

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12580

Alaska Hit Summary Report 1/1/06 - 5/8/07

<u>Hits</u>	<u>State</u>			<u>National</u>			<u>TOTAL</u>
<u>Case to Case</u>	<u>Cold</u>	<u>Warm</u>	<u>Total</u>	<u>Cold</u>	<u>Warm</u>	<u>Total</u>	
	18	7	25	2	0	2	27
<u>Case to Offender</u>							
	32	19	51	5	0	5	56
<u>Totals</u>	50	26	76	7	0	7	83
<u>Investigations Aided</u>							64

Alaska DNA Profiles

TOTAL :	10,982 Current Offender Profiles
2005	6,027 entered
2006	1,374 entered
2007	2 entered

Current number of Samples
waiting to be processed and entered:

2,740+

Approximately 68 new samples per week

2007_{YTD}

Number of Offender Profiles added: 2

Number of Forensic Profiles added: 49

HEB

109

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 8th St., Rm. 329

MEMORANDUM

April 27, 2007

SUBJECT: Restrictions on campaign donations from the spouses or domestic partners of lobbyists (Work Order No. 25-LS0897)

TO: Senator Hollis French
Attn: Cindy Smith

FROM: Alpheus Bullard 
Legislative Counsel

You have requested a legal opinion as to the constitutionality of imposing statutory restrictions on campaign contributions from the spouses and domestic partners of lobbyists. It is my legal opinion that such restrictions in the context of our applicable current statutes would be found by a court to be unconstitutional.

First Amendment

The First Amendment provides that "Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"; art. I, sec. 1 of the Alaska Constitution provides that ". . . all persons have a natural right to life, liberty, . . . equal rights, opportunities, and protection under the law . . ."; and art. I, sec. 5 of the Alaska Constitution provides that "[e]very person may freely speak, write, and publish on all subjects" While freedom of speech and association are not absolute, see Messerli v. State, 626 P.2d 81, 86 (Alaska 1981), "statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society." Broadrick v. Oklahoma, 413 U.S. 601, 611 - 612 (1973) (citations omitted).

Regulation of Lobbyists

The United States Supreme Court has acknowledged that governments have a legitimate interest in regulating lobbyists, see McIntyre v. Ohio Elections Commission, 514 U.S. 334, 356 n. 20 (1995) ("The activities of lobbyists who have direct access to elected representatives, if undisclosed, may well present the appearance of corruption"), and the Court has held that governments have a "sufficiently important" interest in preventing political corruption and the appearance of corruption to justify limits on campaign contributions and a standard of review below that of strict scrutiny in some circumstances, see McConnell v. Federal Election Commission, 540 U.S. 93 (2003). Correspondingly the Alaska Supreme Court has held that a ban on out-of-district lobbyist contributions (AS 15.13.074(g)) is narrowly tailored to further a compelling interest, and

Senator Hollis French

April 27, 2007

Page 2

the restraint does not foreclose lobbyists from engaging in political speech, see State v. Alaska Civil Liberties Union, 78 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S.Ct. 1156 (2000). However, restricting political campaign contributions from the spouses or domestic partners of lobbyists (who, needless to say, may be exercising their own independent judgment in choosing to whom they desire to contribute campaign funds) is further removed from the State's interest in preventing political corruption and the appearance of corruption.

The State's Burden

Given that the right to engage in political expression is fundamental and campaign contributions are a species of political expression, any contemplated statute restricting the rights of spouses and domestic partners of lobbyists would need to be justified by a compelling state interest and narrowly tailored to accomplish the purpose intended. California Medical Association v. F.E.C., 453 U.S. 182, 200. While any such restriction might be intended to promote public confidence in the integrity of legislators and to prevent corruption and any appearance of corruption, a court might easily conclude that such restrictions violate constitutional guarantees. The rationale for restrictions on campaign contributions from the spouses or domestic partners of lobbyists would be (1) that such contributions represent an end run around Alaskan laws prohibiting contributions from lobbyists (AS 15.13.074(g)), (2) an effort to augment a lobbyist's influence by increasing the amount a lobbyist (through the lobbyist's spouse or domestic partner) would be able to contribute to a candidate, and (3) a means through which a lobbyist could contribute to an candidate for the legislature outside the district in which the lobbyist is eligible to vote. Arguably these interests are already served under existing law.

Under AS 15.13.074(b) contributions made in the name of another are prohibited, so existing law serves to prohibit lobbyists from employing their spouses or domestic partners as conduits for their own contributions. Additionally, the identity of campaign contributors must be disclosed (AS 15.13.040(a)), contributions may only be made at certain times (AS 15.13.074(c)), and contributions are limited to donations of \$500 a year to each candidate by AS 15.13.070(a). If the state desires to regulate the influence of lobbyists in an effort to address corruption or the appearance of corruption, regulating the exercise of the constitutional freedoms of lobbyists' spouses or domestic partners would not be the least restrictive alternative, nor narrowly tailored to a compelling interest not already served by existing statute.

It is my opinion that the state would be unable to meet its burden of demonstrating that no less restrictive alternatives exist to eliminate any impropriety or undue influence attributable to lobbyists, hence any contemplated restriction on the spouses or domestic partners of lobbyists is likely to be invalidated.

TLAB:Imb
07-109.Imb

Cindy Smith

From: Meagan Foster
Sent: Thursday, May 03, 2007 12:45 PM
To: Cindy Smith
Cc: Rep. Les Gara
Subject: HB 109 Language

Cindy – Les feels more comfortable with the language that was in HB 109 as it passed the house – with one exception – delete the statutory reference for 39.52.960 and have the following language – “official action means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction;

Meagan Foster
Office of Representative Les Gara
907-465-2647
907-465-3518 (Fax)

Cindy Smith

From: Dave Jones [Dave_Jones@law.state.ak.us]
Sent: Friday, May 04, 2007 1:48 PM
To: Cindy Smith
Subject: Bribery Statutes * Definition of Benefit

Cindy,

I think current state law covers the situation, even without the amendment in the ethics bill.

The ethics bill's provision would amend AS 11.56.130, which incorporates the definition of "benefit" in AS 11.81.900, subject to the three listed exceptions. The definition of "benefit" in AS 11.81.900(b)(4) is "a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary."

Cindy Smith

From: Dave Jones [Dave_Jones@law.state.ak.us]
Sent: Tuesday, April 24, 2007 10:35 AM
To: Cindy Smith
Cc: Christopher Clark; Deborah Behr
Subject: CSHB 109(JUD) am

Attachments: HB 109, SB 19, and SB 20 language comparison chart.doc



HB 109, SB 19, and
SB 20 langu...

Cindy,

I'm in Juneau and spoke with Allison after this morning's Senate State Affairs Committee's hearing on CSHB 109(JUD) am. I mentioned to Allison that I wanted to talk to you about two aspects of the bill. First, Section 1 probably needs an amendment to replace the reference to AS 39.52.960 in defining "official action." The definition of official action in AS 39.52.960 refers to "public officer," which only includes members of the executive branch. I think it would be more consistent with the intent of Section 1 to substitute "'official action' means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction" for the language on lines 8 and 9 of page 2, after "in this paragraph." Dan Wayne is already aware of this problem, I believe, because I learned of it from a draft he prepared for another bill. If you'd like me to put together an amendment, I'd be happy to do it.

Second, I want to fill you in on the other side of the nepotism issue that Tom Bryce of Local 71 addressed this morning in support of an amendment. We're concerned that the amendment would permit employees to promote, evaluate, give raises to, award overtime to, and take similar actions for their own immediate family members who are co-workers. The amendment would permit that because those actions don't fall within the definition of supervisory relationship that the amendment uses. The amendment would loosen existing ethics restrictions, while the other provisions of the bill tighten the ethics and reporting restrictions.

