

First Extraordinary Session, 2005

SENATE BILL NO. 81

BY SENATOR HINES

ETHICS. Requires elected officials and appointed state officials to disclose information regarding certain contracts and subcontracts. (gov sig)

1 AN ACT

2 To enact R.S. 42:1114.3, relative to disclosure of certain contracts; to require elected
3 officials and appointed state officials to disclose information to the Board of Ethics
4 regarding the receipt of certain things of value related to certain contracts and
5 subcontracts; to provide for the content of such disclosure; to provide for penalties;
6 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; disclosure**

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

17 **(1)(a) The name and address of the elected or appointed official and the**

1 office held by such person.

2 (b) If the thing of economic value is derived through the spouse, the
3 name and address 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
8 the contract or subcontract and a description of the goods or services provided
9 or to be provided pursuant to the contract or subcontract.

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

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

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

1 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
3 subcontract for the first calendar year of the contract or subcontract.

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

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

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

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

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

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

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

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

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Tabitha I. Gray.

DIGEST

Hines (SB 81)

Proposed law requires an elected or appointed official to disclose certain specific information regarding the receipt (either 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 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. Establishes an aggregate reporting threshold of \$2500. 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, 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 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, 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 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 the governor or lapse of time for gubernatorial action.

(Adds R.S. 42:1114.3)

Summary of Amendments Adopted by Senate

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

1. Increases the percentage of ownership of a legal entity by an elected or appointed official or spouse which triggers the reporting requirement for the entity from the official or his spouse owning 5% of the entity to the official or his spouse owning 10% of the entity.
2. Establishes a reporting threshold of the total value received to an aggregate of \$2500.