

APPENDIX E

Related State Laws

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Alaska Constitution	E -1
Restrictions on Legislators' Employment (Article II, Section 5)	E -1
Legislative Immunity (Article II, Section 6)	E -1
Alaska Criminal Code: Offenses Against Public Administration	E-2
Bribery (AS 11.56.100)	E -2
Receiving a Bribe (AS 11.56.110).....	E -2
Receiving Unlawful Gratuities (AS 11.56.120).....	E -3
Failure to Report Bribery or Receiving a Bribe (AS 11.56.124)	E -4
Definition – Bribery (AS 11.56.130)	E -4
False Accusations to the Ethics Committee (AS 11.56.805)	E -5
Tampering with Public Records in the First Degree (AS 11.56.815)	E -5
Tampering with Public Records in the Second Degree (AS 11.56.820)	E -5
Impersonating a Public Servant (AS 11.56.830)	E -6
Official Misconduct (AS 11.56.850).....	E -6
Misuse of Confidential Information (AS 11.56.860)	E -7
Definitions (AS 11.81.900(a))	E -7
Other Laws	E -8
Definition: Person (AS 01.10.060(8))	E -8
Public Records (AS 09.25.110-140)	E -8
Pension Forfeiture (AS 14.25.040 (c))	E -8
Campaign Disclosure Law (AS 15.13)	E -9
State Elections Campaigns (AS 15.13.040)	E -9
Definitions: State Election Campaigns (AS 15.13.400)	E -13
Unlawful Employment Practices (AS 18.80.220)	E -16
Legislative Space (AS 24.05.190).....	E -18
Legislative Immunity (AS 24.40.010)	E -19
Lobbyists Disclosure: Registration and Reports (AS 24.45.041)	E -19
Lobbyists: Reports (AS 24.45.051)	E -21
Lobbyists: Prohibitions (AS 24.45.121).....	E -22
Exemptions (AS 24.45.161(a)(1))	E -23
Definitions: Administrative and Legislative Action (AS 24.45.171)	E -23
Legislative Procurement Procedures (AS 36.30.020).....	E -26
Administration of Grants (AS 37.05.316)	E -26
Pension Forfeiture to Preserve Public Trust in Gov. (AS 37.10.310)	E -27
Compensation, Allowance and Leave (AS 39.20.180)	E -27
Employment with the State (AS 39.35.300)	E -28
Public Official Financial Disclosures (AS 39.50.030)	E -28
Penalty for Willful Violation of Disclosure Requirements (AS 39.50.060(b))	E -31
Definition: Partisan Political Purposes (AS 39.52.120).....	E -31
Use of the State Seal (AS 44.09.015).....	E -32
Open Meetings (AS 44.62.310 and AS 44.62.312)	E -32
State Policy Regarding Meetings (AS 44.62.312)	E -35

Related State Laws

The legislative ethics law (AS 24.60) is not the only law which sets standards for the conduct of legislators and legislative employees in their work. This appendix includes portions of the Alaska Constitution, the Alaska Criminal Code and other state laws which relate to standards of conduct and are referred in the Legislative Ethics Act. **Violations of these laws are not under the jurisdiction of the Select Committee on Legislative Ethics.** Appendix E is not an all-inclusive list. Legislators and legislative employees who have questions about the legality of specific situations or activities should contact the Legal Services Division of the Legislature or another legal counsel.

Alaska Constitution

Restrictions on Legislators' Employment **Article II, Section 5. Disqualifications**

No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

Editor's Note: Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment in this section.

Legislative Immunity **Article II, Section 6. Immunities**

Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the Legislature is in session. Members attending, going to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

Note: Legislative immunity is also granted under AS 24.40.010 (see page E-19).

Alaska Criminal Code: Offenses Against Public Administration

Title 11 of the Alaska Statutes, also called the Criminal Code, includes a series of offenses against public administration relating to bribery, perjury, tampering with public records, official misconduct, making false accusations to the Select Committee on Legislative Ethics and misusing confidential information. The Alaska Criminal Code uses the term "public servant", which is defined in AS 11.81.900(54) to include legislators and employees of the State.

Bribery **AS 11.56.100**

Sec. 11.56.100. Bribery.

(a) A person commits the crime of bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision, or exercise of official discretion.

(b) In a prosecution under this section, it is not a defense that the person sought to be influenced was not qualified to act in the desired way, whether because that person had not assumed office, lacked jurisdiction, or for any other reason.

(c) Bribery is a class B felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Consecutive fines. — A judge does not err in imposing consecutive fines for the separate offenses of offering a bribe and agreeing to receive a bribe. *Hohman v. State*, 669 P.2d 1316 (Alaska Ct. App. 1983).

Receiving a Bribe **AS 11.56.110**

Sec. 11.56.110. Receiving a bribe.

(a) A public servant commits the crime of receiving a bribe if the public servant

- (1) solicits a benefit with the intent that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced; or
- (2) accepts or agrees to accept a benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced.

(b) Receiving a bribe is a class B felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Constitutionality. — This section is not unconstitutionally overbroad and vague. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997)

“Agreement or understanding.” — A public defender’s conduct in accepting meals, marijuana, a trip and a promise to build a cabin from criminal defendant fell within the ordinary meaning of the phrase “agreement or understanding.” *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997)

“Public Servant.” — A public defender employed by the state falls squarely within the definition of “public servant” for purposes of this section. *Blachlet v. State* 941 P.2d 200 (Alaska Ct. App. 1997)

“Benefit.” — A public defender’s agreement to accept meals, marijuana, a trip and a promise to build

a cabin from a criminal defendant fell within the definition of “benefit” for purposes of this section. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997).

Burden of proof. — This section does not require the state to prove that the public servant acted corruptly. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997).

Consecutive fines. — A judge does not err in imposing consecutive fines for the separate offenses of offering a bribe and agreeing to receive a bribe. *Hohman v. State*, 669 P.2d 1316 (Alaska Ct. App. 1983).

Cited in *Moore v. State*, 740 P.2d 472 (Alaska Ct. App. 1987).

Receiving Unlawful Gratuities AS 11.56.120

Sec. 11.56.120. Receiving unlawful gratuities.

(a) A public servant commits the crime of receiving unlawful gratuities if, for having engaged in an official act which was required or authorized and for which the public servant was not entitled to any special or additional compensation, the public servant

- (1) solicits a benefit, regardless of value; or
- (2) accepts or agrees to accept a benefit having a value of \$50 or more.

(b) Receiving unlawful gratuities is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

“Public servant.” — Counselor employed by a private organization which was under contract with the state to provide counseling services to prison inmates was not a “public servant” within

the meaning of this section or the definition in AS 11.81.900(b)(49) (now (b)(50)). *State v. Mullin*, 778 P.2d 223 (Alaska Ct. App. 1989).

1. AS 11.56.130 and AS 11.81.900 define "benefit." The term "benefit" does not include political contributions; concurrence in official action in the cause of legitimate compromise between public servants; or support, including a vote, solicited by a public servant or offered by any person in an election.

2. Note: Gifts are also regulated by the legislative ethics law, AS 24.60.080. Payment for performing legislative duties is restricted in AS 24.60.030(a)(1).

**Failure to Report Bribery
or Receiving a Bribe**
AS 11.56.124

Sec. 11.56.124. Failure to report bribery or receiving a bribe.

(a) A public servant commits the crime of failure to report bribery or receiving a bribe if the public servant

- (1) witnesses what the public servant knows or reasonably should know is
 - (A) bribery of a public servant by another person; or
 - (B) receiving a bribe by another public servant; and
- (2) does not as soon as reasonably practicable report that crime to a peace officer or a law enforcement agency.

(b) Failure to report bribery or receiving a bribe is a class A misdemeanor. (§ 1 ch 47 SLA 2007)

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c).

