

First Extraordinary Session, 2008

HOUSE BILL NO. 1

BY REPRESENTATIVES TUCKER, PETERSON, GALLOT, BARRAS, BARROW, BILLIOT, TIM BURNS, CAZAYOUX, CONNICK, DANAHAY, DOERGE, DOVE, GISCLAIR, HENRY, HILL, HINES, LABRUZZO, LIGI, PEARSON, PONTI, PUGH, RICHARD, ROY, SCHRODER, SMILEY, JANE SMITH, AND WILLIAMS

ETHICS/FINANCIAL DISCLOS: Requires certain public servants and candidates for certain offices to disclose certain financial information (Item #1)

1 AN ACT

2 To amend and reenact R.S. 42:1124, 1124.1, 1157(A)(4)(a), and 1167, to enact R.S.
3 18:1495.7 and R.S. 42:1124.2 and 1124.3, and to repeal R.S. 18:463(B) and R.S.
4 42:1114.1, relative to financial disclosure; to require certain disclosures by certain
5 public servants; to require certain disclosures by candidates for certain offices; to
6 provide for the content of such disclosures; to provide for certain actions by the
7 Board of Ethics relative to such disclosures; to remove certain specific financial
8 disclosure provisions applicable to members of the legislature; to provide for
9 penalties; to provide relative to the application of certain provisions of the Code of
10 Governmental Ethics; to provide for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 18:1495.7 is hereby enacted to read as follows:

13 §1495.7. Financial disclosure statements

14 A. Any person who becomes a candidate shall file a financial disclosure
15 statement as required by R.S. 42:1124, 1124.2, or 1124.3 for the office for which he
16 is a candidate. If he is undecided as to the office he will seek, he shall file the
17 statement required by R.S. 42:1124. The statement required by this Section shall be
18 filed within thirty days of the day a person becomes a candidate. If the person is

1 required by R.S. 42:1124, 1124.2, or 1124.3 to file a statement for the office for
2 which he is a candidate, such filing shall satisfy the requirements of this Section.

3 B.(1) Whoever fails to file a financial statement required by this Section, or
4 knowingly and willfully fails to timely file any such statement, or knowingly and
5 willfully fails to disclose or to accurately disclose any information required by this
6 Section shall be assessed a civil penalty pursuant to R.S. 42:1157 for each day until
7 such statement or the required accurate information is filed.

8 (2) The amount of such penalty shall be:

9 (a) Five hundred dollars per day for statements required for candidates for
10 governor.

11 (b) One hundred dollars per day for statements required for candidates for
12 any other public office other than those offices covered by R.S. 42:1124.3.

13 (c) Fifty dollars per day for statements required for candidates for offices
14 covered by R.S. 42:1124.3.

15 C.(1) If the supervisory committee discovers that a candidate has failed to
16 disclose or accurately disclose information required by R.S. 42:1124, 1124.2, or
17 1124.3, the supervisory committee shall mail by certified mail a notice of
18 delinquency informing the person that the information must be disclosed or
19 accurately disclosed no later than fourteen days after receipt of the notice of
20 delinquency. The notice of delinquency shall include the deadline for disclosing or
21 accurately disclosing the information. If the candidate discloses or accurately
22 discloses the information prior to the deadline contained in the notice of delinquency,
23 no penalties shall be assessed against the candidate.

24 (2) Whoever fails to disclose or accurately disclose the information by the
25 deadline included in the notice of delinquency shall be guilty of a misdemeanor and
26 upon conviction thereof shall be fined not less than one thousand dollars nor more
27 than ten thousand dollars or imprisoned in parish prison for not more than six
28 months, or both. Any prosecution under this Subsection shall be tried before a jury
29 of six persons, all of whom must concur to render a verdict.

1 Section 2. R.S. 42:1124, 1124.1, 1157(A)(4)(a), and 1167 are hereby amended and
2 reenacted and R.S. 42:1124.2 and 1124.3 are hereby enacted to read as follows:

3 §1124. Financial disclosure; governor; certain elected officials and appointed
4 persons

5 A. ~~Within thirty days after the date on which the governor enters upon the~~
6 ~~discharge of his duties as such, and annually thereafter, and within thirty days after~~
7 ~~the date on which the governor ceases to discharge the duties of his office, he~~ The
8 following persons shall annually file a financial statement; as provided in ~~Subsection~~
9 ~~B of this Section;~~

10 (1) The governor and each person holding statewide elected office.

11 (2) The secretary of each of the following departments of state government:

12 (a) The Department of Economic Development.

13 (b) The Department of Culture, Recreation and Tourism.

14 (c) The Department of Environmental Quality.

15 (d) The Department of Health and Hospitals.

16 (e) The Department of Labor.

17 (f) The Department of Natural Resources.

18 (g) The Department of Public Safety and Corrections.

19 (h) The Department of Revenue.

20 (I) The Department of Social Services.

21 (j) The Department of Transportation and Development.

22 (k) The Department of Wildlife and Fisheries.

23 (l) The Department of Veterans Affairs.

24 (3) The executive secretary of the Public Service Commission.

25 (4) Each member of the State Civil Service Commission and the director of
26 state civil service.

