

SB

186

Chair of House Judiciary Committee

Re: SB186

Dear Rep. McGuire,

We amended SB 186 in several ways in House State Affairs and I wanted to relay some of the committee's reasoning to you to provide some context for those changes.

First, we deleted the section involving disclosure and penalty to the complainant (which is often a member of the public.) The reasoning expressed for the need for this provision was that it protects 15,000 state workers who have ethics charges filed and made public to impede their application for job advancement. This would not apply to elected officials or commissioners, as they are not in "competition" for job advancement. The committee requested in writing three examples of such to be sure we were not trying to solve only a theoretical problem with a rather sweeping and controversial solution. [A copy of the request is attached.] We did not receive any examples in response to our request. We did receive testimony from the sponsor that it happens but that the person in the administration who had worked on the bill and had such knowledge was now in a new position and did not want to offer the information. The committee felt that if preventing public disclosure was the target of the provision, we should have examples of public disclosure before we enact legislation.

Second, we deleted both the provision for an independently managed account and a blind trust as being adequate to give immunity from a conflict of interest for action on a specific item that could materially affect the value of the assets managed or in the blind trust. As relates to the independently managed account, many of us have such and receive quarterly statements and have constant internet access to the asset holdings. The fact that a person does not do the actual trading did not make us at all comfortable that a person would not be taking action that changed the value of the specific assets. The blind trust was similarly problematic as most of the time the assets are retained and therefore known. Also, many assets are not at all liquid and therefore are not even appropriate for placing in a blind trust because the anticipation is that the assets will remain in the trust.

We have sent along a document for your consideration that shows the holes and troubles blind trusts can cause officials. The New Jersey statute which is also included indicates the complexity that is necessary for a functional blind trust - including blind income tax filing - which our statute nor SB 186 contain.

I hope this will provide you with information about the basis for State Affairs reasoning for our actions, which may be useful in your deliberations.

Sincerely,

Rep. Paul Seaton
Chair, House State Affairs Committee

24-LS0874X

Wayne

1/30/06

HOUSE CS FOR CS FOR SENATE BILL NO. 186()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Executive Branch Ethics Act; and providing for an
2 effective date."

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

4 * Section 1. AS 39.52.110(b) is amended to read:

5 (b) Unethical conduct is prohibited, but there is no [SUBSTANTIAL]
6 impropriety if, as to a specific matter, a public officer's

7 (1) personal or financial interest in the matter is [INSIGNIFICANT,
8 OR] of a type that is possessed generally by the public or a large class of persons to
9 which the public officer belongs; [OR]

10 (2) action or influence would have insignificant or conjectural effect
11 on the matter; *Amendment #1*

12 (3) financial interest in a matter is held in a blind trust of the
13 public officer does not have management control over the financial interest for

14 (4) personal or financial interest in a matter is in regard to a

*Conceptual
Among del. to bill 136*

*Amend.
Stock or stock
options*

business and the public officer

(A) does not own a controlling interest in the business;

(B) does not own more than one percent of the stock in the

business and the stock owned has a value of less than \$10,000;

(C) owns an equity interest in the business worth less than \$10,000;

(D) is not a member of the board of directors or another governing body of the business;

(E) is not an elected officer of the business;

(F) does not provide personal or professional services to the

business;

(G) does not have a contract with the business; and

(H) is not an employee of the business.

* Sec. 2. AS 39.52.130(f) is amended to read: *does not have any stock, purchase or other options that pertain to the business*

(f) A public officer who knows or reasonably ought to know that an immediate [A] family member or a business associate has received a gift because of the family member's or business associate's connection with the public office held by the public officer shall report the receipt of the gift by the family member or business associate to the public officer's designated supervisor if the gift would have to be reported under this section if it had been received by the public officer or if receipt of the gift by a public officer would be prohibited under this section.

* Sec. 3. AS 39.52.140 is amended to read:

Sec. 39.52.140. Improper use or disclosure of information. (a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties or position that could in any way result in the receipt of any benefit for the officer, [OR] an immediate family member, or a business associate if the information has not also been disseminated to the public.

(b) A current or former public officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties or by reason of the officer's position that is confidential by law.

* Sec. 4. AS 39.52.150(a) is amended to read:

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(a) A public officer, [OR] an immediate family member, or a business associate may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a state grant, contract, lease, or loan if the public officer may take or withhold official action that affects the award, execution, or administration of the state grant, contract, lease, or loan.

* Sec. 5. AS 39.52.150(c) is amended to read:

(c) The prohibition in (a) of this section does not apply to a state loan if

(1) the public officer does not take or withhold official action that affects the award, execution, or administration of the loan held by the officer, [OR] an immediate family member, or a business associate;

(2) the loan is generally available to members of the public; and

(3) the loan is subject to fixed eligibility standards.

* Sec. 6. AS 39.52.150(d) is amended to read:

(d) A public officer shall report in writing to the designated supervisor a personal or financial interest held by the officer, [OR] an immediate family member, or a business associate [,] in a state grant, contract, lease, or loan that is awarded, executed, or administered by the agency the officer serves.

* Sec. 7. AS 39.52.210(b) is amended to read:

(b) A public employee's designated supervisor shall make a written determination whether an employee's involvement violates AS 39.52.110 - 39.52.190 and shall provide a copy of the written determination to the public employee and to the attorney general. If the supervisor determines that a violation could exist or will occur, the supervisor shall [,]

(1) reassign duties to cure the employee's potential violation, if feasible; or

(2) direct

(A) the divestiture or removal by the employee of the personal or financial interests that give rise to the potential violation; or

(B) the placement by the employee of the financial interest that gives rise to the potential violation into a blind trust [or other investment where the employee does not have management control over

*Amend to delete
line 30-4
line 1-79
4/29/10*

1 the financial interest.]

2 * Sec. 8. AS 39.52.230 is amended to read:

3 **Sec. 39.52.230. Reporting of potential violations.** A person may report to a
4 public officer's designated supervisor, under oath and in writing, a potential violation
5 of AS 39.52.110 - 39.52.190 by the public officer. The supervisor shall provide a copy
6 of the report to the officer who is the subject of the report and to the attorney general,
7 and shall review the report to determine whether a violation may exist. Except where
8 the report concerns the governor, lieutenant governor, or the attorney general,
9 the [THE] supervisor shall act in accordance with AS 39.52.210 or 39.52.220 if the
10 supervisor determines that the matter may result in a violation of AS 39.52.110 -
11 39.52.190. If the report concerns the governor, lieutenant governor, or the
12 attorney general, the supervisor shall refer the report as provided in (b) of this
13 section.

