If the commission determines  
14 that a violation was committed by an elected or appointed official or a  
15 state employee, a copy of the report shall be sent to the head of the  
16 department in which the official or state employee serves.

17 Sec. 24.60.070. PUBLICATION OF OPINIONS AND DETERMINATIONS.  
18 Within a reasonable amount of time after the commission reports its  
19 advisory opinion or final determination to a state official or state  
20 employee, it may present its opinion or determination to the governor  
21 and the attorney general, the legislature, and the public. The commis-  
22 sion shall include with a determination a reply made by the state  
23 official or state employee.

24 Sec. 24.60.080. PROCEDURES. (a) The commission may issue sub-  
25 poenas, administer oaths, hold hearings, and conduct investigations.

26 (b) In conjunction with (a) of this section, the commission may  
27 compel the attendance of witnesses and production of papers, books,  
28 records, accounts, documents, and testimony, and may have the disposi-  
29 tion of witnesses taken in a manner prescribed by court rule or law for

1 the taking of depositions in civil actions when consistent with the  
2 powers and duties assigned to the commission by this chapter.

3 (c) Subpoenas may be issued and shall be served in the manner  
4 prescribed by AS 44.62.430 and court rule. The failure, refusal, or  
5 neglect of a person to obey a subpoena is punishable as contempt in the  
6 manner prescribed by law or court rule. The superior court may compel  
7 obedience to the commission's subpoena in the same manner as prescribed  
8 for obedience to a subpoena issued by the court.

9 Sec. 24.60.090. HEARINGS. A person against whom a violation is  
10 charged shall be afforded due process protections including the right  
11 to be represented by counsel, the right to call and examine witnesses,  
12 the right to introduce exhibits, and the right to cross-examine the  
13 witnesses of the commission. All witnesses shall be sworn. The com-  
14 mission is not bound by the rules of evidence but its findings shall be  
15 based on competent and substantial evidence.

16 Sec. 24.60.100. COSTS AND ATTORNEY FEES. If the commission  
17 determines that a verified complaint filed with the commission is  
18 groundless and without reasonable foundation, the commission may, in  
19 its discretion, order the person who filed the complaint to pay the  
20 reasonable costs and attorney fees incurred by the person charged with  
21 a violation.

22 Sec. 24.60.110. MEETINGS. The commission shall meet no less  
23 often than every three months and shall meet at the call of the presid-  
24 ing officer.

25 Sec. 24.60.120. COMPENSATION, TRAVEL, AND PER DIEM. Members of  
26 the commission are entitled to compensation of \$50 a day while attend-  
27 ing commission meetings and to travel and per diem authorized by law  
28 for state officials and employees under AS 39.20.160.

29 Sec. 24.60.130. PENALTIES. (a) A member or an employee of the

1 commission who divulges information made confidential by a provision of  
2 this chapter is guilty of a class A misdemeanor.

3 (b) A person who knowingly files a false complaint with the  
4 commission is guilty of a class A misdemeanor.

5 Sec. 24.60.200. DEFINITIONS. In this chapter,

6 (1) "commission" means the Legislative Commission on Govern-  
7 mental Ethics;

8 (2) "violation" means an allegation of facts involving a  
9 state official or state employee which describe a violation of AS 15.13,  
10 AS 24.45, or AS 39.50.

11 \* Sec. 3. AS 39.50.090 is repealed and reenacted to read:

12 Sec. 39.50.090. PROHIBITED ACTS. (a) A public official may not  
13 use his official position or office for the primary purpose of obtain-  
14 ing financial gain for himself, or his spouse, child, parent, or  
15 business with which he is associated or owns stock.

16 (b) A person may not offer or pay to a public official, and a  
17 public official may not solicit or receive money for legislative advice  
18 or assistance, or for advice or assistance given in the course of the  
19 official's public employment or relating to his public employment.  
20 This prohibition does not apply to a chairman or member of a state  
21 commission or board or municipal officer if the subject matter of the  
22 legislative advice or assistance is not related directly to the func-  
23 tion of the commission, board, or municipal body served by the municipi-  
24 pal officer; this exception from the general prohibition does not apply  
25 to a person whose service on a state commission or board makes him a  
26 full-time state employee under this title.

27 (c) A public official may not represent a client before a state  
28 agency for a fee. This prohibition does not apply to a municipal  
29 officer, or chairman or member of a state commission or board except

1 with regard to representation before his own commission or board; this  
2 exception from the general prohibition does not apply to a person whose  
3 service on the commission or board makes him a full-time state employee  
4 under this title.

5 (d) A public official or employee may not directly or indirectly  
6 accept a gift, favor, service, employment, or an offer of a gift,  
7 favor, service, or employment, or other thing of value which he knows  
8 or has reason to know is offered to influence his official action.

9 (e) A public official or employee may not take official action  
10 that directly affects a business, partnership, firm, or corporation in  
11 which he has an interest or in which he stands to derive a monetary  
12 gain or to avoid a monetary loss.

13 (f) A public official or employee may not use information which  
14 he receives in the course of his official duties which is not generally  
15 available to members of the public for his financial gain.

16 (g) A public official or employee may not seek a financial  
17 interest, including employment, which he has reason to believe will be  
18 directly affected by his official action or the action of the agencies  
19 he serves.

20 (h) A public official does not have an interest in legislation  
21 under this section if no benefit or detriment accrues to him beyond  
22 that which accrues uniformly to the members of the profession, occupa-  
23 tion, or group affected by the legislation.

24 (i) The provisions of this section do not apply to a purchase or  
25 contract under competitive bidding practices if the public official or  
26 employee takes no part in the preparation of the specifications or the  
27 determinations of the state agency with regard to the transaction.

28 (j) Violation of this section is a class A misdemeanor.

29 (k) In this section, "public official" includes, in addition to

1 the persons specified in AS 39.50.200(a)(1), chairmen and members of  
2 all commissions and boards created by statute or administrative action  
3 as agencies of the state.

4 (1) No municipal officer may represent a client for a fee before  
5 the municipal body which he serves.

6 \* Sec. 4. This Act takes effect July 1, 1981.  
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ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST Session

HOUSE BILL NO. 153

By THE RULES COMMITTEE

"An Act relating to ethiss in government and establishing the Legislative Commission on Governmental Ethics; and providing for an effective date."

Leg. Comm. on Governmental Ethics

Introduced in the House 2/13, 1981

HISTORY IN THE HOUSE

19 81	Read first time and referred to Committee on State Affairs												
Feb. 13	Reported back with recommendation that												
May 15	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
PASS	Effective Date												
Yeas	Yeas												
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Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed Signed by Speaker Sent to Senate												
CHIEF CLERK OF THE HOUSE													

HISTORY IN THE SENATE

19	Read first time and referred to Committee on												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed Signed by President Returned to House												
SECRETARY OF THE SENATE													

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor ..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. 153 (Judiciary)  
 Title An Act relating to the responsibilities of the Alaska Public Offices Commission  
 Requested by The Judiciary Committee Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Administration  
 Program Category Affected Legislative and Elective Operations  
 BRU, Program, or Subprogram(s) Affected Alaska Public Offices Commission  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) THE FIGURES SHOWN BELOW REFLECT TOTAL REQUIREMENTS INCLUDING THE FY 82 BUDGET

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		562.1	643.3	680.1		
200 TRAVEL		85.7	94.3	103.7		
300 CONTRACTUAL		187.5	206.2	226.8		
400 COMMODITIES		11.6	12.8	14.1		
500 EQUIPMENT		9.6	--	--		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>856.5</b>	<b>956.6</b>	<b>1024.7</b>		

FUNDING (Thousands of Dollars)

GENERAL FUND		856.5	956.6	1024.7		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						


POSITIONS

FULL TIME		13	13	13		
PART TIME		3	3	3		
TEMPORARY			2			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES (including benefits) FY 82 Salary Schedule; 10% inflation factor projected  
 FY 82 APOC Budget - House Approved 264,000

- 1 Executive Director, range 22, 12 ms
- 1 Assistant Director, range 18, 12 ms
- 1 Regulations Specialist, range 16, 12 ms
- 1 Administrative Assistant, range 14, 12 ms
- 1 Research Analyst, range 15, 8 ms
- 1 Secretary, range 10, 12 ms
- 1 Clerk IV, range 9, 12 ms
- 1 Clerk IV, range 9, 8 ms
- 1 Clerk III, range 8, 8 ms

IV. DATE May 16, 1981 PREPARED BY Sheda S. Pittman   
 AGENCY Alaska Public Offices Commission  
 PHONE 276-4176

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Representative Smith  
 Office of the Governor Keith Specking

Committee Substitute for House Bill No. 153 (Judiciary) continued

Additional Funding, CSHB 153 (Jud)	
-- Reclass Executive Director: 22A to 26A	13,742
-- Attorney, range 24, 12 ms (RSA to Attorney General's Off.)	59,689
-- Reclass Assistant Director: 18A to 23A	15,430
-- Assistant Director; 23A, 12 ms	55,854
-- Regulations Specialist to Administrative Officer: 16A to 17A	2,400
-- 2 Investigators; range 17, 12 ms	75,436
-- Reclass Secretary: 10A to 12A	2,883
-- Reclass Clerk to Auditor: 9A to 12A	4,184
-- Reclass Clerk to Auditor: 9A to 12A, 8 ms to 12 ms	10,029
-- 2 Clerk IV's; range 9, 12 ms	46,760
-- 1 Date Entry Clerk; range 9, 6 ms	11,689
	<hr/>
	\$562,096

TRAVEL - 10% inflation factor projected

FY 82 APOC Budget - House Approved	36,800
Additional Funding, CSHB 153 (Jud)	
Staff Travel: 25 trips @ \$400/trip; 2 days each @ \$67/day	13,350
Convention: 2 persons @ \$1,000; 5 days @ \$60/day	2,600
Commission Travel: 12 meetings per year; 5 members x 12 @ \$400/trip (less FY 82 APOC Budget Allowance)	16,780
5 members x 12 x 3 days @ \$67/day (less FY 82 APOC Budget Allowance)	4,460
Non-Employee Travel	
20 persons @ \$400/trip	8,000
Honorarium	
12 meetings @ 3 days each, 5 members @ \$50/day (less FY 82 APOC Budget Allowance)	3,680
	<hr/>
	\$ 85,670

CONTRACTUAL - 10% inflation factor projected

FY 82 APOC Budget - House Approved	84,500
Additional Funding, CSHB 153 (Jud)	
Communications	17,300
Printing and Advertising	11,600
Space Expense (including AG attorney)	16,200
Repair and Maintenance	6,200
Equipment Rental - word processor	15,100
Witness fees	600
Municipal Contracts (service & instruction)	30,000
Temporary Attorney	6,000
	<hr/>
	\$187,500

COMMODITIES - 10% inflation factor projected

FY 82 APOC Budget - House Approved	6,500
Additional Funding, CSHB 153 (Jud)	
Miscellaneous Supplies	5,100
	<hr/>
	\$ 11,600

EQUIPMENT - (includes equipment for AG attorney)

FY 82 APOC Budget - House Approved	2,000
Additional Funding, CSHB 153 (Jud)	
6 desks	2,276
6 chairs	903
8 side chairs	698
4 tables	660
2 credenzas	706
6 file cabinets	1,221
3 calculators	822
1 bookcase	103
1 storage cabinet	185
	<hr/>
	\$ 9,574

## CLARIFICATION OF FISCAL NOTE

With enactment of CSHB 153 (Jud) the Alaska Public Offices Commission would be charged with administering the standard of conduct principles outlined in the legislation, in addition to its current responsibilities for AS 15.13, AS 24.45 and AS 39.50. In comparison with the existing disclosure laws, CSHB 153 goes beyond reporting of financial interests and includes a number of do's and don't's involving many sophisticated issues. Such is reflected in the fiscal note as explained below.