27 (5) Each member of the State Board of Elementary and Secondary
28 Education.

1 (6) The superintendent of education, the commissioner of higher education,
2 and the president of each public postsecondary education system.

3 (7) The commissioner of the division of administration.

4 (8) Each member of the Board of Ethics and the ethics administrator.

5 B. The financial statement required by this Section shall be filed by May
6 fifteenth of each year during which the person holds an office or position included
7 in Subsection A of this Section and by May fifteenth of the year following the
8 termination of the holding of such office or position.

9 C. The financial statement required by this Section shall be filed on a form
10 prescribed by the Board of Ethics and shall include the following information for the
11 preceding calendar year:

12 (1) The full name and residence address of the individual who is required to
13 file.

14 (2) The full name of the individual's spouse, if any, and the spouse's
15 occupation and principal business address.

16 (3) The name of the employer, job title, and a brief job description of each
17 full-time or part-time employment position held by the individual or spouse.

18 (4) The name, address, ~~brief entity description of,~~ and nature of association
19 with and the amount of interest in each business in which the individual or spouse
20 is a director, officer, owner, partner, member, or trustee, or in which the individual
21 or spouse, either individually or collectively, ~~holds~~ owns an interest ~~worth in excess~~
22 of which exceeds ten percent of that business.

23 (5) The name, address, type, and amount of each source of income received
24 during the immediately preceding calendar year by the individual or spouse, or by
25 any business in which the individual or spouse, either individually or collectively,
26 owns an interest which exceeds ten percent of that business, which is received from
27 the state or any political subdivision as defined in Article VI of the Constitution of
28 Louisiana.

1 ~~(4)~~ (6) The name, address, type, and amount of each source of income, in
2 excess of one thousand dollars, received by the individual or spouse, and the nature
3 of the services rendered therefor, if any, not already disclosed under Paragraph (5)
4 of this Subsection. ~~For income derived from mental health, medical health, or legal~~
5 ~~services rendered, the individual need only show the amount of the income and not~~
6 ~~the identity of any individual patient or client.~~ For income derived from professional
7 or consulting services rendered, including mental health, medical health, or legal
8 services, when the disclosure of the name or address of any source of income would
9 be prohibited by law or by a professional code, the individual need only include the
10 number of clients and amount of income for each of the following applicable
11 industry types:

12 (a) Utilities:

13 (I) Electric.

14 (ii) Gas.

15 (iii) Telephone.

16 (iv) Water.

17 (v) Cable television companies.

18 (b) Transportation:

19 (I) Intrastate companies.

20 (ii) Pipeline companies.

21 (iii) Oil exploration.

22 (iv) Gas exploration.

23 (v) Oil and gas retailers.

24 (c) Finance and insurance:

25 (I) Banks.

26 (ii) Savings and loan associations.

27 (iii) Loan and/or finance companies.

28 (iv) Manufacturing firms.

29 (v) Mining companies.

1 (vi) Life insurance companies.

2 (vii) Casualty insurance companies.

3 (viii) Other insurance companies.

4 (d) Retail companies:

5 (I) Beer companies.

6 (ii) Wine companies.

7 (iii) Liquor companies.

8 (iv) Beverage distributors.

9 (e) Associations:

10 (I) Trade.

11 (ii) Professional.

12 (f) Other (specify).

13 ~~(5)~~ (7) A brief description, value assessed for property taxes, location, and
14 address of each parcel of real immovable property, ~~the fair market value of which~~
15 ~~exceeds two thousand dollars~~, in which the individual or spouse, either individually
16 or collectively, has an interest, provided that the value assessed for property taxes for
17 such parcel of immovable property exceeds two thousand dollars. However, no
18 judge or law enforcement officer, including a district attorney, shall be required to
19 disclose the address of his primary personal residence.

20 ~~(6)~~ (8) A brief description, amount, and date of any purchase, sale, exchange,
21 donation, gift, or other acquisition or disposition, in excess of one thousand dollars,
22 of any real immovable property, and of any stocks, bonds, commodities futures, or
23 other forms of securities, including but not limited to any option to acquire and/or
24 dispose of any stocks, bonds, commodities futures, other forms of securities,
25 negotiable instruments, movable or immovable property, or any other interest.

26 ~~(7)~~ (9) The name, address, ~~and amount~~, name of guarantor, if any, and nature
27 of each liability owed to any creditor by the individual or spouse which exceeds ten
28 thousand dollars, excluding any loan secured by ~~a personal motor vehicle, household~~

1 ~~furniture, or appliances~~ movable property, if such loan does not exceed the purchase
2 price of the ~~item~~ movable property which secures it.

3 ~~C. (1)~~ D. (1) When an amount is required to be disclosed pursuant to this
4 Section, it shall be sufficient to report the amount by category of value. The
5 categories shall be:

6 (a) Category I, less than ~~five thousand dollars~~ \$5,000.

7 (b) Category II, \$5,000-\$24,999.

8 (c) Category III, \$25,000-\$49,999.

9 (d) Category IV, \$50,000- \$99,999.

10 (e) Category V, \$100,000-\$199,999.

11 (f) Category VI, \$200,000 or more.