14 * Sec. 9. AS 39.52.230 is amended by adding a new subsection to read:

15 (b) If a report or allegation of a violation of AS 39.52.110 - 39.52.190 by the
16 governor, lieutenant governor, or attorney general comes to the attention of the
17 designated supervisor for the governor, lieutenant governor, or attorney general, other
18 than by the declaration of a potential violation by the governor, lieutenant governor, or
19 attorney general under AS 39.52.210(a)(2) or by the filing of an ethics complaint
20 under AS 39.52.310(b), then,

21 (1) in the case of a report or allegation against the governor or the
22 lieutenant governor, the attorney general shall refer the matter to the personnel board,
23 which shall appoint an independent counsel to investigate; the independent counsel
24 shall have power to issue and enforce subpoenas under AS 39.52.380 and 39.52.390;
25 the independent counsel shall prepare a written report of the investigation; the written
26 report must include findings of fact and a conclusion as to whether, in the opinion of
27 the independent counsel, the facts constitute conduct in violation of AS 39.52.110 -
28 39.52.190; the report of the independent counsel shall be submitted to the attorney
29 general, the attorney general shall review the report and make an independent
30 determination as to whether the independent counsel's findings of fact, if true, would
31 constitute conduct in violation of AS 39.52.110 - 39.52.190; if the attorney general

1 concludes that the facts as found by the independent counsel would constitute a
2 violation of AS 39.52.110 - 39.52.190, then the attorney general shall treat the
3 independent counsel's report as a complaint and shall refer the report to the personnel
4 board under AS 39.52.310(c); if the attorney general concludes that the facts as found
5 by the independent counsel would not constitute a violation of AS 39.52.110 -
6 39.52.190, the investigation shall be closed and no further enforcement action shall be
7 taken; nothing in this paragraph precludes a person from filing a complaint concerning
8 the same matter under AS 39.52.310(b);

9 (2) in the case of a report or allegation against the attorney general, the
10 governor shall refer the matter to the personnel board, which shall appoint an
11 independent counsel to investigate; the independent counsel shall have power to issue
12 and enforce subpoenas under AS 39.52.380 and 39.52.390; the independent counsel
13 shall prepare a written report of the investigation; the written report must include
14 findings of fact and a conclusion as to whether, in the opinion of the independent
15 counsel, the facts constitute conduct in violation of AS 39.52.110 - 39.52.190; the
16 report of the independent counsel shall be submitted to the governor; the governor
17 shall review the report and make an independent determination as to whether the
18 independent counsel's findings of fact, if true, would constitute conduct in violation of
19 AS 39.52.110 - 39.52.190; if the governor desires legal advice in making this
20 determination, the personnel board, at the governor's request, shall appoint an
21 additional independent counsel to advise the governor on legal issues; if the governor
22 concludes that the facts as found by the independent counsel would constitute a
23 violation of AS 39.52.110 - 39.52.190, then the governor shall refer the report to the
24 personnel board for appropriate action in accordance with the procedures set out in
25 AS 39.52.310(c); if the governor concludes that the facts as found by the independent
26 counsel would not constitute a violation of AS 39.52.110 - 39.52.190, the
27 investigation shall be closed and no further enforcement action shall be taken; nothing
28 in this paragraph precludes a person from filing a complaint concerning the same
29 matter under AS 39.52.310(b).

30 * Sec. 10. AS 39.52.240(a) is amended to read:

31 (a) Upon the written request of a designated supervisor or a board or

1 commission, the attorney general shall issue opinions interpreting this chapter. The
 2 requester must supply any additional information requested by the attorney general in
 3 order to issue the opinion. Within 60 days after receiving a complete request, the
 4 attorney general shall issue an advisory opinion on the question. This section does not
 5 apply to a report or an allegation investigated under AS 39.52.230(b).

6 * Sec. 11. AS 39.52.310(a) is amended to read:

7 (a) The attorney general may initiate a complaint, or elect to treat as a
 8 complaint, any matter disclosed under AS 39.52.210, 39.52.220, 39.52.230(a),
 9 39.52.250, or 39.52.260. The attorney general may not, during a campaign period,
 10 initiate a complaint concerning the conduct of the governor or lieutenant governor
 11 who is a candidate for election to state office.

12 * Sec. 12. AS 39.52.335(c) is amended to read:

13 (c) If a complaint is dismissed under AS 39.52.320 or resolved under
 14 AS 39.52.330, the attorney general shall promptly prepare a summary of the matter
 15 and provide a copy of the summary to the personnel board, the subject of the
 16 complaint, and the complainant. The summary is confidential unless the

17 [(1)] dismissal or resolution agreed to under AS 39.52.320 or
 18 39.52.330 is public [; OR

19 (2) SUPERIOR COURT MAKES THE MATTER PUBLIC UNDER
 20 (h) OF THIS SECTION].

21 * Sec. 13. AS 39.52.335(f) is amended to read:

22 (f) After review of the summary, the personnel board may issue a report on the
 23 disposition of the complaint to the attorney general, the subject of the complaint,
 24 and the complainant. The report is confidential [. IF THE MATTER IS
 25 CONFIDENTIAL AND THE BOARD DETERMINES THAT PUBLICATION OF
 26 THE NAME OF THE SUBJECT IS IN THE PUBLIC INTEREST, THE REPORT
 27 MAY INCLUDE A RECOMMENDATION THAT THE MATTER BE MADE
 28 PUBLIC].

29 * Sec. 14. AS 39.52.340(a) is amended to read:

30 (a) Except as provided in AS 39.52.335, before the initiation of formal
 31 proceedings under AS 39.52.350, the complaint and all other documents and

*Why is
Dismissed
not public*

1 information regarding an investigation conducted under this chapter or obtained by the
2 attorney general or independent counsel during the investigation are confidential and
3 not subject to inspection by the public. In the case of a complaint concerning the
4 governor, lieutenant governor, or attorney general, all meetings of the personnel board
5 concerning the complaint and investigation before the determination of probable cause
6 are closed to the public. If, in the course of an investigation or probable cause
7 determination, the attorney general finds evidence of probable criminal activity, the
8 attorney general shall transmit a statement and factual findings limited to that activity
9 to the appropriate law enforcement agency. If the attorney general finds evidence of a
10 probable violation of AS 15.13, the attorney general shall transmit a statement to that
11 effect and factual findings limited to the ~~probable violation~~ to the Alaska Public
12 Offices Commission. The attorney general, complainant, subject of the complaint,
13 and all persons contacted during the course of an investigation shall maintain
14 confidentiality regarding the existence of the investigation or proceeding. In a
15 proceeding conducted or an action taken under this chapter,

16 (1) a person may not disclose the filing of a complaint, its contents,
17 or related matters until after the personnel board makes a finding of probable
18 cause or unless the disclosure is made while the person is