Do you have any idea when the Senate Judiciary Committee might take up the bill?

In case it might be helpful, I'm attaching a side-by-side language comparison of this bill and the two ethics bills that the Senate passed, CSSB 19(FIN) am and CSSB 20(STA) am(efd fld).

If you need to reach me, I'm at 465-6713.

Thanks!

Tom Brice

From: Ralph Maston [Ralph@local71.com]
Sent: Wednesday, May 02, 2007 10:00 AM
To: Tom Brice; Jim Ashton
Subject: affected by nepotism

Tom, Jim asked me to give you the names of members hereabouts that have been affected by this Nepotism issue.

██████████ – She was a flagger for several seasons on the Kenai Peninsula and used that money to support herself in the off season while she went to school. She was refused hire due to the fact that her father is an equipment operator in Soldotna, even though ██████████ never would have been her lead or foreman or supervisor in any way.

██████████ – He is a WG 56 mechanics helper in the Light Duty Shop for SEF here at Tudor Road. He tested for an Operator position at M&O at Tudor Road (within the same duty station) and passed with the highest score ever and he was refused the transfer based on the fact that his father is an operator there even though he would never be on a crew with his dad and despite the fact that his dad wrote a letter (at the prompting of management at the time) saying that he would be retiring in about 18 months and that while he and his son were at the duty station he would not sign or ask for or accept a promotion to foreman.

██████████ – He is a WG 53 Operator at Tudor Road M&O. signed a posting for a parts runner with the parts dept at Tudor Road SEF (within the same duty station) willing to accept a downgrade just to make his life a little less stressful from a 53 to a 55 and was refused based on the fact that his son works in the Light Duty shop there at the same duty station even though they already work in the same duty station!

██████████ – was dispatched out for a WG 53 operator position in Kalsin Bay, Kodiak, was told he was hired at which point he went to his current employer and notified him he was leaving, 4 days later he was contacted by the foreman who "hired" him that oops my bad we can't hire you due to the fact that your brother works for DOT at the Kodiak Airport (a completely different duty station) as an equipment operator. You can imagine the fallout from that! I got involved and got it worked out so that they could in fact hire him (provided there were no other qualified operators available on the island) but by that time he had already talked to his former boss and he gave him his job back complete with a raise. Boy the State was scrambling on that one, ██████████

██████████ Even though it all worked out fine in the end there was such a potential for disaster for the State on that one.

I hope this helps...let me know if you have any questions about this. Regards, Ralph

Ralph Maston
Business Representative/Vice President
Public Employees Local 71
2510 Arctic Blvd
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(907) 276-7211 wk
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Tom Brice

From: Billy Meers [Billy@local71.com]

Sent: Wednesday, May 02, 2007 10:42 AM

To: Tom Brice

Hey Tommy,

The boss asked me to email you info on any members that were/are affected by the states interpretation of the nepotism clause. I know of two(2) at the airport in anchorage in the field maintenance dept. [REDACTED] was denied a foreman promotion due to his brother [REDACTED] also working at that duty station and [REDACTED] also do to his wife [REDACTED] or also being an equipment operator at the time. Both were last summer not sure exactly when. I hope this helps. Good luck and keep up the good fight Tommy.

Billy

.....
Billy Meers
Business Representative
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Anchorage, AK 99503
Telephone (907) 276-7211
Fax (907) 279-7171

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MEMORANDUM

March 22, 2007

SUBJECT: Amendments relating to lobbying activities by a spouse or domestic partner of a legislator
CSHB 109(STA) (Work Order Nos. 25-GH1059\O.2 and \O.36)

TO: Representative Max Gruenberg
Attn: Norman Cohen

FROM: Alpheus Bullard *RAB*
Legislative Counsel

You have requested a legal opinion as to the differences between proposed amendments 25-GH1059\O.2 and 25-GH1059\O.36. In an earlier memorandum, dated February 26, 2007, I expressed my belief that a court might interpret the former (O.2) as unconstitutional. That amendment read in relevant part:

The spouse or domestic partner of a legislator may not engage in activity as a lobbyist. This subsection does not prohibit the spouse or domestic partner from acting as a volunteer lobbyist under AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission.

While the state has a legitimate interest in regulating lobbyists,¹ preventing corruption and any appearance of corruption, and while 25-GH1059\O.2 might be intended to promote public confidence in the integrity of legislators; "statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society." Broadrick v. Oklahoma, 413 U.S. 601, 611 - 612 (1973) (citations omitted).

25-GH1059\O.2 is not narrowly tailored but disallows all paid lobbying by spouses and domestic partners of legislators; not lobbying on issues before committees on which a legislator's spouse or domestic partner might serve, a matter on which the legislator's spouse or domestic partner will vote, etc. In justifying any infringement on the personal liberty of legislators' spouses and domestic partners, the state would have to demonstrate a compelling interest in the purposes advanced by the restriction and an absence of less

¹ See McIntyre v. Ohio Elections Commission, 514 U.S. 334, 356 n. 20 (1995).

Representative Max Gruenberg

March 22, 2007

Page 2

restrictive alternatives in realizing these ends. It was my contention that there were less restrictive alternatives than the O.2 amendment.

The second amendment, 25-GH1059\O.36 reads in relevant part:

A legislator or legislative employee may not [] communicate directly with a spouse or domestic partner of a legislator if the spouse or domestic partner is registered as a lobbyist under AS 24.45.041 and the communication concerns legislative action; in this paragraph, "legislative action" has the meaning given it in AS 24.45.171.

This second amendment does not operate to prohibit the spouse or domestic partner of a legislator from lobbying municipalities or the executive branch, and it does not deny them the opportunity to engage in an economic endeavor within a particular industry (lobbying).² The amendment is better directed at the locus of possible impropriety, undue influence, and conflicts of interest; the possibly suspect relationship between legislators and the lobbyist spouses or domestic partners of legislators. It is my opinion that this second amendment, 25-GH1059\O.36 is more "narrowly drawn and represent[s] a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society." Broadrick v. Oklahoma, at 611 - 612.

If you have questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:med
07-196.med

² See State v. Enserch Alaska Construction, Inc., 787 P.2d 624 (Alaska 1989) (The right to engage in an economic endeavor within a particular industry is an "important" right for state equal protection purposes) and Malabed v. N. Slope Borough, 70 P.3d 416 (Alaska 2003) (close scrutiny of enactments impairing the important right to engage in economic endeavor requires that the state's interest underlying the enactment be not only legitimate, but important, and that the nexus between the enactment and the important interest it serves be close).

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MEMORANDUM

February 28, 2007

SUBJECT: Constitutionality of statutes similar to sec. 5 of CSHB 109(), draft version "K" (Work Order No. 25-GH1059\K)

TO: Representative Max Gruenberg
Attn: Norman Cohen

FROM: Alpheus Bullard 
Legislative Counsel

In a response to an earlier memorandum, you have requested that I augment my efforts by searching for and examining any existing judicial interpretation of statutes similar to sec. 5 of the proposed Committee Substitute for House Bill 109, draft version "K."

My research for the earlier memorandum began with such an effort, but I did not, and have not, unearthed any judicial examination of a statutory prohibitions on lobbying by a legislative spouse or domestic partner as broad as that found in sec. 5.