12 (2) Amounts required to be disclosed shall be valued at actual or fair market
13 value, whichever is greater.

14 ~~D. E.~~ E. The financial statement shall be filed with the Board of Ethics and
15 shall be accompanied by the affidavit of the ~~public official~~ individual filing it
16 certifying that the information contained in the financial statement is true and correct
17 to the best of his knowledge, information, and belief. The financial statement shall
18 be a public record, subject to the provisions of Chapter 1 of Title 44 of the Louisiana
19 Revised Statutes of 1950.

20 ~~E. F.~~ F. For the purposes of this Section, an individual or spouse shall not
21 transfer any asset, interest, or liability required to be disclosed pursuant to
22 Subsection B of this Section to any person or business for the purpose of avoiding
23 disclosure, unless such transfer is irrevocable. A transfer shall not be irrevocable if
24 there exists any contract, letter, counter letter, note, or any other legally enforceable
25 agreement or authority which if exercised or enforced would require or authorize any
26 asset, interest, or liability transferred by an individual or spouse to a person or
27 business to revert back to such individual or spouse.

28 ~~F. G.~~ G. For purposes of this Section, the following words shall have the
29 following meanings:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.

(2) "Income" means any income from whatever source derived, including but not limited to the following items: compensation for services, including fees, salaries, commissions, and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from interest in an estate or trust.

(3) "Public office" shall have the same meaning as provided in R.S. 18:1483.

H. The Board of Ethics shall post a list of all persons who have failed to file or failed to timely file, or who have failed to disclose or accurately disclose any information required by this Section. A person shall be removed from the list upon filing or accurately disclosing the required information.

§1124.1. Penalties; required reports; failure to file; timely and accurate filing

A.(1) Whoever fails to file a financial statement required by this Part, or knowingly and willfully fails to timely file any such statement, or knowingly and willfully fails to disclose or to accurately disclose any information required by this Part shall be assessed a civil penalty pursuant to R.S. 42:1157 for each day until such statement or the required accurate information is filed.

(2) The amount of such penalty shall be:

(a) Five hundred dollars per day for statements required by R.S. 42:1124 to be filed by the governor.

(b) One hundred dollars per day for statements required by R.S. 42:1114, ~~or 1114.1~~ for statements required by R.S. 42:1124 to be filed by persons other than the governor, and for statements required by R.S. 42:1124.2.

(c) Fifty dollars per day for statements required by R.S. 42:1124.3.

1 B.(1) If the board discovers that a person has failed to disclose or accurately
2 disclose information required by R.S. 42:1124, 1124.2, or 1124.3, the board shall
3 mail by certified mail a notice of delinquency informing the person that the
4 information must be disclosed or accurately disclosed no later than fourteen days
5 after receipt of the notice of delinquency. The notice of delinquency shall include
6 the deadline for disclosing or accurately disclosing the information. If the person
7 discloses or accurately discloses the information prior to the deadline contained in
8 the notice of delinquency, no penalties shall be assessed against the person.

9 (2) Whoever fails to disclose or accurately disclose the information by the
10 deadline included in the notice of delinquency shall be guilty of a misdemeanor and
11 upon conviction thereof shall be fined not less than one thousand dollars nor more
12 than ten thousand dollars or imprisoned in parish prison for not more than six
13 months, or both. Any prosecution under this Subsection shall be tried before a jury
14 of six persons, all of whom must concur to render a verdict.

15 C. Whoever knowingly and willfully files a false report required by this Part,
16 except for statements required by R.S. 42:1124, 1124.2, or 1124.3, shall be guilty of
17 a misdemeanor and upon conviction thereof shall be fined not less than one thousand
18 dollars nor more than ten thousand or imprisoned in parish prison for not more than
19 six months, or both. Any prosecution under this Subsection shall be tried before a
20 jury of six persons, all of whom must concur to render a verdict. ~~€~~: "Knowingly and
21 willfully" for purposes of this ~~Section~~ Subsection means conduct which could have
22 been avoided through the exercise of due diligence.

23 §1124.2. Financial disclosure; certain elected officials; voting districts of five
24 thousand or more

25 A. Each member of the state legislature, judges, and each person holding a
26 public office who represents a voting district having a population of five thousand
27 or more persons, except any person who is required to file a financial statement
28 pursuant to R.S. 42:1124, shall annually file a financial statement as provided in this
29 Section.

1 B.(1) The financial statement required by this Section shall be filed by May
2 fifteenth of each year during which the person holds an office or position included
3 in Subsection A of this Section and by May fifteenth of the year following the
4 termination of the holding of such office or position.

5 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
6 financial statement required by this Section may be filed within thirty days after the
7 individual files his federal tax return for the year on which he is reporting, provided
8 that he notifies the Board of Ethics that he intends to do so within five days after the
9 deadline provided in Paragraph (1) of this Subsection.

10 C. The financial statement required by this Section shall be filed on a form
11 prescribed by the Board of Ethics and shall include the following information for the
12 preceding calendar year:

13 (1) The full name and residence address of the individual who is required to
14 file.

15 (2) The full name of the individual's spouse, if any, and the spouse's
16 occupation and principal business address.