19 (A) communicating with personnel board members or staff;

20 (B) seeking advice from an attorney; or

21 (C) lawfully representing the person or the person's client
22 in defense of a complaint that has been filed and the disclosure is
23 necessary;

24 (2) personnel board proceedings related to a complaint that has
25 been filed are closed to all persons except board members and staff until after the
26 board makes a finding of probable cause unless

27 (A) the board permits otherwise after finding that fairness
28 to the subject of the complaint may be advanced by the permission; or

29 (B) the subject of the complaint waives confidentiality;

30 (3) the complaint document and each related record are
31 confidential and are not available for public inspection unless

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(A) the personnel board makes a finding of probable cause;

or

(B) the subject of the complaint waives confidentiality;

(4) under this section, if the subject of a complaint waives confidentiality of a proceeding or a document, the entire proceeding is open to the public, and the entire document is available for public inspection;

(5) the personnel board shall make appropriate efforts to provide notice of the confidentiality requirements of this section;

(6) this section governs confidentiality only for complaints filed under this chapter and does not alter confidentiality or the rights of any person for matters not connected with this chapter;

(7) this subsection does not prevent a person from obtaining directly from a state agency a public record of that agency that has also been made available in connection with an investigation or a formal proceeding under AS 39.52.310 - 39.52.390.

*delete
Sec
15*
↓

* Sec. 15. AS 39.52.340 is amended by adding new subsections to read:

(d) A current or former public officer may not disclose information that is confidential under AS 39.52.140 or 39.52.340. A current or former public officer who violates this subsection is subject to the sanctions in AS 39.52.410 - 39.52.440.

(e) Except for a current or former public officer covered by (d) of this section, a person who discloses information that is confidential under AS 39.52.140 or 39.52.340 is subject to a civil fine of \$5,000 or less.

(f) The attorney general may enforce (e) of this section by filing an appropriate civil action on the request of the board.

* Sec. 16. AS 39.52 is amended by adding a new section to read:

Sec. 39.52.352. Wrongful use of complaint. (a) The board shall ^{may} find there has been wrongful use of an executive branch ethics complaint if it determines, after compliance with due process requirements, including a hearing, ^{public requests,} and a majority vote, that the complainant

(1) made a factual allegation in the complaint knowing the allegation to be false or with reckless disregard of the truth or falsity of the allegation;

#8 - adopted

1 (2) did not reasonably believe that the facts alleged in the complaint, if
2 proven, would constitute a violation of this chapter; or

?
deleted by deletion

(3) knowingly and intentionally made a disclosure prohibited by
AS 39.52.340.

X

5 (b) The board may not find wrongful use of an executive branch ethics
6 complaint under (a)(2) of this section if the complainant filed the complaint in reliance
7 on advice from the complainant's attorney, a member or staff of the board, or an
8 employee of the state acting in an official capacity.

9 (c) If, under (a) of this section, the board makes a finding of wrongful use of
10 an executive branch ethics complaint, the board shall notify both the complainant and
11 the subject of the complaint of its final determination under (a) of this section. The
12 board

13 (1) shall provide to the subject of the complaint the name and last
14 known mailing address of the complainant;

15 (2) may recommend sanctions under AS 39.52.410 - 39.52.440; and

Delete

16 (3) may impose a civil fine of \$5,000 or less for complainants who are
17 not state employees, current public officers or former public officers.

18 (d) The attorney general may enforce (c)(3) of this section by filing an
19 appropriate civil action on the request of the board.

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20 * Sec. 17. AS 39.52.380(a) is amended to read:

21 (a) As provided in AS 39.52.230(b), 39.52.310(g) [AS 39.52.310(g)],
22 39.52.360(b), and 39.52.370(b), the attorney general, independent counsel retained
23 under AS 39.52.230(b) or 39.52.310(c) [AS 39.52.310(c)], a hearing officer, the
24 subject of an accusation, and the personnel board may summon witnesses and require
25 the production of records, books, and papers by the issuance of subpoenas.

26 * Sec. 18. AS 39.52.410(a) is amended to read:

27 (a) If the personnel board determines that a public employee has violated this
28 chapter, it

29 (1) shall order the employee to stop engaging in any official action
30 related to the violation;

31 (2) may order divestiture, establishment of a blind trust for a period of

delete 1 time or under conditions determined appropriate, placement of the financial
 2 interest into an investment where the employee does not have management
 3 control over the financial interest restitution, or forfeiture; and

4 (3) may recommend that the employee's agency take disciplinary
 5 action, including dismissal.

6 * Sec. 19. AS 39.52.960(9) is amended to read:

7 (9) "financial interest" means

8 (A) an interest held by a public officer, or an immediate family
 9 member, which includes an involvement or ownership of an interest in a
 10 business, including a property ownership, or a professional or private
 11 relationship, that is a source of income, or from which, or as a result of which,
 12 a person has received or expects to receive a financial benefit;

13 (B) holding a position in a business, such as an officer, director,
 14 trustee, partner, employee, or the like, or holding a position of management; or

15 (C) an interest held by a public officer with a business
 16 associate;

17 * Sec. 20. AS 39.52.960(11) is amended to read:

18 (11) "immediate family member" means

19 (A) the spouse of the person;

20 (B) another person living in the same household
 21 [COHABITING] with the person in a sexual [CONJUGAL] relationship that is
 22 not a legal marriage;

23 (C) a child, including a stepchild and an adoptive child, of the
 24 person;

25 (D) a parent or [,] sibling [, GRANDPARENT, AUNT, OR
 26 UNCLE] of the person; [AND]

27 (E) a child, parent, or sibling of the person's spouse; and

28 (F) a child, parent, or sibling of another person living in the
 29 same household with the person in a sexual relationship that is not a legal
 30 marriage;

31 * Sec. 21. AS 39.52.960 is amended by adding new paragraphs to read:

1 (23) "business associate" means any person with whom a public officer
2 jointly shares the management, control, or majority ownership of a business for the
3 conduct of trade, commerce, the practice of a profession, or any other occupation
4 engaged in for the purpose of providing income or potential income to the public
5 officer, regardless of how the business is organized,

6 (24) "household" means a social unit of those persons living together
7 in the same dwelling.

8 * Sec. 22. AS 39.52.335(h) is repealed.

9 * Sec. 23. This Act takes effect January 1, 2006.

