
DIGEST

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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)