17 (3) The name of the employer, job title, and a brief job description of each
18 full-time or part-time employment position held by the individual or spouse.

19 (4) The name, address, brief description of, and nature of association with
20 and the amount of interest in each business in which the individual or spouse is a
21 director, officer, owner, partner, member, or trustee, or in which the individual or
22 spouse, either individually or collectively, owns an interest which exceeds ten
23 percent of that business.

24 (5)(a) The name, address, type, and amount of each source of income
25 received during the immediately preceding calendar year by the individual or spouse,
26 or by any business in which the individual or spouse, either individually or
27 collectively, owns an interest which exceeds ten percent of that business, which is
28 received from any of the following:

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

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

5 (b) The name and address of any employer which provides income to the
6 individual or spouse pursuant to the full-time or part-time employment of the
7 individual or spouse, including a brief description of the nature of the services
8 rendered pursuant to such employment and the amount of such income, excluding
9 information required to be reported pursuant to Subparagraph (5)(a) of this
10 Subsection.

11 (c) The name and address of all businesses which provide income to the
12 individual or spouse, including a brief description of the nature of services rendered
13 for each business or of the reason such income was received, and the aggregate
14 amount of such income reported by category in accordance with Paragraph (D)(1)
15 of this Section, excluding information required to be reported pursuant to
16 Subparagraph (5)(a) or (b) of this Subsection.

17 (d) A description of the type of any other income exceeding one thousand
18 dollars received by the individual or spouse, including a brief description of the
19 nature of the services rendered for the income or the reason such income was
20 received, and the amount of income reported by category pursuant to Paragraph
21 (D)(1) of this Section, excluding information required to be reported pursuant to
22 Subparagraph (5)(a), (b), or (c) of this Subsection.

23 (6) A brief description, value assessed for property taxes, location, and
24 address of each parcel of immovable property in which the individual or spouse,
25 either individually or collectively, has an interest, provided that the value assessed
26 for property taxes for such parcel of immovable property exceeds two thousand
27 dollars. However, no judge or law enforcement officer, including a district attorney,
28 shall be required to disclose the address of his primary personal residence.

1 (7) The name and a brief description of each investment security having a
2 value exceeding five thousand dollars held by the individual or spouse, excluding
3 mutual funds, education investment accounts, retirement investment accounts,
4 government bonds, and cash or cash equivalent investments.

5 (8) A brief description, amount, and date of any purchase or sale, in excess
6 of five thousand dollars, of any immovable property and of any personally owned
7 stocks, bonds, or commodities futures, including any option to acquire or dispose of
8 any immovable property or of any personally owned stocks, bonds, or commodities
9 futures.

10 (9) The name and address of each creditor, and name of each guarantor, if
11 any, to whom the individual or spouse owes any liability which exceeds ten thousand
12 dollars, excluding:

13 (a) Any loan secured by movable property, if such loan does not exceed the
14 purchase price of the movable property which secures it.

15 (b) Any liability, secured or unsecured, which is guaranteed by the individual
16 or spouse for a business in which the individual or spouse owns any interest,
17 provided that the liability is in the name of the business and, if the liability is a loan,
18 that the individual or spouse does not use proceeds from the loan for personal use
19 unrelated to the business.

20 (10) A certification that such individual has filed his federal and state income
21 tax returns, or has filed for an extension of time for filing such tax returns.

22 D.(1) When an amount is authorized to be disclosed by category pursuant to
23 this Section, it shall be sufficient to report the amount by the following categories:

24 (a) Category I, less than \$5,000.

25 (b) Category II, \$5,000-\$24,999.

26 (c) Category III, \$25,000-\$49,999.

27 (d) Category IV, \$50,000-\$100,000.

28 (e) Category V, more than \$100,000.

1 (2) Amounts required to be disclosed shall be valued at actual or fair market
2 value, whichever is greater.

3 E. The financial statement shall be filed with the Board of Ethics and shall
4 be accompanied by the affidavit of the individual filing it certifying that the
5 information contained in the financial statement is true and correct to the best of his
6 knowledge, information, and belief. The financial statement shall be a public record,
7 subject to the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes
8 of 1950.

9 F. For purposes of this Section, an individual or spouse shall not transfer any
10 asset, interest, or liability required to be disclosed pursuant to this Section to any
11 person or business for the purpose of avoiding disclosure, unless such transfer is
12 irrevocable. A transfer shall not be irrevocable if there exists any contract, letter,
13 counter letter, note, or any other legally enforceable agreement or authority which
14 if exercised or enforced would require or authorize any asset, interest, or liability
15 transferred by an individual or spouse to a person or business to revert back to such
16 individual or spouse.

17 G. For purposes of this Section, the following words shall have the following
18 meanings:

19 (1) "Business" and "income" shall have the same meanings as provided in
20 R.S. 42:1124, except that "income" for purposes of Subparagraph (5)(a) shall not
21 include expenses paid to third parties.

22 (2) "Judge" shall have the same meaning as provided in the Code of Judicial
23 Conduct.

24 (3) "Public office" shall have the same meaning as provided in R.S. 18:1483.

