

First Extraordinary Session, 2005

HOUSE BILL NO. 9

BY REPRESENTATIVES LAFLEUR, CAZAYOUX, ALARIO, DEWITT, DORSEY,  
HAMMETT, LANCASTER, AND SALTER AND SENATORS HEITMEIER,  
HINES, AND MOUNT

ETHICS: Requires elected officials and appointed state 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 or appointed state official who derives, whether directly, through his spouse, or  
11 through a legal entity in which such official or his spouse owns ten percent or more,  
12 any thing of economic value through any contract or subcontract which is related to  
13 a gubernatorially declared disaster or emergency and which the official or his spouse  
14 knows or reasonably should know is or may be funded or reimbursed in whole or in  
15 part with federal funds shall disclose the following as provided in this Section:

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

1           **(b) If the thing of economic value is derived through the spouse or through**  
2           **a legal entity in which the spouse has an ownership interest, the name and address**  
3           **of such person.**

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

7           **(3) The nature of the contract or subcontract, including the amount of the**  
8           **contract or subcontract and a description of the goods or services provided or to be**  
9           **provided pursuant to the contract or subcontract.**

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

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

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

1 be derived from the contract or subcontract for the first calendar year of the contract  
2 or subcontract.

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

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

12 (3) Annual disclosure statements shall not be required for the receipt of  
13 things of value pursuant to contracts or subcontracts entered into prior to an elected  
14 or appointed official taking office; however, if an elected or appointed official or  
15 spouse thereof receives or reasonably expects to receive a thing of value otherwise  
16 required to be disclosed by this Section pursuant to the renewal of such a contract or  
17 subcontract occurring after the official takes office, such official shall file a  
18 disclosure statement no later than fifteen days after such renewal in accordance with  
19 Subsection C of this Section and annually thereafter in accordance with this  
20 Subsection.

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

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

27 (2) In addition to other applicable penalties, whoever fails to file a statement  
28 required by this Section, or knowingly and willfully fails to timely file any such  
29 statement, or knowingly and willfully fails to disclose or to accurately disclose any

1 information required by this Section shall be assessed a civil penalty in accordance  
2 with R.S. 42:1157 for each day until such statement or the required accurate  
3 information is filed. The amount of the penalty shall be one hundred dollars per day.

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

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

16 Section 2. This Act shall become effective upon signature by the governor or, if not  
17 signed by the governor, upon expiration of the time for bills to become law without signature  
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20 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 or appointed official to file an initial and an annual disclosure statement with the Board of Ethics when such official derives, whether directly or through his spouse or a legal entity in which he or his spouse 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 official or his spouse 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, spouse, 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 if an elected or appointed official or spouse of such a person receives or reasonably expects to receive a thing of economic 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 the ethics board may impose a fine of up to \$10,000 and other types of penalties).

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. 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.
2. 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.