Editor's notes. — Under (§ 75(a), ch. 47, SLA 2007, this section applies to offenses occurring on or after July 10, 2007.

Definition - Bribery
AS 11.56.130

Sec. 11.56.130. Definition.

In AS 11.56.100 – 11.56.130, “benefit” has the meaning ascribed to it in AS 11.81.900 but does not include

- (1) political campaign contributions reported in accordance with AS 15.13 unless the contribution is made or received in exchange for an agreement to alter an elected official's or candidate's vote or position on a matter the elected official has, or the candidate on election would have, the authority to take official action on; in this paragraph, “official action” means advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction;
- (2) concurrence in official action in the cause of legitimate compromise between public servants; or
- (3) support, including a vote, solicited by a public servant or offered by any person in an election. (§ 6 ch 166 SLA 1978; am § 2 ch 47 SLA 2007)

Cross references. — For definition of terms used in this chapter, see AS 11.56.900; for definition of terms used in this title, see AS 11.81.900.

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added the

language in paragraph (1) following “with AS 15.13.”

Editor's notes. — Under (§ 75(a), ch. 47, SLA 2007, the amendment to paragraph (1) of this section made by § 2, ch. 47, SLA 2007 applies to offenses occurring on or after July 10, 2007.

False Accusations to the Ethics Committee
AS 11.56.805

Sec. 11.56.805. False accusation.

(a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics established in AS 24.60.

(b) False accusation is a class A misdemeanor. (§ 2 ch 36 SLA 1984; am § 1 ch 113 SLA 1986)

Tampering with Public Records
in the First Degree
AS 11.56.815

Sec. 11.56.815. Tampering with public records in the first degree.

(a) A person commits the crime of tampering with public records in the first degree if the person violates

- (1) AS 11.56.820 (a)(3) with intent to obtain a benefit for that person or any person or to injure or deprive another person of a benefit; or
- (2) AS 11.56.820(a)(1) or (2) with the intent to conceal a fact material to an investigation or The provision of services under AS 47.10, AS 47.12, AS 47.17, AS 47.20, or AS 47.24

(b) Tampering with public records in the first degree is a class C felony. (§ 1 ch 51 SLA 1985; am § 1 ch 141 SLA 2003)

Effect of amendments. — The 2003 amendment, effective October 8, 2003, in subsection (a) added the paragraph (1) designation and paragraph (2) and made related stylistic changes.

Tampering with Public Records
in the Second Degree
AS 11.56.820

Sec. 11.56.820. Tampering with public records in the second degree.

(a) A person commits the crime of tampering with public records in the second degree if the person

- (1) knowingly makes a false entry in or falsely alters a public record;
- (2) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so; or
- (3) certifies a public record setting out a claim against a government agency, or the property of a government agency, with reckless disregard of whether the claim is lawful, or that payment of the claim is not authorized in the budget of the government agency.

(b) In this section

- (1) "certifies" means attesting to the existence, truth, or accuracy of facts, or that one holds an opinion, stated in a public record; the term includes the responsibilities for state officials set out in AS 37.10.030;
- (2) "falsely alters" has the meaning ascribed to it in AS 11.46.580 ; and
- (3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.

(c) Tampering with public records in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 2 ch 51 SLA 1985)

Opinions of attorney general. — When an official of a land title company seeking to file a warranty deed in Alaska, in the presence of the recorder altered a California notary clause to

change the name and title of the person that the California notary public swore had appeared before her, the alteration may well have violated this section. December 22, 1987, Op. Att’y Gen.

Impersonating a Public Servant **AS 11.56.830**

Sec. 11.56.830. Impersonating a public servant.

(a) A person commits the crime of impersonating a public servant if the person pretends to be a public servant and does any act in that capacity.

(b) It is not a defense to a prosecution under this section that

- (1) the office the defendant pretended to hold did not in fact exist; or
- (2) the defendant was in fact a public servant different than the one the defendant pretended to be.

(c) This section does not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Impersonating a public servant is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For criminal impersonation, see AS 11.46.570.

Official Misconduct **AS 11.56.850**

Sec. 11.56.850. Official misconduct.

(a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

- (1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or
- (2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Misuse of Confidential Information **AS 11.56.860**

Sec. 11.56.860. Misuse of confidential information.

(a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

- (1) learns confidential information through employment as a public servant; and
- (2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Definitions **AS 11.81.900(a)**

Sec. 11.81.900(a). Definitions.

(a) For purposes of this title, unless the context requires otherwise,

- (1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;
- (2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;
- (3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it

constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

- (4) a person acts with “criminal negligence” with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Other Laws

Common Law **AS 01.10.060(8)**

Sec. 01.10.060(8)

...”person” includes a corporation, company, partnership, firm, association, business trust, or society, as well as a natural person.

Public Records **AS 09.25.110-140**

Unless the law specifically provides otherwise, the public records of all public agencies, including the Legislature, are open to inspection by the public. "Public records" are defined in AS 40.25.220 as, "books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; 'public records' does not include proprietary software programs." AS 40.25.123(b) requires the Legislative Council to supervise and adopt procedures for the operation and implementation of AS 40.25.110 – 40.25.140 by public agencies in the legislative branch. Legislative Council adopted a Records Policy on March 14, 1996, contact LAA for copies.

Pension Forfeiture **AS 14.25.040(c)**

Sec. 14.25.040(c).

...A state legislator may not receive membership credit under AS 14.25.009 – 14.25.220 for legislative service on or after the date the legislator commits a criminal offense from which a pension forfeiture under AS37.10.310 results.

Campaign Disclosure Law **AS 15.13**

For detailed information regarding the Campaign Disclosure Law, contact the Alaska Public Offices Commission at 2221 East Northern Lights Blvd, Suite 128, Anchorage AK 99508-4143, (907) 276-4176.

State Elections Campaigns **AS 15.13.040 & 15.13.400**

Sec. 15.13.040. Contributions, expenditures, and supplying of services to be reported.

(a) [See **delayed amendment note.**] Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

- (1) listing
 - (A) the date and amount of all expenditures made by the candidate;
 - (B) the total amount of all contributions, including all funds contributed by the candidate;
 - (C) the name, address, date, and amount contributed by each contributor; and
 - (D) for contributions in excess of \$50 in the aggregate during a calendar year, the principal occupation and employer of contributor; and
- (2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

- (1) the name and address of each officer and director;
- (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, “contributor” means the true source of the funds, property, or services being contributed; and
- (3) the date and amount of all contributions made by it and all expenditures made, incurred, or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group’s treasurer.

(d) Every person making an independent expenditure shall make a full report of expenditures made and contributions received, upon a form prescribed by the commission, unless exempt from reporting.

(e) Each person required to report under (d) of this section shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by the commission. The report must contain

- (1) the name, address, principal occupation, and employer of the individual filing the report;
- (2) an itemized list of all expenditures made, incurred, or authorized by the person;

- (3) the name of the candidate or the title of the ballot proposition or question supported or opposed by each expenditure and whether the expenditure is made to support or oppose the candidate or ballot proposition or question;
- (4) the name and address of each officer and director, when applicable;
- (5) the aggregate amount of all contributions made to the person, if any, for the purpose of influencing the outcome of an election; for all contributions, the date of the contribution and amount contributed by each contributor; and, for a contributor
 - (A) who is an individual, the name and address of the contributor and, for contributions in excess of \$50 in the aggregate during a calendar year, the name, address, principal occupation, and employer of the contributor; or
 - (B) that is not an individual, the name and address of the contributor and the name and address of each officer and director of the contributor.