25 H. Relative to members of the legislature, the Board of Ethics shall promptly
26 notify the clerical officer of the house of the legislature to which a member is elected
27 of all violations of the provisions of this Section.

28 I. The Board of Ethics shall post on its web site on the World Wide Web a
29 list of all persons who have failed to file or failed to timely file, or who have failed

1 to disclose or accurately disclose any information required by this Section. A person
2 shall be removed from the list upon filing or accurately disclosing the required
3 information.

4 §1124.3. Financial disclosure; certain elected officials and members of certain
5 boards and commissions

6 A. The following persons, except any person who is required to file a
7 financial statement by R.S. 42:1124 or 1124.2, shall annually file a financial
8 statement as provided in this Section:

9 (1) Each person holding a public office who represents a voting district
10 having a population of fewer than five thousand.

11 (2) Each appointed member of a state board or commission which has the
12 authority to expend, disburse, or invest more than ten thousand dollars of funds in
13 a fiscal year.

14 B. The financial statement required by this Section shall be filed by May
15 fifteenth of each year during which the person holds an office or position included
16 in Subsection A of this Section and by May fifteenth of the year following the
17 termination of the holding of such office or position.

18 C. The financial statement required by this Section shall be filed on a form
19 prescribed by the Board of Ethics and shall include the following information for the
20 preceding calendar year:

21 (1) Any and all income exceeding two hundred fifty dollars received during
22 the immediately preceding calendar year by the individual who is required to file, the
23 spouse of such individual, or any business in which such individual or his spouse,
24 individually or collectively, owns at least ten percent, which is received from any of
25 the following:

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

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

1 (2) A certification that such individual has filed his federal and state income
2 tax return, or has filed for an extension of time for filing such tax return.

3 D. For purposes of this Section, the following words shall have the following
4 meanings:

5 (1) "Business" and "income" shall have the same meanings as provided in
6 R.S. 42:1124.

7 (2) "Public office" shall have the same meaning as provided in R.S. 18:1483.

8 (3) "State board or commission" means a state board or commission included
9 in the comprehensive computerized information system on boards, commissions, and
10 like entities maintained by the legislative auditor pursuant to R.S. 24:513.2(D).

11 * * *

12 §1157. Late filing fees

13 A.

14 * * *

(4)(a)(I) The late filing fees for any violation of R.S. 42:1114 ~~1114.1~~, and
~~1124~~ shall be as provided in R.S. 42:1124.1(A).

17 (ii) The late penalties for any violation of R.S. 42:1124, 1124.2, or 1124.3
18 shall be as provided in R.S. 42:1124.1(B).

19 * * *

20 §1167. Judges

21 All judges, as defined by the Code of Judicial Conduct, shall be governed
22 exclusively by the provisions of the Code of Judicial Conduct, which shall be
23 administered by the Judiciary Commission provided for in Article V, Section 25 of
24 the Constitution of Louisiana, except that R.S. 42:1124.1, 1124.2, 1153, 1157, and
25 any provisions of this Chapter necessary to enforce R.S. 42:1124.1, 1124.2, 1153,
26 and 1157 shall be applicable to judges.

27 Section 3. R.S. 18:463(B) and R.S. 42:1114.1 are hereby repealed in their entirety.

28 Section 4. Prior to the effective date of this Act, the Board of Ethics shall promulgate
29 the forms required by this Act in accordance with the Administrative Procedure Act.

1 Section 5. This Act shall become effective on January 1, 2009; however, R.S.
 2 42:1124.3 as enacted by this Act shall become effective on January 1, 2010. Any reference
 3 to R.S. 42:1124.3 as enacted by this Act shall have no effect until R.S. 42:1124.3 becomes
 4 effective.

DIGEST

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

Tucker

HB No. 1

Abstract: Requires certain public servants to disclose certain income, compensation, and financial transactions of the public servant or his spouse and additionally requires candidates for certain offices to file financial disclosure statements with the Board of Ethics.

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

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

prison for not more than six months, or both. Specifies that prosecutions shall be tried before a six-person jury, all of whom must concur to render a verdict.

- (6) Provides that failure to file, failure to timely file, failure to accurately report, or filing of false information constitutes contempt of the house to which the member belongs.

Proposed law removes the provisions of present law (R.S. 42:1114.1) and provides instead that members of the legislature file the financial disclosure reports as required by proposed law (R.S. 42:1124.2-see below).

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

Proposed law extends such reporting requirements to:

- (1) Statewide elected officials.
- (2) The secretaries of executive branch departments.
- (3) Each member of the Civil Service Commission and the director of state civil service.
- (4) The superintendent of education, the commissioner of higher education, and the president of each public postsecondary education system.
- (5) Each member of the State Board of Elementary and Secondary Education.
- (6) The executive secretary of the Public Service Commission.
- (7) The commissioner of administration.
- (8) The members of the Board of Ethics and the ethics administrator.

Proposed law provides that "public office" has the same meaning as present law (R.S. 18:1483-Election Code), namely, any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the office of president or vice president of the U.S., presidential elector, delegate to a political party convention, U.S. senator, U.S. congressman, or political party office. Provides that "judge" has the same meaning as provided in the Code of Judicial Conduct.