### PERSONAL SERVICES

In FY '82, it appears that the APOC will be staffed with six full-time and three part-time staff members. The Commission has contended that the minimal size of its staff has hampered severely its ability to meet effectively the mandates of the existing disclosure laws, especially in the areas of investigations and education on the municipal level. The fiscal note is designed to assure that this drawback would not filter over into its implementation of a "code of ethics" law. Thus, it has included two positions to investigate complaints. In addition, it would be necessary to reorganize the staffing structure such that there is a second assistant director, thereby having one for administration and technical services (the day-to-day) and one for "enforcement" to supervise the handling of all complaints, investigations and hearings, both positions would be under the general direction of the Executive Director who would carry ultimate responsibility for the staff. The second Assistant Director position also would allow the Executive Director to address such priorities as assisting the Commission with new regulations necessitated by the bill as well as advisory opinions and background work relating to Commission determinations. The Commission also feels that the level of compensation for these three key positions must take into account the responsibilities and expectations inherent in these jobs.

The attorney position is included in recognition of the fact that be it in-house or elsewhere, the legal load will be substantial. For existing purposes, the practice of utilizing an assistant attorney general on an ad hoc basis has worked well due mainly to the level of expertise and cooperation. Nevertheless, given the fact that CSHB 153 calls for the issuance of advisory opinions, promulgation of regulations and potential divestiture of financial holdings, and covers both state and municipal officials, services of a full-time attorney would be required. Further, as the workload of the professional staff increases so does that of the support/ clerical staff. Therefore, the Commission has included two clerk IV positions and one data entry clerk. It also feels that re-classification of the Secretary and existing Clerk position is warranted because the volume and complexity of these jobs will increase with the administration of another law.

## TRAVEL

The travel dollars included in the fiscal note reflect the fact that the investigators will need, on numerous occasions, to go out into the field to investigate complaints in connection with all the laws the Commission administers, but primarily concerning the proposed standard of conduct statute. It is also expected that the Commission would be required to meet monthly to guide its staff in the development of implementing regulations, issuing advisory opinions, policy decisions and the like, especially as timely action will be a key to the success of a "code of ethics" bill. Non-employee travel takes into account those occasions when it is more fiscally sound to bring the parties to the Commission or its staff rather than vice versa.

## CONTRACTUAL

With the addition of a law of this nature, the concomitant costs in communication, printing and advertising would be high, as the number of inquiries to staff and the need for informational manuals and summaries is expanded.

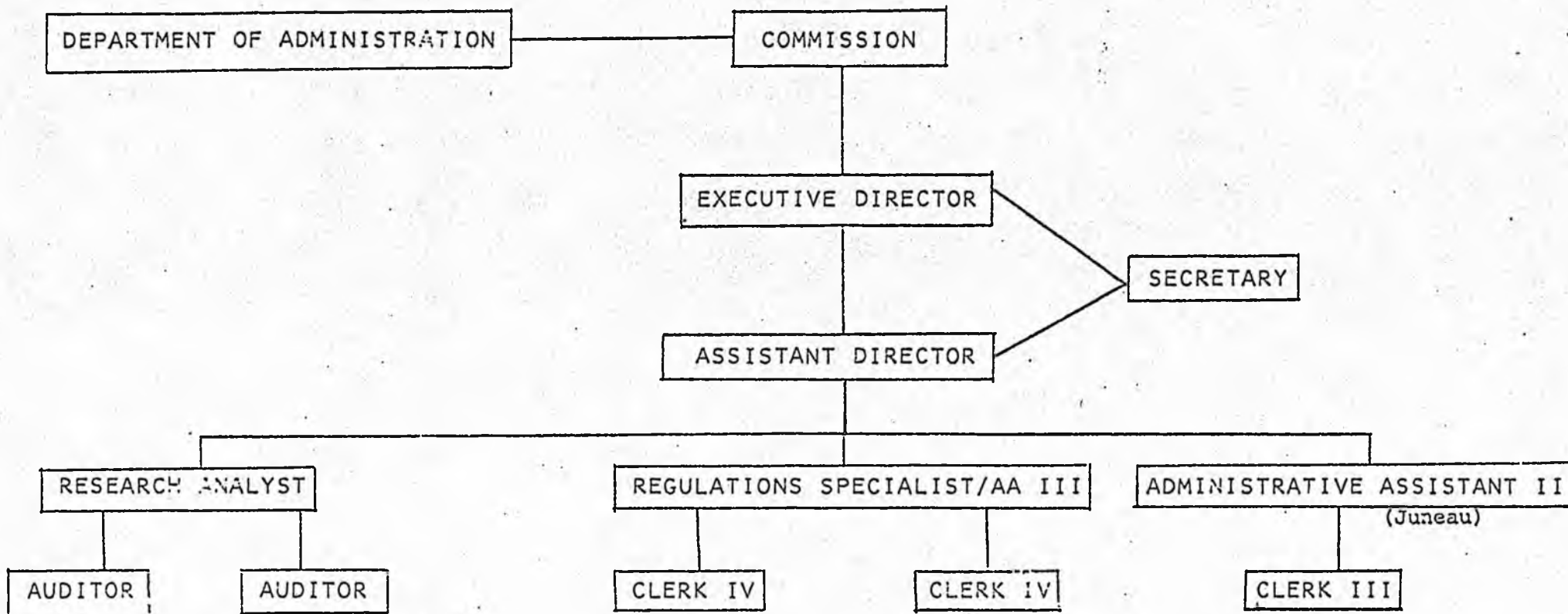
Also included are two word-processing terminals for the Anchorage office and one for the Juneau office; it is inefficient and ineffective -- in terms of internal time management and responsiveness to the public inquiries for information -- to have a record-keeping system (the Lexitron word processor) that would not be available to the entire expanded staff to utilize.

The municipal contract dollars address the fact that, at least during the first couple of years following enactment of the legislation, it would be necessary to hold workshops for municipal clerks and officials to inform them of their responsibilities under the law. The law could not be monitored at the local level if officials in each community were not familiar with what obligations the new law would place on all municipal officials and employees. It would be the Commission's role to educate and avoid many inadvertent violations through inexperience.

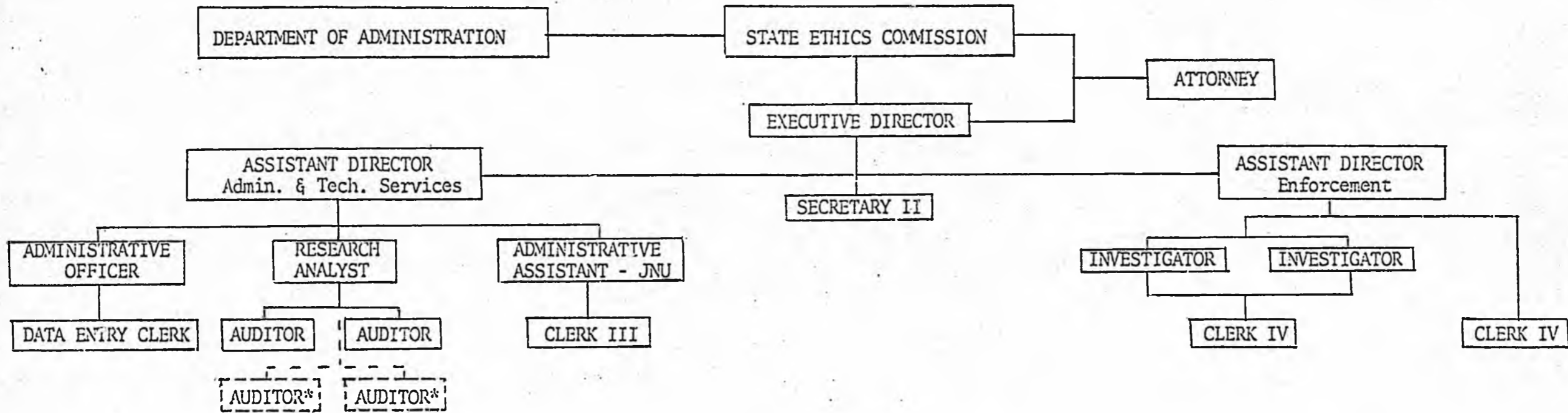
## COMMODITIES AND EQUIPMENT

These dollar levels predict the cost outlay for consumable supplies and office equipment for the additional staff members. The equipment expenses are one-time items.

In summary, the Commission asserts that the administration of a controversial and intricate law so that it meets the intent of the Legislature and is accomplished with the attendant requisites of expertise, judgment and equity, will more than double its cost of operation.



ALASKA PUBLIC OFFICES COMMISSION  
ORGANIZATIONAL CHART



STATE ETHICS COMMISSION  
ORGANIZATIONAL CHART

\*Positions required during  
state election years only

1	POSITION TITLE Assistant Director			RANGE/STEP 23 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG		

3	TYPE OF EXPENDITURE		AMOUNT -
	1	2	3
4	PERSONAL SERVICES:		
	SALARY		44,952
5	BENEFITS		7,098
6	FICA		2,004
7	HEALTH INS.		1,800
8	TOTAL PERSONAL SERVICES	01	55,854
9	TRAVEL	02	12,300
10	CONTRACTUAL	03	10,200
11	COMMODITIES	04	800
12	EQUIPMENT	05	1,300
13	OTHER		
14	TOTAL COST		80,454

**JUSTIFICATION:**

This person would be one of two Assistant Directors reporting to the Executive Director of the Commission. The existing Assistant Director in the Commission's budget would be responsible for Administrative and Technical Services; the new position request is for an Assistant Director for Enforcement. The essential responsibility of this person would be to handle investigations which were necessary either as a result of audits conducted by Commission staff or in response to complaints filed by the public. Routine auditing of reports filed under all of the laws administered by the Commission would be handled by the staff in the Administrative and Technical Service division; in-depth investigations, including field audits, necessitated by complaints would be the responsibility of the Enforcement division. This division also would be responsible for presenting the investigation results to the Commission during the hearing process in order that the Commission could determine whether a violation had occurred and whether referral to the Attorney General was warranted.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	80,454
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21 CONTINUATION

22 ADDITION

FOR B&M USE ONLY

AA KEY NUMBER

COLUMN NO.

