

SB

20

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
FEB 12 2007
SENATE FINANCE COMMITTEE

DATE: 2/2/07

FURTHER:

DATE TURNED IN TO OFFICE: 12 Feb 2007

Finance Committee considered SENATE BILL NO. 20

SB 20 LEGISLATIVE DISCLOSURES

"An Act relating to disclosure to the Alaska Public Offices Commission of information about certain income received as compensation for personal services by legislators, public members of the Select Committee on Legislative Ethics, and legislative directors subject to the Legislative Ethics Act; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS SB 20 (STA)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indef.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indef.	Zero	FN#
Admin	1/29/07			✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Nugams	✓			
		✓			
CO-CHAIR:					
CO-CHAIR:	STEDMAN	✓			

FISCAL NOTE

REPORTED OUT
FEB 12 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 20(JUD)
 (S) Publish Date: 1/26/2007

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to disclosure to the Alaska Public RDU AK Public Offices Commission
Offices Commission of information about... Component AK Public Offices Commission
 Sponsor Senators French, Elton, McGuire, et al.
 Requester Senate Judiciary Component No. 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type -Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This bill requires that dividends received from a limited liability company must be reported as a source of income on a legislator's financial disclosure statement. It also requires that when a legislator performs services, such as consulting services, he or she must provide a description of the services provided and the total number of hours that are spent performing the services. Lastly, it removes the requirement that amount of income need only be disclosed for sources that have a substantial interest in legislative, administrative, or political action. Rather amounts will be required for all income in excess of \$1000.

Prepared by: Brooke Milos, Executive Director Phone 465-2200
 Division Alaska Public Offices Commission Date/Time 1/22/2007 11:10 a.m.
 Approved by: Melanie Millhorn, Deputy Commissioner Date 1/22/2007
 Agency Department of Administration

(Revised 1/11/2006 OMB)

FISCAL NOTE

REPORTED OUT
FEB 12 2007
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 20(STA)
(S) Publish Date: 2/2/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to disclosure to the Alaska Public RDU: AK Public Offices Commission
Offices Commission of information about... Component: AK Public Offices Commission
Sponsor: Senators French, Elton, McGuire, et al.
Requester: Senate State Affairs Component No.: 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires that dividends received from a limited liability company must be reported as a source of income on a legislator's financial disclosure statement. It also requires that when a legislator performs services, such as consulting services, he or she must provide a description of the services provided and the total number of hours that are spent performing the services. Lastly, it removes the requirement that amount of income need only be disclosed for sources that have a substantial interest in legislative, administrative, or political action. Rather amounts will be required for all income in excess of \$1000.

This bill should have no fiscal impact on the Alaska Public Offices Commission.

Proposed by: Brooke Miles, Executive Director
Division: Alaska Public Offices Commission
Approved by: Kevin Brooks
Agency: Department of Administration

Phone: 465-2200
Date/Time: 1/29/07 1:26 PM
Date: 1/29/2007

Alaska State Legislature



Senator Hollis French

Sponsor Statement

SB 20 – Legislative Disclosures

SB20 is a simple bill designed to clarify Alaska Public Office Commission reporting requirements for legislators and other public officials.

Under the current legislative ethics code a public official must disclose the nature of any work performed as personal services for which compensation greater than \$1000 is received. SB20 simply adds language to the existing statute to require the filer to provide a substantive description of what was done for the contract, as well as the approximate number of hours spent.

The public has repeatedly appealed for more substantive disclosures, and SB20 provides the increased degree of openness they are calling for. This will assure the public that the compensation public officials receive for outside work does not conflict in any way with their public duties, without unduly burdening citizen legislators who perform legitimate duties outside of the public realm.

The clarification the bill provides will also help APOC fulfill its mission of encouraging the public's confidence in their elected and appointed officials.

Please join me in support of this important ethics legislation.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 6, 2007

SUBJECT: Sectional Analysis of CSSB 20(STA)
(Work Order No. 25-LS0161K)

TO: Senator Hollis French
Attn: Allison Biastock

FROM: Dan Wayne 
Legislative Counsel

You have requested a sectional analysis of the above-described bill.

