

First Extraordinary Session, 2008

HOUSE BILL NO. 55

BY REPRESENTATIVE ARNOLD

ETHICS/FINANCIAL DISCLOS: Requires financial disclosure by certain public servants and candidates (Item #1)

1 AN ACT

2 To amend and reenact R.S.18:463(B) and R.S. 42:1114.1, 1124(A), 1124.1(A)(2)(b), and

3 1157(A)(4)(a) and to enact R.S. 42:1114.4, relative to financial disclosure; to require

4 certain disclosures by members of the legislature; to require certain disclosures by

5 candidates for the state legislature; to provide for the content of such disclosures; to

6 require certain disclosures by statewide elected officials; to require certain

7 disclosures by certain appointed officials; to require certain disclosures by members

8 of the Board of Ethics; to require certain disclosures by candidates for statewide

9 elective office; to require all other elected officials to file certain disclosures; to

10 provide for the content of such disclosures; to provide for the duties of the Board of

11 Ethics relative to such disclosures; to provide for penalties; to provide for

12 effectiveness; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 18:463(B) is hereby amended and reenacted to read as follows:

15 §463. Notice of candidacy; financial statements; political advertising; penalties

16 * * *

17 B.(1) At the time that each person who seeks to become a candidate for ~~the~~

18 ~~office of governor~~ statewide elective office files the notice of candidacy required by

19 R.S. 18:463(A), he shall also file a financial statement with the Board of Ethics. The

1 financial statement shall include the information required in R.S. ~~42:1124(B)~~
 2 42:1124 and shall be current as of the date on which it is filed. For the purposes of
 3 the content of the statement, the candidate shall include all of the information
 4 required to be disclosed by R.S. 42:1124 by a statewide elected official. The
 5 candidate shall attach to the financial statement his affidavit certifying that the
 6 information contained in the statement is true and correct to the best of his
 7 knowledge, information, and belief.

8 (2) At the time that each person who seeks to become a candidate for the
 9 office of state legislator files the notice of candidacy required by R.S. 18:463(A), he
 10 shall also file a financial statement with the Board of Ethics. The financial statement
 11 shall include the information for the immediately preceding calendar year required
 12 to be disclosed by R.S. 42:1114.1 by a member of the legislature. The financial
 13 statement filed by a legislator in accordance with R.S. 42:1114.1 shall satisfy the
 14 filing requirements of this Paragraph.

15 ~~(2)~~(3) Whoever fails to file a financial statement required by this Section, or
 16 knowingly and wilfully fails to timely file any such statement, or knowingly and
 17 wilfully fails to disclose or to accurately disclose any information required by this
 18 Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined
 19 not more than five hundred dollars. Whoever wilfully and intentionally files a false
 20 report required by this Section shall be guilty of a misdemeanor and upon conviction
 21 thereof shall be fined not less than one thousand dollars nor more than five thousand
 22 dollars or imprisoned in parish prison for not less than six months, or both.

23 * * *

24 Section 2. R.S. 42:1114.1, 1124(A), 1124.1(A)(2)(b), and 1157(A)(4)(a) are hereby
 25 amended and reenacted and R.S. 42:1114.4 is hereby enacted to read as follows:

26 §1114.1. Financial disclosure; legislators

27 A. Each member of the legislature shall file a report with the clerical officer
 28 of the house to which he belongs, by July first of each year of his or her term of
 29 office, showing the following information for the preceding calendar year:

1 (1)(a) The full name, residence address, occupation, and principal business
2 address of the member.

3 (b) The full name of the spouse of the member, if any, as well as the
4 occupation and principal business address of the spouse.

5 (c) The identity of all positions, including the title of each such position if
6 any, held by the member or his spouse as an officer, director, trustee, partner,
7 proprietor, representative, employee, or consultant of any business enterprise, along
8 with the name and address of each such business enterprise. This Subparagraph shall
9 not require the reporting of positions held in any religious, social, fraternal, or
10 political entity or positions solely of an honorary nature.