While decidedly second best, what I was able to find, was circumstantial evidence of state legislative and congressional consideration of similar provisions. The common thread or denominator discovered, is that while such broad prohibitions have been considered, they are absent from the final enactments of the legislation in which the provisions were to be included. For one example, see the ethics opinion draft concerning the history of Kentucky Senate Bill No. 7, 1993 at "www.lrc.ky.gov/ethics/Opinions/02-04.doc."

The most similar provision to sec. 5 that I found, is "S.1, Commission to Strengthen Confidence in Congress Act of 2007" passed by the United States Senate on January 18, 2007. The bill addresses statutory changes affecting lobbyists under the federal Lobbying Disclosure Act and other laws. The bill includes a prohibition on "official contacts" by a senator's spouse or immediate family member with the personal, committee, and leadership staff of that senator if the spouse or immediate family member is a registered lobbyist or retained or employed by a registered lobbyist. If it becomes law, a provision in the bill also would prohibit a senator's spouse from having any "official contacts" with any senator or staff if the spouse is a registered lobbyist or retained or employed by a registered lobbyist. The provision in full reads:

SEC. 113. PROHIBIT OFFICIAL CONTACT WITH SPOUSE OR IMMEDIATE FAMILY MEMBER OF MEMBER WHO IS A REGISTERED LOBBYIST.

Rule XXXVII of the Standing Rules of the Senate is amended by--

(1) redesignating paragraphs 10 through 12 as paragraphs 11 through 13, respectively; and

(2) inserting after paragraph 9, the following:

10. (a) If a Member's spouse or immediate family member is a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, the Member shall prohibit all staff employed by that Member (including staff in personal, committee, and leadership offices) from having any official contact with the Member's spouse or immediate family member.

(b) Members and employees on the staff of a Member (including staff in personal, committee, and leadership offices) shall be prohibited from having any official contact with any spouse of a Member who is a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist.

(c) The prohibition in subparagraph (a) shall not apply to the spouse of a Member who was serving as a registered lobbyist at least 1 year prior to the election of that Member to office or at least 1 year prior to their marriage to that Member.

(d) In this paragraph, the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Member.
(www.govtrack.us/congress/billtext.xpd?bill=s110-1)

This is as similar a provision as I have been able to find.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:med
07-0132.med

LEGAL SERVICES**DIVISION OF LEGAL AND RESEARCH SERVICES
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MEMORANDUM

February 26, 2007

SUBJECT: Prohibition on lobbying by legislator spouses and domestic partners in CSHB 109() (Work Order No. 25-GH1059\K)

TO: Representative Max Gruenberg
Attn: Norman Cohen

FROM: Alpheus Bullard *AB*
Legislative Counsel

You have requested a legal opinion as to the constitutionality of the proposed statutory change that would prohibit the spouse or domestic partner of a legislator from being a lobbyist as is proposed in sec. 5 of the Committee Substitute for House Bill 109, draft version "K". It is my opinion that the prohibition as it is currently structured may be interpreted by a court as unconstitutional.

The First Amendment provides that "Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the Government for a redress of grievances", art. I, sec. 1 of the Alaska Constitution provides that ". . . all persons have a natural right to life, liberty, . . . equal rights, opportunities, and protection under the law . . .", and art. I, sec. 5 of the Alaska Constitution provides that "[e]very person may freely speak, write, and publish on all subjects . . .". Lobbying involves both the petitioning of government agencies and core political speech concerns that "implicates First Amendment guarantees of petition, expression, and assembly." Kimball v. Hooper, 665 A.2d 44, 46 (Vt. 1995); United States v. Sawyer, 85 F.3d 713, 731 n. 15 (1st Cir. 1996) (paid lobbyist's employment goal of attempting to persuade and influence legislators was guaranteed by the First Amendment); Findanque v. Oregon Government Standards and Practices Commission, 969 P.2d 376, 379 (Ore. 1998) ("Lobbying is political speech, and being a lobbyist is the act of being a communicator to the legislature on political subjects."); Liberty Lobby, Inc. v. Person, 390 F.2d 489, 491 (D.C. Cir. 1968) ("While the term 'lobbyist' has become encrusted with invidious connotations, every person or group engaged . . . in trying to persuade Congressional action is exercising the First Amendment right of petition."); and United States v. Harris, 347 U.S. 612, 625 (1954).

The fact that the proposed prohibition applies only to paid lobbyists ("volunteer" and "representational" lobbyists being excluded, see 25-GH1059\K p. 4. lines 5 - 7) does not shield the proposed prohibition from constitutional analysis. "The mere fact . . . that one earns a living by exercising First Amendment rights does not vitiate the ability to assert those rights." Moffett v. Killian, 360 F. Supp. 228, 231 (D. Conn. 1973) citing Follett v.

Representative Max Gruenberg
February 26, 2007
Page 2

McCormick, 321 U.S. 573 (1944). Additionally, the individual rights afforded by the Alaska Constitution, art. I, sec. 1, include the right to make certain contracts for personal employment. see State v. Enserch Alaska Construction, Inc., 787 P.2d 624 (Alaska 1989) (The right to engage in an economic endeavor within a particular industry is an "important" right for state equal protection purposes) and Malabed v. N. Slope Borough, 70 P.3d 416 (Alaska 2003) (close scrutiny of enactments impairing the important right to engage in economic endeavor requires that the state's interest underlying the enactment be not only legitimate, but important, and that the nexus between the enactment and the important interest it serves be close.) In justifying such an infringement on the personal liberty of legislators' spouses and domestic partners, the state would have to demonstrate a compelling interest in the purposes advanced by the restriction and an absence of less restrictive alternatives in realizing these ends. While the United States Supreme Court has acknowledged that governments have a legitimate interest in regulating lobbyists, see McIntyre v. Ohio Elections Commission, 514 U.S. 334, 356 n. 20 (1995) ("The activities of lobbyists who have direct access to elected representatives, if undisclosed, may well present the appearance of corruption"), "statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society." Broadrick v. Oklahoma, 413 U.S. 601, 611 - 612 (1973) (citations omitted).

While the United States Supreme Court has recognized that governments have a "sufficiently important" interest in preventing political corruption and the appearance of corruption that justifies limits on campaign contributions and a standard of review below that of strict scrutiny, see McConnell v. Federal Election Commission, 540 U.S. 93 (2003), I am not aware of any court that has recognized this rationale as a basis for such a broad prohibition on paid lobbying. While the ban may be intended to promote public confidence in the integrity of legislators and to prevent corruption and any appearance of corruption, the prohibition as it is currently structured disallows all paid lobbying by spouses and domestic partners of legislators; not lobbying on issues before committees on which a legislator spouse or domestic partner might serve, a matter on which the legislator spouse or domestic partner will vote, etc. Therefore, a court might conclude that the ban as structured is not sufficiently narrow to further a compelling state interest and is an unconstitutional infringement on the First Amendment rights of the spouses and domestic partners to whom it applies.

It is my opinion that the state may be unable to meet its burden of demonstrating that no less restrictive alternatives exist to eliminate impropriety, undue influence, and conflicts-of-interest, and that this restriction might be invalidated.

TLAB:med
07-127.med

Cindy Smith

From: Dave Jones [Dave_Jones@law.state.ak.us]
Sent: Tuesday, April 24, 2007 10:35 AM
To: Cindy Smith
Cc: Christopher Clark; Deborah Behr
Subject: CSHB 109(JUD) am

Attachments: HB 109, SB 19, and SB 20 language comparison chart.doc



HB 109, SB 19, and
SB 20 langu...

