

SB

127

Senator Hollis French

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MEMORANDUM

Date: April 6, 2005

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Senator Hollis French 

RE: SB 127 – An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act

Please schedule SB 127 – “An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act” for a hearing as soon as possible.

A copy of the bill is attached, along with a Sponsor Statement and a Sectional Analysis. Other materials for the committee's bill packets will be available after the bill has been scheduled.

Thank you.

Enclosures

ALASKA STATE LEGISLATURE

SENATOR HOLLIS FRENCH

SPONSOR STATEMENT

SB 127 – Executive Branch Ethics Act Revisions

SB 127 is a responsible step toward making the Executive Branch Ethics Act clearer, easier to understand, and easier to follow. The bill would fix three problems with the current Ethics Act.

First, the bill sets a clear financial line for executive branch employees' personal financial holdings. The bill declares that a financial holding is "insignificant" only if it is less than \$5000 or 1% of a company's stock, whichever is less. This definition, which is missing under current law, lets executive branch employees know exactly where they can, and cannot, be involved in state decisions that would affect their personal investments.

SB 127 also broadens the definition of "official action" to include most of the day-to-day work activities performed by executive branch employees. This is a key definition: state employees should not be able to use their state offices to benefit their pocketbooks, and then claim that their acts were not "official." If an employee's act is within the scope of the employee's work performance, then it counts as "official" under SB 127.

Finally, the bill removes a potential loophole by removing an "or" from the current law. The current law declares that there is no violation of the law if a public officer's personal or financial interest is "insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officers belongs." The wording of the current law is unfortunate. An executive

branch employee could have \$1,000,000 worth of stock in a company that directly benefited from the employee's official actions. But if the same employee also had an interest possessed generally by the public, then the "or" would work to absolve the employee of wrongdoing. Such a situation might arise for employees that deal with the Permanent Fund investments, for example.

The state's ethics laws should be clear to executive branch employees, and to the public those employees serve. Please join me in supporting SB 127.

March 17, 2005

ALASKA STATE LEGISLATURE

SENATOR HOLLIS FRENCH

SECTIONAL ANALYSIS

SB 127 – Executive Branch Ethics Act Revisions

Section 1 Clarifies the conditions under which an official action by a public official is not a violation of the Executive Branch Ethics Act and, thus, by exclusion, the conditions under which an action is a violation of the Act. Establishes that there is no substantial impropriety, i.e., that it is not a violation of the Executive Branch Ethics Act, for a public officer to take an official action or exercise influence on a matter in the following situations:

- ◆ The public officer has a personal or financial interest in the matter but the action taken or influence exercised would have insignificant or conjectural effect on the matter;
- ◆ The public officer has a personal interest in a matter that is insignificant or is possessed by the public or by a large class of persons to which the public officer belongs; OR
- ◆ The public officer or an immediate family member has a financial interest in the matter, including a property ownership or a professional or private relationship that is, or could be, a source of income, AND the value of that interest is less than \$5,000 or 1 percent of the total value of the business, whichever is less.

However, if a public officer or an immediate family member has a financial interest in a matter

- ◆ that equals or exceeds \$5,000 or 1 percent of the total value of the business or
- ◆ from which the individual has received or expects to receive a **financial benefit equal to or greater than \$5,000,**

taking official action regarding the matter would be a violation of the Executive Branch Ethics Act.

Section 2

Expands the definition of “official action” in the executive ethics act to include performance of any duties in the course and scope of a public officer’s employment. This includes, in addition to actions already stated in statute, “review, advice, participation, assistance, or another kind of involvement regarding a matter.”

March 17, 2005