

First Extraordinary Session, 2005

HOUSE BILL NO. 51

BY REPRESENTATIVE BRUNEAU AND SENATOR CAIN AND REPRESENTATIVES ALEXANDER, BEARD, BURNS, CROWE, DOVE, DOWNS, ERDEY, GEYMANN, GREENE, HUTTER, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MARTINY, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SCHNEIDER, SMILEY, JANE SMITH, STRAIN, TOOMY, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE, AND WINSTON AND SENATORS BARHAM, BOASSO, DARDENNE, HOLLIS, KOSTELKA, LENTINI, MALONE, MICHOT, QUINN, ROMERO, SCHEDLER, AND THEUNISSEN

ETHICS: Provides relative to the receipt of any thing of economic value by an elected or appointed state or local official as a result of federally funded contracts or transactions arising as a result of a gubernatorially declared disaster or emergency (Item #6)

1 AN ACT

2 To enact R.S. 42:1114.3, relative to the receipt of any thing of economic value from certain  
3 contracts and subcontracts; to require elected officials, immediate family members,  
4 and certain related legal entities to disclose information regarding certain contracts  
5 and subcontracts; to provide for the content of such disclosure; to provide for certain  
6 prohibitions; to provide for penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

9 §1114.3. Disaster or emergency contracts

10 A. Each elected official and each member of his immediate family who  
11 derives, either directly or through a legal entity in which such official or immediate  
12 family member owns five percent or more, any thing of economic value through any  
13 contract or subcontract which is related to a gubernatorially declared disaster or  
14 emergency and which the official or immediate family member knows or reasonably

1        should know is or may be funded or reimbursed in whole or in part with federal  
2        funds shall disclose the following as provided in this Section:

3                (1)(a) If an elected official, the name and address of the elected official and  
4        the office held by such person.

5                (b) If an immediate family member of an elected official, the name and  
6        address of such person; the name, address, and office of the elected official to whom  
7        the person is related; and the nature of the relationship.

8                (2) If through a legal entity, the name and business address of the legal  
9        entity, the percentage of the official's or immediate family member's ownership  
10       interest in the legal entity, and the position, if any, held by the official or immediate  
11       family member in the legal entity.

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

15               (4) The amount of income or value of any thing of economic value derived  
16       through the contract or subcontract by the official or immediate family member for  
17       the previous six months, except as provided in Subsection C of this Section.

18               B. Each elected official and immediate family member subject to the  
19       provisions of this Section shall file an initial disclosure statement with the Board of  
20       Ethics no later than thirty days after the effective date of this Section. The initial  
21       disclosure statement shall contain all of the information required by Subsection A  
22       of this Section, except that instead of the actual amount of income or value of any  
23       thing of economic value derived from the contract or subcontract by the official or  
24       immediate family member for the previous six months, the official or immediate  
25       family member shall include the amount of income or value of any thing of  
26       economic value to be derived or, if the actual amount is unknown at the time the  
27       statement is due, reasonably expected to be derived from the contract or subcontract  
28       for the first calendar year of the contract or subcontract.

1           C.(1) After filing the initial disclosure statement, the elected official or  
2           immediate family member shall file the disclosure statements required by this  
3           Section with the Board of Ethics no later than February fifteenth each year which  
4           statement shall be complete from July first through December thirty-first of the  
5           previous calendar year and no later than July fifteenth which statement shall be  
6           complete from January first through June thirtieth of the current calendar year.

7           (2) An elected official or immediate family member subject to the provisions  
8           of this Section shall be required to file the disclosure statements required by this  
9           Section until a disclosure statement is filed after the completion of the contract or  
10          subcontract subject to disclosure.

11          (3) Disclosure statements by an elected official or his immediate family  
12          members shall not be required for the receipt of things of value pursuant to contracts  
13          or subcontracts entered into prior to the elected official taking office; however, no  
14          such contract or subcontract occurring after the official takes office shall be renewed.

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

17          D.(1) Failure to file a statement, failure to timely file a statement, failure to  
18          disclose required information, or filing a false statement shall subject a person  
19          required to file to penalties as provided by this Chapter.

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

26          E. The provisions of Subsections A through D of this Section shall be  
27          applicable to the disclosure of things of economic value received prior to the  
28          effective date of this Section; after the effective date of this Section, no elected  
29          official, immediate family member of an elected official, or legal entity in which an

1        elected official or his immediate family member owns five percent or more shall  
 2        enter into any contract or subcontract which is related to a gubernatorially declared  
 3        disaster or emergency and which the official or immediate family member knows or  
 4        reasonably should know is or may be funded or reimbursed in whole or in part with  
 5        federal funds.

6        Section 2. This Act shall become effective upon signature by the governor or, if not  
 7 signed by the governor, upon expiration of the time for bills to become law without signature  
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 10 effective on the day following such approval.

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#### DIGEST

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

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Bruneau

HB No. 51

**Abstract:** Provides for certain disclosures and prohibitions relative to the receipt of any thing of economic value by an elected official or his immediate family member which is derived, either directly or through a legal entity in which such a person owns 5% or more, through a contract or subcontract which is related to a gubernatorially declared disaster or emergency and which such person knows or reasonably should know is funded or reimbursed with federal funds.

Proposed law requires an elected official and his immediate family members to disclose certain specific information regarding the receipt (either directly or through a legal entity in which such a person owns 5% or more) of any thing of economic value through a contract or subcontract which is related to a gubernatorially declared disaster or emergency and which such person knows or reasonably should know is or may be funded or reimbursed in whole or in part with federal funds. Proposed law requires the following information to be disclosed to the Board of Ethics (ethics board):

- (1) If an elected official, the official's name, address, and office held or if an immediate family member, the person's name and address; the name, address, and office of the elected official to whom the person is related; and the nature of the relationship.
- (2) If through a legal entity, the name and business address of the entity, the official's or immediate family member's ownership interest in the entity, and the position, if any, held by the official or immediate family member 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 official or immediate family member for the previous six months (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. 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 six months, the official or immediate family member 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 disclosure statements to be filed no later than February 15 of each year that include information for July 1 through December 31 for the previous calendar year and no later than July 15 to include information for January 1 through June 30 of the current 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.

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 official taking office. However, it prohibits the renewal of such a contract or subcontract after the elected official takes office. 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, or filing a false statement 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.

Proposed law specifies that the provisions of proposed law above are applicable to the disclosure of things of economic value received prior to the effective date of proposed law. Proposed law specifies that after the effective date of proposed law no elected official, immediate family member of an elected official, or legal entity in which an elected official or his immediate family member owns 5% or more shall enter into any contract or subcontract which is related to a gubernatorially declared disaster or emergency and which the official or immediate family member knows or reasonably should know is or may be funded or reimbursed in whole or in part with federal funds.

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

(Adds R.S. 42:1114.3)