As a preliminary matter, note that a sectional analysis of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 addresses an issue the Select Committee on Legislative Ethics identified in a recent advisory opinion. The deletion of "the" on line 11 and the insertion of language clarifies the statute's meaning. Until recently the statute had been interpreted to mean that unless a provision allowing, requiring, or prohibiting something under the Legislative Ethics Act specifically made itself applicable to former legislators, former public members of the committee, and former legislative employees, then those individuals were exempt from the provision. The Select Committee on Legislative Ethics has determined that this was a misinterpretation which, if followed, encouraged former legislators, former public members of the committee, and former legislative employees to believe that once they left service they would not have to disclose potential ethical conflicts that arose during the "interim reporting period," which begins 30 days before the end of the regular session and ends on the first day of the next following regular session.¹

Section 2 proposes adding a new statute that clarifies the duty of former legislators, former legislative employees, and former public members of the public committee to disclose potential ethical conflicts that may have arisen during the time they served but were not reported before they left service, as described in the first section of this memo.

¹ AO-06-03.

Senator Hollis French
February 6, 2007
Page 2

Section 3 would amend the description of the type of financial information legislators, legislative directors, and public members of the committee are required to disclose under AS 24.60.200.² The new (underlined) language addresses an apparent gap in the existing law for dividend income from a limited liability company, adds a requirement that income in excess of \$1,000 for personal services be disclosed with a detailed description of services provided, hours worked, and, if the recipient of the income is a legislator or legislative director, the amount of income received from the source. (The existing law does not require the amount of income to be disclosed by anyone, unless the "source of income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action.")

Section 4 gives sec. 2 retroactivity to apply to former legislators, former public members of the committee, and former legislative directors that may have left service before the proposed effective date of the statute without being aware that they were required to make the ethical disclosures described in both section 2 and ethics advisory opinion AO 06-03.

Section 5 gives the Act a proposed effective date of July 1, 2007.

DCW:med
07-082.med

Enclosure

² There are other statutes within the Legislative Ethics Act that require legislative employees, in addition to legislators, public members of the committee, and directors, to disclose other types of information, including information about gifts received, close economic associations, etc.

716 W. 4th, Suite 230 Mailing Address:
Anchorage, AK P.O. Box 101468
(907) 269-0150 Anchorage, AK
FAX: 269-0152 99510-1468

December 4, 2006

ADVISORY OPINION 2006-03

Subject: Conflict of Interest - Disclosures

RE: Does AS 24.60 require a former legislator to disclose matters relating to potential conflicts of interest that existed during the time the legislator was in office?

You are a legislator and therefore covered by the Legislative Ethics Act. You have requested an advisory opinion concerning facts and circumstances that you have related. You have waived confidentiality. The committee relies on facts that you have described in answering your question.

Statement of Facts

Legislators are required by AS 24.60, the Legislative Ethics Act, to disclose matters relating to certain actual and potential conflicts of interest, within deadlines fixed by statute.¹ You have asked if disclosures under AS 24.60.105, 24.60.080(d), and 24.60.210, statutes which have a reporting date of March 15, 2007, must be filed by all legislators who held office in 2006 or only those legislators who are in office on March 15, 2007? Past practice has exempted former legislators, former legislative employees and former public members of the Select Committee on Legislative Ethics from filing requirements concerning the final reporting period of their tenure in office.