Cindy,

I'm in Juneau and spoke with Allison after this morning's Senate State Affairs Committee's hearing on CSHB 109(JUD) am. I mentioned to Allison that I wanted to talk to you about two aspects of the bill. First, Section 1 probably needs an amendment to replace the reference to AS 39.52.960 in defining "official action." The definition of official action in AS 39.52.960 refers to "public officer," which only includes members of the executive branch. I think it would be more consistent with the intent of Section 1 to substitute "'official action' means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction" for the language on lines 8 and 9 of page 2, after "in this paragraph." Dan Wayne is already aware of this problem, I believe, because I learned of it from a draft he prepared for another bill. If you'd like me to put together an amendment, I'd be happy to do it.

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Do you have any idea when the Senate Judiciary Committee might take up the bill?

In case it might be helpful, I'm attaching a side-by-side language comparison of this bill and the two ethics bills that the Senate passed, CSSB 19(FIN) am and CSSB 20(STA) am(efd fld).

If you need to reach me, I'm at 465-6713.

Thanks!

To: Senator Hollis French, Chair
Senate Judiciary Committee

From: Tom Brice, Business Representative
Alaska District Council of Laborers

Date: April 24, 2007

Re: HB 109

Thank you for the opportunity to provide comments on HB 109.

Alaska has a long-standing nepotism statute, AS 39.90.020, and regulations, 2 AAC 07.950, which prohibit family members from working together in a *supervisory* relationship.

But in August 2005, the Department of Administration promulgated a new policy, Alaska Administrative Manual (AAM) 100.050, which prohibits employees from being in an "*employment relationship*" with an immediate family member, including conjugal relationships, up to the second degree of kindred.

This provision was enacted in response to a Department of Law memorandum issued in March 2005 on how the Executive Branch Ethics Act (Ethics Act) applies when a supervisor and a subordinate are in a conjugal relationship. The AG's opinion was that the relationship violated the Ethics Act.

But the AG's opinion was just that--- the Ethics Act would prevent a **supervisor** and another employee from working together if they were family members or living in a conjugal relationship. The Dept. of Administration, in promulgating AAM 100.050, has taken that opinion and dramatically expanded its scope.

In defining an "*employment relationship*," the Department expanded it to include a vast number of actions typically completed by non-supervisory employees. As it stands, the Department's new policy, based on its interpretation of the Ethics Act and the March 2005 AG memorandum, has had devastating effects on Alaska's public employees, especially those living and working in rural and Native communities. The policy prohibits one family member from being hired, promoted, or transferred if it results in an employment relationship with another family member. This is true even if neither one of them is a supervisor, based solely on the minutest possibility that one family member may be promoted to a lead or foreman position even if only for a day. As most of you know, many Alaskan communities are so small that most individuals *are* related in some way. The impact on non-supervisory employees is substantial and unnecessary, as it

essentially prohibits both supervisory and non-supervisory relationships between family members.

The Department of Administration's policy is affecting everyday working Alaskans in such a way that was never intended by this legislation. Family members who seek to work together in a non-supervisory employment relationship are held to an even stricter standard than legislative branch employees.

Under long-standing state regulations promulgated by the Alaska Labor Relations Agency, a "supervisory employee" is essentially defined as an individual who has authority to act on behalf of the public employer in carrying out supervisory functions, if the exercise of that authority is not just routine but requires the exercise of independent judgment. "Supervisory functions" are defined as the ability to take action in the area of:

- Employment** (hiring, transfers, lay offs, recall),
- Discipline** (suspension, discharge, demotion, issuance of written warnings) or
- Grievance adjudication** (response to a first level grievance under a collective bargaining agreement)

The Department's new nepotism policy, however, prohibits far more than just supervisory relationships.

It bears mentioning that the Ethics Act, in AS 39.52.110(a)(3), was meant to "*distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.*"

It is noteworthy that AS 39.52.910(b) of the Ethics Act states: "*The provisions of this chapter supersede the common law on conflicts of interest that may apply to a public officer of an executive-branch agency and any personnel rules relating to conflicts of interests, excluding nepotism, adopted under AS 39.25.*" It is the Union's position that this means the Ethics Act does not and should not supersede the long-standing nepotism statute and regulations, which is the result of the Department of Administration's policy. However, the Union concedes that AS 39.52.910(b) is ambiguous.

The Union suggests an amendment which would limit the affect of the Ethics Act to what the legislature likely intended: to clarify that Ethics Act issues arise in *supervisory* relationships between family members.

This amendment would add a section "(d)" to the Ethics Act provision AS 39.52.910 which would read as follows:

"Nothing in this Act shall supersede the provisions of AS 39.90.020, nor preclude individuals from being in an employment relationship with an immediate family member where neither family member is a supervisor who has authority to act or to effectively recommend action in the interest of the public employer in one of the following

supervisory functions, if the exercise of that authority is not merely routine but requires the exercise of independent judgment:

- (a) employing, including hiring, transferring, laying off, or recalling;**
- (b) discipline, including suspension, discharge, demotion, or issuance of written warnings; or**
- (c) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement.”**

We believe that such an amendment would clarify the scope of the Ethics Act and protect working Alaskans, especially those working in small rural and native communities, yet also strike a balance by highlighting the ethical issues involved in familial supervisory relationships.

Thank you.

An Amendment to add a new section to AS 39.52.910 which would read as follows:

(d) Nothing in this Act shall supersede the provisions of AS 39.90.020, nor preclude individuals from being in an employment relationship with an immediate family member where neither family member is a supervisor who has authority to act or to effectively recommend action in the interest of the public employer in one of the following supervisory functions, if the exercise of that authority is not merely routine but requires the exercise of independent judgment:

(a) employing, including hiring, transferring, laying off, or recalling;

(b) discipline, including suspension, discharge, demotion, or issuance of written warnings; or

(c) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement.

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

Date: May 5, 2007

To: Dan Wayne, Legislative Legal Services

From: Cindy Smith

Re: CS for CSHB109 (JUD) am 25-GH1059\N.A.

Attached are amendments for CSHB109.

In addition to amendments 1-12, we'd also like to include the amendments proposed by the Legislative Ethics committee in the two memos that are also attached.

I will be in the office tomorrow (Sunday) by around 11 a.m. or so and will call to go over this with you.

We have one additional question we'd like you to consider: we would like to ensure that there is a provision, either in existing law or in this bill, that will allow an ethics complaint to be lodged against a member who provides a vote or other legislative support in exchange for the promise of future employment. We understand that this is already covered under the bribery statutes, but want to be sure it is covered as an ethics matter as well. Can you please review current statutes and this bill and let us know if we need to add additional language, either to section 26 or in a new subsection to cover that issue?

Thanks. I'll call you tomorrow.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #1:

On Page 2, line 8 delete: "has the meaning given in AS 39.52.960;" and

insert: "means performance of any duties in the course and scope of a public officer's employment, including, advice, participation or assistance, such as a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction;"

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #3:

Page 3, Section 6:

Add a new exemption to the e-filing requirement for candidates raising less than \$5,000.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #4:

Per the language in SB64 (attached), amend AS 39.52.120(b) to add state aircraft to the list of assets and resources and add a new subsection outlining that the restrictions on the use as per the language in SB64.

CSHB109(JUD) am 25-GH 1059\N.A.

Amendment #5:

Delete Section 27.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #6:

Section 35: Please add language that provides for two level of courses:

(1) an introductory course, which all persons named in the section must take as their initial course, and

(2) a refresher course, which persons who have taken the introductory course are required to take in subsequent sessions.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment # 7

Section 60:

Replace this section with the language for 39.52.180(d) in SB19 (FIN) am (attached).

1 exercise of official action. For the purposes of this subsection, "matter" includes a
 2 case, proceeding, application, contract, [OR] determination, [BUT DOES NOT
 3 INCLUDE THE] proposal or consideration of legislative bills, resolutions and
 4 constitutional amendments, or other legislative measures, [;] or [THE] proposal,
 5 consideration, or adoption of administrative regulations.