11 (2) Any and all income exceeding two hundred fifty dollars received ~~during~~
12 the immediately preceding calendar year by such member, the spouse of such
13 member, or any business enterprise in which such member and/or his spouse owns
14 at least ten percent, which is received from any of the following:

15 (a) The state or any political subdivision as defined in Article VI of the
16 Constitution of Louisiana.

17 (b) Services performed for or in connection with a gaming interest as defined
18 in R.S. 18:1505.2(L)(3)(a).

19 (3) In addition to the information required in Paragraphs (1) and (2) of this
20 Subsection, the following information shall be reported:

21 (a) The name and address of any employer which provides income of five
22 thousand dollars or more to a member or his spouse pursuant to the full-time or part-
23 time employment of the member or his spouse, excluding information required to be
24 reported pursuant to Paragraph (2) of this Subsection, and a brief description of the
25 services rendered pursuant to such employment.

26 (b) The name and address of any business enterprise which provides income
27 of five thousand dollars or more to a member or his spouse, excluding information
28 required to be reported pursuant to Paragraph (2) of this Subsection or Subparagraph

1 (a) of this Paragraph, and a brief description of the nature of services rendered for
2 the business enterprise or of the reason such income was received.

3 (c) A brief description of the type of any other income of five thousand
4 dollars or more received by a member or his spouse, excluding information required
5 to be reported pursuant to Paragraph (2) of this Subsection or Subparagraphs (a) or
6 (b) of this Paragraph, and a brief description of the nature of services rendered for
7 the income or of the reason such income was received.

8 (d) The identity of any interest in immovable property, including the location
9 and classification of the property as personal, industrial, commercial, or agricultural,
10 held by the member or his spouse if the value of the interest is five thousand dollars
11 or more, excluding the personal residence of the member or his spouse.

12 (e) A brief description of any stock, investment, or interest held in any
13 business enterprise headquartered in Louisiana, including the name and address of
14 each such business enterprise, if the value of the stock, investment, or interest is five
15 thousand dollars or more, excluding mutual funds, education investment accounts,
16 retirement investment accounts, government bonds, and cash-equivalent investments.

17 (f) The identity of the liabilities owed by the member or his spouse to any
18 creditor other than an immediate family member, including the name and address of
19 the creditor, if the value of the liability is five thousand dollars or more, excluding
20 liabilities owed by the member or his spouse on the personal residence of the
21 member or his spouse, on the personal vehicle of the member or his spouse, on a
22 credit card, or on a government-backed student loan. The identity of liabilities to be
23 reported shall be the identity of such liabilities owed on the last day of the reporting
24 period.

25 ~~(2)~~(4) A certification that such member has filed his or her federal and state
26 income tax ~~return~~ returns, or has filed for an extension of time for filing such tax
27 ~~return~~ returns.

28 ~~(3)~~ Notwithstanding the provisions of this Subsection, any legislator who
29 receives Medicaid funds may indicate on his financial disclosure report that

1 information relative to ownership, financial interest and income derived therefrom,
2 may be accessed through files on record with the Department of Health and
3 Hospitals, Bureau of Health Standards.

4 B.(1) For purposes of this Section, "business enterprise" shall mean a
5 corporation, company, firm, partnership, limited liability company, sole
6 proprietorship, not-for-profit organization, labor organization, nonpublic educational
7 institution, or other legal entity.

8 (2) For purposes of this Section, "income" includes:

9 (a) Any remuneration received under any verbal or written contract of
10 employment.

11 (b) Fees received for personal or professional services, less expenses paid
12 to third parties.

13 (c) With respect to the sale or lease of immovable property, merchandise, or
14 equipment, the net income, prior to taxation, received from the sale or lease of such
15 immovable property, merchandise, or equipment.