Amendment # 2 to SB 186 Version X

Page 3, line 30

Delete all material starting with the word "or" through page 4 end of line 1

Delete page 10, line 1 after "appropriate" through line 3 ending with "interest"

And anywhere else similar language occurs

Page 1, lines 12-13 Delete "or the public officer does not have management control over the financial interest"

Superseded by amendment # 9

Conceptual Amendment # 4 to SB 186 Version X
By: Seaton

~~Page 3, line 29-~~

Delete page 8, line 16 through line 24 (section 15) and renumber accordingly

AS 11.56.200-240

Y	N
///	

Conceptual Amendment # 5 to SB 186 Version X
By: Seaton

Adopte

Page 8 line 26 deiete "shall" insert "may"

Conceptual Amendment # 6 to SB 186 Version X
By: Seaton

Page 9, line 3 and 4 delete all material

Page 9, line 16 and 17 delete all material

Adopte

Y | N
|||| |

AMENDMENT #8 *adpt*

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARDNER

TO: HCS CSSB 186(), Draft Version "X"

1 Page 1, line 11, following "':":

2 Insert "or"

3

4 Page 1, lines 12 - 14:

5 Delete "financial interest in a matter is held in a blind trust or the public officer
6 does not have management control over the financial interest; or

7 (4)"

8

9 Page 3, line 18, through page 4, line 1:

10 Delete all material.

11

12 Renumber the following bill sections accordingly.

13

14 Page 9, line 31, through page 10, line 3:

15 Delete "establishment of a blind trust for a period of time or under conditions
16 determined appropriate, placement of the financial interest into an investment where
17 the employee does not have management control over the financial interest."

18 Insert " [ESTABLISHMENT OF A BLIND TRUST,]"

AMENDMENT # 7 SB 186 X Version

Page 9

Lines 18-19

DELETE ALL MATERIAL
(subsection (d))

AMENDMENT # 8

Page 8

Line 28

After "a" insert "public"

After "hearing" insert ", if requested"

Adopted

#11

AMENDMENT

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG
and SEATON

TO: HCS CSSB 186(), Draft Version "X"

1 Page 2, lines 3 – 4:

2 Delete all material and insert:

3 **"(B) does not own stock or options to ^{buy} stock that,**
4 **when combined.**

5 **(i) equal more than one percent of the stock in the**
6 **business; or**

7 **(ii) have a total value of more than \$10,000."**

AMENDMENT

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG
and SEATON

TO: HCS CSSB 186(), Draft Version "X"

1 Page 2, lines 5 - 6:

2 Delete all material and insert:

* → 3

"(C) owns *or has an option to buy.* #

4

(i) less than one percent of the equity interest in the

5

business; or *and.*

6

(ii) an equity interest in the business worth less than

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\$10,000:"

line 3
after "owns" insert "or has an option to buy"

line 5

delete "or"
insert "and"

AMENDMENT

OFFERED IN THE HOUSE BY: REPRESENTATIVES GRUENBERG
and SEATON

TO: HCS CSSB 186(), Draft Version "X"

1 Page 2, line 10:

2 Insert:

3 after "provide" insert "or have an option to provide"

AMENDMENT

OFFERED IN THE HOUSE

BY: REPRESENTATIVES GRUENBERG
and SEATON

TO: HCS CSSB 186(), Draft Version "X"

1 Page 2, line 12:

2 Insert:

3 after "contract" insert "or have an option for a contract"

ALASKA STATE SENATE

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Senator Ralph Seekins
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Senate Bill 186 & 187 Sponsor Statement

“An Act relating to the Alaska Executive Branch Ethics Act.” (SB 186)

“An Act relating to legislative ethics open meetings guidelines, to the public members of the Select Committee on Legislative Ethics, to alternate members of the legislative subcommittees, to advisory opinions, and to confidential information and proceedings regarding legislative ethics complaints and investigations.” (SB 187)

There has been much discussion throughout the Capitol hallways and committee rooms regarding ethics laws. The Senate Judiciary Committee, in particular, has taken great interest and much testimony on this important topic. Over the last three months a substantial amount of research has been conducted on ethical treatises and other states’ ethics laws. Furthermore, CPAs, judges and employment law attorneys have been interviewed along with legislators from around the country. This effort has resulted in the introduction of two bills — SB 186 & 187 — designed to improve the Executive and Legislative Code of Ethics, respectively.

Senate Bill 186 revises the Executive Branch Code of Ethics. The terms “substantial” and “insignificant” defy clear definition and consequently are removed from AS 39.52.110(b). Furthermore, this section gains key language outlining specific types of personal or financial activity which the public employee should take into consideration prior to taking official action on matters which could create a conflict.

Of particular note is the inclusion of a recommendation originating from the Bundy Report pertaining to stock ownership. Here, the limiting factors are one percent with a total value of less than \$10,000. This section also includes new language detailing methods by which the public official can avoid even the slightest perception of impropriety. This can be accomplished through the placement of financial assets into a blind trust or other instrument in which the official has no management control.

Two new terms are brought into use throughout AS 39.52 — “business associate” and “household”. These terms are intended to better define close relationships maintained by the state employee particularly as these relationships affect, or are affected by, action taken by the employee in his or her official capacity.

State law currently sets out two remedial options available to a supervisor when a determination has been made that an ethics violation could exist or will occur. Currently, the supervisor could either reassign the employee or require divestiture of the financial interest creating the potential conflict. Senate Bill 186 provides a logical third option. That is to place the financial interest into a blind trust or other investment tool whereby the employee has no management control.

Recent experience has highlighted a significant procedural ambiguity existing in current statute pertaining to a potential violation involving the governor, lieutenant governor or attorney general. Senate Bill 186 clarifies this by adding language spelling out a clear procedural path to be followed in the unlikely event this situation should arise in the future.

Senate Bill 186 proposes that in a case involving the governor or lieutenant governor, the attorney general refers the matter to the personnel board which appoints an independent counsel to investigate. Results of the investigation are submitted to the attorney general, via written report, who then makes a determination as to whether a violation has occurred. If so, then the report is automatically converted to a complaint and forwarded to the personnel board for resolution.

In a case involving the attorney general, it is the governor that refers the matter to the personnel board at which point the same procedure as that described in the previous paragraph is followed. Of course, in this case the written report is then submitted back to the governor who makes the determination as to the necessity for further action through the personnel board.

One feature common to both Senate Bill 186 and 187 has received much attention. That is the civil fine of up to \$5,000 which could be levied on an individual for violating confidentiality requirements. This provision *will not* discourage people with righteous complaints from coming forward and making them. It *will* remind people with less than pure intent that there are legal requirements to abide by and liabilities attached to violations.

Our ethics statutes recognize the paramount importance of maintaining the presumption of innocence prior to any finding of probable cause being made. Current state law explicitly requires members of the State Personnel Board and the Select Committee on Legislative Ethics, and others assisting in an investigation, to maintain confidentiality. Why is this? Why should they be bound to this ethic? The clear answer to this question lies in the moral responsibility of fairness our system of justice provides to the accused during the investigatory pursuit of truth.