6 * Sec. 6. AS 39.52.180(d) is amended to read:

7 (d) An individual who formerly held a position listed in this subsection [A
 8 FORMER GOVERNOR, LIEUTENANT GOVERNOR, OR HEAD OF A
 9 PRINCIPAL DEPARTMENT IN THE EXECUTIVE BRANCH] may not engage in
 10 activity as a lobbyist under AS 24.45 for a period of one year after leaving that
 11 position [SERVICE AS THE GOVERNOR, LIEUTENANT GOVERNOR, OR
 12 DEPARTMENT HEAD, AS APPROPRIATE]. This subsection does not prohibit
 13 service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational
 14 lobbyist as defined under regulations of the Alaska Public Offices Commission. This
 15 subsection applies to the position of

16 (1) governor;

17 (2) lieutenant governor;

18 (3) head or deputy head of a principal department in the executive
 19 branch;

20 (4) director of a division or legislative liaison within a principal
 21 department in the executive branch;

22 (5) legislative liaison, administrative assistant, or other employee
 23 of the Office of the Governor or Office of the Lieutenant Governor in a policy-
 24 making position;

25 (6) member of a state board or commission that has the authority
 26 to adopt regulations, other than a board or commission named in AS 08.01.010;

27 (7) member of the governing board and executive officer of a state
 28 public corporation.

29 * Sec. 7. AS 39.52.960(14) is amended to read:

30 (14) "official action" means performance of any duties in the course
 31 and scope of a public officer's employment, including review, advice,

CSHB109(JUD) am 25-GH 1059\N.A.

Amendment #8

On page 28, starting at line 9:

In subsection (d)(1), delete “criminally charged” and insert “convicted”

In subsection (d)(2), delete language after the word “degree” and insert the words “of knowledge, if any, of the person’s spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted.

Delete subsection (d)(3) on lines 12 and 13.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #9

Add language to require that registered lobbyists who purchase food or beverage for immediate consumption for legislators, legislative employees must report that expenditure by date and names of recipients of the food or beverage unless

(a) The food or beverage is provided at an event open to all legislators and legislative employees, or

(b) The food or beverage was purchased for \$10 or less.

These reports must be filed monthly.

This provision would not apply to representational or volunteer lobbyists.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #10

Add a new subsection amending the definition of "official action" in 39.52.960(14) as it is stated in amendment #1.

1 exercise of official action. For the purposes of this subsection, "matter" includes a
 2 case, proceeding, application, contract, [OR] determination, [BUT DOES NOT
 3 INCLUDE THE] proposal or consideration of legislative bills, resolutions and
 4 constitutional amendments, or other legislative measures, [;] or [THE] proposal,
 5 consideration, or adoption of administrative regulations.

6 * Sec. 6. AS 39.52.180(d) is amended to read:

7 (d) An individual who formerly held a position listed in this subsection [A
 8 FORMER GOVERNOR, LIEUTENANT GOVERNOR, OR HEAD OF A
 9 PRINCIPAL DEPARTMENT IN THE EXECUTIVE BRANCH] may not engage in
 10 activity as a lobbyist under AS 24.45 for a period of one year after leaving that
 11 position [SERVICE AS THE GOVERNOR, LIEUTENANT GOVERNOR, OR
 12 DEPARTMENT HEAD, AS APPROPRIATE]. This subsection does not prohibit
 13 service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational
 14 lobbyist as defined under regulations of the Alaska Public Offices Commission. This
 15 subsection applies to the position of

16 (1) governor;

17 (2) lieutenant governor;

18 (3) head or deputy head of a principal department in the executive
 19 branch;

20 (4) director of a division or legislative liaison within a principal
 21 department in the executive branch;

22 (5) legislative liaison, administrative assistant, or other employee
 23 of the Office of the Governor or Office of the Lieutenant Governor in a policy-
 24 making position;

25 (6) member of a state board or commission that has the authority
 26 to adopt regulations, other than a board or commission named in AS 08.01.010;

27 (7) member of the governing board and executive officer of a state
 28 public corporation.

29 * Sec. 7. AS 39.52.960(14) is amended to read:

30 (14) "official action" means performance of any duties in the course
 31 and scope of a public officer's employment, including ~~review~~, advice,

dec ↑

1 participation, assistance, or another kind of involvement regarding a matter,
2 such as a recommendation, decision, approval, disapproval, vote, or other similar
3 action, including inaction, by a public officer;

4 * Sec. 8. AS 39.52.180(c) is repealed.

5 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. Sections 5, 6, and 8 of this Act apply to a person who leaves state
8 service on or after the effective date of secs. 5 and 6 of this Act.

CSHB109(JUD) am 25-GH 1059N.A.

Amendment #11:

Add language that requires that APOC scan and post on-line all handwritten reports in a PDF or other, similar format within 48 hours of their receipt.

AMENDMENT #12

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: CSHB 109(JUD) am

1 Page 2, following line 16:

2 Insert a new bill section to read:

3 **** Sec. 2.** AS 14.25.040(c) is amended to read:

4 (c) A state legislator is not entitled to elect membership under (b) of this
5 section if the state legislator is covered for the same period of service under the public
6 employees' retirement system (AS 39.35). An election of membership under (b) of this
7 section is retroactive to the date the state legislator took the oath of office. A state
8 legislator may not receive membership credit under (b) of this section for legislative
9 service performed before the legislative session during which the state legislator
10 elected membership under (b) of this section. In order to continue in membership
11 service under (b) of this section, the state legislator must earn at least 0.3 years of
12 membership service under other sections of AS 14.25.009 - 14.25.220 during each
13 five-year period. **A state legislator may not receive membership credit under**
14 **AS 14.25.009 - 14.25.220 for legislative service on or after the date the legislator**
15 **commits a criminal offense from which a pension forfeiture under AS 37.10.310**
16 **results.**

17

18 Renumber the following bill sections accordingly.

19

20 Page 3, line 14:

21 Delete "sec. 5"

22 Insert "sec. 6"

23

1 Page 28, following line 13:

2 Insert a new bill section to read:

3 **"* Sec. 47. AS 39.35.300(a) is amended to read:**

4 (a) An active employee is entitled to credited service for periods of
5 employment with the state after January 1, 1961, regardless of the office, department,
6 division, or agency of the state in which the person was employed. For purposes of
7 AS 39.35.095 - 39.35.680, the University of Alaska is not an office, department,
8 division, or agency of the state. Service credit may not be granted under AS 39.35.095
9 - 39.35.680 for service that is creditable under the teachers' retirement system,
10 **AS 14.25, or for a person's service as a public officer, as defined in AS 39.52.960,**
11 **a legislator, or a legislative director, if the service occurs on or after the date the**
12 **person commits a criminal offense from which a pension forfeiture under**
13 **AS 37.10.310 results."**