(f) During each year in which an election occurs, all businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising agency services, accounting billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

(g) The provisions of (a) and (l) of this section do not apply to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under AS 15.13.010, if that delegate, judge, or candidate

- (1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;
- (2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and
- (3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

(h) The provisions of (d) of this section do not apply to one or more expenditures made by an individual acting independently of any other person if the expenditures

- (1) cumulatively do not exceed \$500 during a calendar year; and
- (2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

(i) The permission of the owner of real or personal property to post political signs, including bumper stickers, or to use space for an event or to store campaign-related materials is not considered to be a contribution to a candidate under this chapter unless the owner customarily charges a fee or receives payment for that activity. The fact that the owner customarily charges a fee or receives payment for posting signs that are not political signs is not determinative of whether the owner customarily does so for political signs.

(j) Except as provided in (l) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing

- (1) the name and address of each officer and director of the nongroup entity;
- (2) the aggregate amount of all contributions made to the nongroup entity for the purposes of influencing the outcome of an election;

- (3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor and, for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and
- (4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in AS 15.13.135(a), all expenditures made, incurred, or authorized by the nongroup entity, for purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach \$500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach \$500.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition, and every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of filing an initiative proposal application under AS 15.45.020 or that has filed an initiative proposal application under AS 15.45.020, shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by the individual, person, nongroup entity, or group during the calendar year.

(l) Notwithstanding (a), (b), and (j) of this section for any fund-raising activity in which contributions are in amounts or values that do not exceed \$50 a person, the candidate, group, or nongroup entity shall report contributions and expenditures and supplying of services under this subsections follows:

- (1) a report under this subsection must
 - (A) describe the fund-raising activity;
 - (B) include the number of persons making contributions and the total proceeds from the activity;
 - (C) report all contributions made for the fund-raising activity that do not exceed \$50 a person in amount or value; if a contribution for the fund-raising activity exceeds \$50, the contribution shall be reported under (a), (b), and (j) of this section.
- (2) for purposes of this subsection,
 - (A) “contribution” means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity.
 - (B) “fund-raising activity” means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity in which contributions are \$50 a person or less in amount or value.

(m) [See delayed amendment note.] Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark on paper in a format approved by the commission or on forms provided by the commission:

- (1) information submitted by
 - (A) a candidate for election to a borough or city office of mayor, membership on a borough assembly, city council, or school board, or any state office, who meets the requirements of (g)(1) – (3) of this section; or
 - (B) a candidate for municipal office for a municipality with a population of less than 15,000; in this subparagraph, “municipal office” means the office of an elected borough or city
 - (i) mayor; or
 - (ii) assembly, council, or school board member;
- (2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement;

(n) The commission shall print the forms to be provided under this chapter so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page.

(o) Information required by this chapter that is submitted to the commission on paper and not electronically shall be electronically scanned and published on the Internet by the commission, in a format accessible to the general public, within two working days after the commission receives the information.

(p) For purposes of (b), (e), and (j) of this section, “contributor” means the true source of the funds, property, or services being contributed.

(q) For purposes of (e) of this section,

(1) “director” means a member of the board of directors of a corporation or any person performing a similar function with respect to any organization;

(2) “officer” means a president, vice-president, secretary, treasurer, principal financial officer, or comptroller with respect to any organization. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975; am § 33 ch 50 SLA 1989; am § 4 ch 126 SLA 1994; am §§ 5 – 7 ch 48 SLA 1996; am §§ 6, 7 ch 6 SLA 1998; am § 1 ch 74 SLA 1998; am §§ 3 – 6 ch 1 SLA 2002; am §§ 1 – 4 ch 1 TSSLA 2002; am §§ 2 – 7 ch 108 SLA 2003; am § 9 ch 99 SLA 2004; am §§ 1, 2 ch 155 SLA 2004; am § 3 2006 Primary Election Ballot Measure No. 1; am §§ 6 – 9 ch 47 SLA 2007; am § 1 ch 95 SLA 2008)

Delayed amendment of subsection (a). – Until January 1, 2009, subsection (a) — of this section reads as follows: “(a) Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

“(1) listing

“(A) the date and amount of all expenditures made by the candidate;

“(B) the total amount of all contributions, including all funds contributed by the candidate;

“(C) the name, address, date, and amount contributed by each contributor; and

“(D) for contributions in excess of \$250 in the aggregate during a calendar year, the principal

The first 2002 amendment, effective April 16, 2002, in subsection (b) added the language beginning “for purposes of this paragraph” to the end of paragraph (2); in the introductory language of subsections (d) and (h) inserted references to nongroup entities; added subsection (j); and made a minor stylistic change.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (d); in subsection (e) deleted “by the contributor” following “commission” and “contribution or” preceding “expenditure” in the second sentence and deleted the former third sentence, which read “A copy of the report shall be furnished to the candidate, campaign treasurer, or deputy

occupation and employer of the contributor; and
“(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.”

Delayed amendment of subsection (a). – Until January 1, 2009, (m) of this section reads as follows: “(m) Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

“(1) information submitted by a candidate for municipal office; in this paragraph, “municipal office” means the office of an elected borough or city

“(A) mayor; or

“(B) assembly, council, or school board member;

“(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement.

“(3) information submitted by a candidate for election to state office other than the legislature who meets the requirements of (g)(1) – (3) of this section;

“(4) information submitted before January 1, 2009, by a candidate for the legislature.”

Revisor’s notes — Subsection (n) was enacted as subsection (o). Relettered in 2004, at which time former subsection (n) was relettered as subsection (o). Subsection (o) was enacted as (p) and relettered in 2007, at which time former subsection (o) was relettered as (p).

Effects of amendments. — The 1996 amendment, effective January 1, 1997, in subsection (a), added the exception at the beginning of the first sentence and made a related stylistic change; in subsection (d), in paragraph (2), added “unless exempted from reporting by (h) of this section,” and inserted “or other periodicals” and made minor stylistic changes and added subsections (g) and (h).

The first 1998 amendment, effective June 28, 1998, rewrote paragraph (d)(1) and the second and third sentences in subsection (f).

The second 1998 amendment, effective June 4, 1998, added subsection (i).

The first 2004 amendment, effective June 26, 2004, deleted “and principal occupation of the contributor, and the” following address in paragraph (j)(3), and inserted “principal occupation and” in that paragraph.

campaign treasurer at the time the contribution is made”; updated an internal reference in subsection (h); and added subsection (k).

The 2003 amendment, effective September 14, 2003, rewrote subsections (a) and (b); in subsection (g) inserted “and (l)” in the introductory language and substituted “\$5,000” for \$2,500” in three places; in paragraph (h)(1) substituted “\$500” for “\$250”; in subsection (j) added “Except as provided in (l) of this section,” at the beginning, added the paragraph (3); and (4) designations, and rewrote paragraph (3); and added subsections (l), (m), and (o) [formerly (n)].

The second 2004 amendment, effective October 1, 2004, rewrote subsection (m), and added subsection (o) [now (n)].

The 2006 amendment, effective December 17, 2006, rewrote subsection (b).

The 2007 amendment, effective July 10, 2007, substituted “to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under AS 15.13.010, if that delegate, judge, or” for “if a” in the introductory language of subsection (g), repealed and re enacted subsection (m), and added subsection (p) [now (o)].

The 2008 amendment, effective January 1, 2009, substituted “\$50” for “\$250” in subparagraph (a)(1)(D)

Editor’s notes — From April 16, 2002, through June 25, 2002, the reference in subsection (h) to “(d) of this section” reads “to (d)(2) of this section” and subsection (d) reads as follows: “(d) Every individual, person, nongroup entity, or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of

“(1) contributions made to a candidate or group and expenditures made on behalf of a candidate or group

“(A) as soon as the total contributions and expenditures to that candidate or group reaches \$500 in a year; and

“(B) for all subsequent contributions and expenditures to that candidate or group in a year whenever the total contributions and expenditures to that candidate or group that have not been reported under this paragraph reaches \$500;

“(2) unless exempted from reporting by (h) of this section, any expenditure whatsoever for advertising in newspapers or other periodicals, on radio, or on television; or for the publication, distribution, or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.”

