

First Extraordinary Session, 2005

HOUSE BILL NO. 9

BY REPRESENTATIVES LAFLEUR AND CAZAYOUX

ETHICS: Requires elected officials to disclose information regarding certain contracts and subcontracts (Item #6)

1 AN ACT

2 To enact R.S. 42:1114.3, relative to disclosure; to require certain officials to disclose
3 information to the Board of Ethics regarding certain contracts or subcontracts; to
4 provide for the content of such disclosure; to provide for penalties; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1114.3 is hereby enacted to read as follows:

8 §1114.3. Disaster or emergency contracts; disclosure

9 A. Except as provided in Subsection B of this Section, each elected official
10 who derives, either directly or through a legal entity in which such elected official
11 owns ten percent or more, any thing of economic value through any contract or
12 subcontract which is related to a gubernatorially declared disaster or emergency and
13 which the elected official knows or reasonably should know is or may be funded or
14 reimbursed in whole or in part with federal funds shall disclose the following as
15 provided in this Section:

16 (1) The name and address of the elected official and the office held by such
17 person.

18 (2) If through a legal entity, the name and business address of the legal
19 entity, the percentage of the elected official's ownership interest in the legal entity,
20 and the position, if any, held by the elected official in the legal entity.

1 (3) The nature of the contract or subcontract, including the amount of the
2 contract or subcontract and a description of the goods or services provided or to be
3 provided pursuant to the contract or subcontract.

4 (4) The amount of income or value of any thing of economic value derived
5 through the contract or subcontract by the elected official for the previous calendar
6 year, except as provided in Subsection C of this Section.

7 B. No elected official shall be required to disclose the receipt of any thing
8 of economic value pursuant to this Section when the value of the thing of economic
9 value is two thousand five hundred dollars or less. However, no person shall enter
10 into separate contracts or subcontracts valued at two thousand five hundred dollars
11 or less with the same person or governmental entity or agency thereof as a subterfuge
12 to avoid the disclosure requirements of this Section.

13 C. Each elected official subject to the provisions of this Section shall file an
14 initial disclosure statement with the Board of Ethics no later than thirty days after the
15 effective date of this Section or fifteen days after the elected official or legal entity
16 enters into the contract or subcontract, whichever occurs later. The initial disclosure
17 statement shall contain all of the information required by Subsection A of this
18 Section, except that instead of the actual amount of income or value of any thing of
19 economic value derived from the contract or subcontract by the elected official for
20 the previous calendar year, the elected official shall include the amount of income
21 or value of any thing of economic value to be derived or, if the actual amount is
22 unknown at the time the statement is due, reasonably expected to be derived from the
23 contract or subcontract for the first calendar year of the contract or subcontract.

24 D.(1) After filing the initial disclosure statement, the elected official shall
25 file the disclosure statements required by this Section with the Board of Ethics no
26 later than February fifteenth each year and shall include such information for the
27 previous calendar year.

28 (2) An elected official subject to the provisions of this Section shall be
29 required to file the annual disclosure statements required by this Section until a

1 disclosure statement is filed after the completion of the contract or subcontract
2 subject to disclosure or the person filing such statements is no longer an elected
3 official, whichever occurs first.

4 (3) Annual disclosure statements shall not be required for the receipt of
5 things of value pursuant to contracts or subcontracts entered into prior to an elected
6 official taking office; however, if an elected official receives or reasonably expects
7 to receive a thing of value otherwise required to be disclosed by this Section pursuant
8 to the renewal of such a contract or subcontract occurring after the official takes
9 office, such official shall file a disclosure statement no later than fifteen days after
10 such renewal in accordance with Subsection C of this Section and annually thereafter
11 in accordance with this Subsection.

12 (4) All disclosure statements filed pursuant to this Section shall be a matter
13 of public record.

14 E.(1) Failure to file a statement, failure to timely file a statement, failure to
15 disclose required information, filing a false statement, or engaging in a subterfuge
16 to avoid the disclosure requirements of this Section shall subject a person required
17 to file to penalties as provided by this Chapter.

