

First Extraordinary Session, 2005

HOUSE BILL NO. 130

BY REPRESENTATIVES GREENE, ALEXANDER, BEARD, BRUNEAU, BURNS, CROWE, DOVE, DOWNS, ERDEY, GEYMANN, 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, CAIN, 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 and appointed officials to disclose
4 information regarding certain contracts and subcontracts; to provide for the content
5 of such disclosure; to provide for certain prohibitions; to provide for penalties; and
6 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 or appointed official who derives, whether directly, through
11 his spouse, or through a legal entity in which such official or his spouse owns five
12 percent or more, any thing of economic value through any contract or subcontract
13 which is related to a gubernatorially declared disaster or emergency and which the
14 official or his spouse knows or reasonably should know is or may be funded or

1 reimbursed in whole or in part with federal funds shall disclose the following as
2 provided in this Section:

3 (1)(a) The name and address of the elected or appointed official and the
4 office held by such person.

5 (b) If the thing of economic value is derived through the spouse, the name
6 and address of such person.

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

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

13 (4) The amount of income or value of any thing of economic value derived
14 through the contract or subcontract by the official or spouse for the previous six
15 months, except as provided in Subsection B of this Section.

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

27 C.(1) After filing the initial disclosure statement, the elected or appointed
28 official shall file the disclosure statements required by this Section with the Board
29 of Ethics no later than February fifteenth each year which statement shall be

1 complete from July first through December thirty-first of the previous calendar year
2 and no later than July fifteenth which statement shall be complete from January first
3 through June thirtieth of the current calendar year.

4 (2) An elected or appointed official subject to the provisions of this Section
5 shall be required to file the disclosure statements required by this Section until a
6 disclosure statement is filed after the completion of the contract or subcontract
7 subject to disclosure or the person filing the disclosure statements is no longer an
8 elected or appointed official, whichever occurs first.

9 (3) Disclosure statements shall not be required for the receipt of things of
10 economic value pursuant to contracts or subcontracts entered into prior to an elected
11 or appointed official taking office; however, no such contract or subcontract shall be
12 renewed after the official takes office.

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

15 D.(1) Failure to file a statement, failure to timely file a statement, failure to
16 disclose required information, or filing a false statement shall subject a person
17 required 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 E. The provisions of Subsections A through D of this Section shall be
25 applicable to the disclosure of things of economic value received prior to the
26 effective date of this Section and to the disclosure of the receipt of things of
27 economic value received after the effective date of this Section through a legal entity
28 in which such official or his spouse owns five percent or more but less than a
29 controlling interest; after the effective date of this Section, no elected or appointed

1 official, spouse of an elected or appointed official, or legal entity in which such a
2 person owns a controlling interest shall enter into any contract or subcontract which
3 is related to a gubernatorially declared disaster or emergency and which such person
4 knows or reasonably should know is or may be funded or reimbursed in whole or in
5 part with federal funds. However, if an elected or appointed official, spouse of an
6 elected or appointed official, or legal entity in which such a person owns a
7 controlling interest enters into any contract or subcontract which is related to a
8 gubernatorially declared disaster or emergency in violation of the prohibition
9 contained in this Subsection, such an elected or appointed official shall be required
10 to disclose the receipt of any thing of economic value from such a contract or
11 subcontract in accordance with the provisions of Subsections A through D of this
12 Section.

13 F. For the purposes of this Section, the term "appointed official" shall mean
14 a person holding an office in any branch of government or other position on an
15 agency, board, or commission or any executive office of any agency, board,
16 commission, or department which is specifically established or specifically
17 authorized by the constitution or laws of this state, by the charter or ordinances of
18 any political subdivision thereof, or by executive order of the governor and which
19 is filled by appointment or election by an elected or appointed public official or by
20 a governmental body composed of such officials of this state or of a political
21 subdivision thereof.

22 Section 2. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 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.

Greene

HB No. 130

Abstract: Provides for certain disclosures and prohibitions relative to the receipt of any thing of economic value by an elected or appointed official which is derived, either directly, through his spouse, or through a legal entity in which the official or his spouse owns 5% or more (and for certain prohibitions more than 25%), 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 or appointed official to disclose certain specific information regarding the receipt (whether directly, through his spouse, or through a legal entity in which the official or his spouse 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 the official or his spouse 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 or appointed official, the official's name, address, and office held and if through a spouse, the spouse's name and address.
- (2) If through a legal entity, the name and business address of the entity, the official's or spouse's ownership interest in the entity, and the position, if any, held by the official or spouse 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 spouse 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 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 and to the disclosure of the receipt of things of economic value received after the effective date of proposed law through a legal entity in which such official or his spouse owns 5% or more but less than a controlling interest. Proposed law specifies that after the effective date of proposed law no elected official, his spouse, or legal entity in which an elected official or his spouse owns a controlling interest (more than 25%-- see definition of controlling interest below) shall enter into any contract or subcontract which is related to a gubernatorially declared disaster or emergency and which the official or spouse knows or reasonably should know is or may be funded or reimbursed in whole or in part with federal funds. Proposed law additionally provides however, that if an elected or appointed official, spouse of an elected or appointed official, or legal entity in which such a person owns a controlling interest enters into any contract or subcontract which is related to a gubernatorially declared disaster or emergency in violation of the prohibition contained in proposed law such official shall be required to disclose such receipt in accordance with proposed law.

Proposed law defines for its purposes the term "appointed official" as a person holding office in any branch of government or other position on an agency, board, or commission or any executive office of any agency, board, commission, or department which is specifically established or specifically authorized by the constitution or laws of this state, by the charter or ordinances of any political subdivision thereof, or by executive order of the governor and which is filled by appointment or election by an elected or appointed public official or by a governmental body composed of such officials of this state or of a political subdivision thereof.

Present law (Code of Governmental Ethics) defines "controlling interest" as any ownership in any legal entity or beneficial interest in a trust held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds 25% of that legal entity.

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

(Adds R.S. 42:1114.3)