Sec. 15.13.400. Definitions. In this chapter,

(1) “candidate”

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or

- for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and
- (B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes
- (i) a candidate's campaign treasurer and a deputy campaign treasurer;
 - (ii) a member of the candidate's immediate family;
 - (iii) a person acting as agent for the candidate;
 - (iv) the candidate's campaign committee; and
 - (v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;
- (2) "commission" means the Alaska Public Offices Commission;
- (3) "communication" means, an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);
- (4) "contribution"
- (A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of
 - (i) influencing the nomination or election of a candidate;
 - (ii) influencing a ballot proposition or question; or
 - (iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;
 - (B) does not include
 - (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;
 - (ii) ordinary hospitality in a home;
 - (iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;
 - (iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;
 - (v) any communication in the form of a newsletter from a legislator or the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or
 - (vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;
- (5) "electioneering communication" means a communication that
- (A) directly or indirectly identifies a candidate;
 - (B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and
 - (C) occurs within the 30 days preceding a general or municipal election;

(6) “expenditure”

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party;

(iv) influencing the outcome of a ballot proposition or question; or

(v) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include a candidate’s filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) “express communication” means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) “group” means

(A) every state and regional executive committee of a political party;

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate’s knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate’s control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate; and

(C) any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application under AS 15.45.020 or who file an initiative proposal application under AS 15.45.020;

(9) “immediate family” means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(10) “independent expenditure” means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate’s campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) “individual” means a natural person;

(12) “issues communication” means a communication that

(A) directly or indirectly identifies a candidate; and

- (B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.
- (13) “nongroup entity” means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that
- (A) cannot participate in business activities;
 - (B) does not have shareholders who have a claim on corporate earnings; and
 - (C) is independent from the influence of business corporations.
- (14) “person” has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;
- (15) “political party” means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;
- (16) “publicly funded entity” means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation. (am § 24 ch 48 SLA 1996; am § 39 ch 21 SLA 2000; am §§ 25, 26 ch 1 SLA 2002; am § 7ch 3 SLA 2002; am §§ 8, 9 ch 1 TSSLA 2002; am §§ 18, 19 ch 108 SLA 2003; am § 2 ch 90 SLA 2006)

Revisor’s notes. — Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13 – 16). Renumbered in 2002 to retain alphabetical order.

Effect of amendments. — The 2002 amendment effective April 28, 2000, substituted “house district” for “election district” in subparagraph (10)(B).

The first 2002 amendment, effective April 16, 2002, added paragraph (13) and in paragraph (14) inserted “, nongroup entity.”

The second 2002 amendment, effective April 16, 2002, in subparagraph (4)(B), in item (i) inserted “political party,” and deleted “, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;” from the end; deleted former item (ii), which read “services provided by an accountant or other person to prepare reports and statements required by this

chapter; redesignated former item (iii) as item (ii); added present items (iii) to (v); and made a stylistic change.

The third 2002 amendment, effective June 26, 2002, added subparagraph (6)(C) and paragraphs (3), (5), (7), and (12).

The 2003 amendment, effective September 14, 2003, rewrote paragraphs (7) and (15).

The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

Opinions of attorney general. — The statutory limit under AS 15.12.070(a) is applicable to “control groups” under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute’s primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op.Att’y Gen.

Unlawful Employment Practices AS 18.80.220

Sec. 18.80.220. Unlawful employment practices; exception.

(a) Except as provided in (c) of this section, it is unlawful for

- (1) an employer to refuse employment to a person, or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person’s race, religion, color, or national origin, or because of the person’s age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not

- require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood;
- (2) a labor organization, because of a person's sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental disability, color, or national origin, to exclude or to expel a person from its membership, or to discriminate in any way against one of its members or an employer or an employee;
 - (3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;
 - (4) an employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against a person because the person has opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person has filed a complaint, testified, or assisted in a proceeding under this chapter;
 - (5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality; or
 - (6) a person to print, publish, broadcast, or otherwise circulate a statement, inquiry, or advertisement in connection with prospective employment that expresses directly a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

(c) Notwithstanding the prohibition against employment discrimination on the basis of marital status or parenthood under (a) of this section,

- (1) an employer may, without violating this chapter, provide greater health and retirement benefits to employees who have a spouse or dependent children than are provided to other employees;
- (2) a labor organization may, without violating this chapter, negotiate greater health and retirement benefits for employees of an employer who have a spouse or dependent children than are provided to other employees of the employer.

(d) In this section, "dependent child" means an unmarried child, including an adopted child, who is dependent upon a parent for support and who is either

- (1) less than 19 years old;
- (2) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; or
- (3) of any age and totally and permanently disabled. . (§ 6 ch 117 SLA 1965; am § 4 ch 119 SLA 1969; am § 1 ch 237 SLA 1970; am §§ 5,6 ch 42 SLA 1972; am § 1 ch 119 SLA 1974; am § 9 ch 104 SLA 1975; am § 9 ch 69 SLA 1987; am §§ 1, 2 ch 16 SLA 1996)

Revisor's notes — In 1999, "Department of Education" was changed to "Department of Education and Early Development" in this section in accordance with § 89 ch 58 SLA 1999.

Cross references. — For original jurisdiction of the superior court over suits arising under this chapter, see AS 22.10.020.

Opinions of attorney general. — Because discrimination on the basis of citizenship has the effect of discriminating on the basis of national origin, this section and AS 18.80.225 make it clear that an employer, including the state or any of its political subdivisions, may not discriminate against a potential or existing employee because that person is not a citizen of the United States. April 14, 1975 Op. Att'y Gen.

Subsection (b) should be interpreted to require the commission to keep confidential information from a survey for records maintained to administer civil rights laws and regulations until it is presented at public hearing unless the information is released in a format which does not identify individual responding employers or unions. May 14, 1979 Op. Att'y Gen.

It is the opinion of the attorney general that State Deferred Compensation Plan options calculated by gender-based actuarial tables unlawfully discriminate against women employees. June 2, 1980 Op Att'y Gen.

An employment decision not to hire one who lives with a person of the opposite sex does not come within the prohibition against employment decisions based on marital status. January 4, 1980 Op. Att'y Gen.

Subsection (a) preserves the nonassociational rights of those public employees whose sincere and conscientious beliefs forbid union membership but who, because they are not members of an organized religion, do not come within coverage of AS 23.40.225. January 13, 1984 Op. Att'y Gen.

A state employee in a collective bargaining unit who does not belong to an organized religion is entitled to an accommodation of this religious opposition to the payment of union dues. January 13, 1984 Op. Att'y Gen.

Legislative Space **AS 24.05.190**

Sec. 24.05.190. Control of legislative space.

(a) The state capitol, with the exception of the capitol space now occupied by the Office of the Governor, and space occupied in any other state building by the legislature or its agencies is under the control of and subject to assignment by the Legislative Affairs Agency as directed by the legislature. The Legislative Affairs Agency is responsible for the equitable allocation of parking spaces at the capitol according to the needs of the legislature and other agencies occupying capitol offices.

(b) Access to legislative space during sessions is generally governed by the uniform rules of the legislature and by (a) of this section. During a session of the legislature a person not a member or an authorized employee of the legislature or its agencies may not, without the invitation of the presiding officer or the house, enter upon the floor of either house while it is sitting, or enter upon the floor of either house during a recess or when adjourned for the day, without the invitation of a member of that house. (§ 21 ch 157 SLA 1959; am § 5 ch 47 SLA 1961; am § 3 ch 126 SLA 1966; am § 1 ch 10 SLA 1976)

Effect of amendments. — The 2000 amendment, effective June 29, 2000, added subsection (b).

