

First Extraordinary Session, 2005

HOUSE BILL NO. 51

BY REPRESENTATIVES BRUNEAU, 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 CAIN, 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 official or certain related persons as a result of federally funded contracts or subcontracts 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 certain officials to disclose certain information  
4 to the Board of Ethics regarding certain contracts and subcontracts; to provide for the  
5 content of such disclosure; to provide for certain prohibitions; to provide for  
6 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. Except as provided in Subsection B of this Section, each elected official  
11 or appointed state official who derives, whether directly, through his spouse, or  
12 through a legal entity in which such official or his spouse owns ten percent or more,  
13 any thing of economic value through any contract or subcontract which is related to  
14 a gubernatorially declared disaster or emergency and which the official or his spouse

1 knows or reasonably should know is or may be funded or reimbursed in whole or in  
2 part with federal funds shall disclose the following as 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 or through  
6 a legal entity in which the spouse has an ownership interest, the name and address  
7 of such person.

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

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

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

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

23 C. Each elected or appointed official subject to the provisions of this Section  
24 shall file an initial disclosure statement with the Board of Ethics no later than thirty  
25 days after the effective date of this Section. The initial disclosure statement shall  
26 contain all of the information required by Subsection A of this Section, except that  
27 instead of the actual amount of income or value of any thing of economic value  
28 derived from the contract or subcontract by the official or spouse for the previous  
29 calendar year, the official shall include the amount of income or value of any thing

1 of economic value to be derived or, if the actual amount is unknown at the time the  
2 statement is due, reasonably expected to be derived from the contract or subcontract  
3 for the first calendar year of the contract or subcontract.

4 D.(1) After filing the initial disclosure statement, the elected or appointed  
5 official shall file the disclosure statements required by this Section with the Board  
6 of Ethics no later than February fifteenth each year and shall include such  
7 information for the previous calendar year.

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

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

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

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

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

28 F. The provisions of Subsections A through E of this Section shall be  
29 applicable to the disclosure of things of economic value received prior to the

1        effective date of this Section; after the effective date of this Section, no elected or  
 2        appointed official, spouse of an elected or appointed official, or legal entity in which  
 3        such a person owns ten percent or more shall enter into any contract or subcontract  
 4        which is related to a gubernatorially declared disaster or emergency and which the  
 5        official or his spouse knows or reasonably should know is or may be funded or  
 6        reimbursed in whole or in part with federal funds.

7                G. For the purposes of this Section, the term "appointed state official" or  
 8        "appointed official" shall mean a person holding an office in any branch of state  
 9        government or other position on a state agency, board, or commission or any  
 10        executive office of any state agency, board, commission, or department which is  
 11        specifically established or specifically authorized by the constitution or laws of this  
 12        state or by executive order of the governor and which is filled by appointment or  
 13        election by an elected or appointed public official or by a governmental body  
 14        composed of such officials of this state.

15        Section 2. This Act shall become effective upon signature by the governor or, if not  
 16 signed by the governor, upon expiration of the time for bills to become law without signature  
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 19 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 or appointed official which is derived, either directly, through his spouse, or through a legal entity in which the official or his spouse owns 10% 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 or appointed official to disclose certain specific information regarding the receipt (whether directly, through his spouse, or through a legal entity in which he or his spouse 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 official's name, address, and office held and if the thing of economic value is derived through a spouse or a legal entity in which the spouse has an ownership interest, the name and address of such person.
- (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 his 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 his spouse 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 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 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 or appointed official, whichever occurs first.

Proposed law specifies that annual disclosure statements shall not be required for the receipt of things of economic value pursuant to contracts or subcontracts entered into prior to an elected or appointed official taking office. However, provides that no such contract or subcontract shall be renewed after the 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, 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 the ethics board may impose a fine of up to \$10,000 and other types of penalties).

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 or appointed

official, his spouse, or legal entity in which such an official or his spouse owns 10% or more 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 defines for its purposes the term "appointed state official" or "appointed official" as a person holding an office in any branch of state government or other position on a state agency, board, or commission or any executive office of any state agency, board, commission, or department which is specifically established or specifically authorized by the constitution or laws of this state 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.

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

(Adds R.S. 42:1114.3)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Removes requirement that immediate family members file disclosure statements containing information regarding certain contracts or subcontracts related to a gubernatorially declared disaster or emergency.
2. Additionally requires appointed state officials to disclose the receipt of certain things of economic value as provided in proposed law and defines "appointed state officials" and "appointed official" for such purposes.
3. Regarding the information to be disclosed on information the receipt of certain things of economic value through certain legal entities, changes the ownership interest from 5% or more to 10% or more.
4. Additionally requires an elected or appointed official to disclose the receipt of certain things of economic value received through the spouse of such an official or through any legal entity in which the spouse owns 10% or more.
5. Provides that things of economic value received valued at less than \$2,500 are not required to be disclosed and prohibits a person from entering into separate contracts or subcontracts valued at \$2,500 or less as a subterfuge to avoid the disclosure requirements.
6. Changes the disclosure schedule from a six-month timetable (no later than Feb. 15 of each year, including information for July 1 through Dec. 31 for the previous year and no later than July 15 to include information for Jan. 1 through June 30 or the current year) to an annual requirement, due on Feb. 15 including information for the previous calendar year and changes the proposed income disclosure provision to reflect such change.
7. Changes the proposed prohibition on certain contracts or subcontracts from a prohibition on an elected official, immediate family member of an elected official, or legal entity in which such a person owns 5% or more entering into such contracts or subcontracts to a prohibition on an elected official, appointed official, spouse of such a person, or legal entity in which such a person owns 10% or more entering into such contracts or subcontracts.