Present law requires that the financial statement include the following information for the preceding calendar year:

- (1) Full name and residence address of the individual who is required to file.
- (2) Full name of the individual's spouse, if any, and the spouse's occupation and principal business address.
- (3) Name, address, and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, holds an interest worth in excess of 10%.
- (4) Name, address, type, and amount of each source of income, in excess of \$1,000, received by the individual or spouse, and the nature of the services rendered therefor, if any (except for income derived from mental health, medical health, or legal

services rendered, the individual need only show the amount of the income and not the identity of any individual patient or client).

- (5) Brief description, location, and address of each parcel of real property, the fair market value of which exceeds \$2,000, in which the individual or spouse, either individually or collectively, has an interest.

Proposed law provides that no judge or law enforcement officer, including a district attorney, shall be required to disclose the address of his primary personal residence.

- (6) Brief description, amount, and date of any purchase, sale, exchange, donation, gift, or other acquisition or disposition, in excess of \$1,000, of any real property, and of any stocks, bonds, commodities futures, or other forms of securities, including but not limited to any option to acquire and/or dispose of any stocks, bonds, commodities futures, other forms of securities, negotiable instruments, movable or immovable property, or any other interest.

Proposed law replaces references in present law (see (5) and (6) above) to "real property" with references to "immovable property".

- (7) Name, address, and amount of each liability owed to any creditor by the individual or spouse which exceeds \$10,000, excluding any loan secured by a personal motor vehicle, household furniture, or appliances, if such loan does not exceed the purchase price of the item which secures it.

Proposed law additionally requires the name of any guarantor and the nature of each liability owed. Replaces specific reference to "personal motor vehicle, household furniture, or appliances" and "item" with "movable property".

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

Proposed law additionally requires the following information to be disclosed:

- (1) The name of the employer, job title, and a brief description of each full-time or part-time employment position held by the individual or spouse.
- (2) A brief entity description of each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, owns an interest which exceeds 10% of that business.
- (3) The name, address, type, and amount of each source of income received during the immediately preceding calendar year by the individual, the spouse of such individual, or any business in which such individual or spouse, either individually or collectively, owns an interest which exceeds 10% of that business, which is received from the state or any political subdivision as defined in Article VI of the Constitution of Louisiana.
- (4) The value assessed for property taxes of each parcel of real property in which the individual or spouse, either individually or collectively, has an interest, provided that the assessed value of the property exceeds \$2,000.

Proposed law provides that for income derived from professional or consulting services rendered, including mental health, medical health, or legal services, when the disclosure of

the name or address of any source of income would be prohibited by law or by a professional code, the individual need only include the number of clients and amount of income for each of several listed applicable industry types.

Proposed law changes the date upon which the statement must be filed. Provides that the statement shall be filed by May 15 of each year during which the person holds an office or position covered by proposed law and by May 15 of the year following the termination of the holding of such office or position.

Proposed law (R.S. 42:1124.2) requires each legislator, judge, and person holding public office representing a voting district with a population of 5,000 or more (except those covered by R.S. 42:1124 above) to annually file a financial statement. Provides that the statement shall be filed by May 15 of each year during which the person holds an office or position covered by proposed law and by May 15 of the year following the termination of the holding of such office or position. Permits filing of the financial statement within 30 days after the individual files his federal tax return for the year, provided that he notifies the Board of Ethics that he intends to do so within five days after the deadline.

Proposed law requires that the financial statements include the following information for the preceding calendar year:

- (1) The full name and residence address of the individual who is required to file.
- (2) The full name of the individual's spouse, if any, and the spouse's occupation and principal business address.
- (3) The name of the employer, job title, and a brief job description of each full-time or part-time employment position held by the individual or spouse.
- (4) The name, address, brief description of, and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, owns an interest which exceeds 10%.
- (5) The name, address, type, and amount of each source of income received during the immediately preceding calendar year by the individual or spouse, or by any business in which the individual or spouse, either individually or collectively, owns an interest which exceeds 10% of that business, which is received from: (a) the state or any political subdivision, or (b) services performed for or in connection with a gaming interest as defined in the Campaign Finance Disclosure Act.
- (6) The name and address of any employer which provides income to the individual or spouse pursuant to the full-time or part-time employment of the individual or spouse, including a brief description of the nature of the services rendered pursuant to such employment and the amount of such income, excluding information required to be reported pursuant to Paragraph (5) above.
- (7) The name and address of all businesses which provide income to the individual or spouse, including a brief description of the nature of services rendered for each business or of the reason such income was received, and the aggregate amount of such income reported by category (see below), excluding information required to be reported pursuant to Paragraph (5) above.
- (8) A description of the type of any other income exceeding \$1,000 received by the individual or spouse, including a brief description of the nature of the services rendered for the income or the reason such income was received, and the amount of income reported by category pursuant to R.S. 42:1124.1(D)(1), excluding information required to be reported pursuant to R.S. 42:1124.2(C) (5)(a), (b), or (c).