Legislative Immunity AS 24.40.010

Sec. 24.40.010. Immunities.

A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting. (§ 8 ch 157 SLA 1959)

Cross references. — For constitutional provisions on legislative immunity, see Alaska Const. art. II, § 6.

Opinions of attorney general — A “session” is the sitting of the legislature during the period of time that it is convened as a legislature to do business as a legislative body. 1959 Op. Att’y Gen., No. 8.

The privilege from arrest does not extend to those violations of our law which constitute a “felony or breach of the peace.” In these two categories a member of the state legislature stands in the eyes of the law as any other citizen. 1959 Op. Att’y Gen., No. 8.

Members of the state legislature, while “going to,” “attending” or “returning from” a legislative session enjoy an absolute immunity against civil process. 1959 Op. Att’y Gen., No. 8.

Immunity against civil process cannot be waived by the legislator since the Alaska immunity is intended to protect the public as well as serve the convenience of the legislators. 1959 Op. Att’y Gen., No. 8.

Members of the legislature have only a “privilege”

from arrest, which must be asserted or it may be deemed waived. See 1959 Op. Att’y Gen., No. 8.

The immunity of legislators under this section runs from the time the member is “going to” or “returning from” a legislative session, 24 hours a day, seven days a week from the time that the legislature is convened to the time that it adjourns sine die. 1959 Op. Att’y Gen., No. 8.

Executions are “civil process.” 1959 Op. Att’y Gen., No. 8.

A legislator is immune from all civil process during the legislative session, including garnishment of wages; garnishment under a continuing writ must therefore be suspended at least five days before the session begins and may not be reinstated until after the session adjourns pursuant to AS 24.40.010. Dec.10, 1986 Op. Att’y Gen.

Collateral references. — Nature and extent of privilege accorded public statements, relating to subject of legislative business or concern, made by member of state or local legislature or council outside of formal proceedings. 41.ALR4th 1116.

Note: Legislative immunity is also granted in the Alaska Constitution.

Lobbyists Disclosure: Registration and Reports AS 24.45.041

Sec. 24.45.041. Registration; disqualification.

(a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission must include

- (1) the lobbyist’s full name and complete permanent residence and business address and telephone number, as well as any temporary residential and business address and telephone number in the state capital during a legislative session;

- (2) the full name and complete address of each person by whom the lobbyist is retained or employed;
- (3) whether the person from whom the lobbyist receives compensation employs the person solely as a lobbyist or whether the person is a regular employee performing other services for the employer that include but are not limited to the influencing of legislative or administrative action;
- (4) the nature or form of the lobbyist's compensation for engaging in lobbying, including salary, fees, or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;
- (5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;
- (6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts, and other documents required to be maintained under this chapter;
- (7) the identification of a legislative employee or public official to whom the lobbyist is married or who is the domestic partner of the lobbyist;
- (8) a sworn affirmation by the lobbyist that the lobbyist has completed the training course administered by the commission under AS 24.45.031(a) within the 12-month period preceding the date of registration or registration renewal under this chapter, except that this paragraph does not apply to a person who is a representational lobbyist as defined under regulations of the commission;
- (9) a sworn affirmation by the lobbyist that the lobbyist has not been previously convicted of a felony involving moral turpitude; in this paragraph, "felony involving moral turpitude" has the meaning given in AS 15.60.010, and includes convictions for a violation of the law of this state or a violation of the law of another jurisdiction with elements similar to a felony involving moral turpitude in this state.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 15 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter, the commission shall publish those supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public adjacent to the legislative chambers in the state capitol building, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew the registration annually by filing a new registration statement together with a new authorization to act as lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements the lobbyist has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with.

(g) An application for registration as a lobbyist under (a) of this section or for renewal of a registration under (f) of this section is subject to a fee of \$250. The commission may not accept an application for registration or renew a registration until the fee is paid. This subsection does not apply to volunteer lobbyist under AS 24.45.161 or a representational lobbyist under regulations of the commission.

(h) Upon request of the commission, information required under this section shall be submitted electronically.

(i) A person may not register if the person has been previously convicted of a felony involving moral turpitude in violation of a law of this state or the law of another jurisdiction with elements similar to a felony involving moral turpitude in this state.

(j) In this section,

(1) “felony involving moral turpitude” has the meaning given in AS 15.60.010;

(2) “previously convicted” means the defendant entered a pleas of guilty, no contest, or nolo contendere, or has been found guilty by a court or jury; “previously convicted” does not include a conviction that has been set aside under AS 12.55.085 or a similar procedure in another jurisdiction, or that has been reversed or vacated by a court. (§ 2 ch 167 SLA 1976; am § 39 ch 36 SLA 1990; am § 12 ch 74 SLA 1998; am § 9 ch 22 SLA 2001; am §§ 20 – 22 ch 108 SLA 2003; am § 10 ch 34 SLA 2007; am §§ 12, 13 ch 47 SLA 2007)

Effect of amendments. The 1998 amendment, effective January 1, 1999, in subsection (b) added paragraph (7) and made minor stylistic changes.

The 2001 amendment, effective May 10, 2001, made a section reference substitution in paragraph (b)(7).

The 2003 amendment, effective September 14, 2003, substituted “domestic partner” for “spousal equivalent” in two places in paragraph (b)(7); substituted “\$250” for “\$100” in the first sentence in subsection (g); and added subsection (h).

The first 2007 amendment, effective January 1, 2008, substituted “15 days” for “45 days” near the beginning of the first sentence of subsection (e), and inserted a comma following “thereafter” near the beginning of the second sentence.

The second 2007 amendment, effective July 10, 2007, deleted “legislator” following “the identification of a” at the end of paragraph (b)(7), added paragraphs (b)(8) and (b)(9), and added subsection (i) and (j).

Lobbyists: Reports **AS 24.45.051(b)**

Sec. 24.45.051(b). Reports

(b) A lobbyist required to report to the commission under (a) of this section, who provides or pays for food or beverage for immediate consumption by a legislator or legislative employee or a spouse or domestic partner of a legislator or legislative employee shall report the date the food or beverage was provided or paid for and the recipient’s name and relationship to the legislator or legislative employee, unless the food and beverage

(1) cost \$15 or less; or

(2) are provided as part of an event that is open to all legislators or legislative employees.

Lobbyists: Prohibitions AS 24.45.121

Sec. 24.45.121. Prohibitions.

(a) [See effect of amendments note]. A lobbyist may not

- (1) engage in any activity as a lobbyist before registering under AS 24.45.041;
- (2) do anything with the intent of placing a public official under personal obligation to the lobbyist or to the lobbyist's employer;
- (3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;
- (4) cause or influence the introduction of a legislative measure solely for the purpose of thereafter being employed to secure its passage or its defeat;
- (5) cause a communication to be sent to a public official in the name of any fictitious person or in the name of any real person, except with the consent of that person;
- (6) accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action;
- (7) serve as a member of a state board or commission, if the lobbyist's employer may receive direct economic benefit from a decision of that board or commission;
- (8) serve as a campaign manager or director, serve as a campaign treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for, or deliver contributions to, a candidate, or otherwise engage in the fund-raising activity of a legislative campaign or campaign for governor or lieutenant governor if the lobbyist has registered, or is required to register, as a lobbyist under this chapter, during the calendar year; this paragraph does not apply to a representational lobbyist as defined in the regulations of the Alaska Public Offices Commission, and does not prohibit a lobbyist from making personal contributions to a candidate as authorized by AS 15.13 or personally advocating on behalf of a candidate;
- (9) offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60, during a legislative session, a gift, other than food or beverage for immediate consumption; however, this paragraph does not prohibit a lobbyist from providing, during a legislative session or at any other time of the year, tickets to a charity event described in AS 24.60.080(c)(10), or a contribution to a charity event under AS 24.60.080(c)(11);
- (10) make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60.