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13 REQUEST FOR NEW POSITION.**

**FY 82**

1	POSITION TITLE Attorney	RANGE/STEP 24 A	BARG. UNIT. X	LOCATION Anchorage	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE

3	TYPE OF EXPENDITURE	AMOUNT	
	1	2	3
4	PERSONAL SERVICES: SALARY	48,264	
5	BENEFITS	7,621	
6	FICA	2,004	
7	HEALTH INS.	1,800	
8	TOTAL PERSONAL SERVICES	01	59,689
9	TRAVEL	02	12,300
10	CONTRACTUAL	03	10,300
11	COMMODITIES	04	800
12	EQUIPMENT	05	1,300
13	OTHER		
14	TOTAL COST		84,389

JUSTIFICATION:

The major function of this position is the preparation of Advisory Opinions which the Commission would be required to issue to those subject to the Ethics Law who sought direction concerning their requirements in order to be considered in compliance. Such advisory opinions require the services of an attorney who is knowledgeable in both the Ethics Law and in business/financial matters as well. Under the Ethics Law, those subject to it or those contemplating a position under it will need to be advised concerning the potential and actual conflicts between their financial matters and their position in government. In some cases it may be necessary to recommend disposal of particular holdings; in others, some form of blind trust may be sufficient. The Commission's response to such requests are binding and, hence, must be timely, accurate and precise -- the services of an attorney "in-house" will be required to assure such. There are approximately 525 state officials who are subject to the present Conflict of Interest Law, AS 39.50. About the same number would be subject to this ethics legislation and, therefore, the workload dictates the full-time services of an attorney.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	84,389
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR BGM USE ONLY

AA KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

1	POSITION TITLE Investigator	RANGE/STEP 17 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISC. TP.
2	TYPE OF POSITION PFT	STAFF MONTHS. 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE
						LEG	

3	TYPE OF EXPENDITURE	AMOUNT -
	1	2
		3
4	PERSONAL SERVICES: SALARY	29,460
5	BENEFITS	4,652
6	FICA	1,806
7	HEALTH INS.	1,800
8	TOTAL PERSONAL SERVICES 01	37,718
9	TRAVEL 02	18,400
10	CONTRACTUAL 03	10,200
11	COMMODITIES 04	800
12	EQUIPMENT 05	1,300
13	OTHER	
14	TOTAL COST	64,418

**JUSTIFICATION:**

This full-time position is vital if the proposed State Ethics Commission is to fulfill the enforcement provisions inherent in the legislation. Without adequate investigative staffing, the intent of any ethics legislation would be severely undermined. The person filling this position would report to the Executive Director, the Assistant Director for Enforcement and the Attorney, as necessary. He or she would investigate complaints filed by the public and perform other investigations required by the Commission. While it is anticipated that the majority of the investigative work would stem from enactment of the ethics bill, this person also would perform investigations relative to the Campaign Disclosure Law and the Regulation of Lobbying Law.

	CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004
18		I-A RCPTS 1005
19		PGM RCPTS 1028
20		OTHER

21 CONTINUATION

22 ADDITION

FOR BGM USE ONLY

KEY NUMBER

COLUMN NO.

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13 REQUEST FOR NEW POSITION.**

**FY 82**

1	POSITION TITLE Investigator	RANGE/STEP 17 A.	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS. 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE
						LEG	

3	TYPE OF EXPENDITURE	AMOUNT -
	1	2
		3
4	PERSONAL SERVICES: SALARY	29,460
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	CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20		OTHER
21	CONTINUATION	
22	ADDITION	

FOR B&M USE ONLY

KEY NUMBER

COLUMN NO.

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW  
POSITION

Page 4 of 6

REVISED  
DATE

**FY 82**

1	POSITION TITLE Clerk IV	RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE
						LEG	

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY	17,700
5	BENEFITS	2,795
6	FICA	1,085
7	HEALTH INS.	1,800
8	TOTAL PERSONAL SERVICES 01	23,380
9	TRAVEL 02	
10	CONTRACTUAL 03	6,100
11	COMMODITIES 04	800
12	EQUIPMENT 05	1,200
13	OTHER	
14	TOTAL COST	31,480

JUSTIFICATION:

This full-time clerk position would function as support staff for the two Investigator positions. This position also would perform clerical functions for the Attorney as necessary. The person filling this position would utilize the word processing equipment for typing correspondence, investigative reports and recommendations, and advisory opinions. Filing and other clerical skills would be necessary.

	CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20		OTHER
21	CONTINUATION	
22	ADDITION	

31,480

FOR BGM USE ONLY

7A KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

1	POSITION TITLE Clerk IV				RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG		

3	TYPE OF EXPENDITURE		AMOUNT -
	1	2	3
4	PERSONAL SERVICES:		
	SALARY		17,700
6	BENEFITS		2,795
6	FICA		1,085
7	HEALTH INS.		1,800
8	TOTAL PERSONAL SERVICES	01	23,380
9	TRAVEL	02	
10	CONTRACTUAL	03	6,100
11	COMMODITIES	04	800
12	EQUIPMENT	05	1,200
13	OTHER		
14	TOTAL COST		31,480

JUSTIFICATION:

This full-time clerk position would serve as direct support staff to the Assistant Director for Enforcement and the Attorney, as necessary. The person filling this position would utilize the word processing equipment for typing reports, findings, memoranda, and correspondence. This person also would be required to be able to retrieve information stored in the word processor's records management system. Filing and other clerical skills would be necessary.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	31,480
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

1	POSITION TITLE Data Entry Clerk II				RANGE/STEP 9B	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.						
2	TYPE OF POSITION PPT	STAFF MONTHS 6	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE 1/1	LEG.								
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:										
	1	2	3													
4	PERSONAL SERVICES:				<p>The Commission needs to increase the APOC's ability to quickly disseminate — in useful and informative summaries and analyses — the information contained in the disclosure reports filed, so that the information is available to the public at a time when the information retains its impact and meets the purposes of disclosure legislation. As the number of candidates, the costs of campaigns, and the complexity and importance of issues increases each year, the compilation of the information contained in the reports received becomes more difficult. Presently the information is compiled manually, and summarization often takes weeks or, as in the case of the annual report, months. The Commission has on order an NBI 3000 unit for data compilation and retrieval so that the computerization of the information contained in the reports filed would give the Commission the ability to generate comprehensive summaries within a few days after receipt of the reports, thus making the information available at a time when it will have its intended impact on the electorate.</p> <p>This position will process data through the computer. It is a seasonal position funded for only six months annually.</p> <p>The position is essential to the full and efficient use of the word processing equipment.</p>											
	SALARY	\$1,521/month	9,126													
5	BENEFITS		1,441													
6	FICA		559													
7	HEALTH INS.		900													
8	TOTAL PERSONAL SERVICES		01	12,026												
9	TRAVEL		02													
10	CONTRACTUAL		03													
11	COMMODITIES		04													
12	EQUIPMENT		05													
13	OTHER															
14	TOTAL COST			12,026												
	CODE	FUNDING SOURCE														
15		FED RCPTS. 1002														
16		GF MATCH 1003														
17		GEN. FUND 1001		12,026												
18		I-A RCPTS. 1005														
19		PCM RCPTS 1028														
20		OTHER														
21	CONTINUATION					FOR B&M USE ONLY										
22	ADDITION															
	A. KLY NUMBER		COLUMN NO.													

AGENCY Department of Administration

PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW  
POSITION.

Page 1 of 8

REVISED  
DATE \_\_\_\_\_

**FY 82**

**00367**

Original sponsor: Rules Committee

Offered: 5/15/81  
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 153 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the responsibilities of the Alaska  
7 Public Offices Commission; establishing standards of  
8 conduct for public officials; and providing for an  
9 effective date."

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

11 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that it is  
12 essential in the conduct of public business that public officials hold the  
13 respect and confidence of the people. Public officials need to avoid conduct  
14 which violates the trust that the people have placed in them or which creates  
15 a justifiable impression among the public that the public trust is being  
16 violated. To ensure and preserve public confidence, persons serving in  
17 state and municipal government should have the benefit of specific standards  
18 to guide their conduct. In order to strengthen the faith and confidence  
19 that the governmental process reflects the will of the people and that each  
20 public official considers and makes decisions affecting the public according  
21 to the best interests of the public, AS 39.49 is enacted in sec. 2 of this  
22 Act.

23 \* Sec. 2. AS 39 is amended by adding a new chapter to read:

24 CHAPTER 49. STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS.

25 Sec. 39.49.010. GIFTS. A public official may not solicit,  
26 directly or indirectly, a gift, whether in the form of money, service,  
27 or benefit, under circumstances which the public official knows are  
28 intended to influence the performance of official action or are intended  
29 as a reward for official action.

1           Sec. 39.49.020. ABUSE OF OFFICE. (a) A public official may not  
2 use or attempt to use his office to

3           (1) seek employment or to contract for services for himself  
4 or a member of his household;

5           (2) solicit or accept compensation for the performance of  
6 official duties or responsibilities for himself or others except as  
7 provided by law;

8           (3) use public time, equipment, or facilities for any  
9 private or business purposes for himself or others;

10           (4) use public time, equipment, or facilities for political  
11 or campaign purposes;

12           (5) solicit or engage in a financial transaction with a  
13 subordinate or a person or business which the public official inspects  
14 or supervises;

15           (6) use information which is confidential by law for personal  
16 gain or in a manner not connected with the performance of official  
17 action.

18           (b) The provisions of (a)(3) and (4) of this section do not apply  
19 to an elected public official. However, an elected public official may  
20 not use state or municipal equipment for any private, business, or  
21 campaign purpose.

22           Sec. 39.49.030. CONFLICT OF INTEREST. (a) Except as provided in  
23 AS 39.49.040 and 39.49.050, a public official may not take official  
24 action which he knows or has reason to know would affect

25           (1) a business or property in which the public official has  
26 a financial interest; or

27           (2) a business or property for which the public official  
28 acts as legal counsel, advisor, consultant, or representative.

29           (b) A public official has not acquired a financial interest in a

1 business which may be involved in official action under this section if  
2 no benefit or detriment accrues to him beyond that which accrues uni-  
3 formly to the members of the profession, occupation, or group affected  
4 by the official action.

5 (c) A public official of the state may not assist a person before  
6 a state agency for compensation that is conditioned on the success of  
7 the transaction in a transaction involving the state. A public official  
8 who is a member of the legislature or employed in the legislative  
9 branch of the state government may not assist a person or business  
10 before a state agency for compensation. A public official who is a  
11 member of the governing body of a municipality or an employee of a  
12 municipality may not assist a person or business before the municipal  
13 governing body or an agency of the municipality for compensation.

14 (d) A public official may not for compensation attempt to secure  
15 passage or defeat of a bill or appropriation or to obtain a contract,  
16 claim, transaction, or proposal in which he has participated or will  
17 participate as a public official. A public official may not assist a  
18 person or business for compensation on the bill, contract, claim,  
19 transaction, or proposal before the legislature, a state agency, or a  
20 municipality.

21 (e) A public official may not assist a person before a state  
22 agency or a municipality for compensation as to a bill, contract,  
23 claim, transaction, or proposal involving official action by the state  
24 agency or municipality over which the public official has authority.

25 (f) A former public official may not

26 (1) use information which is confidential by law for personal  
27 gain;

28 (2) within 12 months after separation from employment assist  
29 a person or business for compensation on a case or transaction upon

1 which he took official action when he was a public official; for pur-  
2 poses of this paragraph "official action" does not include voting by an  
3 elected public official.

4 Sec. 39.49.040. ACTION ON CONFLICT BY PUBLIC OFFICIAL OF THE  
5 STATE. (a) A public official of the state who is unable to disqualify  
6 himself in an action prohibited by AS 39.49.030 or whose participation  
7 is necessary in order to constitute a quorum for official action does  
8 not violate AS 39.49.030 if he has complied with AS 39.50.020 and if he  
9 announces the nature of his conflict at the time he takes the official  
10 action.

11 (b) A public official in the executive branch of the state govern-  
12 ment who has a conflict in his discharge of official duties shall

13 (1) prepare a statement describing the duties requiring  
14 official action and the nature of the conflict of interest with respect  
15 to the official action; and

16 (2) deliver copies of the statement to the commission and to  
17 his immediate superior or to the governor.

18 (c) A public official who is a member of a board or commission  
19 who has a conflict of interest shall state the conflict to the board or  
20 commission at the time of taking the official action.

21 (d) On receipt of a statement prepared under (b) of this section,  
22 a public official's superior or the governor shall assign the official  
23 action to a public official who does not have a conflict of interest.

24 (e) The governor and a public official without a superior in the  
25 executive branch of the state government comply with this section if  
26 the statement described in (b)(1) of this section is delivered to the  
27 commission.

28 (f) The executive director of the commission shall review all  
29 statements filed under (b) of this section.