- (9) A brief description, value assessed for property taxes, location, and address of each parcel of immovable property in which the individual or spouse, either individually or collectively, has an interest, if the value assessed for property taxes for such parcel exceeds \$2,000. Provides that no judge or law enforcement officer, including a district attorney, shall be required to disclose the address of his primary personal residence.
- (10) The name and a brief description of each investment security having a value exceeding \$5,000 held by the individual or spouse, excluding mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments.
- (11) A brief description, amount, and date of any purchase or sale, in excess of \$5,000, of any immovable property and of any personally owned stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned stocks, bonds, or commodities futures.
- (12) The name and address of each creditor, and name of each guarantor, if any, to whom the individual or spouse owes any liability which exceeds \$10,000, excluding: (a) any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it, and (b) any liability, secured or unsecured, which is guaranteed by the individual or spouse for a business in which the individual or spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that the individual or spouse does not use proceeds from the loan for personal use unrelated to the business.
- (13) A certification that such individual has filed his federal and state income tax returns, or has filed for an extension of time for filing such tax returns.

Proposed law provides that when an amount is authorized to be disclosed by category, it shall be sufficient to report the amount by the following categories: (a) Category I, less than \$5,000; (b) Category II, \$5,000-\$24,999; (c) Category III, \$25,000-\$49,999; (d) Category IV, \$50,000-\$100,000; (e) Category V, more than \$100,000. Provides that amounts required to be disclosed shall be valued at actual or fair market value, whichever is greater.

Proposed law requires that the financial statement be filed with the Board of Ethics with an affidavit certifying that the information contained in the financial statement is true and correct to the best of the filer's knowledge, information, and belief. Provides that the statement filed is a public record.

Proposed law prohibits an individual or spouse from transferring any asset, interest, or liability required to be disclosed to any person or business for the purpose of avoiding disclosure, unless such transfer is irrevocable. Provides that a transfer shall not be irrevocable if there exists any contract, letter, counter letter, note, or any other legally enforceable agreement or authority which if exercised or enforced would require or authorize any asset, interest, or liability transferred by an individual or spouse to a person or business to revert back to such individual or spouse.

Proposed law provides that "business" and "income" shall have the same meanings as provided in R.S. 42:1124 above, except that "income" for purposes of Paragraph (5) above shall not include expenses paid to third parties. Provides that "public office" has the same meaning as present law (R.S. 18:1483-Election Code), namely, any state, parish, municipal, ward, district, or other office or position that is filled by election of the voters, except the office of president or vice president of the U.S., presidential elector, delegate to a political party convention, U.S. senator, U.S. congressman, or political party office. Provides that "judge" has the same meaning as provided in the Code of Judicial Conduct.

Proposed law provides, relative to members of the legislature, that the Board of Ethics shall promptly notify the appropriate legislative clerical officer of violations of proposed law.

Present law (R.S. 42:1167) provides that all judges, as defined by the Code of Judicial Conduct, shall be governed exclusively by the provisions of the Code of Judicial Conduct, which shall be administered by the Judiciary Commission provided for in Article V, §25 of the Constitution of Louisiana.

Proposed law adds an exception to present law. Provides that R.S. 42:1124.2 and 1153 and any provisions of the Code of Governmental Ethics necessary to enforce R.S. 42:1124.2 and 1153 shall be applicable to judges.

Proposed law (R.S. 1124.3) provides that, except people required to file a financial statement under proposed law (R.S. 42:1124 and 1124.2-see above), each person holding public office who represents a voting district having a population of fewer than 5,000 and each appointed member of a state board or commission which has the authority to expend, disburse, or invest more than \$10,000 of funds in a fiscal year shall annually file a financial statement including the following information:

- (1) Any and all income exceeding \$250 received during the immediately preceding calendar year by the individual who is required to file, the spouse of such individual, or any business in which such individual or his spouse, individually or collectively, owns at least 10%, which is received from any of the following:
 - (a) The state or any political subdivision as defined in Article VI of the Constitution of Louisiana.
 - (b) Services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2(L)(3)(a).
- (2) A certification that such individual has filed his federal and state income tax return, or has filed for an extension of time for filing such tax return.

Proposed law requires the statement to be filed on the same schedule as proposed law (R.S. 42:1124-see above). Provides that the terms "income", "business", and "public official" shall have the same meanings as provided in proposed law (R.S. 42:1124-see above). Provides that "state board or commission" means a state board or commission included in the comprehensive computerized information system on boards, commissions, and like entities maintained by the legislative auditor pursuant to R.S. 24:513.2(D).

Present law (R.S. 42:1124.1) provides for penalties of \$500 per day (for governor) for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose any information required, for each day until the statement or required accurate information is filed. Present law additionally provides for penalties of \$100 per day (for legislators) for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose any information required, for each day until the statement required under present law (R.S. 42:1114.1) or required accurate information is filed.

Proposed law provides civil penalties as follows for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose relative to the indicated statements:

- (1) \$500 for statements required by R.S. 42:1124 to be filed by the governor.
- (2) \$100 per day for statements required by R.S. 42:1114 and for statements required by R.S. 42:1124 to be filed by persons other than the governor and for statements required by R.S. 42:1124.2 (legislators, judges, officials from districts of 5,000 or more population).

(3) \$50 for statements required by R.S. 42:1124.3 (others required to file).

