

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 and to repeal R.S. 42:1114.1(B)(2), relative to disclosure; to require
3 certain officials to disclose information to the Board of Ethics regarding certain
4 contracts or subcontracts; to provide for the content of such disclosure; to provide
5 for penalties; and to provide 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 an immediate
11 family member, or through a legal entity in which such official or his immediate
12 family member owns ten 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 his immediate family member knows or
15 reasonably should know is or may be funded or reimbursed in whole or in part with
16 federal funds shall disclose the following as provided in this Section:

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

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

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

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

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

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

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

1 time the statement is due, reasonably expected to be derived from the contract or
2 subcontract for the first calendar year of the contract 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 economic value pursuant to contracts or subcontracts entered into prior to
14 an elected or appointed official taking office; however, if an elected or appointed
15 official or immediate family member thereof receives or reasonably expects to
16 receive a thing of economic value otherwise required to be disclosed by this Section
17 pursuant to the renewal of such a contract or subcontract occurring after the official
18 takes office, such official shall file a disclosure statement no later than fifteen days
19 after such renewal in accordance with Subsection C of this Section and annually
20 thereafter in accordance with this 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 G. Nothing in this Section shall require the disclosure of any thing of
17 economic value received from an individual assistance claim.

18 H. Notwithstanding any other provision of law to the contrary, on every
19 disclosure report or statement filed pursuant to the provisions of this Section or of
20 R.S. 42:1114, 1114.1, or 1124, the person filing such report or statement shall
21 include the salary or income of such person's spouse if the spouse earns such salary
22 or income from employment or a professional services contract with the state, any
23 political subdivision of the state, or the federal government.

24 Section 2. R.S. 42:1114.1(B)(2) is hereby repealed in its entirety.

25 Section 3. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 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 an immediate family member or a legal entity in which he or his immediate family member 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 immediate family member 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 an immediate family member, or through a legal entity in which he or his immediate family member 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 or his immediate family member 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 specifies that nothing in proposed law shall require the disclosure of any thing of economic value received from an individual assistance claim.

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 an immediate family member or a legal entity in which the immediate family member has an ownership interest, the name and address of such immediate family member.
- (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 his 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 his immediate family member 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, immediate family member, 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 immediate family member 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.

Present law (R.S. 42:1114.1) relative to financial disclosure reports filed by each legislator disclosing specified income received by the legislator, his spouse, and certain business enterprises, specifically exempts from the definition of "income", remuneration from the legislature, salary from the full-time employment of the legislator's spouse, salary of a member's spouse when such spouse is an elected official, and benefits from a statewide public retirement system.

Proposed law removes such present law exemption.

Proposed law additionally requires any person who files a disclosure statement or report pursuant to proposed law (R.S. 42:1114.3) or present law (R.S. 42:1114 (requiring disclosure statements to be filed by public servants, immediate family members, and certain business enterprises concerning transactions with the agency of the public servant); R.S. 42:1114.1 (legislator's financial disclosure reports); and R.S. 42:1124 (governor's disclosure report)), to include the salary or income of his spouse if the salary or income is earned through employment or a professional services contract with the state, a political subdivision, or the federal government.

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

(Adds R.S. 42:1114.3; Repeals R.S. 42:1114.1(B)(2))

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.

House Floor Amendments to the engrossed bill.

1. Additionally requires an elected or appointed official to disclose the receipt of certain things of economic value received through an immediate family member of such an official or through any legal entity in which an immediate family member owns 10% or more.
2. Specifies that the disclosure of any thing of economic value received from an individual assistance claim is not required.
3. Relative to existing financial disclosure provisions for legislators, removes an exemption for reporting remuneration from the legislature, salary from the full-time employment of the legislator's spouse, salary of a member's spouse when such spouse is an elected official, and benefits from a statewide public retirement system.
4. Adds requirement that any person who files any disclosure statement or report pursuant to the proposal or to existing requirements in the Code of Governmental Ethics shall include the salary or income of his spouse if the salary or income is earned through employment or a professional services contract with the state, a political subdivision, or the federal government.