1           Sec. 39.49.050. ACTION ON CONFLICT BY A PUBLIC OFFICIAL OF A  
2 MUNICIPALITY. (a) A public official of a municipality who has a  
3 conflict in his discharge of official duties shall

4           (1) prepare a statement describing the duties requiring  
5 official action and the nature of the conflict of interest with respect  
6 to the official action; and

7           (2) deliver copies of the statement to the commission and to  
8 his immediate superior or to the presiding officer of the governing  
9 body of the municipality.

10          (b) On receipt of a statement prepared under (a) of this section,  
11 a public official's superior shall assign the official action to a  
12 public official who does not have a conflict of interest.

13          (c) A public official who is a member of the governing body of a  
14 municipality complies with this section if the statement described in  
15 (a)(1) of this section is delivered to the commission.

16          (d) A public official who is a member of the governing body of a  
17 municipality who has a conflict of interest shall state the conflict to  
18 the governing body before taking the official action.

19          (e) The executive director of the commission shall review all  
20 statements filed under (a) of this section.

21           Sec. 39.49.900. DEFINITIONS. In this chapter,

22           (1) "commission" means the Alaska Public Offices Commission  
23 established under AS 15.13.020;

24           (2) "compensation" means money, a thing of value, or economic  
25 benefit conferred on or received by a person in return for services  
26 rendered or to be rendered by himself for another;

27           (3) "employment" means services performed for compensation;

28           (4) "financial interest" means an interest held by an indi-  
29 vidual or a member of his household which is

- 1 (A) an ownership interest in a business;  
2 (B) a creditor interest in an insolvent business;  
3 (C) employment;  
4 (D) prospective employment for which negotiations have  
5 begun;  
6 (E) an ownership interest in real or personal property;  
7 (F) a loan or other debtor interest;  
8 (G) a directorship or officership in a business;

9 (5) "member of his household" means

10 (A) a person who is the spouse, child, ward, brother,  
11 sister, or parent of a public official or of the spouse of a  
12 public official, and who shares a common residence with the public  
13 official; or

14 (B) a person who is the child, ward, brother, sister,  
15 or parent of a public official or of the spouse of a public offi-  
16 cial, and over whose financial interests the public official has  
17 legal, actual, or joint control, whether or not they share a  
18 common residence;

19 (C) a person who shares a common residence with the  
20 public official as though a spouse;

21 (6) "municipality" includes

22 (A) a city or borough of any class;

23 (B) a municipality unified under AS 29.68.240 - 29.68.-  
24 440;

25 (C) a school district or a regional educational atten-  
26 dance area;

27 (7) "official action" means a decision, recommendation,  
28 approval, disapproval, or other action, including inaction, which  
29 involves discretion;

1 (8) "public official" means a member or employee of the  
2 legislature, the governor and lieutenant governor, appointed officers  
3 and employees of a state agency, elected and appointed officers and  
4 employees of a municipality of the state;

5 (9) "public time" means the regular work hours established  
6 by or under law, regulation, ordinance, or collective bargaining agree-  
7 ment for public officials;

8 (10) "state agency" means a department, board, board of  
9 regents, commission, council, committee, institution, office, cor-  
10 poration, authority or organization in the executive or legislative  
11 branch of the state government, and includes the University of Alaska  
12 and public corporations having a separate and independent legal exis-  
13 tence.

14 \* Sec. 3. AS 15.13.030 is repealed and reenacted to read:

15 Sec. 15.13.030. DUTIES OF THE COMMISSION. (a) The commission  
16 shall

17 (1) develop and provide all forms for the reports and state-  
18 ments required to be made under this chapter, AS 24.45, AS 39.49 and  
19 AS 39.50;

20 (2) prepare and publish a manual setting out uniform methods  
21 of bookkeeping and reporting for use by persons required to make reports  
22 and statements under this chapter, AS 24.45, AS 39.49, and AS 39.50 and  
23 otherwise assist candidates, groups, and individuals in complying with  
24 the requirements of this chapter, AS 24.45, AS 39.49, and AS 39.50;

25 (3) receive and hold open for public inspection reports and  
26 statements required to be made under this chapter, AS 24.45, AS 39.49,  
27 and AS 39.50 and, upon request, furnish copies at cost to interested  
28 persons;

29 (4) compile and maintain a current list of all reports and

1 statements filed with the commission;

2 (5) prepare a summary of reports filed with the commission  
3 and make copies of the summary available to interested persons at cost;

4 (6) notify, by registered or certified mail, all persons who  
5 are delinquent in filing reports and statements required to be made  
6 under this chapter, AS 24.45, AS 39.49, or AS 39.50;

7 (7) examine, investigate and compare reports, statements and  
8 actions required by this chapter, AS 24.45, AS 39.49, and AS 39.50 and  
9 report to the attorney general the names of persons or groups which the  
10 commission has substantial reason to believe have violated this chapter,  
11 AS 24.45, AS 39.49, or AS 39.50;

12 (8) prepare and publish an annual report to the legislature  
13 concerning the activities of the commission, the effectiveness of this  
14 chapter, AS 24.45, AS 39.49, and AS 39.50, the enforcement by the  
15 attorney general of this chapter, AS 24.45, AS 39.49 and AS 39.50, and  
16 recommendations and proposals for change;

17 (9) subject to the provisions of the Administrative Procedure  
18 Act (AS 44.62), adopt regulations necessary to implement and clarify  
19 this chapter, AS 24.45, AS 39.49, and AS 39.50;

20 (10) appoint an executive director.

21 (b) The commission may delegate to the executive director powers  
22 and duties given it by AS 15.13.031; it may not delegate to the execu-  
23 tive director the power to issue a determination under AS 15.13.034.

24 (c) The commission, a commissioner, the executive director, or an  
25 employee authorized by the commission may administer oaths, certify to  
26 all official acts, and issue subpoenas, subpoenas duces tecum, and  
27 other process to compel the attendance of witnesses and the production  
28 of testimony, records, papers, accounts and documents in an inquiry,  
29 investigation, hearing or proceeding before the commission. The com-

1 mission, a commissioner, or the executive director may petition a court  
2 of this state to enforce its subpoenas, subpoenas duces tecum and other  
3 process.

4 \* Sec. 4. AS 15.13 is amended by adding new sections to read:

5 Sec. 15.13.031. POWERS OF COMMISSION. (a) The commission shall  
6 administer this chapter, AS 24.45, AS 39.49, and AS 39.50 and may

7 (1) issue an advisory opinion under AS 15.13.032(a) on the  
8 request of a public official or former public official;

9 (2) in its discretion issue an advisory opinion under  
10 AS 15.13.032(c) upon the request of any person;

11 (3) issue a determination under AS 15.13.034;

12 (4) accept or initiate complaints concerning a violation of  
13 a law administered by the commission, initiate investigations, and hold  
14 hearings;

15 (5) subpoena witnesses, administer oaths, and take testimony  
16 relating to matters before the commission and require the production  
17 for examination of books or papers relating to a matter under investi-  
18 gation by the commission.

19 (b) A complaint may be accepted by the commission and a complaint  
20 may be initiated by the commission on a violation of AS 39.49 no later  
21 than one year after separation from employment by a public official.  
22 This subsection does not prevent a proceeding against a person who by  
23 fraud prevents discovery of a violation of AS 39.49.

24 Sec. 15.13.032. ADVISORY OPINIONS. (a) A public official or a  
25 former public official may request an advisory opinion as to whether  
26 stated facts and circumstances describe a violation of AS 39.49.  
27 Unless material facts were omitted or misstated in the request

28 (1) if an advisory opinion is not issued within 30 days  
29 after the request is filed with the commission, the facts and circum-

1 stances stated in the request do not describe a violation of AS 39.49;  
2 and

3 (2) the advisory opinion issued or the facts and circum-  
4 stances stated in the request is binding in a charge subsequent to the  
5 request concerning the public official or former public official.

6 (b) If an advisory opinion is issued under (a) of this section,  
7 the executive director shall provide the public official or former  
8 public official with the opinion.

9 (c) The commission may in its discretion, upon the request of any  
10 person, issue an advisory opinion if the commission determines that the  
11 request states a matter of general applicability or first impression  
12 under AS 39.49. The advisory opinion shall be based on facts and  
13 circumstances stated in the request and may not be used as a substitute  
14 for a complaint charging a violation of AS 39.49 under AS 15.13.031(4).

15 (d) The commission may publish summaries of advisory opinions  
16 issued under AS 15.13.033(b) and determinations issued under AS 15.-  
17 13.034 with deletions in the summary to prevent disclosure of the  
18 identity of a person involved in an advisory opinion or determination.

19 (e) The commission may authorize its executive director to issue  
20 advisory opinions requested under (a) or (c) of this section.

21 Sec. 15.13.033. COMPLAINT PROCEDURES. (a) A complaint concerning  
22 a violation of a law administered by the commission must be in writing  
23 and signed by the complainant under oath. A complaint initiated by the  
24 commission must be signed by three members of the commission. The  
25 executive director shall notify each person against whom a complaint is  
26 filed and afford the person an opportunity to explain the conduct  
27 stated to be a violation. The executive director shall investigate  
28 complaints involving a violation of AS 39.49 on a confidential basis.

29 (b) The executive director shall provide the public official who

1 is the subject of a complaint under (a) of this section with a decision  
2 indicating whether a probable violation has been found. If the decision  
3 indicates a probable violation, the person who is the subject of the  
4 complaint may request a determination from the commission or comply  
5 with the decision.

6 (c) If the person who is the subject of the complaint fails to  
7 comply with the decision, a copy of a complaint shall be served on the  
8 person. The person has 20 days after service to reply to the complaint.  
9 Information on the face of the complaint is public information.

10 (d) Upon service of a complaint under (c) of this section, the  
11 commission shall set a time and place for a hearing with notice to the  
12 complainant and the person charged with a violation.

13 (e) Each party may have an opportunity to (1) be heard, (2)  
14 subpoena witnesses and require the production of books or papers relat-  
15 ing to the proceedings, (3) be represented by counsel, and (4) have the  
16 right of cross-examination. The hearings shall be held under AS 44.62.  
17 A witness shall testify under oath.

18 Sec. 15.13.034. DETERMINATIONS. (a) When the commission, after  
19 hearings under AS 15.13.033(d), determines that there is sufficient  
20 cause to believe that a public official removable only by impeachment  
21 has committed a wilful violation of a provision of AS 39.49, it shall  
22 issue a determination and refer the determination to the senate for  
23 proceedings under art. II, sec. 20 of the state constitution. The  
24 determination shall contain a statement of the facts describing the  
25 violation.

26 (b) When the commission determines after hearings under AS 15.-  
27 13.033(d) that there is sufficient cause to believe that a public  
28 official other than a public official removable only by impeachment has  
29 committed a wilful violation of a provision of AS 39.49, it shall refer

1 (1) to the governor a determination concerning a public  
2 official in the executive branch;

3 (2) to the proper presiding officer of the legislature or to  
4 both presiding officers of the legislature a determination concerning a  
5 public official in the legislative branch;

6 (3) to the chairman of the Board of Regents a determination  
7 concerning a public official in the University of Alaska; or

8 (4) to the presiding officer of the governing body of the  
9 municipality a determination concerning a public official of the muni-  
10 cipality.

11 (c) Any action of the governor, legislature, chairman of the  
12 Board of Regents, or the governing body of a municipality in response  
13 to a determination of the commission is public information.

14 (d) A determination of the commission must be based on competent  
15 and substantial evidence. Testimony and evidence taken at the hearing  
16 shall be recorded. A determination of the commission regarding a  
17 violation shall be approved by three members of the commission. A  
18 determination is public information.

19 Sec. 15.13.035. CONTRACTS VOIDABLE. (a) In addition to any  
20 other penalty provided by law, a contract entered into by the state or  
21 a municipality of the state in violation of AS 39.49, is voidable by  
22 the state or a municipality of the state.