(b) A person may not employ for pay or any consideration, or pay or agree to pay consideration to, a person to lobby who is not registered under AS 24.45.041 unless that person registers and that person does in fact so register before engaging in lobbying.

(c) A former member of the legislature may not engage in activity as a lobbyist before the legislature for a period of one year after the former member has left the legislature. This subsection does not prohibit a former member from acting as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission.

(d) An individual may not, at any time that AS 39.52 prohibits that individual from engaging in activity as a lobbyist. This subsection does not prohibit registration or service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission.

(e) The spouse or domestic partner of a legislator may not engage in activity as a lobbyist. This subsection does not prohibit the spouse or domestic partner from acting as a volunteer lobbyist

under AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission. (§ 2 ch 167 SLA 1976; am § 1 ch 159 SLA 1984; am §§ 37, 38 ch 127 SLA 1992; am § 26 ch 48 SLA 1996; am § 1 ch 115 SLA 2003)

Cross references. — For legislative findings and purpose concerning the 1996 amendments made by ch. 48, SLA 1996 that relate to this section, see § 1, ch. 48, SLA 1996 in the Temporary and Special Acts. For construction of the 1996 amendments, see § 29, ch. 48, SLA 1996 in the Temporary and Special Acts. For provisions relating to the applicability of AS 15.13 to certain persons if a court determines that persons who are not individuals must be allowed to contribute to candidates or groups, see § 30, ch. 48, SLA 1996 in the Temporary and Special Acts. For severability of the provisions of ch. 48, SLA 1996, see § 31, ch. 48, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective January 1, 1997, rewrote paragraph (a)(8).

The 2003 amendment, effective September 15, 2003, added the exception at the end of paragraph (a)(9).

Editor's notes. — Section 33(a), ch. 48, SLA 1996 provides that the amendment to this section made by § 26, ch. 48, SLA 1996 takes effect only if the lieutenant governor determines that §§ 1—32, ch. 48, SLA 1996 are substantially the same as the law proposed by the initiative identified as Initiative Petition 95 CFPO. The lieutenant governor communicated her determination to that effect to the initiative sponsors by letter dated May 29, 1996. See also May 21, 1996 Op. Att'y Gen. Accordingly, under § 35, ch. 48, SLA 1996, this amendment to this section takes effect January 1, 1997.

Lobbyists: General Provisions **AS 24.45.161(a)(1) & AS 24.45.171**

Sec. AS 24.45.161(a)(1). Exemptions.

(a) This chapter does not apply to

(1) an individual

- (A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay the individual's reasonable personal travel and living expenses; and
- (B) who limits lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of the state agencies.

Legislative history reports. — For legislative intent, see report on CSHB 522, 1976 House Journal, p. 562

Sec. AS 24.45.171. Definitions.

- (1) “administrative action” means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by any state agency of any rule or regulation, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by AS 44.62 (Administrative Procedure Act); “administrative action” does not include
 - (A) a proceeding or an action to determine the rights or duties of a person under existing statutes, regulations, or policies;

- (B) the issuance, amendment, or revocation of a permit, license, or entitlement for use under existing statutes, regulations, or policies by the agency authorized to issue, amend, or revoke the permit, license, or entitlement for use;
 - (C) the enforcement of compliance with existing law or the imposition of sanctions for a violation of existing law;
 - (D) procurement activity, including the purchase or sale of property, goods, or services by the agency or the award of a grant contract;
 - (E) the issuance of, or ensuring compliance with, an opinion or activity related to a collective bargaining agreement including negotiating or enforcing the agreement;
- (2) “agency” means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;
 - (1) “commission” means the Alaska Public Offices Commission;
 - (2) “communicate directly” means to speak with a legislator, legislative employee, or public official;
 - (A) by telephone;
 - (B) by two-way electronic communication; or
 - (C) in person;
 - (5) “domestic partner” has the meaning given in AS 39.50.200(a);
 - (6) “gift”
 - (A) means any payment to the extent that consideration of equal or greater value is not received;
 - (B) includes but is not limited to
 - (i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received.
 - (ii) the purchase of tickets for travel or for entertainment events; and
 - (iii) the granting of discounts or rebates for goods or services not extended to the public generally;
 - (C) does not include
 - (i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars, or periodicals; however, payments for travel or reimbursement for expenses may not be considered “information material”;
 - (ii) food and beverages consumed in places of public accommodation;
 - (7) “immediate family” means the spouse and dependent children of an individual;
 - (8) “individual” means a natural person;
 - (9) “influencing legislative or administrative action” means to communicate directly for the purpose of introducing, promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative or administrative action;
 - (10) “legislative action” means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor;

- (11) “lobbyist” means a person who
- (A) is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person’s agents with any public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year; or
 - (B) represents oneself as engaging in the influencing of legislative or administrative action as a business, occupation, or profession;
- (12) “payment” means the disbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering or tendering of money, property, goods, or services or anything else of value;
- (13) “payment to influence legislative or administrative action” means any of the following:
- (A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;
 - (B) a payment in support of or assistance to a lobbyist or the lobbyist’s activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;
 - (C) a payment that directly benefits a public official or a member of the immediate family of that official;
 - (D) a payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with a public official;
 - (E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;
 - (F) a payment or reimbursement for expenses in categories set out in AS 24.45.051(a)(2);
- (14) “person”, in addition to the terms set out in AS 01.10.060 includes a labor union; and
- (15) “public official” or “public officer” means a public official as defined in AS 39.50.200(a), a member of the legislature, or a legislative director as defined in AS 24.60.990(a); however it does not include a judicial officer or an elected or appointed municipal officer. (§ 2 ch 167 SLA 1976; am § 39 ch 37 SLA 1986; am § 39 ch 127 SLA 1992; am § 26 ch 108 SLA 2003; am §§ 2 – 5 ch 115 SLA 2003; am § 4, 2006 Primary Election Ballot Measure 1; am § 17 ch 47 SLA 2007)

Revisor’s notes. — Paragraphs (3) and (4) were enacted as paragraph (13) and renumbered in 2003, at which time paragraphs (3) – (12) were renumbered as (5) – (14). Paragraph (5) was enacted as paragraph (15) and renumbered in 2007, at which time paragraphs (5) – (14) were renumbered as (6) – (15).

Effect of amendments. — The first 2003 amendment, effective September 14, 2003, added paragraph (3).

The second 2003 amendment, effective September 15, 2003, in paragraph (1), in the introductory

language, deleted “order, decision, determination,” following “of any rule” and added “ ‘administrative action’ does not include” at the end, and added subparagraphs (A)-(E); rewrote paragraphs (8) and (10) [now (9) and (11)]; and added paragraph (4).

The 2006 amendment, effective December 17, 2006, rewrote paragraph (10) [now (11)].

The 2007 amendment, effective July 10, 2007, added paragraph (15) [now (5)].

Legislative Procurement Procedures **AS 36.30.020**

Sec. AS 36.30.020. Legislature

The legislative council shall adopt and publish procedures to govern the procurement of supplies, services, professional services, and construction by the legislative branch. The procedures must be based on the competitive principles consistent with this chapter and must be adapted to the special needs of the legislative branch as determined by the legislative council. The procedures must contain provisions for prohibiting procurement from a person that has headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C). The procedures may contain provisions for restricting procurement from a person that conducts business in but does not have headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C). The procedures must be consistent with the provisions of AS 36.30.080(c) – e and 36.30.085. Notwithstanding the other provisions of this section, the legislative agencies subject to the legislative council's regulations shall comply with AS 36.30.170(b). (§ 2 ch 106 SLA 1986; am § 6 ch 181 SLA 1990; am § 1 ch 73 SLA 1992; am § 4 ch 75 SLA 1994; am § 5 ch 137 SLA 1996; am § 3 ch 72 SLA 2006)

Effect of amendments. — The 2006 amendment, effective July 1, 2006, inserted the third and fourth sentences.