We must remember that when investigating an ethics complaint, it is no less than the subject's reputation which is at stake. An adverse finding could negatively affect an individual's career for years to come. But a false accusation could have the very same effect. How fair is that?

As it stands now, fair application of our ethics laws is being perverted through a parallel process of faux justice commonly known as trial by media. The fact is, where violations of ethics are alleged, it seems to be more important for a complainant to get the immediate gratification provided by a news flash than to let the Personnel Board or the Select Committee proceed with their statutory function and render a decision based on facts.

Restated, current law allows a complainant to use an ethics violation as a political hatchet. In these cases the end result is not nearly as important as the opening salvo. In fact, a complainant's entire purpose may be completely satisfied over the course of a single day's news cycle. Charged, tried and convicted in the court of public opinion. Case closed. Is this fair? Or even ethical?

If truth and justice are the complainant's pure motivating factors, then process and procedure should be welcomed along with the requisite confidentiality demanded of all parties involved. If the members of the Personnel Board and the Select Committee and others associated with an investigation must

maintain confidentiality why shouldn't the complainant be required to do the same? That seems only fair.

Senate Bill 187 revises the Legislative Standards of Conduct. To start with, this bill adds succinct language which simply restates a truism — where matters of legislative procedure are concerned, the Alaska State Constitution¹ and the Uniform Rules of Procedure² take precedence over statute. The bill also clarifies application of the Uniform Rules of Procedure with respect to open meetings guidelines. This, too, is an explicit restatement of Constitutional authority.

With respect to the Select Committee on Legislative Ethics, Senate Bill 187 seeks to empanel public members representing a broad cross section of Alaskans. While current law does not favor a particular profession or background, practical experience suggests that, as a matter of convenience, this ideal may be somewhat overlooked. As a result, the Committee may not have the opportunity to benefit from a full range of professional and geographic experience which may otherwise be available.

Senate Bill 187 also seeks to make the Committee more efficient in another important way. It provides that alternate legislative members may attend all meetings and hearings. This allows the alternate to cast informed votes should the need arise due to the absence of a regular member.

Where advisory opinions are concerned, clarifying language is added which makes clear that if the requestor of the opinion identifies another person in the request, then that person, too, shall not only receive the opinion but also be bound by the same standard of confidentiality applying to the requestor in current law. However, the opinion may be released if all parties provide written consent.

Much of the text found in Senate Bill 187 relates directly to AS 24.60.170. This section addresses proceedings before the Committee. New subsection "s" replaces much, if not all, of the confidentiality language scattered throughout this section. Subsection "s" provides the language establishing the new link in the chain of confidentiality whereby an individual may not disclose the filing of a complaint or the intention to file a complaint, or the intention of another to file a complaint.

All proceedings and actions taken by the Committee will be confidential. All documents filed with the Committee, produced by the Committee or obtained or disclosed as result of Committee investigation, discovery, or a hearing will be confidential. *However*, should the Committee, after investigation, find probable cause to believe that the subject of a complaint has committed a violation that may require sanctions instead of or in addition to corrective action, then the Committee will formally charge the individual. A finding of probable cause triggers public disclosure of the complaint.

It's important to note that the subject of a complaint may waive the confidentiality requirements spelled out in subsection "s". If confidentiality is waived with respect to a meeting or proceeding, then the proceeding is open to all members of the public. If confidentiality is waived with respect to a document or other information, then the document or information is available to all members of the public.

In summary, Alaska's ethics code applies not just to a handful of individuals but to 15,000+ state employees. It seems we should be keeping this in mind when we look at designing a system that not only seeks fairness to the individual employee but also justice for the public at large. Senate Bills 186 and 187 implements a number of features which are intended to accomplish these dual purposes in a straightforward fashion.

¹ Article II, Section 12

² Rules 53 & 55 and Section 4 of Mason's Manual of Legislative Procedure, 2000 edition

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 186(STA)
(S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to the Alaska Executive Branch RDU: CIVIL
Ethics Act." _____ Component: Opinions, Appeals & Ethics
Sponsor: Senator Seekins _____
Requester: Senate State Affairs _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes numerous amendments to the Executive Branch Ethics Act. It amends AS 39.52.110(b) (Scope of Code) to establish a "bright line" test for when a personal or financial interest is insignificant under the ethics act. The bill amends AS 39.52.960 (Definitions) to add a definition for "closely associated person," amend the definition of "financial interest" to include the financial interests of a "closely associated person," amend the definition of "immediate family member," and repeal the definition of "parent." It amends AS 39.52.130(b) (Gifts) and AS 39.52.150(a), (c), and (d) (Contracts, Leases, Loans) to add "closely associated person" to the list of people whose interests that must be considered. It amends AS 39.52.335 (Summary of Disposition of Complaints and Review by Personnel Board) to provide that the complaint process is confidential and repeals the provisions by which an interested party could go to court to try to get the summary made public. It also amends AS 39.52.340

Prepared by: Kathryn Daughettee, Director Phone 465-3673
Division: Administrative Services Division Date/Time 4/26/05 8:09 AM
Approved by: Kathryn Daughettee for David Márquez, Attorney General Date 4/26/2005
Agency: Department of Law

FISCAL NOTE # 1

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. CSSB 186(STA)

ANALYSIS CONTINUATION

(Confidentiality) to expand the information that is confidential under the ethics act. The bill also amends AS 11.56, the criminal code, to make disclosure of confidential ethics information a class A misdemeanor. Passage of this legislation will have no fiscal impact on the Department of Law.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 186(STA)
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to the Alaska RDU Central Administrative Services
Executive Branch Ethics Act" Component Personnel
 Sponsor Senator Seekins
 Requester (S) STA Component No. 56

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the Division of Personnel.

Prepared by: Mila Cosgrove, Director Phone 465-4429
 Division Personnel Date/Time 4/25/05 8:39 AM
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/25/2005
 Agency Administration

LPS department of law & public safety

Executive Commission on Ethical Standards

Blind Trusts

Pursuant to Executive Order No. 10, blind trusts may be utilized by a public officer or public employee or his or her spouse or dependent children for certain categories of assets. Blind trusts must be approved by the Executive Commission on Ethical Standards and shall contain the following characteristics:

- a. The trust shall not contain investments or assets in which the holder's ownership right or interest is required to be recorded in a public office or those assets whose permanency makes transfer by the trustee improbable or impractical; these investments or assets would include, but not be limited to, businesses, real estate, security interests in personal property and mortgages;
- b. The trust shall contain a clear statement of its purpose, namely, to remove from the grantor control and knowledge of investment of trust assets so that conflicts between grantor's responsibilities and duties as a public officer or employee of the State of New Jersey and his or her private business or financial interests will be eliminated;
- c. The trust shall be irrevocable, and shall be terminated only upon the death of the public officer or employee or upon termination of his or her status as a public officer or employee, whichever shall first occur;
- d. The trustee shall be directed not to disclose to the grantor any information about any of the assets in the trust;
- e. The trustee shall be required either to:
 - i. prepare and file grantor's personal income tax returns, withholding from distribution of the trust's net income amounts sufficient to pay the grantor's tax; and further to participate in the audit of the grantor's returns during the period of the trust with authority to compromise the grantor's tax liability; or
 - ii. submit to the grantor, for income tax purposes, a certification of income paid without identifying the assets producing such income;
- f. Among its other powers, the trustee shall have authority to determine whether any of the assets originally transferred to the trustee are to be sold and, if so, when;
- g. a provision shall be included in the trust agreement prohibiting the trustee from investing the trust property in corporations or businesses which it knows to a significant amount of business with the State of New Jersey or from knowingly

- making any investment in a corporation, business or venture over which the grantor has regulatory or supervisory authority by virtue of his or her official position;
- h. The grantor shall retain no control over the trustee nor shall he or she be permitted to make any recommendations or suggestions as to the trust property;
 - i. The trustee shall be a commercial trustee and not a natural person;
 - j. The principal benefit to be retained by the grantor shall be the right to receive income from the assets transferred to the trust;
 - k. The trust shall not become effective until submitted and approved by the Executive Commission on Ethical Standards; and
 - 1. The trust agreement shall provide that the trustee will give the Executive Commission on Ethical Standards access to any records or information related to the trust which is necessary for the performance of the Commission's duties.
 - 2. A copy of the executed blind trust agreement shall be filed with the Executive Commission on Ethical Standards and with the head of the department in which the State officer or employee holds his or her position. Attached to such copy shall be a brief statement outlining the business or financial interests from which the State officer or employee seeks to remove himself or herself and the actual or potential conflicts of interest, or appearance of such conflicts, which he or she seeks to avoid by use of the trust agreement.

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Frist Was Updated On Blind Trust

WASHINGTON, Sept. 26, 2005

(AP) Blind trusts are designed to keep an arm's-length distance between federal officials and their investments, to avoid conflicts of interest. But documents show that Senate Majority Leader Bill Frist knew quite a bit about his accounts from nearly two dozen letters from the trust administrators.

Frist, R-Tenn., received regular updates of transfers of assets to his blind trusts and sales of assets. He also was able to initiate a stock sale of a hospital chain founded by his family with perfect timing. Shortly after the sale this summer, the stock price dived.

A possible presidential contender in 2008, Frist now faces dual investigations by the U.S. attorney for the Southern District of New York and the Securities and Exchange Commission into his stock sales.

Sheldon Cohen, who was the trustee for Democrat Walter Mondale's blind trust when he was vice president, and drafted Democrat Lyndon Johnson's blind trust for Johnson's presidency, said that in the executive branch, "You don't tell them how it's composed." He said Frist, like any federal official, "absolves himself of conflict by not knowing what he owns."

Cohen said that when Mondale left office, he told Cohen to sell his assets. "He had no idea what I was holding," the Washington attorney and former Internal Revenue Service commissioner said.

Frist spokesman Bob Stevenson said the senator received approval from the Senate Ethics Committee before he initiated the stock sale. All the information Frist received complied with federal law and Senate ethics rules, Stevenson added.

The stock was in HCA Inc., a chain of hospitals founded in the late 1960s by Frist's father and brother. At the time of the sale, insiders also were selling. Shortly after that sale, the stock price dipped because of a warning that earnings would not meet Wall Street expectations.

"If, in fact, Frist was actively involved in this decision, he certainly has to supply an explanation of how that's consistent with a blind trust," said Bob Bauer, a Washington attorney who has set up blind trusts for Democratic members of Congress.

Bauer said he has no knowledge of Frist's dealings with the trustees of his investments.

Whether Frist knew too much about his investments, or took advantage of insider trading, is not known. But the potential political damage increased in recent days.

Frist also knows first hand how a Senate leader's career can suddenly roll downhill. His predecessor, Sen. Trent Lott, R-Miss., lost his leadership post after praising the late Sen. Strom Thurmond's segregationist campaign for the presidency in 1948.

Documents on file with the Senate show the trustees for Frist and his immediate family wrote the senator nearly two dozen times between 2001 and July 2005.

The documents list assets going into the account and assets sold. Some assets have a dollar range of the investment's value and some list the number of shares.

The trust is considered blind because eventually, through the sale of transferred assets and the purchase of new assets, the official will be shielded from knowing the assets he owns. The knowledge Frist learned about his holdings potentially makes it more difficult to avoid a conflict of interest.

Frist's 2005 financial disclosure form lists blind trusts valued between \$7 million and \$35 million.

Frist, a heart surgeon, has been the Senate's leader as the chamber has considered Medicare legislation and many other issues that would affect HCA's hospitals and doctors.

Another political problem for Frist: His own statements suggest he had no knowledge of his blind trust investments.

Asked in a television interview in January 2003 whether he should sell his HCA stock, responded, "Well, I think really for our viewers it should be understood that I put this into a blind trust. So as far as I know, I own no HCA stock"

Frist, referring to his trust and those of his family, also said in the interview, "I have no control. It is illegal right now for me to know what the composition of those trusts are. So I have no idea."

Stevenson, the Frist spokesman, said there limited instances "where federal law and Senate ethics regulations call for the

disclosure of certain transactions or events to the Ethics Committee and to Senator Frist as the trust's owner.

"Except in these very limited instances, Senator Frist does not receive information related to the disposition of his assets under the control of the trustee."

Frist sold the HCA stock at a time when insiders in the company also were selling off shares worth \$112 million from January through June of this year. Aides to the senator said he acted to avoid a conflict of interest, and that he had no information about the company that wasn't available to the public.

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substituted "domestic partner" for "spousal equivalent" in subsection (g).

Opinions of attorney general. — Requiring an attorney who is a public official to disclose the names

of clients, including the clients of the firm, is valid and legally supportable; and disclosure of such names does not violate any constitutional or professional privileges. February 15, 1985 Op. Att'y Gen.

NOTES TO DECISIONS

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Patient of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

And source of income. — The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Reporting individual names of physician's patients. — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual

patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Substantial compliance. — In an election contest, where the record showed that appellee candidate failed to disclose all of his assets under AS 39.50.030(b), judgment for the candidate was affirmed because substantial compliance was the appropriate standard for imposing the forfeiture remedy of AS 39.50.060(b) and the superior court did not clearly err in finding that the candidate substantially complied with the disclosure requirements of AS 39.50.030(b). *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Alaska Supreme Court reads "accurate representation" in AS 39.50.060(a) as not precluding a substantial compliance standard for enforcement of AS 39.50.060(b); thus, a candidate can comply with AS 39.50.030(a) for the purposes of AS 39.50.060(b) without strictly complying with the substantive disclosure requirements. *Grimm v. Wagoner*, 77 P.3d 423 (Alaska 2003).