23 (b) In an action to void a contract entered into by the state or  
24 a municipality of the state in violation of AS 39.49, the interests of  
25 innocent parties who may be damaged by the action shall be protected  
26 and the action to void the transaction must be brought within 60 days  
27 of a determination of a violation of AS 39.49.

28 Sec. 15.13.036. VIOLATION. (a) The state or a municipality may  
29 recover the compensation received by a person as a result of a violation

1 of AS 39.49 by a public official or former public official. An action  
2 under this section shall be brought within two years of the violation.

3 (b) The appointing authority may discipline, reprimand, put on  
4 probation, demote, suspend, or discharge an appointed public official  
5 found to have violated a provision of AS 39.49.

6 Sec. 15.13.037. CIVIL PENALTIES. (a) The commission may assess  
7 a civil penalty in an amount not to exceed twice the benefit determined  
8 by the commission to have been obtained by a violation of this chapter,  
9 AS 24.45, AS 39.49, or AS 39.50, or \$2,000, whichever is less, against  
10 a public official.

11 (b) If the commission determines that a public official received  
12 no economic benefit from a violation of this chapter, AS 24.45, AS 39.-  
13 49, or AS 39.50, it may assess a civil penalty not to exceed \$2,000.

14 \* Sec. 5. AS 15.13.122 is repealed and reenacted to read:

15 Sec. 15.13.122. LEGAL COUNSEL. (a) The attorney general is  
16 legal counsel for the commission and shall advise the commission in  
17 legal matters arising in the discharge of its duties and represent the  
18 commission in actions to which it is a party.

19 (b) If, in the opinion of the commission, the public interest  
20 warrants, the commission may request the chief justice of the supreme  
21 court to appoint special counsel to represent the commission in a  
22 proceeding involving a law administered by the commission and to pursue  
23 appropriate remedies including criminal prosecution.

24 (c) The commission may employ temporary legal counsel in matters  
25 in which the commission is involved.

26 \* Sec. 6. AS 15.13.130 is amended by adding new paragraphs to read:

27 (8) "commission" means the Alaska Public Offices Commission;

28 (9) "public official" means a member or employee of the  
29 legislature, the governor and lieutenant governor, appointed officers

1 and employees of a state agency, elected and appointed officers and  
2 employees of a municipality of the state, and a person under a personal  
3 services contract to a state agency or to a municipality of the state;

4 (10) "state agency" means a department, board, board of  
5 regents, commission, council, committee, institution, office, corpora-  
6 tion, authority or organization in the executive or legislative branch  
7 of the state government, and includes the University of Alaska and  
8 public corporations having a separate and independent legal existence.

9 \* Sec. 7. AS 15.13.130 is amended by adding a new subsection to read:

10 (b) In AS 15.13.010 and 15.13.040 - 15.13.125, "municipality"  
11 means a home rule or general law borough or city including but not  
12 limited to a unified municipality organized under AS 29.68.240 - 29.68.-  
13 440. In the implementation of AS 39.49 by the commission under AS 15.-  
14 13.030 - 15.13.037, "municipality" includes

- 15 (1) a city or borough of any class;  
16 (2) a municipality unified under AS 29.68.240 - 29.68.440;  
17 (3) a school district or a regional educational attendance  
18 area.

19 \* Sec. 8. AS 15.13.045, 15.13.130(6), and AS 39.50.090(a) - (e) are  
20 repealed.

21 \* Sec. 9. (a) AS 39.49 enacted in sec. 2 of this Act applies to the  
22 conduct of a public official of the state after the effective date of this  
23 Act. AS 39.49 applies to public officials of a municipality of the state on  
24 and after July 1, 1982, unless the municipality adopts standards of conduct  
25 for its public officials, submits the standards to the Alaska Public Offices  
26 Commission, and the Alaska Public Offices Commission determines before  
27 July 1, 1982, that the municipal standards of conduct are substantially  
28 similar to the standards of conduct adopted in AS 39.49.

29 (b) The legislature does not intend that each municipality adopt a

1 code establishing standards of conduct as comprehensive as the standards of  
2 conduct established in AS 39.49 enacted in sec. 2 of this Act. In deter-  
3 mining whether a municipal code establishing a standard of conduct is sub-  
4 stantially similar to the standards of conduct established in AS 39.49, the  
5 Alaska Public Offices Commission shall consider the standards of conduct  
6 established in the municipal code with reference to the size of the munici-  
7 pal government an' recent budgets of the municipality, procedures adopted by  
8 the municipality for the regulation of fiscal procedures, and other matters  
9 submitted to the commission by the municipality.

10 \* Sec. 10. This Act takes effect July 1, 1981.

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Introduced: 2/13/81  
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 HOUSE BILL NO. 153

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ethics in government and estab-  
7 lishing the Legislative Commission on Governmental  
8 Ethics; and providing for an effective date."

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

10 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that it is  
11 essential in the conduct of public business that state officials and state  
12 employees hold the respect and confidence of the people. State officials  
13 and state employees need to avoid conduct which violates the trust that the  
14 people have placed in them or which creates a justifiable impression among  
15 the public that the public trust is being violated. To ensure and preserve  
16 public confidence, persons serving in government should have the benefit of  
17 specific standards to guide their conduct. In order to strengthen the faith  
18 and confidence that the governmental process reflects the will of the people  
19 and that each state official considers and makes decisions affecting the  
20 public according to the best interests of the public, the Legislative Commis-  
21 sion on Governmental Ethics is established.

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

23 CHAPTER 60. LEGISLATIVE COMMISSION ON GOVERNMENTAL ETHICS.

24 Sec. 24.60.010. LEGISLATIVE COMMISSION ON GOVERNMENTAL ETHICS.

25 The Legislative Commission on Governmental Ethics is established in the  
26 legislative branch of the state government.

27 Sec. 24.60.020. MEMBERSHIP OF THE COMMISSION. (a) The presiding  
28 officer and the floor leaders of the two major political parties in  
29 each house of the legislature shall each nominate one member of the

1 commission during January of an even-numbered year. The nominations  
2 made under this subsection are subject to confirmation by the members  
3 of the house in which the nominations were made.

4 (b) The members of the commission nominated and confirmed under  
5 (a) of this section shall by a vote of at least five members elect a  
6 seventh member who is the presiding officer of the commission.

7 (c) The presiding officer and the members of the commission serve  
8 a term of two years and until a successor is appointed or elected and  
9 qualifies.

10 Sec. 24.60.030. QUALIFICATIONS OF MEMBERS OF THE COMMISSION. (a)  
11 The members of the commission shall be persons of recognized judgment,  
12 probity, and objectivity. A person may not be nominated or confirmed  
13 to the commission who

14 (1) is a member of the legislature;

15 (2) was a member of the previous legislature;

16 (3) was a declared candidate for a federal, state, or municipi-  
17 pal elective position within the two years before nomination; or

18 (4) holds an elective federal, state, or municipal office.

19 (b) A member of the commission may not participate in a matter  
20 involving the member.

21 Sec. 24.60.040. AUTHORITY OF THE COMMISSION. (a) The commission  
22 may on request advise a state official or state employee whether his  
23 personal circumstances and his official duties may constitute a viola-  
24 tion of the provisions of AS 15.13, AS 24.45, or AS 39.50.

25 (b) The commission may accept a complaint which alleges a viola-  
26 tion of the provisions of AS 15.13, AS 24.45, or AS 39.50.

27 Sec. 24.60.050. ADVISORY OPINIONS. (a) A request for an advisory  
28 opinion shall be filed with the commission and be signed by the state  
29 official or state employee requesting the advisory opinion.

1 (b) In reviewing a request for an advisory opinion and in prepar-  
2 ing the opinion, the commission may investigate the matters raised in  
3 the request.

4 (c) The advisory opinion of the commission shall be sent to the  
5 state official or state employee who requested the opinion. If the  
6 state official or state employee who requested the advisory opinion is  
7 in the executive branch of the state government, a copy of the opinion  
8 shall be sent to the head of the department employing the state official  
9 or state employee. If the state official or state employee who re-  
10 quested the opinion is in the legislative branch of the state govern-  
11 ment, a copy of the opinion shall be sent to the presiding officer of  
12 the house to which the member belongs and the rules committee of that  
13 house or to the head of the agency or office in the legislative branch  
14 who employs the state official or state employee. If the state official  
15 or state employee who requested the opinion is in the judicial branch  
16 of the state government, a copy of the opinion shall be sent to the  
17 chief justice of the supreme court and to the administrative director  
18 of courts.

19 (d) The commission records involving a request for an advisory  
20 opinion are public records on the issuance by the commission of its  
21 advisory opinion.

22 Sec. 24.60.060. COMPLAINTS. (a) A person may file with the  
23 commission a verified complaint which alleges facts constituting a  
24 violation by a state official or state employee. A copy of the com-  
25 plaint shall be sent by the commission to the person alleged to have  
26 committed the violation. The complaint filed under this section is  
27 confidential.

28 (b) A person who is the subject of a complaint may present infor-  
29 mation relative to the complaint to the commission and may review and

1 make copies of the evidence in the files of the commission relating to  
2 the charges against him.

3 (c) The commission shall conduct a preliminary investigation to  
4 determine whether the facts stated in the complaint constitute a viola-  
5 tion. If the commission determines that the facts alleged in the  
6 complaint do not constitute a violation or that the allegations in the  
7 complaint are not substantially accurate, the complaint shall be dis-  
8 missed and the person filing the complaint and the person against whom  
9 the violation is alleged shall be advised. The complaint and the  
10 records of the investigation conducted under this subsection remain  
11 confidential.

12 (d) When the commission tentatively determines after a preliminary  
13 investigation that the complaint states facts that may constitute a  
14 violation, it shall advise the person against whom the violation is  
15 alleged of its tentative determination and offer him an opportunity to  
16 present information in his own behalf. The complaint, the records of  
17 the investigation conducted under this subsection, and the tentative  
18 determination of the commission remain confidential.

19 (e) If, after a review of evidence presented by a state official  
20 or state employee, the commission continues to believe that a violation  
21 occurred, it shall advise the state official or state employee of its  
22 tentative determination and advise him of his right to a public hearing.  
23 The complaint, the records of the investigation, and the deliberations  
24 of the commission conducted under this subsection, including the tenta-  
25 tive determination, remain confidential.

26 (f) If a hearing is held, the commission shall present its wit-  
27 nesses or evidence and permit the person tentatively determined to have  
28 committed a violation to present witnesses or evidence in his behalf.

29 (g) The commission shall consider the evidence presented at the

1 hearing, determine whether it believes that a violation occurred, and  
2 issue its final determination.

3 (h) A complaint under this section and the results of the investi-  
4 gation are public records on the issuance by the commission of its  
5 determination.

6 (i) A tentative determination of the commission under (d) or (e)  
7 of this section and a final determination of the commission under (g)  
8 of this section shall be made on the affirmative vote of at least four  
9 members of the commission.

10 (j) If the commission determines that a violation was committed  
11 by a member of the legislature, a copy of the determination shall be  
12 sent to the presiding officer of the house to which the member belongs  
13 and to the rules committee of that house. If the commission determines  
14 that a violation was committed by an elected or appointed official or a  
15 state employee, a copy of the report shall be sent to the head of the  
16 department in which the official or state employee serves.

17 Sec. 24.60.070. PUBLICATION OF OPINIONS AND DETERMINATIONS.  
18 Within a reasonable amount of time after the commission reports its  
19 advisory opinion or final determination to a state official or state  
20 employee, it may present its opinion or determination to the governor  
21 and the attorney general, the legislature, and the public. The commis-  
22 sion shall include with a determination a reply made by the state  
23 official or state employee.