Discussion

Although nothing in the statutes cited in your request specifically exempts former legislators, former legislative employees, and former members of the select committee on legislative ethics from filing requirements, it has become the practice to exempt them from final reports due on March 15. AS 24.60.020(a) and (a)(1) (emphasis added) say:

- (a) *Except as otherwise provided in this subsection, this chapter applies to a member of the legislature, to a legislative employee, and to public members of the committee. This chapter does not apply to*
(1) *a former member of the legislature or to a person formerly employed by the legislative branch of government unless the provision specifically states that it applies;*

This can be read to suggest that legislators and legislative employees are exempt from disclosure requirements the moment they become "former." However, the duty to disclose arises the moment the matter to be disclosed occurs, not on the final date a statute requires a report on the matter to be filed. The status of "former" is irrelevant in that respect. If a disclosable matter arises before a legislator, legislative employee, or public member of the Select Committee on Legislative Ethics becomes "former," then it must be disclosed; if it arises after, then it need not be disclosed. Leaving office does not amount to an amnesty from ethics disclosure requirements -- if it did then there would be a period in every legislator's career where the legislator could disregard much of the code of legislative ethics, safe in the knowledge that, once the legislator makes it past the last day of office, he or she will be safe from ethics-based scrutiny. It could also lead to the resignation of legislators who, suddenly accused of not making a disclosure, could resign rather than disclose a conflict that may have long existed.

Additional support for a reading of AS 24.60.020(a) that does not exempt former legislators and former legislative employees from filing final reports by March 15 is found in AS 24.60.010 (emphasis added), which says:

The legislature finds that

- (1) high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect, and confidence of the people of this state;
- (2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that *preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest*;
- (3) the public's commitment to a part-time citizen legislature requires legislators be drawn from all parts of society and the best way to attract competent people is to acknowledge that they provide their time and energy to the state, often at substantial personal and financial sacrifice;
- (4) a part-time citizen legislature implies that legislators are expected and permitted to earn outside income and that the rules governing legislators' conduct *during and after leaving public service must be clear, fair, and as complete as possible*; the rules, however, should not impose unreasonable or unnecessary burdens that will discourage citizens from entering or staying in government service;
- (5) in order for the *rules governing conduct to be respected both during and after leaving public service*, the code must be administered fairly without bias or favoritism;
- (6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment;
- (7) compliance with a code of ethics is an individual responsibility; thus all who serve the legislature have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates;
- (8) the purpose of this chapter is to establish standards of conduct for state legislators and legislative employees and to establish the Select Committee on Legislative Ethics to consider alleged violations of this chapter and to render advisory opinions to persons affected by this chapter.

AS 24.60.010(2) notes the importance of avoiding even the *appearance* of a conflict of interest.

Although AS 24.60.010 discourages imposing unreasonable or unnecessary burdens that will discourage legislators from seeking or staying in office, AS 24.60.010(4) and 24.60.010(5) suggest that compliance with disclosure requirements after leaving office is part of being a legislator.

Conclusion

The committee finds that an appearance of a conflict of interest is too easily created when disclosure is not required in the circumstances you have described, and actual conflicts become too easy to conceal.

All of the reporting requirements in the Legislative Ethics Act apply for each day a legislator is in office, and although there are deadlines for filing reports, a legislator may file a report as soon as a disclosable matter arises, before the reporting deadline. Therefore, and for the reasons stated above, the committee finds that, as to any disclosable matter that arises during the time a legislator is in office, the former legislator is still required to disclose under AS 24.60 as if the legislator were still in office; but, as to any matter that arises after a legislator leaves office, the former legislator is not required by AS 24.60 to

make a disclosure.

Because of prior practice contrary to this opinion, this opinion shall be applied prospectively -- to legislators, legislative employees, and public members of this committee. In this instance, a legislator leaving office on the third Tuesday of January, 2007, which is January 16, is subject to the March 15, 2007, disclosure deadline for any previously unreported matter or interest that began or was in existence between April 10, 2006 (which is the 30th day before the regular session ended in 2006) and December 31, 2006. The same legislator is subject to the March 15, 2008 disclosure deadline for any matter or interest that began or was in existence between January 1, 2007 and January 16, 2007; however, the report can be filed at any time between January 16, 2007 and March 15, 2008, and may be filed separately from, or as an addendum to, the report due March 15, 2007.²

Adopted by the Select Committee on Legislative Ethics on December 4, 2006.