14

15 Renumber the following bill sections accordingly.

16

17 Page 35, line 18:

18 Delete "sec. 53"

19 Insert "sec. 55"

20

21 Page 38, line 28:

22 Delete "sec. 59"

23 Insert "sec. 61"

24

25 Page 38, line 29:

26 Delete "sec. 59"

27 Insert "sec. 61"

28

29 Page 38, line 30:

30 Delete "sec. 60"

31 Insert "sec. 62"

1

2 Page 39, line 2:

3 Delete "sec. 60"

4 Insert "sec. 62"

5

6 Page 39, line 3:

7 Delete "sec. 61"

8 Insert "sec. 63"

9

10 Page 39, line 7:

11 Delete "sec. 61"

12 Insert "sec. 63"

13

14 Page 39, line 11:

15 Delete "sec. 45"

16 Insert "sec. 46"

17

18 Page 39, line 13:

19 Delete "Sections 6, 41, and 54"

20 Insert "Sections 7, 42, and 56"

21

22 Page 39, line 14:

23 Delete "Section 53"

24 Insert "Section 55"

25

26 Page 39, line 15:

27 Delete "secs. 67 and 68"

28 Insert "secs. 69 and 70"

Alaska State Legislature

Select Committee on Legislative Ethics

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FAX: 269-0152
Email: ethics_committee@legis.state.ak.us

Mailing Address:
P.O. Box 101468
Anchorage, AK.
99510-1468

TO: Senator Hollis French
Chair, Senate Judiciary Committee

FROM: Joyce Anderson, Administrator

DATE: April 24, 2007

RE: Amendment to HB 109

yes

The House Subcommittee on Legislative Ethics met on April 17, 2007 and discussed the subject of conflict of interest in regard to political fund raising and campaigning. The subcommittee determined language in AS 24.60.030(a)(5)(C) "telephone or facsimile use that does not carry a special charge" should be deleted.

Further, in AS 24.60.030(a)(2) the same exception is stated in (C) and should be removed. This section prohibits the use of state resources for a nonlegislative purpose, for involvement in or support of or opposition to a partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person but does not prohibit the use of the telephone or fax that does not carry a special charge.

The rationale for the change is as follows.

1. The language in AS 24.60.030(a)(5)(C) and AS 24.60.030(a)(2)(C) allows for an exception to the use of the phone and fax and does not place a 'de minimis' restriction on the use.
2. By removing the language in (C) in both sections the use of the phone or fax would fall within the 'de minimis' use of state funds, facilities, equipment, services, or another asset or resource as stated in AS 24.60.030(a)(2)(A) and AS 24.60.030(a)(5)(A).
3. By deleting the language in AS 24.60.030(a)(5)(C) and AS 24.60.030(a)(2)(C), the use of state resources would be applied consistently across the board.

The subcommittee suggested an amendment be drafted to be introduced when HB 109 is heard in the Senate.

Attached are the relevant statutes. Please give me a call if you have questions.

Sec. 24.60.030. Prohibitions related to conflicts of interest and unethical conduct.

(a) A legislator or legislative employee may not

- (1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions or the acceptance of a lawful gratuity under AS 24.60.080;
- (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person; this paragraph does not prohibit
 - (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;
 - (B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;
 - (C) telephone or facsimile use that does not carry a special charge;
 - (D) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups; or
 - (E) a legislator from using the legislator's private office in the capital city during a legislative session, and for the ten days immediately before and the ten days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;
 - (F) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;
 - (G) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;
 - (H) use by a legislator of photographs of that legislator;
 - (I) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;
 - (J) a legislator from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility; or
 - (K) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee;
- (3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a

claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) telephone or facsimile use that does not carry a special charge;

(D) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office; or

(E) a legislator from using the legislator's private office in the capital city during a legislative session, and for the ten days immediately before and the ten days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(F) use by a legislator of photographs of that legislator.

(1) to the legislature or another federal, state, or municipal office or to the board of an electric or telephone cooperative.

Alaska State Legislature

Select Committee on Legislative Ethics

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Mailing Address:
P.O. Box 101468
Anchorage, AK.
99510 - 1468

TO: Senator Hollis French
Chair, Senate Judiciary Committee

FROM: Joyce Anderson, Administrator

DATE: April 24, 2007

RE: Amendment to HB 109 concerning the definition of INCOME



The Senate Subcommittee on Legislative Ethics met on April 17, 2007 and discussed the definition of "income" as stated in AS 24.60.990(a)(7).

"income" means assets that are received, regardless of whether they are earned or unearned; inheritances and other gifts are not income;"

The subcommittee suggested the definition be changed to read:

"income" means assets that are received or deferred, regardless of whether they are earned or unearned; inheritances and other gifts are not income,"

This change would be consistent with Section 3 of SB 20 which included the language "or deferred income" in AS 24.60.200.

Further, the change in the definition would clarify all sections of the statute and bring consistency to the definition of the term 'income'.

The word "income" also appears in the Legislative Ethics Act in the following two sections:

AS 24.60.010 Legislative findings and purpose

(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 complete as possible; the rules, however, should not impose unreasonable to unnecessary burdens that will discourage citizens from entering or staying in government service;

AS 24.60.040 Contract or leases

(c) In this section, "direct or indirect financial benefits" means *income*, profits, or other financial benefits under a state contract, without regard to whether the *income*, profits, or other financial benefits ensue to the person as a partner, shareholder, investor, agent, employee, consultant, or joint venturer of the contractor.

Let me know if you have any questions.

**CSHB 109(JUD) am VERSION “”
SUBJECT SECTIONAL**

Section 1. The definition of “benefit” does not include a campaign contribution unless the contribution is made to alter a candidates vote or position on a matter the candidate could take official action on.

Sec. 2. Pension forfeiture provisions in AS 37.10.310 apply to the Teachers’ Defined Benefit Retirement Program.

Sec. 3. Pension forfeiture provisions in AS 37.10.310 apply to the teachers first hired on or after July 1, 2006.

Sec. 4. This section eliminates the \$5,000 exemption for all candidates for public office except delegates to a constitutional convention, a judge seeking judicial retention, or a candidate for a municipal office.

Sec. 5. Implements a January 1, 2009 deadline for mandatory electronic filing for all candidates except candidates for municipal office and for those candidates whose circumstances warrant an exception.

Sec. 6. Revises section 4 effective January 1, 2009 to limit the municipal election exemption for mandatory electronic filing to communities with a population of less than 15,000.

Sec. 7. Pension forfeiture provisions in AS 37.10.310 apply to the retirement and death benefits of justices and judges.

Sec. 8. Requires APOC to administer an annually updated training course for lobbyists and employers of lobbyists to promote high ethical standards of professional conduct.

Sec. 9. Instructs APOC to obtain a sworn affirmation by a lobbyist to verify that the lobbyist has completed a training course within a 12-month period preceeding the date of registering as a lobbyist.

Sec. 10. Language cleanup for exceptions to prohibition of lobbyists to give gifts and places a further prohibition for lobbyists on campaign contributions or gifts that would violate AS 39.52 the Alaska Executive Branch Ethics Act.

Sec. 11. Allows a person prohibited from lobbying because of family relationship with a legislator to engage in volunteer or representational lobbying, must register as a representational lobbyist, but is not required to pay the registration fee.

Sec. 12. Adds to Definitions for AS 24.45 "domestic partner" as defined in AS 39.50.200(a) "a person who is cohabiting with another person in a relationship that is like a marriage but is not a legal marriage.

Sec. 13. Modifies language in the applicability section of the Legislative Ethics Act that has at times been misinterpreted as exempting legislators, legislative directors, legislative employees and public members of the committee from disclosure requirements related to the latter part of their time in service.

Sec. 14. Language cleanup to reference correct statute cite for defining charity event.

Sec. 15. Amends the definition of campaign period to include the 60 days before a general election and decreases from 90 days to 60 days the "campaign period" for other elections, including the primary election and municipal elections.

Sec. 16. Requires a legislator or legislative employee to report board memberships to the Ethics Committee.

Sec. 17. Requires the Ethics Committee to promptly forward disclosure reports of family members of legislators or legislative staff being involved in a state contract of \$5,000 or more to the appropriate house of the legislature and instructs the presiding officer to publish the disclosure in a supplemental journal not later than the next regularly scheduled publication of ethics disclosures.