24 Sec. 24.60.080. PROCEDURES. (a) The commission may issue sub-  
25 poenas, administer oaths, hold hearings, and conduct investigations.

26 (b) In conjunction with (a) of this section, the commission may  
27 compel the attendance of witnesses and production of papers, books,  
28 records, accounts, documents, and testimony, and may have the disposi-  
29 tion of witnesses taken in a manner prescribed by court rule or law for

1 the taking of depositions in civil actions when consistent with the  
2 powers and duties assigned to the commission by this chapter.

3 (c) Subpoenas may be issued and shall be served in the manner  
4 prescribed by AS 44.62.430 and court rule. The failure, refusal, or  
5 neglect of a person to obey a subpoena is punishable as contempt in the  
6 manner prescribed by law or court rule. The superior court may compel  
7 obedience to the commission's subpoena in the same manner as prescribed  
8 for obedience to a subpoena issued by the court.

9 Sec. 24.60.090. HEARINGS. A person against whom a violation is  
10 charged shall be afforded due process protections including the right  
11 to be represented by counsel, the right to call and examine witnesses,  
12 the right to introduce exhibits, and the right to cross-examine the  
13 witnesses of the commission. All witnesses shall be sworn. The com-  
14 mission is not bound by the rules of evidence but its findings shall be  
15 based on competent and substantial evidence.

16 Sec. 24.60.100. COSTS AND ATTORNEY FEES. If the commission  
17 determines that a verified complaint filed with the commission is  
18 groundless and without reasonable foundation, the commission may, in  
19 its discretion, order the person who filed the complaint to pay the  
20 reasonable costs and attorney fees incurred by the person charged with  
21 a violation.

22 Sec. 24.60.110. MEETINGS. The commission shall meet no less  
23 often than every three months and shall meet at the call of the presid-  
24 ing officer.

25 Sec. 24.60.120. COMPENSATION, TRAVEL, AND PER DIEM. Members of  
26 the commission are entitled to compensation of \$50 a day while attend-  
27 ing commission meetings and to travel and per diem authorized by law  
28 for state officials and employees under AS 39.20.160.

29 Sec. 24.60.130. PENALTIES. (a) A member or an employee of the

1 commission who divulges information made confidential by a provision of  
2 this chapter is guilty of a class A misdemeanor.

3 (b) A person who knowingly files a false complaint with the  
4 commission is guilty of a class A misdemeanor.

5 Sec. 24.60.200. DEFINITIONS. In this chapter,

6 (1) "commission" means the Legislative Commission on Govern-  
7 mental Ethics;

8 (2) "violation" means an allegation of facts involving a  
9 state official or state employee which describe a violation of AS 15.13,  
10 AS 24.45, or AS 39.50.

11 \* Sec. 3. AS 39.50.090 is repealed and reenacted to read:

12 Sec. 39.50.090. PROHIBITED ACTS. (a) A public official may not  
13 use his official position or office for the primary purpose of obtain-  
14 ing financial gain for himself, or his spouse, child, parent, or  
15 business with which he is associated or owns stock.

16 (b) A person may not offer or pay to a public official, and a  
17 public official may not solicit or receive money for legislative advice  
18 or assistance, or for advice or assistance given in the course of the  
19 official's public employment or relating to his public employment.  
20 This prohibition does not apply to a chairman or member of a state  
21 commission or board or municipal officer if the subject matter of the  
22 legislative advice or assistance is not related directly to the func-  
23 tion of the commission, board, or municipal body served by the munici-  
24 pal officer; this exception from the general prohibition does not apply  
25 to a person whose service on a state commission or board makes him a  
26 full-time state employee under this title.

27 (c) A public official may not represent a client before a state  
28 agency for a fee. This prohibition does not apply to a municipal  
29 officer, or chairman or member of a state commission or board except

1 with regard to representation before his own commission or board; this  
2 exception from the general prohibition does not apply to a person whose  
3 service on the commission or board makes him a full-time state employee  
4 under this title.

5 (d) A public official or employee may not directly or indirectly  
6 accept a gift, favor, service, employment, or an offer of a gift,  
7 favor, service, or employment, or other thing of value which he knows  
8 or has reason to know is offered to influence his official action.

9 (e) A public official or employee may not take official action  
10 that directly affects a business, partnership, firm, or corporation in  
11 which he has an interest or in which he stands to derive a monetary  
12 gain or to avoid a monetary loss.

13 (f) A public official or employee may not use information which  
14 he receives in the course of his official duties which is not generally  
15 available to members of the public for his financial gain.

16 (g) A public official or employee may not seek a financial  
17 interest, including employment, which he has reason to believe will be  
18 directly affected by his official action or the action of the agencies  
19 he serves.

20 (h) A public official does not have an interest in legislation  
21 under this section if no benefit or detriment accrues to him beyond  
22 that which accrues uniformly to the members of the profession, occupa-  
23 tion, or group affected by the legislation.

24 (i) The provisions of this section do not apply to a purchase or  
25 contract under competitive bidding practices if the public official or  
26 employee takes no part in the preparation of the specifications or the  
27 determinations of the state agency with regard to the transaction.

28 (j) Violation of this section is a class A misdemeanor.

29 (k) In this section, "public official" includes, in addition to

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the persons specified in AS 39.50.200(a)(1), chairmen and members of all commissions and boards created by statute or administrative action as agencies of the state.

(i) No municipal officer may represent a client for a fee before the municipal body which he serves.

\* Sec. 4. This Act takes effect July 1, 1981.

## HOUSE JOURNAL

### LETTER OF INTENT TO ACCOMPANY JUDICIARY COMMITTEE'S SUBSTITUTE FOR HOUSE BILL 153

May 15, 1981

The Honorable Jim Duncan  
Speaker of the House  
Room 214, Capitol Building

Dear Mr. Speaker:

Your Judiciary Committee has extensively considered HB 153 and has offered a committee substitute with a new title, entitled "An Act relating to the responsibilities of the Alaska Public Offices Commission; establishing standards of conduct for public officials; and providing for an effective date."

The original bill created an Ethics Commission and gave it certain responsibilities. The committee substitute puts those responsibilities within the existing structure of the Alaska Public Offices Commission, and substantially rewrites the legislation taking into account various practical considerations and legal requirements.

In addition, the legislation takes into account the existing law regarding disclosure of conflicts of interest. Also, the legislation anticipates the possible passage of other pending legislation that relates to disclosures of conflicts of interest (e.g., the various versions of HB 154).

For instance, the bill forbids a public official from soliciting gifts under circumstances which he knows are intended to influence his behavior, but it does not forbid the acceptance of gifts; upon the assumption that any gifts of questionable nature would be required to be disclosed either by the existing law on disclosure of conflicts of interest or by the proposed amendments to the existing disclosure law.

The committee had hoped to provide an affirmative code of ethics as a general policy (not as word-for-word standards of conduct) as a guideline for interpretation of the rest of the bill. Because of the pressures of other work and the time requirements taken up by work on this legislation, we have reported the bill without this code of ethics.

The members of the Judiciary Committee hope that we will be able to offer a Judiciary Committee amendment supported by a majority of the committee on the floor of the House providing such a code of ethics at the time that the legislation is considered. We did not want to unduly slow the legislative process, knowing that the bill still needed to be considered by the Finance Committee.

The bill specifically provides for a definition of certain actions which are considered to be "abuse of office" by a public official.

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The bill has a general policy that a public official not take official action which he knows or has reason to know would affect him or others close to him, but does provide for procedure that would allow actions upon conflict within certain limitations, particularly where a full disclosure is made, or where the public official is not able to disqualify himself from acting and not able to provide for the assignment of the official action to a person not having a conflict of interest.

Section 3 of the committee substitute updates and somewhat expands the duties of the commission because of the additional obligations regarding the ethics commission. Many of the provisions are the same, however some have been changed and there are some new provisions.

In general the committee wanted to provide some of the managerial flexibility now enjoyed by the Human Rights Commission to the Alaska Public Offices Commission, and therefore requested the draftsman to provide for certain sections that would accomplish that.

The bill provides that the commission may issue advisory opinions as to whether there exists a conflict of interest in certain cases, and requires that they issue such opinions on the request of a public official or former public official. There are various safeguards requiring the advisory opinion to be issued quickly so that the public official will know how to act; if the advisory opinion is not issued within thirty days after the request the official can assume the circumstances do not describe a conflict of interest that would a violation of the law, unless material facts have been omitted or misstated in the original request.

In addition to the conflict of interest advisory opinions, there is a complaint procedure allowing a person to allege a violation of the law administered by the commission, particularly a violation of the new provisions in the committee substitute. It provides notice and opportunity to be heard on the part of the person against whom the complaint has been lodged and then allows the executive director to issue a "decision" indicating whether a probable violation has been found. The committee views this stage as parallel to a finding of "probable cause" by a grand jury investigating a crime. If the decision indicates a probable violation, the public official or former public official who is the subject of the complaint may request a hearing from the commission or alternatively comply with the decision on the direction of the executive director.

If the public official requests the determination from the commission a procedure is provided for hearing regarding that determination.

If the commission's determination is adverse to the public official and has found a serious violation that might justify removal from office, the commission refers the matter to the appropriate authority which un-

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der law may act to remove the public official from office; to the State Senate for impeachment proceedings; to the Governor for determination concerning a public official in the executive branch; to a presiding officer of the legislature or to both presiding officers concerning a legislator; to the chairman of the Board of Regents concerning an official in the University of Alaska; to the presiding officer of the governing body of a municipality regarding a public official in the municipality.

The bill anticipates that the Governor, Legislature, Chairman of the Board of Regents, or governing body of the municipality would accordingly take an action in response to the determination in such a manner as to constitute public information.

Other remedies provided for violation of the legislation include, where appropriate, the voiding of contracts with provisions for protecting the interests of innocent parties; recovery of compensation received by a person as a result of the violation of the provisions of the bill; appropriate civil penalties including civil fines; and, where there is an appointing authority, discipline, reprimand, probation, demotion, suspension or discharge of a public official.

The bill provides that the attorney general is legal counsel to the commission, unless the commission determines that the circumstances of the matter before the commission is such that special counsel should be appointed, in which case the chief justice acts to appoint special counsel. Such a procedure would be used, for instance, if the complaint constituted an allegation specifically against the attorney general or against the Governor or against an official in the Department of Law.

The bill provides an "out" for municipalities. That is, the legislature, in passing the bill would be expressing the view that a public official of a municipality should comply with the provisions of this bill or with a similar municipal ordinance. It provides a later effective date as to applications to public officials in the municipality, that is, July 1, 1982, unless the municipality adopts standards for its public officials and submits them to the APOC and there is a determination by the APOC that the standards are substantially similar to those in this legislation.

The last subsection of the bill indicates a policy decision for the legislature that the smaller municipalities need not provide as complex and detailed codes establishing standards of conduct in order to achieve a finding by the APOC that their standards are substantially similar to the standards of conduct in the legislation. Particularly, the last subsection provides that the APOC "shall consider the standards of conduct establishing the municipal code with reference to the size of the municipal government and recent budgets of the municipality, procedures

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adopted by the municipality for the regulation of fiscal procedures, and other matters submitted to the commission by the municipality."

In short, if the legislation passes the committee substitute or legislation substantially similar to it, it is not the policy of the legislature to overburden small municipalities with the requirement that they have expensive and detailed regulatory schemes for policing their public officials if they are indeed small municipalities with relatively simple concerns.

Since the preparation of the committee substitute there has been evidence of some concern about possible constitutional problems in the definition of a "member of household." The bill has certain proscriptions about benefiting the member of the household of a public official, and included in that definition is "a person who shares a common residence with the public official as though a spouse."