18 (2) In addition to other applicable penalties, whoever fails to file a statement
19 required by this Section, or knowingly and willfully fails to timely file any such
20 statement, or knowingly and willfully fails to disclose or to accurately disclose any
21 information required by this Section shall be assessed a civil penalty in accordance
22 with R.S. 42:1157 for each day until such statement or the required accurate
23 information is filed. The amount of the penalty shall be one hundred dollars per day.

24 (3) In addition to other applicable penalties, whoever enters into separate
25 contracts or subcontracts valued at less than two thousand five hundred dollars as a
26 subterfuge to avoid the disclosure requirements of this Section shall be subject to the
27 penalties of R.S. 42:1153.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

- 1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.
-

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

LaFleur

HB No. 9

Abstract: Requires an elected official to file an initial and an annual disclosure statement with the Board of Ethics when such official derives, either directly or through a legal entity in which he owns 10% or more, any thing of economic value valued at more than \$2,500 through a contract or subcontract which is related to a gubernatorially declared disaster or emergency and which the elected official knows or reasonably should know is funded or reimbursed with federal funds.

Proposed law requires an elected official to disclose certain specific information regarding the receipt (either directly or through a legal entity in which he owns 10% or more) of any thing of economic value valued at more than \$2,500 through a contract or subcontract which is related to a gubernatorially declared disaster or emergency and which the elected official knows or reasonably should know is or may be funded or reimbursed in whole or in part with federal funds. Proposed law prohibits a person from entering into separate contracts or subcontracts valued at \$2,500 or less with the same person or governmental entity or agency thereof as a subterfuge to avoid the disclosure requirements of proposed law. Proposed law requires the following information to be disclosed to the Board of Ethics (ethics board):

- (1) The elected official's name, address, and office held.
- (2) If through a legal entity, the name and business address of the entity, the elected official's ownership interest in the entity, and the position, if any, held by the elected official in the legal entity.
- (3) The nature of the contract or subcontract, including the amount of the contract or subcontract and a description of the goods or services provided or to be provided.
- (4) The amount of income or value of any thing of economic value derived through the contract or subcontract by the elected official for the previous calendar year (except as provided for initial statements).

Proposed law requires an initial disclosure statement containing all of the information specified above to be filed with the ethics board no later than 30 days after the effective date of proposed law or 15 days after the elected official or legal entity enters into the contract or subcontract, whichever occurs later. Specifies instead of disclosing the actual amount of income or value of any thing of economic value derived from the contract or subcontract for the previous calendar year, the elected official shall include the amount of income or value of any thing of economic value to be derived or reasonably expected to be derived from the contract or subcontract for the first calendar year of the contract or subcontract. Proposed law then requires annual disclosure statements to be filed no later than February 15 of each year that include information for the previous calendar year. Proposed law requires such disclosure statements to be filed until a disclosure statement is filed after the completion of the contract or subcontract or until the person filing the statements is no longer an elected official, whichever occurs first.

Proposed law specifies that annual disclosure statements shall not be required for the receipt of things of value pursuant to contracts or subcontracts entered into prior to an elected official taking office. However, provides that if an elected official receives or reasonably expects to receive a thing of value otherwise required to be disclosed by proposed law pursuant to the renewal of such a contract or subcontract occurring after he takes office, such official shall file a disclosure statement no later than 15 days after such renewal in accordance with the provisions of proposed law requiring an initial disclosure statement and annually thereafter in accordance with proposed law.

Proposed law specifies that all disclosure statements filed pursuant to proposed law are public records. Proposed law provides that failure to file a statement, failure to timely file a statement, failure to disclose required information, filing a false statement, or engaging in a subterfuge to avoid the disclosure requirements shall subject a person to penalties as provided in the Code of Governmental Ethics (present law). Additionally imposes penalties of \$100 per day for failure to file, knowingly and willfully failing to timely file, or knowingly and willfully failing to disclose or accurately disclose any information required for each day until the statement or required accurate information is filed. Specifies that whoever enters into separate contracts or subcontracts valued at \$2,500 or less as a subterfuge to avoid the disclosure requirements of proposed law shall be subject to the penalties of present law (R.S. 42:1153--which provides that for elected officials and other persons, the ethics board may censure or impose a fine of up to \$10,000, or both).

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 42:1114.3)