Sec. 18. Streamlines the Ethics Committees reporting process for disclosures related to loans received or certain programs participated in by legislators or legislative employees changing the "within three weeks" to "next regularly scheduled report". Also allows staff to, upon request, edit information that if disclosed would cause unjustifiable invasion of personal privacy.

Sec. 19. Clarifies "a public official" with which a close economic association would require a disclosure with the Ethics Committee is defined in AS 39.50.200(9).

Sec. 20. Eliminates the term "a legislator" from the "close economic association with a lobbyist" reporting requirement to Ethics Committee since legislators can no longer have a close economic relationship with a lobbyist. Legislative employees continue to be required to file the report.

Sec. 21. Allows for compassionate gifts to legislators or legislative employees "intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health related emergency."

Sec. 22. Expands the prohibition of gifts from lobbyists to include immediate family members of lobbyists and makes an exception allowing for accepting food or beverage for immediate consumption and tickets for charitable events approved by the legislative council.

Sec. 23. This amendment defines "immediate family", adds the office of victims' rights to the list of legislative employees that do not qualify for the discounts, and allows for a gift of transportation between legislators and legislative staff under certain circumstances. (Special discounts are given to legislators and their staff to make the stay during session more affordable. An example is reduced rates at a local athletic club.)
ETHICS

Sec. 24. Adds gifts received by family members of legislators and legislative employees to the disclosures that are maintained for public record and forwarded to APOC. Gifts of value of \$250 or more must be reported within 30 days of receipt.

Sec. 25. This language puts disclosers on notice that legislators and legislative employees must disclose gifts of family members' to the Ethics Committee.

Sec. 26. A new section that prohibits serving legislators from "directly or by authorizing another to act on the legislator's behalf, accepting or agreeing to accept compensation from anyone but the state for services related to their work. **ETHICS**

Sec. 27. Prohibits a legislator or legislative employee from being compensation for representation before a "municipal, legislative, or executive branch" entity.
ETHICS

Sec. 26. Streamlines reporting requirements so that unless otherwise provided for, Ethics disclosure deadlines for legislators, legislative employees, and committee members will be "30 days after the commencement of the matter or interest".

Sec. 27. An additional disclosure report of service on a board, interest in a state contract or lease, participation in a state loan program, a close economic association, or representation of a client must be made within 30 days of the first day of session.

Sec. 28. New law requires a former legislator, legislative employee or public member of the Select Committee on Legislative Ethics to file disclosure information for all matters relevant to when that person was a legislator, legislative employee or public member of the Select Committee on Legislative Ethics even though they no longer hold that position.

Sec. 29. Adds an additional disclosure requirement within thirty days after the legislature goes into session of service on the board of an organization, interest in a state contract or lease, participation in a state program or loan, a close economic association, or representation of client before a state agency, board, or commission.

Sec. 30. Requires legislators, legislative employees, and public members of the Ethics Committee to file a final disclosure report with APOC within 90 days of leaving service.

Sec. 31. Allows the chair of the Ethics Committee or a subcommittee to designate the alternate legislative member to attend a meeting if the regular member is unable to attend. Currently the chair can only appoint the alternate if the regular member has a conflict with an item on the meeting agenda.

Sec. 32. Adds to Select Committee on Ethics establishment clause a definition of "majority organizational caucus" which means "a group of legislators who have organized and elected a majority leader and constitute more than 50 percent of the total membership of the house or senate."

Sec. 33. Allows the chair of the Ethics Committee or a subcommittee to designate an alternate member to attend a meeting if the regular member and the alternate member are both accused of a violation in the complaint the committee is hearing.

Sec. 34. Adds to duties of the Ethics Committee, requiring that it publish certain educational legislative ethics materials, and in January of each year administer an ethics course to help people covered by the ethics code understand and follow it.

Sec. 35. New section requires legislators, legislative employees, and public members of the Ethics Committee to complete the legislative ethics course offered by the committee. ETHICS

Sec. 36. Adds APOC and Ethics Committee to the list of entities that may request an advisory opinion under AS 24.60.160 and adds the requirement that advisory opinions be redacted before publication to protect the identity of the person involved. It also makes the vote record of the committee a public record.

Sec. 37. Allows persons who have provided legal advice to the Ethics Committee in the past, but no longer do so, to be appointed by the committee to present the case against the person charged. It also grants authority to the committee to approve the change date of a hearing beyond the current 20 - 90 days limit. It also allows the committee to dismiss a complaint if the delay caused by the complainant in the case is not supported by a compelling reason or would result in the person charged being deprived of a fair hearing.

Sec. 38. Defines the victims' advocate as the "appointing authority" for the purpose of determining how to sanction an employee of the Office of Victims' Rights found by the Ethics Committee to have violated the Legislative Ethics Act; and similarly defines the legislature as the "appointing authority" where the question is how to sanction the victims' advocate. ETHICS

Sec. 39. Revises list of financial information a legislator, public member of the committee, or a legislative director is required to disclose, by clarifying that disclosure of income received for personal services, or a loan or loan guarantee, are to be reported to APOC in the Annual Financial Disclosure in Title 24, not Title 39. It also requires that when personal income is reported the approximate numbers of hours worked must be reported along with any other information the earner wishes to report. (This amends the initiative language passed.)

Sec. 40. Requires a person who is appointed after the required annual report as a legislator, public member of the committee, or legislative director, must file a financial disclosure report with APOC within 30 days after the person is appointed. In addition, the person must file a financial disclosure report within 90 days of leaving service.

Sec. 41. Requires mandatory electronic filing of financial disclosures to APOC for legislators, legislative directors, and ethics committee members by July 1, 2008 except in a case where APOC makes an exception.

Sec. 42. Requires APOC to notify the Alaska Legislative Council when the legislative director for the ombudsman's office or the office of victims' rights has failed to file a disclosure report with APOC.

Sec. 43. Amends the definition of "anything of value", "benefit", or "thing of value" to include exemption of food or drink immediately consumed and tickets for a charity event.

Sec. 44. Expands powers and duties of the Alaska Retirement Management Board to include administering pension forfeitures.

Sec. 45. Sets in statute provisions to administer pension forfeitures including provisions to allow the board to award a spouse, dependent, or former spouse some or all of the forfeiture.

Sec. 46. Pension forfeiture provisions in AS 37.10.310 apply to the Public Employees' Defined Benefit Retirement Plan.

Sec. 47. Pension forfeiture provisions in AS 37.10.310 apply to PERS employees first hired on or after July 1, 2006.

Sec. 48. Requires that within 90 days after leaving office a former public official shall file a final statement with APOC covering any period during the official's service for which the official did not already file a statement.

Sec. 49. Public officials and candidates will now be required to disclose to APOC in their financial statements all sources of income over \$1,000 and all gifts with cumulative value over \$250, and the disclosure of income and gifts will include a description of the income's or gift's source, amount, the recipient and, regarding income, a description of how it was earned. It adds a limited liability company as a source of income.

Sec. 50. Amends the definition of "close economic association" for the purposes of financial disclosure to include a limited liability corporation.

Sec. 51 & 52. This section would substantially amend blind trusts from their current form under AS 39.50.040. Blind trusts would remain optional and applies to public officials. APOC

Sec. 53. Requires information submitted to APOC under 39.50 (public officials and candidates for public office) to be submitted electronically started July 1, 2007 unless APOC makes an exception, but makes electronic filing optional for municipal officers.

Sec. 54. Effective January 1, 2009, municipal candidates in communities with a population of 15,000 or more would be required to file electronically.