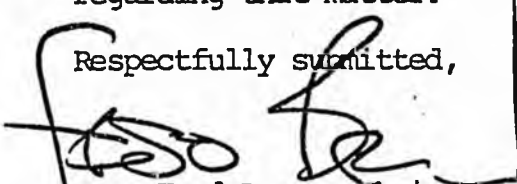
Arguments have been made that such a provision may be unconstitutional as an invasion of the right of privacy. Candidly, if the section were applied with no regard for the right of privacy of the public officials involved, it is possible that an application of the provision could be found unconstitutional. Your chairman believes that the provision is not unconstitutional on its face and that the appropriate state authorities including the commission should carefully avoid applications of it which might be found unconstitutional.

In simplest terms, if a public official is freely allowing his relationship with a person who resides with him to be common knowledge, and if it is a matter of common understanding in the community or among his business associates and friends that the person who resides with him is doing so "as though a spouse," then, your chairman believes, there would be no invasion of the right of privacy because any claimed right of privacy regarding that information would be waived by the conduct of the public official in making the matter general knowledge.

Mr. Speaker, in this day and age, it is not likely that such a matter would be kept a secret for long and therefore it appears that a possibility for unconstitutional application of the section would be rare.

Another letter accompanies this one regarding matters involving the fiscal note, along with a report from a Judiciary Committee subcommittee regarding that matter.

Respectfully submitted,



Rep. Fred Brown, Chairman  
House Judiciary Committee



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

DATE: May 15, 1981

TO: The Honorable Jim Duncan  
Speaker of the House

The Honorable Sam Cotten, Chairman  
House Finance Committee

FROM: Rep. Fred Brown, Chairman  
House Judiciary Committee

RE: House Bill 153 Fiscal Note

\* \* \* \* \*

Enclosed is commentary from a subcommittee of the Judiciary Committee who looked at the proposed fiscal note which relates to committee substitute for HB 153 (Judiciary).

In fact, because of the press of time, we worked from a fiscal note originally prepared for SSSB 175, which is similar legislation pending in the other body.

We understand that the fiscal note for the Judiciary Committee substitute for HB 153 will be substantially the same as the fiscal note prepared for SSSB 175.

That fiscal note should be coming to the Finance Committee very soon from the APOC, but our information is that the Finance Committee can rely upon the older fiscal note for the Senate legislation.

Please take into account the specific criticisms offered by my subcommittee. It does appear that the APOC may be seeking more through a fiscal note with this legislation than is justified as new expenditures caused specifically by the legislation.

FEB/dmm



# Alaska State Legislature House of Representatives

POUCH V  
JUNEAU, ALASKA 99811

TO: REPRESENTATIVE SAM COTTEN  
CHAIRMAN, HOUSE FINANCE COMMITTEE

FROM: HOUSE JUDICIARY COMMITTEE

THRU: REPRESENTATIVES DON CLOCKSIN and RANDY PHILLIPS  
MEMBERS, HOUSE JUDICIARY COMMITTEE

DATE: MAY 11, 1981

RE: GENERAL GOVERNMENT SUBCOMMITTEE BUDGET PROPOSAL, APOC  
FISCAL NOTE FOR SSSB 175 and CSHB 153(Judiciary)

In reviewing the fiscal note for the above bill, it was noted that some items removed by the General Government Finance Subcommittee are being put back in.

Particular notice should be taken of the reclassification of positions. In considering this category, both the House and Senate subcommittees denied the funds for the reclassification of positions.

A direct comparison of the two budgets is as follows:

<u>FY '82</u> <u>SUBCOMMITTEE</u>		<u>FY '82</u> <u>SSSB 175</u>
Personal Services	264.0	555.3
Travel	36.8	120.5
Contractual	84.5	168.4
Commodities	6.5	11.6
Equipment	2.0	9.7
Total General Funds	393.8	865.5

In addition, the Subcommittee approved staff positions for six full-time positions (Executive Director, Assistant Director, Secretary I, Clerk V, Clerk III, Regulation Specialist II) and three part-time positions (Clerk III, Clerk IV, Research Analyst II). The fiscal note provides for thirteen full-time positions and three part-time positions.

While the Judiciary Committee does not object to the fiscal note as a fiscal note for the impact of the bill on the Commission, it respectfully requests the Finance Committee to examine the use of this type of fiscal note to a bill to add back in items that a subcommittee has deleted (the reclassification, for example).

cc: House Finance Committee Members

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for Senate Bill No. 175  
 Title An Act relating to a standard of conduct for public officials and employees; ....  
 Requested by Senators Fischer, Hohman, Stimson, Bradley, et al. Date April 21, 1981

II. FISCAL DETAIL

Agency Affected Department of Administration  
 Program Category Affected Legislative and Elective Operations  
 BRU, Program, or Subprogram(s) Affected Alaska Public Offices Commission  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		555.3	635.8	671.9		
200 TRAVEL		120.5	132.6	145.9		
300 CONTRACTUAL		168.4	185.2	203.7		
400 COMMODITIES		11.6	12.8	14.1		
500 EQUIPMENT		9.7	-	-		
600 LAND & STRUCTURES		-	-	-		
700 GRANTS, CLAIMS, ETC.		-	-	-		
<b>TOTAL</b>		<b>865.5</b>	<b>966.4</b>	<b>1035.6</b>		

FUNDING (Thousands of Dollars)

GENERAL FUND		865.5	966.4	1035.6		
FEDERAL FUNDS		-	-	-		
OTHER (Specify Fund Source)		-	-	-		

POSITIONS

FULL TIME		13	13	13		
PART TIME		3	3	3		
TEMPORARY			2			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES (including benefits) FY 82 Salary Schedule; 10% inflation factor projected

FY 82 APOC Request: 290,800  
 -- 1 Executive Director, range 24, 12 ms  
 -- 1 Assistant Director, range 21, 12 ms  
 -- 1 Regulations Specialist, range 16, 12 ms  
 -- 1 Administrative Assistant, range 14, 12 ms  
 -- 1 Research Analyst, range 16, 8 ms  
 -- 1 Secretary, range 10, 12 ms  
 -- 2 Clerk IV's, range 9, 12 ms  
 -- 1 Clerk III, range 8, 8 ms  
 -- 1 Data Entry Clerk, range 9, 6 ms

IV. DATE May 5, 1981 PREPARED BY [Signature]  
 AGENCY Alaska Public Offices Commission  
 PHONE 276-4176

Original: Legislative Finance  
 cc: Budget and Management  
 Sponsor (First Legislator Named)

Gov. Office  
Senator Fischer  
Beth Spelling

## Additional Funding, Ethic's Commission

-- Reclass Executive Director: 24A to 26A	6,405
-- Attorney, range 24, 12 ms	59,689
-- Reclass Assistant Director; 21A to 23A	6,753
-- Assistant Director; 23, 12ms	55,854
-- Regulations Specialist to Administrative Officer; 16A to 17A	2,400
-- 2 Investigators; range 17, 12 ms	75,436
-- Reclass Secretary: 10A to 12A	2,883
-- Reclass Clerk to Auditor: 9A to 12A	4,184
-- Reclass Clerk to Auditor: 9A to 12A	4,184
-- 2 Clerk IV's; range 9, 12ms	46,760
	<u>555,348</u>

TRAVEL - 10% inflation factor projected

FY 82 APOC Request	38,700
Additional Funding, Ethics Commission	
Staff Travel: 25 trips @ \$400/trip; 2 days each @ \$67/day	13,350
Convention: 1; 3 people @ \$1,000/ea; 5 days @ \$60/day	3,900
Commission Travel: 12 meetings per year 7 members x.12 @ \$400/trip (less FY 82 APOC Request)	26,000
7 members x 12 x 3 days @ \$67/day (less FY 82 APOC Request)	8,884
Non-Employee Travel	10,000
25 person @ \$400/trip	
Honorarium	
12 meetings @ 2 days each, 7 members @ 150/day (less FY 82 APOC Request level)	19,600
	<u>120,434</u>

CONTRACTUAL - 10% inflation factor projected

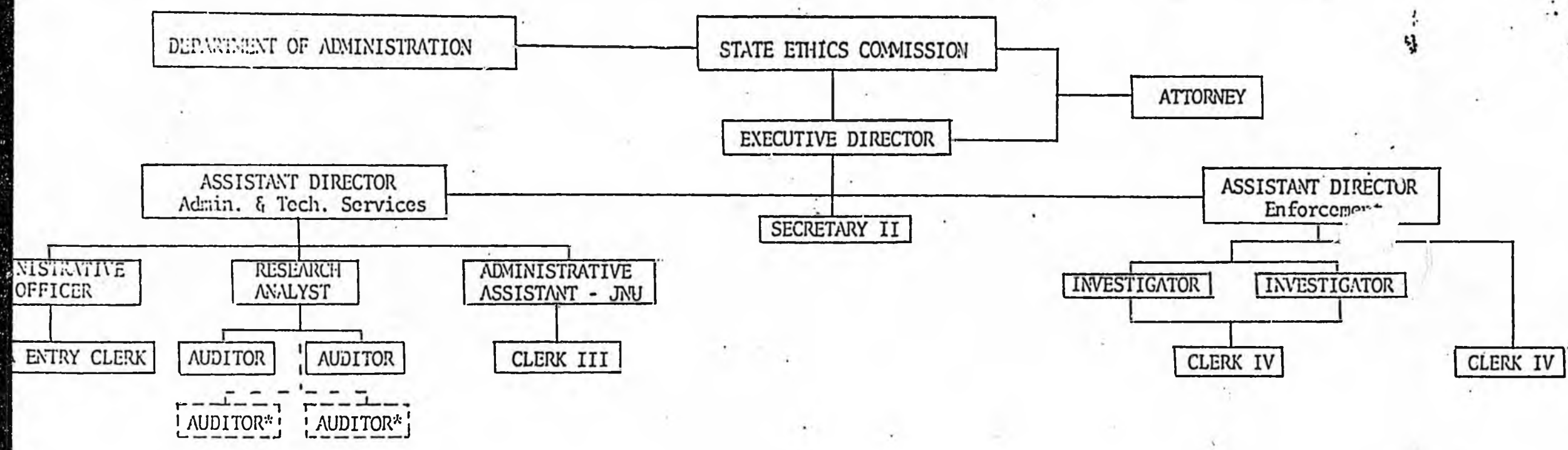
FY 82 APOC Request:	88,900
Additional Funding, Ethics Commission	
Communications	16,300
Printing and Advertising	10,800
Space Expense	16,200
Repair and Maintenance	6,000
Equipment Rental - word processing	14,600
Witness fees	600
Municipal Contracts (service & instruction)	15,000
	<u>168,400</u>

COMMODITIES - 10% inflation factor projected

FY 82 APOC Request:	6,800
Additional Funding, Ethics Commission	
Misc. Supplies	4,800
	<u>11,600</u>

EQUIPMENT - 10% inflation factor projected

FY 82 APOC Request:	2,100
Additional Funding, Ethics Commission	
6 desks	2,276
6 chairs	903
8 side chairs	698
4 tables	660
2 credenzas	706
6 file cabinets	1,221
3 calculators	822
1 bookcase	103
1 storage cabinet	185
	<u>9,074</u>



STATE ETHICS COMMISSION  
ORGANIZATIONAL CHART

itions required during  
te election years only

POSITION TITLE Assistant Director				RANGE/STEP 23 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG		
TYPE OF EXPENDITURE			AMOUNT	<b>JUSTIFICATION:</b> This person would be one of two Assistant Directors reporting to the Executive Director of the Commission. The existing Assistant Director in the Commission's budget would be responsible for Administrative and Technical Services; the new position request is for an Assistant Director for Enforcement. The essential responsibility of this person would be to handle investigations which were necessary either as a result of audits conducted by Commission staff or in response to complaints filed by the public. Routine auditing of reports filed under all of the laws administered by the Commission would be handled by the staff in the Administrative and Technical Services division; in-depth investigations, including field audits, necessitated by complaints would be the responsibility of the Enforcement division. This division also would be responsible for presenting the investigation results to the Commission during the hearing process in order that the Commission could determine whether a violation had occurred and whether referral to the Attorney General was warranted.					
1	2	3							
PERSONAL SERVICES:									
SALARY	44,952								
BENEFITS	7,098								
FICA	2,004								
HEALTH INS.	1,800								
TOTAL PERSONAL SERVICES	01	55,854							
TRAVEL	02	12,300							
CONTRACTUAL	03	10,200							
COMMODITIES	04	800							
EQUIPMENT	05	1,300							
OTHER									
TOTAL COST		80,454							
CODE	FUNDING SOURCE								
	FED RCPTS. 1002								
	GF MATCH. 1003								
	GEN. FUND 1004		80,454						
	I-A RCPTS. 1005								
	PGM RCPTS 1028								
	OTHER								
CONTINUATION									
ADDITION									
KEY NUMBER			COLUMN No.						