16 ~~(2) For purposes of this Section, "income" shall not include remuneration~~
17 ~~from the legislature, salary from the full-time employment of the member's spouse,~~
18 ~~salary of the member's spouse when such spouse is an elected official, and benefits~~
19 ~~from a statewide public retirement system, and such amounts need not be reported.~~

20 C.(1) The secretary of the Senate and the clerk of the House of
21 Representatives jointly shall prescribe the form for filing of reports by members of
22 the legislature, as required by this Section. On or before June first of each year, the
23 secretary shall notify each member of the Senate and the clerk shall notify each
24 member of the House of Representatives that the report is due on July first. On or
25 before July fifteenth, the secretary of the Senate and the clerk of the House of
26 Representatives shall transmit to the Board of Ethics copies of all disclosure reports
27 filed with them, respectively, and shall notify the Board of Ethics in writing of any
28 members who have not filed such reports. Reports transmitted by the secretary of the
29 Senate and the clerk of the House of Representatives shall be deemed to have been

1 filed with the Board of Ethics by the member, as of the date of filing with such
2 clerical officer.

3 (2) The Board of Ethics shall post a list of all members who have failed to file
4 or failed to timely file, or who have failed to disclose or accurately disclose any
5 information required by this Section.

6 D. Failure to file a report, failure to timely file a report, failure to disclose
7 required information, or filing a false report shall subject a member to penalties as
8 provided by this Chapter, and also shall constitute contempt of the house to which the
9 member belongs.

10 * * *

11 §1114.4. Financial disclosure; elected officials other than statewide elected officials
12 and legislators

13 A. Other than a statewide elected official and a legislator, each elected official
14 shall file a report with the Board of Ethics, by July first of each year of his or her term
15 of office, showing the following information for the preceding calendar year:

16 (1)(a) The full name, residence address, occupation, and principal business
17 address of the elected official.

18 (b) The full name of the spouse of the elected official, if any, as well as the
19 occupation and principal business address of his spouse, if any.

20 (c) The identity of all positions, including the title of each such position, if
21 any, held by the elected official or his spouse as an officer, director, trustee, partner,
22 proprietor, representative, employee, or consultant of any business enterprise, along
23 with the name and address of each such business enterprise. This Subparagraph shall
24 not require the reporting of positions held in any religious, social, fraternal, or
25 political entity or positions solely of an honorary nature.

26 (2) Any and all income exceeding two hundred fifty dollars received by such
27 elected official, the spouse of such elected official, or any business enterprise in
28 which such elected official and/or his spouse owns at least ten percent, which is
29 received from any of the following:

1 (a) The state or any political subdivision as defined in Article VI of the
2 Constitution of Louisiana.

3 (b) Services performed for or in connection with a gaming interest as defined
4 in R.S. 18:1505.2(L)(3)(a).

5 (3) In addition to the information required in Paragraphs (1) and (2) of this
6 Subsection, the following information shall be reported:

7 (a) The name and address of any employer which provides income of five
8 thousand dollars or more to an elected official or his spouse pursuant to the full-time
9 or part-time employment of the elected official or his spouse, excluding information
10 required to be reported pursuant to Paragraph (2) of this Subsection, and a brief
11 description of the services rendered pursuant to such employment.

12 (b) The name and address of any business enterprise which provides income
13 of five thousand dollars or more to an elected official or his spouse, excluding
14 information required to be reported pursuant to Paragraph (2) of this Subsection or
15 Subparagraph (a) of this Paragraph, and a brief description of the nature of services
16 rendered for the business enterprise or of the reason such income was received.

17 (c) A brief description of the type of any other income of five thousand
18 dollars or more received by an elected official or his spouse, excluding information
19 required to be reported pursuant to Paragraph (2) of this Subsection or Subparagraph
20 (a) or (b) of this Paragraph, and a brief description of the nature of services rendered
21 for the income or of the reason such income was received.

22 (d) The identity of any interest in immovable property, including the location
23 and classification of the property as personal, industrial, commercial, or agricultural,
24 held by the elected official or his spouse if the value of the interest is five thousand
25 dollars or more, excluding the personal residence of the elected official or his spouse.

26 (e) A brief description of any stock, investment, or interest held by the elected
27 official or his spouse in any business enterprise headquartered in Louisiana, including
28 the name and address of each such business enterprise, if the value of the stock,
29 investment, or interest is five thousand dollars or more, excluding mutual funds,

1 education investment accounts, retirement investment accounts, government bonds,
2 and cash-equivalent investments.