Members present and concurring in this opinion were:

H. Conner Thomas, Chair
Representative Bruce Weyhrauch
Senator Hollis French
Senator Ralph Seekins
Hernan G. Walker, public member
Ann Rabinowitz, public member
Dennis (Skip) Cook, public member
Gary J. Turner, public member

Members dissenting from this opinion were: None.

Members absent were: Representative Les Gara

DCW:ljw:med
06-329.ljw

¹ Among statutes with disclosure deadlines are: AS 24.60.030, 24.60.040, 24.60.050, 24.60.070, 24.60.080, 24.60.105, 24.60.200, and 24.60.210.

² AS 24.60.105(a):

(a) When a legislator or legislative employee is required to file a disclosure under this chapter and a date by which the disclosure must be filed is not otherwise set by statute, the deadlines set out in this section shall apply. *For disclosure of a matter or an interest that began or was acquired during the interim between regular legislative sessions, whether or not the regular session is extended or there is a special session, or during the last 30 days of a regular session, the legislator or legislative employee shall disclose the matter by March 15.* For disclosure of a matter or an interest that began or was acquired during a regular legislative session, but not during the last 30 days of the regular session, the disclosure must be made within 30 days after the commencement of the interest or representation. (Emphasis added)

Alaska State Legislature



Senator Hollis French

Changes to SB20 in Senate Judiciary:

- Amended bill to make reportable dividend income consistent with \$1,000 reporting requirement elsewhere in the bill for other kinds of income;
- Deleted language that provided an exception for licensed professionals to provide a more limited description of their services, as well as the section defining "licensed professionals" as it pertained to that provision.

Changes to SB20 in Senate State Affairs:

- Added language from the Governor's bill that states Legislators, legislative staff and public members of the Select Committee on Legislative Ethics file ethics disclosure forms within 90 days of leaving their position. This ensures that Legislators who are defeated in an election or leave office file disclosures for their last year of service. Title changed to reflect changes in the body of the bill.
- Added a new section that makes the above provision applicable to a person who is not a legislator on the effective date of this bill but served as a legislator between April 9, 2006 and the effective date, July 1, 2007.

SENATE COMMITTEE REPORT

DATE: 1/26/07

FURTHER: Finance

DATE TURNED IN TO OFFICE: 2/2/07

State Affairs Committee considered SENATE BILL NO. 20

SB 20 LEGISLATIVE DISCLOSURES

"An Act relating to disclosure to the Alaska Public Offices Commission of information about certain income received as compensation for personal services by legislators, public members of the Select Committee on Legislative Ethics, and legislative directors subject to the Legislative Ethics Act; and providing for an effective date "

and recommends:

- be replaced with SCS or CS SB 20 (STA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
<hr/>	
HOUSE BILL:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	



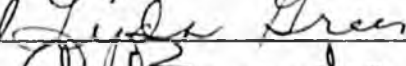


NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADMN	01/29			✓	2

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DC PASS	DO NOT PASS	NO REC	AMEND
	French	X			
	Stevens	X			
	Green	✓			
	Bunde	✓			
CHAIR: 	McGuire	X			

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/16/07

FURTHER: State Affairs
 Finance

Date of 5-Day Notice: 1/18/07
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 1/25/07

Judiciary Committee considered SENATE BILL NO. 20

SB 20 LEGISLATIVE DISCLOSURES

"An Act relating to disclosure to the Alaska Public Offices Commission of information about certain income received as compensation for personal services by legislators, public members of the Select Committee on Legislative Ethics, and legislative directors subject to the Legislative Ethics Act; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB20 (JRO)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Admin	1/22/07			<input checked="" type="checkbox"/>	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Huggins				<input checked="" type="checkbox"/>
	Wietechowski				<input checked="" type="checkbox"/>
	THERRAULT				<input checked="" type="checkbox"/>
	McGuire	<input checked="" type="checkbox"/>			
CHAIR:	French	<input checked="" type="checkbox"/>			