Applied in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

Sec. 39.50.035. Exemptions. A person subject to this chapter is not exempt from any of its provisions except to the extent state courts determine that legally privileged professional relationships preclude complete compliance. (§ 5 ch 25 SLA 1975)

NOTES TO DECISIONS

This section applies only to legal privileges, not ethical mandates. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Fact that a physician is subject to professional

discipline for revealing the names of patients does not create a "legal privilege." *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Sec. 39.50.040. Blind trusts. (a) A public official may transfer all or a portion of the official's assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

- (1) assets transferred to the trust shall be marketable;
- (2) the trustee shall be a bank or other institutional fiduciary;
- (3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;
- (4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;
- (5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and

(6) [Repealed, § 26 ch 25 SLA 1975.] (1974 Initiative Proposal No. 2, § 1; am §§ 6, 26 ch 25 SLA 1975)

NOTES TO DECISIONS

Cited in *Warren v. Thomas*, 568 P.2d 400 (Alaska 1977).

Sec. 39.50.050. Administration and inspection. (a) The Alaska Public Offices Commission created under AS 15.13.020(a) shall administer the provisions of this chapter. The commission shall prepare and keep available for distribution standardized forms on which the reports required by this chapter shall be filed. The commission shall print the forms provided under this section so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page. The commission may request that the information required under this chapter be submitted electronically but shall accept any information required under this chapter that is typed in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission and that is filed with the commission.

(b) The commission shall adopt regulations to implement and interpret the provisions of this chapter. Regulations or interpretation shall be within the intent and purpose of this chapter and are subject to judicial review under the Administrative Procedure Act (AS 44.62).

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records.

(d) [Repealed, § 35 ch 126 SLA 1994.] (1974 Initiative Proposal No. 2, § 1; am §§ 7, 8 ch 25 SLA 1975; am § 7 ch 167 SLA 1976; am § 35 ch 126 SLA 1994; am § 36 ch 108 SLA 2003; am § 4 ch 155 SLA 2004)

Effect of amendments. — The 1994 amendment, effective July 1, 1994, repealed subsection (d), relating to the procedures required to facilitate the filing of reports under AS 24.45.

The 2003 amendment, effective September 14, 2003, in subsection (a) added the last sentence and made a stylistic change.

The 2004 amendment, effective October 1, 2004, rewrote subsection (a).

Opinions of attorney general. — The commis-

sion's power to investigate violations of AS 39.50.090 derives from AS 39.50.050, which authorizes the commission to administer AS 39.50 and promulgate regulations to implement the chapter. In carrying out this responsibility, the commission staff should immediately notify the chief prosecutor whenever commission records, files, and inquiries reveal a possible criminal violation of AS 39.50.090. November 26, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

This section requires the commission to promulgate regulations to implement and interpret the provisions of the Conflict of Interest law. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Scope of regulations. — The commission may

well wish to promulgate regulations which apply to relationships other than that of physician-patient. *Falcon v. Alaska Pub. Offices Comm'n*, 570 P.2d 469 (Alaska 1977).

Quoted in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Sec. 39.50.060. Penalty for wilful violation of disclosure requirements. (a) A person required to file a report of financial or business interests under this chapter who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairs, or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In

**TESTIMONY FOR SB186 AND SB187 TO THE HOUSE STATE
AFFAIRS COMMITTEE**

Mr. Chairman, Ladies and Gentlemen of the Committee,

My name is Richard Hahn; I reside in Soldotna, Alaska.

**I am pleased to be able to testify before you today on SB186 and
SB187, but you may not like what I have to say?**

**First, I consider these bills, if enacted, to be an infringement on my
Constitutional right to free speech! No law should inhibit or
prevent the average Alaskan or the Press from publicly expressing
opinions about the ethics, or lack thereof, of any public official.
Almost all public officials KNOW they should not present any
perception of impropriety!**

**Second, it is not overtly apparent this Committee (and its
predecessors) has done a very good job in dealing with legislative
ethical issues, now or in the past. I consider closed caucuses,
where legislators are told how to vote, to be unethical. I consider
legislators, who are paid by special interests to sponsor or block
legislation, to be unethical. What has happened to government "of,
by and for (ALL) the people?**

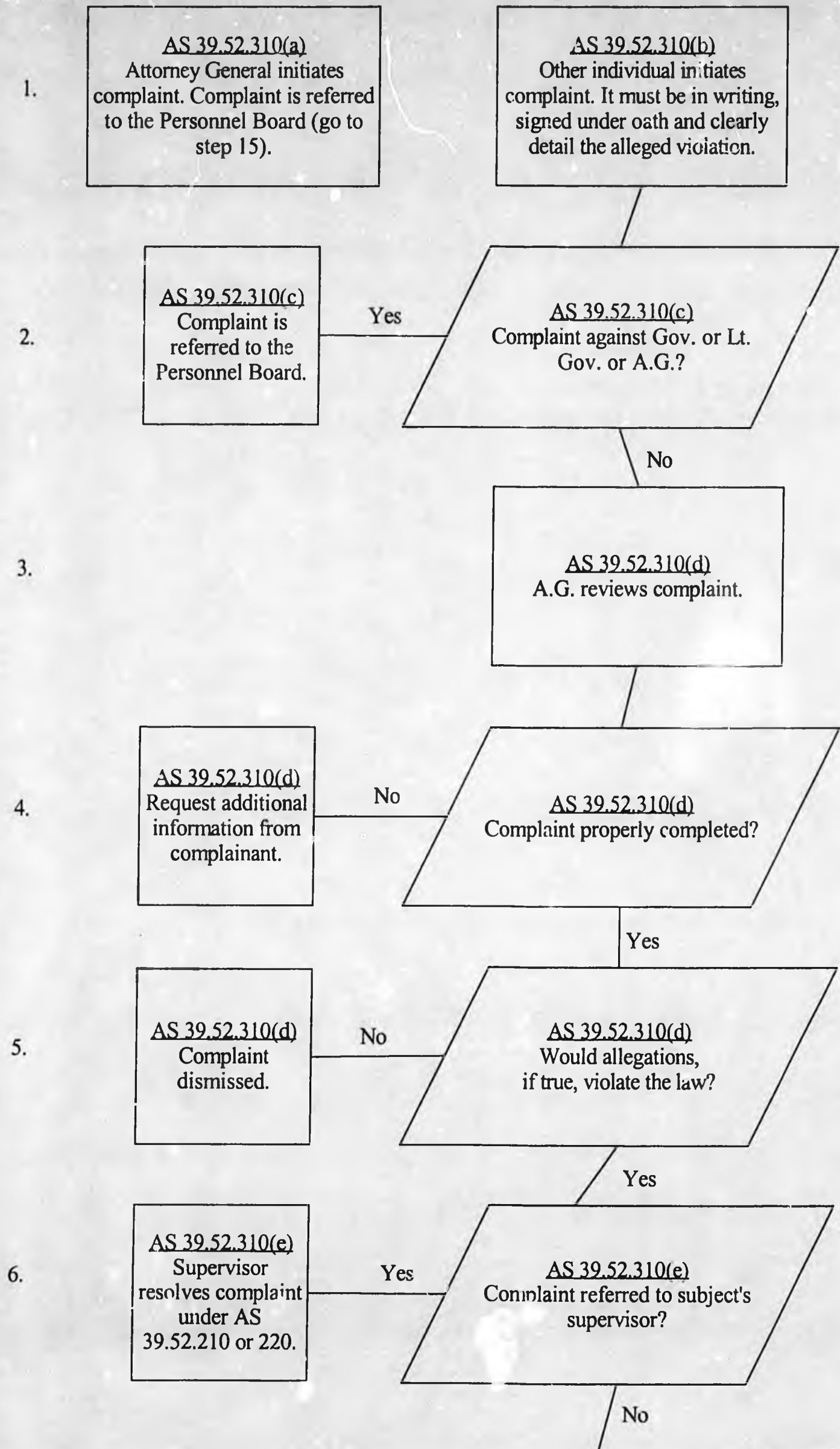
**And, finally, it seems, more and more, that our public officials
want to operate in secret, and these bills seem to be gag orders?
When someone has something to hide, the unethical find a way to
(1) keep others from knowing, and/or (2) keep others from talking
about what they know. We are the people and we have a right to
know our government's business, and the right to criticize, if our
public officials are unethical.**