3 (f) The identity of the liabilities owed by the elected official or his spouse to
4 any creditor other than an immediate family member, including the name and address
5 of the creditor, if the value of the liability is five thousand dollars or more, excluding
6 liabilities owed by the elected official or his spouse on the personal residence of the
7 elected official or his spouse, on the personal vehicle of the elected official or his
8 spouse, on a credit card, or on a government-backed student loan. The identity of
9 liabilities to be reported shall be the identity of such liabilities owed on the last day
10 of the reporting period.

11 (4) A certification that such elected official has filed his or her federal and
12 state income tax returns, or has filed for an extension of time for filing such tax
13 returns.

14 B.(1) For purposes of this Section, "business enterprise" shall mean a
15 corporation, company, firm, partnership, limited liability company, sole
16 proprietorship, not-for-profit organization, labor organization, nonpublic educational
17 institution, or other legal entity.

18 (2) For purposes of this Section, "income" includes:

19 (a) Any remuneration received under any verbal or written contract of
20 employment.

21 (b) Fees received for personal or professional services, less expenses paid to
22 third parties.

23 (c) With respect to the sale or lease of immovable property, merchandise, or
24 equipment, the net income, prior to taxation, received from the sale or lease of such
25 immovable property, merchandise, or equipment.

26 C.(1) The Board of Ethics shall prescribe the form for filing of the reports
27 required by this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

Arnold

HB No. 55

Abstract: Requires statewide elected officials, members of the legislature, other elected officials, and members of the Board of Ethics to disclose certain income, compensation, and financial transactions of the official or his spouse and additionally requires candidates for statewide elective office and the state legislature to file financial disclosure statements with the Board of Ethics at the time of qualifying.

Present law (R.S. 42:1114.1) requires each member of the legislature to file an annual report with the clerical officer of the house to which he belongs by July 1st of each year of his term of office. Present law provides the following:

- (1) Disclosure of any and all income exceeding \$250 received during the immediately preceding calendar year by such member, the spouse of such member, or any business enterprise in which such member and/or his spouse owns at least ten percent, which is received from any of the following:
 - (a) The state or any political subdivision.
 - (b) Services performed for or in connection with a gaming interest as defined by the Campaign Finance Disclosure Act.
- (2) Authorizes legislators who receive Medicaid funds to indicate on the financial disclosure report that information relative to ownership, financial interest, and income derived therefrom may be accessed through files of record with the Dept. of Health and Hospitals, bureau of health standards.
- (3) Requires a certification that such member has filed his or her federal and state income tax returns, or has filed for an extension of time for filing such tax returns.
- (4) Defines "income" as any remuneration received under any verbal or written contract of employment, fees received for professional services less expenses paid to third parties, and the net income, prior to taxation, received with respect to the sale or lease of immovable property, merchandise, or equipment. Excludes from "income" legislative remuneration, spouse's salary from full-time employment or salary as an elected official, or any statewide public retirement system benefits.
- (5) Imposes penalties of \$100 per day, for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose any information required, for each day until the statement or required accurate information is filed. Additionally, R.S. 42:1124.1 provides that whoever knowingly and wilfully files a false report shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$1,000 nor more than \$10,000 or imprisoned in parish prison for not more than six months, or both. Specifies that prosecutions shall be tried before a six-person jury, all of whom must concur to render a verdict.
- (6) Provides that failure to file, failure to timely file, failure to accurately report, or filing of false information constitutes contempt of the house to which the member belongs.

Proposed law removes the authorization for legislators who receive Medicaid funds to indicate on the financial disclosure report that information relative to ownership, financial interest, and income derived therefrom may be accessed through files of record with the Dept. of Health and Hospitals, bureau of health standards.