Proposed law provides that if the board discovers that a person has failed to file a statement or failed to disclose or accurately disclose information required by proposed law (R.S. 42:1124, 1124.2, or 1124.3), the staff of the board shall mail by certified mail a notice of delinquency informing the person that the statement must be filed or the information disclosed or accurately disclosed no later than 14 days after receipt of the notice of delinquency. Provides that the notice of delinquency shall include the deadline for filing the statement or disclosing or accurately disclosing the information. Provides that if the person files the statement or discloses or accurately discloses the information within 14 days after the mailing of the notice of delinquency, no penalties shall be assessed against the person.

Provides that whoever fails to file the statement or fails to disclose or accurately disclose the information required by proposed law (R.S. 42:1124, 1124.2, or 1124.3) by the deadline included in the notice of delinquency shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$1,000 nor more than \$10,000 or imprisoned in parish prison for not more than six months, or both. Provides that any prosecution under this Subsection shall be tried before a jury of six persons, all of whom must concur to render a verdict.

Proposed law retains present law but excludes violations of R.S. 1124, 1124.2, or 1124.3, present law (R.S. 42:1124.1) that provides that whoever knowingly and wilfully files a false report under the ethics code shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$1,000 nor more than \$10,000 or imprisoned in parish prison for not more than six months, or both, and specifies that prosecutions shall be tried before a six-person jury, all of whom must concur to render a verdict.

Proposed law provides that a person who becomes a candidate shall file a financial disclosure statement as required by proposed law (R.S. 1124, 1124.2, and 1124.3-see above) for the office for which he is a candidate. Provides that if he is undecided as to the office he will seek, he shall file the statement required by R.S. 42:1124. Provides that the statement shall be filed within 30 days of the day the person becomes a candidate. Provides that if the person is required by proposed law (R.S. 1124, 1124.2, and 1124.3) to file a statement for the office for which he is a candidate, such filing shall satisfy the requirements of proposed law.

Proposed law applies similar procedures for enforcement and penalties for failing to file or failing to timely file a statement and for failing to disclose or accurately disclose information required by proposed law (R.S. 1124, 1124.2, and 1124.3-see above).

Proposed law repeals present law (R.S. 18:463(B)-Election Code) requiring a candidate for governor to file a financial disclosure statement upon filing the notice of candidacy and imposing specified penalties for failing to file, failing to timely file, and failing to disclose or accurately disclose required information.

Proposed law requires the board, prior to the effective date of the Act, to promulgate the required forms in accordance with the Administrative Procedure Act.

Proposed law becomes effective on Jan. 1, 2009, except that R.S. 42:1124.2 (relative to elected officials in districts with a population less than 5,000 and state boards and commission members) becomes effective on Jan. 1, 2010. Provides that any reference to R.S. 42:1124.2 shall have no effect until R.S. 42:1124.2 becomes effective.

(Amends R.S. 42:1124, 1124.1, 1157(A)(4)(a), and 1167; Adds R.S. 18:1495.7 and R.S. 42:1124.2 and 1124.3; Repeals R.S. 18:463(B) and R.S. 42:1114.1)

Summary of Amendments Adopted by House

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

1. Removes specific provisions requiring candidates for governor to file financial disclosure statements upon filing of the notice of candidacy and imposing specified penalties.
2. Provides procedures for each candidate for public office to file an appropriate financial statement upon becoming a candidate. Imposes penalties and provides procedures for enforcement.
3. Relative to the reporting of liabilities, additionally requires the name of any guarantor and the nature of each liability owed. Excludes certain liabilities secured by movable property.
4. Relative to reporting of property and certain transactions, changes references from "real property" to "immovable property".
5. Specifically provides that no judge or law enforcement officer shall be required to disclose the address of his primary personal residence.
6. Relative to legislators, removes reference in ethics code that filing violations constitute contempt of the house to which the member belongs.
7. Relative to reporting of income derived from professional and consulting services, adds specific reference to mental health.
8. Relative to failing to file, failing to timely file, and failing to disclose or accurately disclose required information on financial statements, replaces late filing fees with specified penalties and enforcement procedures.

House Floor Amendments to the engrossed bill.

1. Removes legislators, judges, and elected officials from districts with a population of 5,000 or more from disclosure requirements applicable to the governor and provides separate disclosure requirements applicable to them. Retains provisions making disclosure requirements applicable to the governor also applicable to statewide elected officials.
2. Provides civil penalties for failure to file, knowingly and wilfully failing to timely file, or knowingly and wilfully failing to disclose or accurately disclose: \$100 per day for statements required by R.S. 42:1114 and for statements required by R.S. 42:1124 to be filed by persons other than the governor and for statements required by R.S. 42:1124.2 (legislators, judges, and officials from districts of 5,000 or more population), and \$50 for statements required by R.S. 42:1124.3 (others required to file). Retains \$500 penalty amount for the governor.
3. Provides that no penalties (instead of a civil penalty of \$500) shall be assessed if a person discloses or accurately discloses within 14 days of receipt of a notice of delinquency.
4. Removes provision for the board to forward findings relative to filing a false report to the district attorney of East Baton Rouge Parish.