Sec. 55. Amends definition of "source of income" for the purposes of disclosure to include income from a limited liability corporation.

Sec. 56. Expands the definition of "public official" AIDEA, board of directors of the Knik Arm Bridge and Toll Authority, Alaska labor Relations Agency, the Board of Trustees of the Alaska Mental Health Trust Authority, and the Board of Director of the Alaska Railroad Corporation. APOC

Sec. 57. New subsection makes presumption that stock or other ownership valued at less than \$5,000 is insignificant for public officials in the Executive Branch. The value is based on the dollar value at the time the report is filed.
ATTORNEY GENERAL & PERSONNEL BOARD

Sec. 58. Presumes a gift from a lobbyist to a public official or a family member of a public official, regardless of the value, is intended to influence a public official and is prohibited unless the gift is from an immediate family member. APOC.

Sec. 59. Prohibits a public officer for two years after leaving position with the state from representing, advising, or assisting a person for compensation regarding a matter that was under consideration by the administrative unit served by that

public officer, and in which that public officer participated personally and substantially through exercise of official action, including a case, proceeding, application, contract, determination proposal or consideration of a legislative bill, a resolution, constitutional amendment, or other legislative measures, or proposal, consideration, or adoption of an administrative regulation. ATTORNEY GENERAL

Sec. 60. Adds a deputy head or employee of the Office of the Governor in a policy-making position to the list of the governor, lieutenant governor, or department head who are prohibited from lobbying for one year after leaving service. APOC

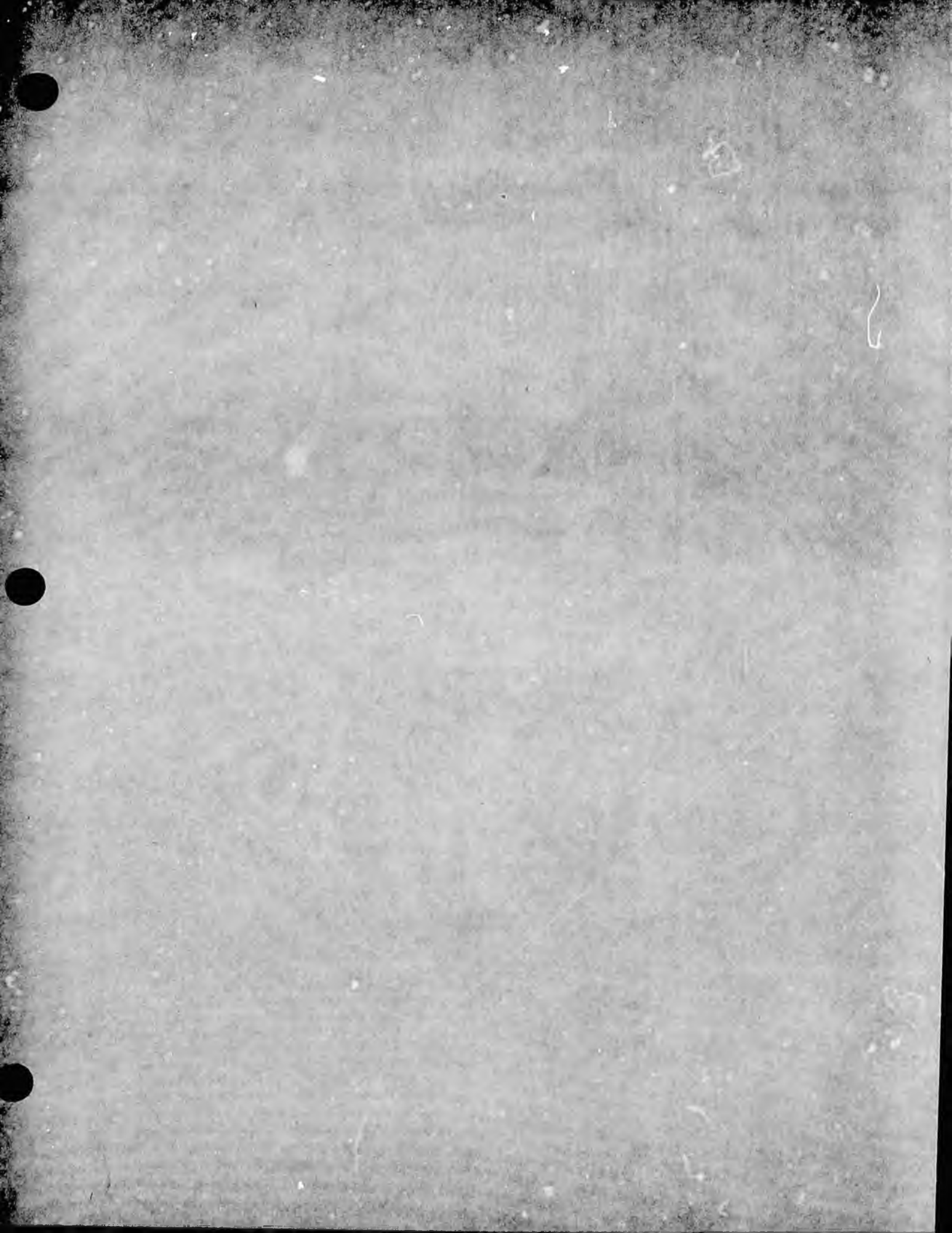
Sec. 61. Prohibits a public official who is required to file a financial disclosure with APOC from serving on a governing board of certain companies, organizations or other entities, for one year after leaving office, depending on the entity's connection with the person's work as a public officer. APOC

Sec. 62. Before a governor grants executive clemency the governor is required to disclose in writing to the attorney general whether granting clemency would benefit a personal or financial interest of the governor. ATTORNEY GENERAL

Sec. 63. Adds to application of Administrative Adjudications the Alaska Retirement Management Board for administration of administrative forfeitures.

Sec. 64. Repeals AS 24.60.037(d) temporary appointment of legislative members of ethics committee when conflicts occur which is now addressed in Section 29; and AS 24.60.080(k) definition of "immediate family" which was moved to Section 21.

Secs. 65 – 69. Applicability and effective date clauses.



CSHB 109(JUD) am VERSION "N.A"

PENSION FORFEITURES – TITLE 14, 22, 37, 44

Sec. 2. Pension forfeiture provisions in AS 37.10.310 apply to the Teachers' Defined Benefit Retirement Program.

Sec. 3. Pension forfeiture provisions in AS 37.10.310 apply to the teachers first hired on or after July 1, 2006.

Sec. 7. Pension forfeiture provisions in AS 37.10.310 apply to the retirement and death benefits of justices and judges.

Sec. 44. Expands powers and duties of the Alaska Retirement Management Board to include administering pension forfeitures.

Sec. 45. Sets in statute provisions to administer pension forfeitures including provisions to allow the board to award a spouse, dependent, or former spouse some or all of the forfeiture.

Sec. 46. Pension forfeiture provisions in AS 37.10.310 apply to the Public Employees' Defined Benefit Retirement Plan.

Sec. 47. Pension forfeiture provisions in AS 37.10.310 apply to PERS employees first hired on or after July 1, 2006.

Sec. 63. Adds to application of Administrative Adjudications the Alaska Retirement Management Board for administration of administrative forfeitures.

REPORTING - LEGISLATORS – TITLE 15 & 24

Section 1. The definition of "benefit" does not include a campaign contribution unless the contribution is made to alter a candidates vote or position on a matter the candidate could take official action on.

Sec. 4. This section eliminates the \$5,000 exemption for all candidates for public office except delegates to a constitutional convention, a judge seeking judicial retention, or a candidate for a municipal office.