

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 certain 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, other than a legislator, subject to
22 the provisions of this Section shall file an initial disclosure statement with the
23 Board of Ethics no later than thirty days after the effective date of this Section
24 or fifteen days after the official, spouse, or legal entity enters into the contract
25 or subcontract, whichever occurs later. Each member of the legislature subject
26 to the provisions of this Section shall file an initial disclosure statement with the
27 clerk of the house to which he or she belongs no later than thirty days
28 after the effective date of this Section or fifteen days after the legislator, spouse,
29 or legal entity enters into the contract or subcontract, whichever occurs later.

1 The initial disclosure statement shall contain all of the information required by
2 Subsection A of this Section, except that instead of the actual amount of income
3 or value of any thing of economic value derived from the contract or
4 subcontract by the official or spouse for the previous calendar year, the official
5 shall include the amount of income or value of any thing of economic value to
6 be derived or, if the actual amount is unknown at the time the statement is due,
7 reasonably expected to be derived from the contract or subcontract for the first
8 calendar year of the contract or subcontract.

9 D.(1) After filing the initial disclosure statement, the elected or
10 appointed official shall file the disclosure statements required by this Section no
11 later than February fifteenth each year and shall include such information for
12 the previous calendar year.

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

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

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

29 E.(1) Failure to file a statement, failure to timely file a statement, failure

1 to disclose required information, or filing a false statement shall subject a
2 person required to file to penalties as provided by this Chapter.

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

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

18 G. Nothing in this Section shall require the disclosure of any thing of
19 economic value received from an individual assistance claim.

20 H. The secretary of the Senate and the clerk of the House of
21 Representatives jointly shall prescribe a form for filing of reports by members
22 of the legislature, as is required by this Section. The secretary shall notify each
23 member of the Senate and the clerk shall notify each member of the House of
24 Representatives that the report is due within the time as is provided by this
25 Section. Within fifteen days of receipt, the secretary and the clerk shall transmit
26 to the Board of Ethics copies of all disclosure reports filed with them,
27 respectively. Reports transmitted by the secretary of the Senate and the clerk
28 of the House shall be deemed to having been filed with the Board of Ethics by
29 the member, as of the date of filing with the clerical officer.

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

The original instrument was prepared by Tabitha Irvin-Gray. The following digest, which does not constitute a part of the legislative instrument, was prepared by Todd Parker.

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 each elected or appointed official, other than a legislator, to file an initial disclosure statement containing all of the information specified above 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. Requires legislators to file an initial disclosure statement with the clerical officer of his/her respective house no later than 30 days after this effective date of proposed law or 15 days after the legislator, 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, 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 provides 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 secretary of the Senate and the clerk of the House to jointly prescribe a form for filing reports by members of the legislature. Requires the secretary and the clerk to notify each member that the report is due within the required time. Further requires the secretary and the clerk, within 15 days of receipt, to transmit to the Board of Ethics copies of all disclosure reports filed with them, respectively. Provides that reports transmitted by the secretary and the clerk shall be deemed to having been filed with the Board of Ethics by the member, as of the date of filing with the clerical officer.

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.

Senate Floor Amendments to engrossed bill.

1. Provides that nothing in proposed law shall require the disclosure of any thing of economic value received from an individual assistance claim.
2. Requires legislators to file an initial disclosure statement with the clerical officer of his/her respective house no later than 30 days after the effective date of proposed law or 15 days after the legislator, spouse, or legal entity enters into the contract or subcontract, whichever occurs later.
3. Requires the secretary of the Senate and the clerk of the House to jointly prescribe a form for filing reports by members of the legislature. Requires the secretary and the clerk to notify each member that the report is due within the required time. Further requires the secretary and the clerk, within 15 days of receipt, to transmit to the Board of Ethics copies of all disclosure reports filed with them, respectively. Provides that reports transmitted by the secretary and the clerk shall be deemed to having been filed with the Board of Ethics by the member, as of the date of filing with the clerical officer.