Thank you all for your attention,

Respectfully Submitted,

Richard D Hahn February 7, 2006

Alaska Executive Branch Ethics Complaint Process



7.

AS 39.52.310(f)
A.G. provides subject a copy of the complaint for a response to be made within 20 days.

8.

AS 39.52.310(f)
May be considered an admission of violation.

No

AS 39.52.310(f)
Subject responds to complaint within time allotted?

Yes

9.

AS 39.52.310(g)
A.G. investigates the complaint.

10.

AS 39.52.310(i)
Investigation or proceeding may be terminated.

Yes

AS 39.52.310(i)
Complainant unwilling to assist?
Complaint withdrawn? Subject makes restitution?

No

11.

AS 39.52.320
Complaint dismissed.

No

AS 39.52.320
Does investigation result in a finding of probable cause?

Yes

12.

AS 39.52.350(a)
A.G. serves a copy of accusation on the subject setting out the alleged violation. All proceedings are now open to the public.

13.

AS 39.52.350(b)
Subject of the complaint files an answer with the A.G. within 20 days.

14.

AS 39.52.350(b)
May be considered an admission of violation.

No

AS 39.52.350(b)
Subject responds to complaint within time allotted?

Yes

15.

AS 39.52.350(c & d)
A.G. refers the matter to the Personnel Board.

16.

AS 39.52.350(d)
Personnel Board imposes penalties.

No

AS 39.52.350(c)
Does the subject deny occurrence of violation?

Yes

17.

AS 39.52.350(c)
Personnel Board appoints a hearing officer to conduct a hearing.

18.

AS 39.52.360(a - g)
Hearing officer hears complaint.

19.

AS 39.52.360(h)
Hearing officer provides the Personnel Board a written report within 30 days after conclusion of hearing.

20.

AS 39.52.370(a)
Within 10 days after receipt of report either party may protest hearing officer's findings and recommendation. Personnel Board hears any protest.

21.

AS 39.52.370(b - e)
The Board can adopt or amend the hearing officer's report. The Personnel Board may hold its own hearing. Deliberations are closed to the public.

22.

AS 39.52.370(d)
The Personnel Board issues a written order of dismissal.

No

AS 39.52.370(d)
Did the Personnel Board determine the occurrence of a violation?

Yes

23.

AS 39.52.370(d)
The Personnel Board may impose penalties under AS 39.52.410, 39.52.440 and 39.52.450 as appropriate.

24.

AS 39.52.370(f)
The subject of the accusation may appeal the Personnel Board's decision to the Superior Court.

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8181
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

MEMORANDUM

Date: May 10, 2005

To: Office of Representative Seaton

From: Senator Ralph Seekins

A handwritten signature in cursive script, appearing to read "A. for R.S.", positioned to the right of the "From:" field.

Re: Request for Hearing of Senate Bill 186 & 187

Attached please find Senate Bill 186 & 187 along with a concomitant sponsor statement.

Senate Bill 186 makes revisions to the Alaska Executive Branch Ethics Act while Senate Bill 187 does the same for the Legislative Branch.

Once we begin the new legislative session in January 2006, I respectfully request this bill be scheduled in your committee at your earliest convenience. Thank you.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 187(STA)
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title: "An Act relating to legislative ethics open meeting guidelines, to the public members of the Select.." BRU: Legislative Council
 Sponsor: Senator Seelins Component: Select Committee on Legislative Ethics
 Requestor: Senate State Affairs Component No.: 2321

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626
 Division: Administrative Services Date/Time 4/25/05 2:55 PM
 Approved by: Pamela Varni, Executive Director Date 4/25/2005
 Agency: Legislative Affairs Agency

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 187(STA)
 (S) Publish Date: 4/28/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to legislative ethics open RDU CIVIL.
meetings guidelines, to the public members..." Component Opinions, Appeals & Ethics
 Sponsor Senator Seekins
 Requester Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other - Regulatory Cost Charge						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Section 1 of this bill makes it a class A misdemeanor to knowingly disclose confidential ethics information. It is unknown whether there will be many prosecutions under this statute, this fiscal note assumes there will not be. The remainder of the bill deals with legislative standards of conduct and ethics and will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 4/25/05 9:23 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 4/25/2005
 Agency Department of Law

Louie Flora

From: POMS@legis.state.ak.us
Sent: Thursday, March 02, 2006 11:00 AM
To: Louie Flora
Subject: New Pom:SB 187 Legislative Ethics/meetings

Eric Tasker
7724 Arlene St

Anchorage 99502-4523,
ewt@gci.net
243-7245

SB 187 and SB 186. I will definitely vote against Sen Ralph Seekins if I have the opportunity, because of these ethics bills. These bills are potentially an abuse of the voting public.