Administration of Grants **AS 37.05.316**

Sec. AS 37.05.316. Grants to named recipients.

(a) When an amount is appropriated or allocated to a department as a grant under this section for a named recipient that is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act for which the appropriation or allocation is made. A grant agreement must be executed within 60 days after the effective date of the appropriation or allocation unless the department determines that an award of the grant would not be in the public interest.

(b) The Department of Labor and Workforce Development shall require a recipient awarded a grant for a public works project under (a) of this section to comply with the hiring preferences under AS 36.10.150 – 36.10.175 for employment generated by the grant. (§ 2 ch 4 SLA 1982; am § 8 ch 33 SLA 1986; am § 39 ch 106 SLA 1986; am § 5 ch 59 SLA 1997)

Revisor's notes. — In 1999, in (b) of this section, “Department of Labor” was changed to “Department

of Labor and Workforce Development” in accordance with § 90, ch.58 SLA 1999.

Pension Forfeiture to Preserve Public Trust in Government **AS 37.10.310**

Sec. AS 37.10.310. Pension

(a) A public officer, as defined in AS 39.52.960, a legislator, or a person employed as a legislative director, as that term is defined in AS 24.60.990, who is convicted of a federal or state felony offense of bribery, receiving a bribe, perjury, subornation of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or tax evasion may not receive a state pension benefit if the offense was committed on or after the effective date of this section and was in connection with the person's official duties.

(b) Pension benefits and employee contributions that accrue to a person before the date of the person's commission of the offense described in (a) of this section are not diminished or impaired by that subsection.

(c) A state pension benefit under (a) of this section does not include

- (1) insurance, voluntary wage reductions, involuntary wage reductions, or supplemental or health benefits under AS 39.30.090 – 39.30.495 or former 39.37.145;
- (2) member or employee contributions under AS 14.25.050, 14.25.055, 14.25.075, 14.25.340, 14.25.360(a), AS 22.25.011, AS 39.35.160, 39.35.165(f), 39.35.180, 39.35.730, 39.35.760(a), or former AS 39.37.070.

(d) In a pension forfeiture matter under this section, the board may award to a spouse, dependent, or former spouse of the person governed by the limitations in (a) of this section some or all of the amount that, but for the forfeiture under (a) of this section, may otherwise be payable. In determining whether to make an award under this subsection, the board shall consider the totality of circumstances, including

- (1) the role, if any, of the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted; and
- (2) the degree of knowledge, if any, possessed by the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted. (§ 50 ch 47 SLA 2007)

Cross references. — For applicability of this section, see AS 14.25.212, AS 14.25.532, AS 22.25.800, AS 39.35.273, and AS 39.35.932.

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c)

Editors notes. — Under § 76 ch 47 SLA 2007, the provisions of this section “apply to benefits under former AS 39.37 (elected public officers’ retirement system).”

Compensation, Allowances, and Leave **AS 39.20.180**

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, the provisions in this section relating to per diem and transportation govern exclusively with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of

transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to duties as such member:

- (1) for transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 - 39.20.170;
- (2) for reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974; am § 31 ch 85 SLA 1988)

Cross references. — For coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242

Opinions of attorney general. — In order to recover an allowance for nonmeeting activity, an occupational licensing board member must be engaged in an activity within the scope of the applicable board's powers. November 6, 1984 Op. Att'y Gen.

An occupational licensing board member cannot receive a per diem allowance for conducting an activity that should be performed by division personnel; any activity approved must be specifically

defined by statute as a board duty and should be an activity that cannot be accomplished within the confines of a board meeting. If the task can be performed during a meeting, then per diem should not be paid for time unnecessarily spent by a board member outside a board meeting. It is important, of course, for budgetary reasons, that board activity for which per diem compensation is sought be kept to a minimum. November 6, 1984 Op. Att'y Gen.

The Alaska Power Authority may reimburse a member only for (1) time spent in actual meeting or (2) time spent on authorized official business to his duties as a member. April 19, 1984 Op. Att'y Gen.

Employment with the State **AS 39.35.300(a)**

Sec. 39.35.300(a). Employment

(a) An active employee is entitled to credited service for periods of employment with the state after January 1, 1961, regardless of the office department, division, or agency of the state in which the person was employed. For purposes of AS 39.35.095 – 39.35.680, the University of Alaska is not an office, department, division, or agency of the state. Service credit may not be granted under AS 39.35.095 – 39.35.680 for service that is creditable under the teachers' retirement system, AS 14.25, or for a person's service as a public officer, as defined in AS 39.52.960, a legislator, or legislative director, if the service occurs on or after the date the person commits a criminal offense from which a pension forfeiture under AS 37.10.310 results.

Public Official Financial Disclosure **AS 39.50.030 and AS 39.50.060(b)**

Sec. 39.50.030. Contents of Statement.

(a) Each statement must be an accurate representation of the financial affairs of the public official or candidate and must contain the same information for each member of the person's family, as

specified in (b) and (d) of this section, to the extent that it is ascertainable by the public official or candidate.

(b) Each statement filed by a public official or candidate under this chapter must include the following:

- (1) for all sources of income over \$1,000 during the preceding calendar year, including taxable capital gains, and for all gifts from a single source with a cumulative value exceeding \$250 in a calendar year, received by the person, the person's spouse or domestic partner, or the person's dependent child,
 - (A) each source of the income or gift;
 - (B) the recipient of the income or gift;
 - (C) the amount of the income or value of the gift;
 - (D) a brief statement describing whether the income was earned by commission, by the job, by the hour, or by some other method;
 - (E) the approximate number of hours worked to earn the income; and
 - (F) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed and the date the service was performed;
- (2) the identity, by name and address, of each business in which the person, the person's spouse or domestic partner, or the person's dependent child has an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than \$1,000 in stock of a publicly traded corporation need not be included;
- (3) the identity and nature of each interest in real property, including an option to buy, owned at any time during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child;
- (4) the identity of each trust or other fiduciary relationship in which the person, the person's spouse or domestic partner, or the person's dependent child held a beneficial interest exceeding \$1,000 during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;
- (5) any loan or loan guarantee of more than \$1,000 made to the person, the person's spouse or domestic partner, or the person's dependent child, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the person, the person's spouse or domestic partner, or the person's dependent child owed more than \$1,000; this paragraph requires disclosure of a loan, loan guarantee, or indebtedness only if the loan or guarantee was made, or the indebtedness incurred, during the preceding calendar year, or if the amount still owing on the loan, loan guarantee, or indebtedness was more than \$1,000 at any time during the preceding calendar year;
- (6) a list of all contracts and offers to contract with the state or an instrumentality of the state during the preceding calendar year held, bid, or offered by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, hold a controlling interest; and
- (7) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, holds a controlling interest.

(c) [Repealed, § 26 ch 250 SLA 1975.]

(d) In addition to the requirements of (b) of this section, each statement filed under this chapter by a public official in the executive branch of state government other than the chair or a member of a state commission or board must include a disclosure of the formation or maintenance of a close economic association involving a substantial financial matter as required by this subsection. The disclosure must be sufficiently detailed so that a reader can ascertain the nature of the association. A public official shall disclose a close economic association with

- (1) a legislator;
- (2) a public official who is not an elected or appointed municipal officer;
- (3) a lobbyist; or
- (4) a public officer if the person required to make the disclosure is the governor or the lieutenant governor.