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

POSITION TITLE Attorney				RANGE/STEP 24 A	BARG. UNIT. X	LOCATION Anchorage	GOV.	ARCHOV.	DISAPP.
TYPE OF POSITION PPT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG.		

TYPE OF EXPENDITURE	AMOUNT	
1	2	3
PERSONAL SERVICES:		
SALARY	48,264	
BENEFITS	7,621	
FICA	2,004	
HEALTH INS.	1,800	
TOTAL PERSONAL SERVICES	01	59,689
TRAVEL	02	12,300
CONTRACTUAL	03	10,300
COMMODITIES	04	800
EQUIPMENT	05	1,300
OTHER		
TOTAL COST		84,389

JUSTIFICATION:

The major function of this position is the preparation of Advisory Opinions which the Commission would be required to issue to those subject to the Ethics Law who sought direction concerning their requirements in order to be considered in compliance. Such advisory opinions require the services of an attorney who is knowledgeable in both the Ethics Law and in business/financial matters as well. Under the Ethics Law, those subject to it or those contemplating a position under it will need to be advised concerning the potential and actual conflicts between their financial matters and their position in government. In some cases it may be necessary to recommend disposal of particular holdings; in others, some form of blind trust may be sufficient. The Commission's response to such requests are binding and, hence, must be timely, accurate and precise -- the services of an attorney "in-house" will be required to assure such. There are approximately 525 state officials who are subject to the present Conflict of Interest Law, AS 39.50. About the same number would be subject to this ethics legislation and, therefore, the workload dictates the full-time services of an attorney.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	84,389
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

CONTINUATION	
ADDITION	

FOI BGM USE ONLY

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

POSITION TITLE Investigator				RANGE/STEP 17 A	DARG. UNIT. X	LOCATION Anchorage	GOV	APPROV	DISAPP.
TYPE OF POSITION PPT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG		

1	TYPE OF EXPENDITURE	2	AMOUNT
	1	2	3
4	PERSONAL SERVICES:		
5	SALARY	29,460	
6	BENEFITS	4,652	
7	FICA	1,806	
7	HEALTH INS.	1,800	
8	TOTAL PERSONAL SERVICES	01	37,718
9	TRAVEL	02	18,400
10	CONTRACTUAL	03	10,200
11	COMMODITIES	04	800
12	EQUIPMENT	05	1,300
13	OTHER		
14	TOTAL COST		64,418

JUSTIFICATION:

This full-time position is vital if the proposed State Ethics Commission is to fulfill the enforcement provisions inherent in the legislation. Without adequate investigative staffing, the intent of any ethics legislation would be severely undermined. The person filling this position would report to the Executive Director, the Assistant Director for Enforcement and the Attorney, as necessary. He or she would investigate complaints filed by the public and perform other investigations required by the Commission. While it is anticipated that the majority of the investigative work would stem from enactment of the ethics bill, this person also would perform investigations relative to the Campaign Disclosure Law and the Regulation of Lobbying Law.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	64,418
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21	CONTINUATION	
22	ADDITION	FOR B&M USE ONLY

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

DRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

**FY 82**

1	POSITION TITLE Investigator			RANGE/STEP 17 A.	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.						
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG.								
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:									
	1	2	3												
4	PERSONAL SERVICES:			This full-time position is vital if the proposed State Ethics Commission is to fulfill the enforcement provisions inherent in the legislation. Without adequate investigative staffing, the intent of any ethics legislation would be severely undermined. The person filling this position would report to the Executive Director, the Assistant Director for Enforcement and the Attorney, as necessary. He or she would investigate complaints filed by the public and perform other investigations required by the Commission. While it is anticipated that the majority of the investigative work would stem from enactment of the ethics bill, this person also would perform investigations relative to the Campaign Disclosure Law and the Regulation of Lobbying Law.											
	SALARY		29,460												
5	BENEFITS		4,652												
6	FICA		1,806												
7	HEALTH INS.		1,800												
8	TOTAL PERSONAL SERVICES		01							37,718					
9	TRAVEL		02							18,400					
10	CONTRACTUAL		03							10,200					
11	COMMODITIES		04							800					
12	EQUIPMENT		05							1,300					
13	OTHER														
14	TOTAL COST									64,418					
	CODE	FUNDING SOURCE													
15		FED RCPTS. 1002													
16		GF MATCH. 1003													
17		GEN. FUND 1004		64,418											
18		I-A RCPTS 1005													
19		PGM RCPTS 1028													
20		OTHER													
21	CONTINUATION		FOR BGM USE ONLY												
22	ADDITION														
AA KEY NUMBER _____ COLUMN NO _____															

AGENCY Administration

PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

13 REQUEST FOR NEW POSITION

FY 82

POSITION TITLE Clerk IV				RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV	DISAPP
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG		

TYPE OF EXPENDITURE		AMOUNT -
1	2	3
PERSONAL SERVICES:		
SALARY	17,700	
BENEFITS	2,795	
FICA	1,085	
HEALTH INS.	1,800	
TOTAL PERSONAL SERVICES	01	23,380
TRAVEL	02	
CONTRACTUAL	03	6,100
COMMODITIES	04	800
EQUIPMENT	05	1,200
OTHER		
TOTAL COST		31,480

JUSTIFICATION:

This full-time clerk position would function as support staff for the two Investigator positions. This position also would perform clerical functions for the Attorney as necessary. The person filling this position would utilize the word processing equipment for typing correspondence, investigative reports and recommendations, and advisory opinions. Filing and other clerical skills would be necessary.

CODE	FUNDING SOURCE	
5	FED RCPTS. 1002	
6	GF MATCH. 1003	
7	GEN. FUND 1004	31,480
11	I-A RCPTS. 1005	
12	PGM RCPTS 1028	
13	OTHER	
14	CONTINUATION	
15	ADDITION	

FOR BGM USE ONLY

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

13 REQUEST FOR NEW POSITION

FY 82

POSITION TITLE Clerk IV				RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
TYPE OF POSITION PPT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1		FORM 12 PAGE/LINE	LEG		

TYPE OF EXPENDITURE	AMOUNT
1	2
PERSONAL SERVICES:	
SALARY	17,700
BENEFITS	2,795
FICA	1,085
HEALTH INS.	1,800
TOTAL PERSONAL SERVICES	23,380
TRAVEL	
CONTRACTUAL	6,100
COMMODITIES	800
EQUIPMENT	1,200
OTHER	
TOTAL COST	31,480

JUSTIFICATION:

This full-time clerk position would serve as direct support staff to the Assistant Director for Enforcement and the Attorney, as necessary. The person filling this position would utilize the word processing equipment for typing reports, findings, memoranda, and correspondence. This person also would be required to be able to retrieve information stored in the word processor's records management system. Filing and other clerical skills would be necessary.

CODE	FUNDING SOURCE
	FED RCPTS. 1002
	GF MATCH. 1003
	GEN. FUND 1004
	I-A RCPTS. 1005
	PGM RCPTS 1028
	OTHER

CONTINUATION	
ADDITION	

FOR BGM USE ONLY

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

ENCY Administration PROGRAM Legislative & Elective Operations

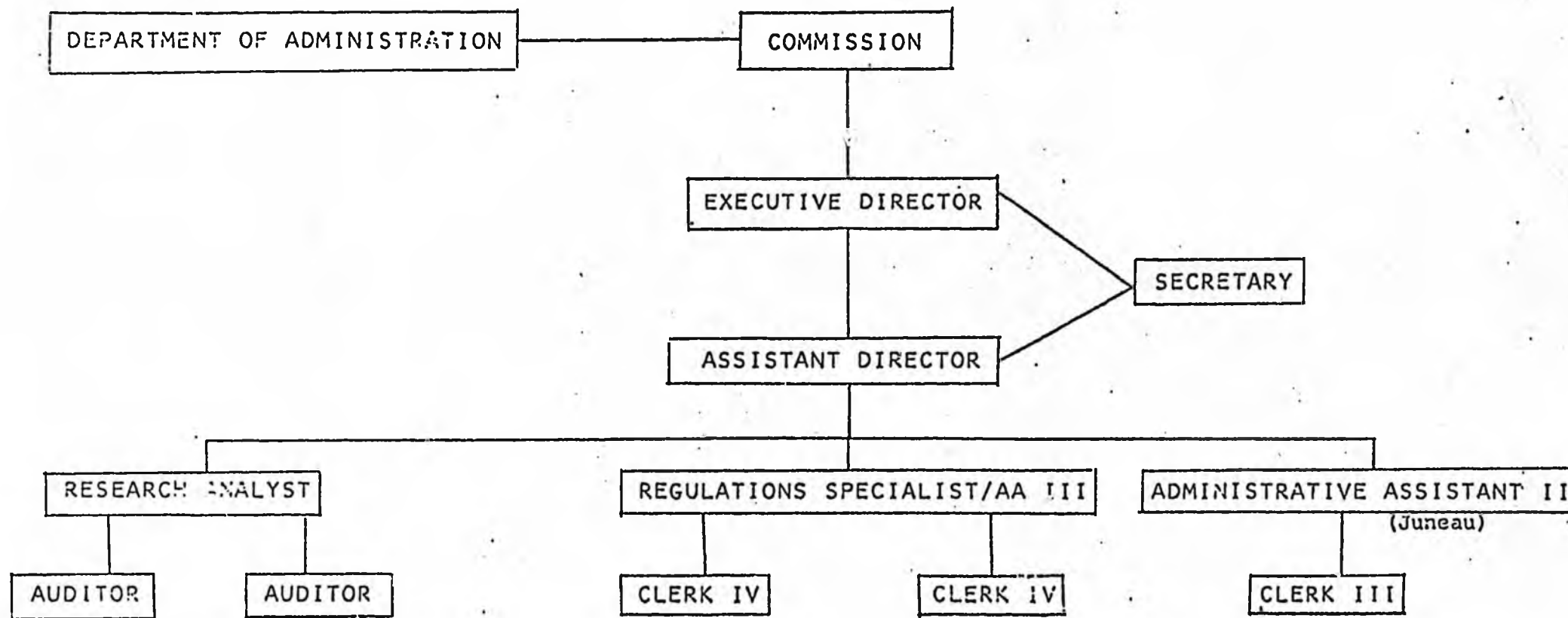
BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION

FY 82

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ALASKA PUBLIC OFFICES COMMISSION  
ORGANIZATIONAL CHART