Proposed law redefines "income" to include remuneration received under any verbal or written contract of employment; fees received for personal or professional services, less expenses paid to third parties; the net income, prior to taxation, received with respect to the sale or lease of immovable property, merchandise, or equipment. Proposed law removes present law exclusions from "income" of legislative remuneration, spouse's salary from full-time employment or salary as an elected official, or any statewide public retirement system benefits.

Proposed law defines "business enterprise" as a corporation, company, firm, partnership, limited liability company, sole proprietorship, not-for-profit organization, labor organization, nonpublic educational institution, or other legal entity.

Proposed law otherwise retains present law and additionally requires each member of the legislature to include the following information on the annual report filed with the clerical officer of the house to which he belongs by July 1st of each year of his term of office for the preceding calendar year:

- (1) The full name, residence address, occupation, and principal business address of the member.
- (2) The full name of the member's spouse, if any, as well as the occupation and principal business address of the spouse.
- (3) The identity of all positions, including the title of each such position if any, held by the member or his spouse as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any business enterprise, along with the name and address of the business enterprise; excluding any positions held in any religious, social, fraternal, or political entity or positions solely of an honorary nature.
- (4) The following information:
 - (a) (i) The name and address of any employer which provides income of \$5,000 or more to a member or his spouse pursuant to the full-time or part-time employment of a member or his spouse, excluding information required to be reported pursuant to present law, and a brief description of the services rendered pursuant to such employment; (ii) the name and address of any business enterprise which provides income of \$5,000 or more to a member or his spouse, excluding information required to be reported pursuant to present law and proposed law (above in (i)), including a brief description of the nature of services rendered for the entity or of the reason such income was received; and (iii) a brief description of the type of any other income of \$5,000 or more received by a member or his spouse, excluding information required to be reported pursuant to present law and proposed law (above in (i) and (ii)), including brief description of the nature of services rendered for the income or of the reason such income was received.
 - (b) The identity of any interest in immovable property, including the location and classification of the property as personal, industrial, commercial, or agricultural, held by the member or his spouse, if the value of the interest is \$5,000 or more, excluding the personal residence of the member or his spouse.

- (c) A brief description of stock, investment, or interest held in any business enterprise headquartered in Louisiana, including the name and address of each such business enterprise, if the value of the stock, investment, or interest is \$5,000 or more, excluding mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash-equivalent investments.
- (d) The identity of the liabilities owed by the member or his spouse to any creditor other than an immediate family member, including the name and address of the creditor, if the value of the liability is \$5,000 or more, excluding liabilities owed by the member or his spouse on the personal residence of the member or his spouse, on the personal vehicle of a member or his spouse, on a credit card, or on a government-backed student loan. (Specifies that the identity of liabilities to be reported shall be the identity of such liabilities owed on the last day of the reporting period.)

Present law requires the secretary of the Senate (secretary) and the clerk of the House of Representatives (clerk) to jointly prescribe the form; requires the secretary to notify each member of the Senate and the clerk to notify each member of the House of Representatives on June first that the report is due on July first; requires the secretary and the clerk to transmit to the Board of Ethics copies of all disclosure reports filed with them and to notify the Board of Ethics in writing of any members who have not filed such reports.

Proposed law retains present law and additionally requires the Board of Ethics to post a list of all members who have failed to file or failed to timely file, or who have failed to disclose or accurately disclose any information required by present law and proposed law.

Proposed law (R.S. 42:1114.4) additionally requires all elected officials (other than legislators and statewide elected officials) to file disclosure reports containing the same information required of members of the legislature by present law and proposed law (R.S. 42:1114.1—see above for the content of proposed law (R.S. 42:1114.4)) with the Board of Ethics on July 1 of each year on forms prescribed by the Board of Ethics. Requires the Board of Ethics to prescribe the forms and to post a list of all elected officials who have failed to file or failed to timely file, or who have failed to disclose or accurately disclose, any information required by proposed law.