(e) If a public official required to disclose a close economic association under (d) of this section forms a close economic association after the date on which the public official files the financial disclosure statement required by (a) of this section, disclosure of the association must be made to the commission within 60 days after the formation of the association.

(f) When making a disclosure under (d) of this section concerning a relationship with a lobbyist to whom the public official is married or who is the public official's domestic partner the public official shall also disclose the name and address of each employer of the lobbyist and the total monetary value received from the lobbyist's employer. The public official shall report changes in the employers of the spouse or domestic partner within 48 hours after the change. In this subsection, "employer of the lobbyist" means the person from whom the lobbyist received money, or goods or services having a monetary value, for engaging in lobbying on behalf of the person.

(g) The requirements in this section for disclosures related to a person's domestic partner do not apply to an elected or appointed municipal officer.

(h) In this section,

- (1) "close economic association" means a financial relationship that exists between a public official required to disclose a close economic association under (d) of this section and some other person or entity, including a relationship where the public official serves as a consultant or advisor to, is a member or representative of, or has a financial interest in an association, partnership, limited liability company, business, or corporation;
- (2) "lobbyist" has the meaning given in AS 24.60.990(a);
- (3) "public officer" has the meaning given in AS 39.52.960. (1974 Initiative Proposal No. 2, § 1; am §§ 3, 4, 26 ch 25 SLA 1975; am §§ 70 – 72 ch 74 SLA 1998; am §§ 34, 35, 41 ch 108 SLA 2003; am § 24 ch 99 SLA 2004; am §§ 55, 56 ch 47 SLA 2007;

Effect of amendments. — The 2003 amendment, effective September 14, 2003, substituted "domestic partner" for "spousal equivalent" throughout subsection (b) and otherwise rewrote that subsection; substituted "domestic partner" for "spousal equivalent" in two places in subsection (f); and repealed paragraph (h)(1).

The 2004 amendment, effective June 26, 2004, substituted "domestic partner" for "spousal equivalent" in subsection (g).

The 2007 amendment, effective July 10, 2007,

"relationship" for "relation" in paragraph (b)(4), inserted "limited liability company" in paragraphs (b)(6), (b)(7), and (h)(3), substituted "dependent child" for "dependent children" near the end of paragraphs (h)(6) and (b)(7), redesignated paragraphs (h)(2) through (h)(4) as (h)(1) through (h)(3), and made stylistic changes.

Opinions of attorney general. — Requiring an attorney who is a public official to disclose the names of clients, including the clients of the firm, is valid and legally supportable; and disclosure of such names

substituted “\$1,000” for “\$5,000” throughout subsection (b), rewrote paragraph (b)(1), substituted

does not violate any constitutional or professional privileges. February 15, 1985 Op. Att’y Gen.

Public Official Financial Disclosure **AS 39.50.060(b)**

Sec. 39.50.060(b). Penalty for willful violation of disclosure requirements.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairs, or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In the case of elected officials, the lieutenant governor, or other certifying authority, may not certify a person’s nomination for office or the person’s election to office if compliance was not made within the time required. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who has complied within the times required and who shall be declared nominated or elected. For purposes of this subsection, a person is considered to have complied within the time required if the person complies within 30 days after the due date established by this chapter. (1974 Initiative Proposal No. 2, § 1; am § 9 ch 25 SLA 1975; am § 73 ch 74 SLA 1998)

Cross references. — For applicability of subsection (b) to legislators and candidates for the legislature, see AS 24.60.200

Definition: Partisan Political Purposes **AS 39.52.120**

Sec. 39.52.120. Misuse of official position.

(b) A public officer may not

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor’s residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor’s residence so long as there is no charge to the state for the use; in this paragraph, “for partisan political purposes”

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

Use of the State Seal without Permission Prohibited **AS 44.09.015**

Sec. 44.09.015. Use of seal without permission prohibited.

(a) A person may not use or make a die or impression of the state seal for any advertising or commercial purpose, unless written permission has first been obtained from the lieutenant governor.

(b) Violation of this section is a misdemeanor, and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 1 ch 90 SLA 1968)

Revisor's notes. — Formerly AS 11.60.225.
Renumbered in 1978

Periodically questions arise concerning use of the state seal in political campaign material, e.g., an endorsement letter on a legislator's letterhead. Neither the legislative ethics law, nor the election law refers to the state seal. In the past, a Lieutenant Governor issued a letter of opinion stating that use of the state seal for campaign purposes was not permitted, absent his/her written permission.

Open Meetings of Governmental Bodies **AS 44.62.310 & AS 44.62.312**

Sec. 44.62.310. Government meetings public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;

- (4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

- (1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;
- (5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;
- (6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or
- (7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.
- (8) meetings of municipal service area boards established under AS 29.35.450-29.35.490 when meeting solely to act on matters that are administrative or managerial in nature.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

- (1) the expense that may be incurred by the public entity, other governmental bodies and individuals if the action is voided;
- (2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;
- (3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;

- (4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;
- (5) the amount of time that has passed since the action was taken;
- (6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;
- (7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;
- (8) the degree to which violations of this section were willful, flagrant, or obvious;
- (9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312(a)

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

- (1) “governmental body” means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; “governmental body” includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;
- (2) “meeting” means a gathering of members of a governmental body when
 - (A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or
 - (B) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for public entity but has no authority to establish policies or make decisions for the public entity;
- (3) “public entity” means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 19792; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985; am § 2 ch 201 SLA 1990; am § 7 ch 74 SLA 1991; am §§ 2 – 8 ch 69 SLA 1994; am § 7ch 54 SLA 2000)

Cross references. — For provisions related to meetings of legislative bodies, see AS 24.60.037.

Effects of amendments. — The 2000 amendment, effective May 12, 2000, substituted “posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a)” for “the publication required by AS 44.62.175(a) in the Alaska Administrative Journal” in the third sentence in subsection (e).

Opinions of attorney general. — The mental health lands working group is not a public body covered by the Open Meetings Act, and its meetings are not covered by the Open Meetings Act. That working group was not a formally established entity with a specific charge to take specific action or give specific advice, and the activities of the group were not financed by public money. It consisted of individuals, including state department heads, meeting merely to begin settlement discussions to resolve the legal issues in a lawsuit. January 1, 1992, Op. Att’y Gen.

The notice requirements of the Open Meetings Act require that the Museum Collections Advisory Committee publish a schedule of its fixed monthly meetings twice yearly, stating the date, time, and place of the meetings. For unscheduled meetings, the

public may be notified by public service announcements on the radio, as long as there confidence that the announcements will in fact be made; but regardless of the media used, at least three days notice should be given. December 30, 1992, Op. Att’y Gen.

The present practice of allowing boards and commissions to conduct routing business by mail does not violate the Open Meetings Act. It neither constitutes a meeting, nor is it motivated by an intent to circumvent the Open Meetings Act. Rather, mail voting is expressly authorized by statute. It also furthers sound policy by reducing both administrative costs and administrative burdens. July 5, 1994 Op. Att’y Gen.

AS 44.62.310(a) unambiguously provides for teleconference meetings. As 44.62.310(e) also requires that all teleconferencing facilities be open to the public and that they be noticed. It undue hardship makes it impossible or impractical for a member to participate from a noticed public teleconferencing site, then the governmental body may allow that member to participate in deliberations and votes of that governmental body by telephone without giving public notice of him or her location. August 21, 1995. Op. Att’y Gen.

Sec. 44.62.312. State policy regarding meetings.

(a) It is the policy of the state that

- (1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people’s business;
- (2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
- (3) the people of this state do not yield their sovereignty to the agencies that serve them;
- (4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.
- (5) the people’s right to remain informed shall be protected so that they may retain control over the instruments they have created;
- (6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)