Present law (R.S. 42:1124) requires that within 30 days after the date on which the governor enters upon the discharge of his duties as such, and annually thereafter, and within 30 days after the date on which the governor ceases to discharge the duties of his office, he shall file a financial statement on a form prescribed by the Board of Ethics which shall include the following information for the preceding calendar year:

- (1) Full name and residence address of the individual who is required to file.
- (2) Full name of the individual's spouse, if any, and the spouse's occupation and principal business address.
- (3) Name, address, and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, holds an interest worth in excess of 10%.
- (4) Name, address, type, and amount of each source of income, in excess of \$1,000, received by the individual or spouse, and the nature of the services rendered therefor, if any (except for income derived from mental health, medical health, or legal services rendered, the individual need only show the amount of the income and not the identity of any individual patient or client).

- (5) Brief description, location, and address of each parcel of real property, the fair market value of which exceeds \$2,000, in which the individual or spouse, either individually or collectively, has an interest.
- (6) Brief description, amount, and date of any purchase, sale, exchange, donation, gift, or other acquisition or disposition, in excess of \$1,000, of any real property, and of any stocks, bonds, commodities futures, or other forms of securities, including but not limited to any option to acquire and/or dispose of any stocks, bonds, commodities futures, other forms of securities, negotiable instruments, movable or immovable property, or any other interest.
- (7) Name, address, and amount of each liability owed to any creditor by the individual or spouse which exceeds \$10,000, excluding any loan secured by a personal motor vehicle, household furniture, or appliances, if such loan does not exceed the purchase price of the item which secures it.

Present law provides that when an amount is required to be disclosed, it shall be sufficient to report the amount by category of value as follows: (a) Category I, less than \$5000; (b) Category II, \$5,000-\$24,999; (c) Category III, \$25,000-\$49,999; (d) Category IV, \$50,000-\$99,999; (e) Category V, \$100,000-\$199,999; and (f) Category VI, \$200,000 or more.

Present law (R.S. 42:1124.1) provides for penalties of \$500 per day (for governor) for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose any information required, for each day until the statement or required accurate information is filed. Present law additionally provides for penalties of \$100 per day (for legislators) for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose any information required, for each day until the statement required under present law (R.S. 42:1114.1) or required accurate information is filed. Present law (R.S. 42:1124.1) additionally provides that whoever knowingly and wilfully files a false report shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$1,000 nor more than \$10,000 or imprisoned in parish prison for not more than six months or both. Specifies that prosecutions shall be tried before a six-person jury, all of whom must concur to render a verdict.

Proposed law makes the present law penalties applicable to legislators also applicable to other elected officials except statewide officials. Proposed law further extends the gubernatorial reporting requirements to all persons holding statewide elective offices and members of the Board of Ethics. Proposed law makes present law penalties of \$500 per day applicable to such persons.

Present law (election code) additionally provides that at the time that each person who seeks to become a candidate for governor files the notice of candidacy, he shall also file a financial statement with the Board of Ethics which includes information as required by present law (R.S. 42:1124) and current as of the date it is filed. Requires the candidate to attach to the financial statement his affidavit certifying that the information contained in the statement is true and correct to the best of his knowledge, information, and belief. Present law provides that whoever fails to file this financial statement, or knowingly and wilfully fails to timely file any such statement, or knowingly and wilfully fails to disclose or to accurately disclose any required information, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500. Additionally provides that whoever wilfully and intentionally files a false report shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in parish prison for not less than six months, or both.

Proposed law retains present law and additionally requires candidates for statewide elective office to file such a financial statement (see R.S. 42:1124, for candidates for statewide elective office) with the Board of Ethics at the time such person files the notice of candidacy

and requires such information to be current as of the date it is filed and requires candidates for the state legislature to file a financial statement with the Board of Ethics at the time of filing the notice of candidacy, such statement to include the information required by present law and proposed law (see R.S. 42:1114.1, for candidates for the state legislature). Specifies that the financial statement filed by a legislator required by such present law and proposed law satisfies the filing requirements of this provision of proposed law. Proposed law retains the penalties contained in present law.

Effective January 1, 2009.

(Amends R.S. 18:463(B) and R.S. 42:1114.1, 1124(A), 1124.1(A)(2)(b), and 1157(A)(4)(a); Adds R.S. 42:1114.4)