

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, WILLIAMS, ABRAMSON, ANDERS, ARNOLD, AUBERT, AUSTIN BADON, BOBBY BADON, BALDONE, BURFORD, HENRY BURNS, BURRELL, CARTER, CHAMPAGNE, CHANDLER, CHANEY, CORTEZ, CROMER, DIXON, DOWNS, EDWARDS, ELLINGTON, FANNIN, FOIL, FRANKLIN, GEYMANN, GREENE, ELBERT GUILLORY, MICKEY GUILLORY, GUINN, HARDY, HAZEL, HENDERSON, HOFFMANN, HONEY, HOWARD, HUTTER, GIROD JACKSON, MICHAEL JACKSON, JOHNSON, ROSALIND JONES, KATZ, KLECKLEY, LAMBERT, LEBAS, LEGER, LITTLE, LOPINTO, LORUSSO, MARCHAND, MCVEA, MILLS, MONICA, MONToucET, MORRELL, MORRIS, NORTON, NOWLIN, PERRY, POPE, RICHARDSON, RICHMOND, RITCHIE, ROBIDEAUX, SIMON, GARY SMITH, PATRICIA SMITH, ST. GERMAIN, TALBOT, TEMPLET, TRAHAN, WADDELL, WHITE, WILLMOTT, AND WOOTON

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:

1 §1495.7. Financial disclosure statements

2 A. Any person who becomes a candidate shall file a financial disclosure
3 statement as required by R.S. 42:1124, 1124.2, or 1124.3 for the office for which he
4 is a candidate. If he is undecided as to the office he will seek, he shall file the
5 statement required by R.S. 42:1124. The statement required by this Section shall be
6 filed within thirty days of the day a person becomes a candidate. If the person is
7 required by R.S. 42:1124, 1124.2, or 1124.3 to file a statement for the office for
8 which he is a candidate, such filing shall satisfy the requirements of this Section.

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

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

15 (a) Five hundred dollars per day for statements required for candidates for
16 governor.

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

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

21 C.(1) If the supervisory committee discovers that a candidate has failed to
22 disclose or accurately disclose information required by R.S. 42:1124, 1124.2, or
23 1124.3, the supervisory committee shall mail by certified mail a notice of
24 delinquency informing the person that the information must be disclosed or
25 accurately disclosed no later than fourteen business days after receipt of the notice
26 of delinquency. The notice of delinquency shall include the deadline for disclosing
27 or accurately disclosing the information. Upon receipt of the notice of delinquency,
28 the candidate shall be considered non-compliant until he discloses or accurately
29 discloses the information prior to the deadline contained in the notice of delinquency.

1 If the candidate discloses or accurately discloses the information prior to the deadline
2 contained in the notice of delinquency, no penalties shall be assessed against the
3 candidate.

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

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

12 §1124. Financial disclosure; governor; certain elected officials and appointed
13 persons

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

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

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

21 (a) The Department of Economic Development.

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

23 (c) The Department of Environmental Quality.

24 (d) The Department of Health and Hospitals.

25 (e) The Department of Labor.

26 (f) The Department of Natural Resources.

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

28 (h) The Department of Revenue.

29 (i) The Department of Social Services.

1 (j) The Department of Transportation and Development.

2 (k) The Department of Wildlife and Fisheries.

3 (l) The Department of Veterans Affairs.

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

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

7 (5) Each member of the State Board of Elementary and Secondary
8 Education.

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

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

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

13 (9) The chief of staff of the office of the governor.

14 (10) The executive counsel to the governor.

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

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

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

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

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

28 (4) The name, address, ~~brief description of,~~ and nature of association with
29 and the amount of interest in each business in which the individual or spouse is a

1 director, officer, owner, partner, member, or trustee, or in which the individual or
2 spouse, either individually or collectively, ~~holds~~ owns an interest ~~worth in excess of~~
3 which exceeds ten percent of that business.

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

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

21 (a) Utilities:

22 (i) Electric.

23 (ii) Gas.

24 (iii) Telephone.

25 (iv) Water.

26 (v) Cable television companies.

27 (b) Transportation:

28 (i) Intrastate companies.

29 (ii) Pipeline companies.

1 (iii) Oil exploration.

2 (iv) Gas exploration.

3 (v) Oil and gas retailers.

4 (c) Finance and insurance:

5 (i) Banks.

6 (ii) Savings and loan associations.

7 (iii) Loan and/or finance companies.

8 (iv) Manufacturing firms.

9 (v) Mining companies.

10 (vi) Life insurance companies.

11 (vii) Casualty insurance companies.

12 (viii) Other insurance companies.

13 (d) Retail companies:

14 (i) Beer companies.

15 (ii) Wine companies.

16 (iii) Liquor companies.

17 (iv) Beverage distributors.

18 (e) Associations:

19 (i) Trade.

20 (ii) Professional.

21 (f) Other (specify).

22 ~~(5)~~ (7) A brief description, fair market value or use value as determined by

23 the assessor for purposes of ad valorem taxes, location, and the address, if any, and

24 if no address, the location by state and parish or county, of each parcel of real

25 immovable property, the fair market value of which exceeds two thousand dollars,

26 in which the individual or spouse, either individually or collectively, has an interest,

27 provided that the fair market value or use value as determined by the assessor for

28 purposes of ad valorem taxes, for such parcel of immovable property exceeds two

29 thousand dollars.

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

(7) (9) The name, address, ~~and amount,~~ name of guarantor, if any, and nature of each liability owed to any creditor by the individual or spouse which exceeds ten thousand dollars, excluding: ~~any~~

(a) Any loan secured by ~~a personal motor vehicle, household furniture, or appliances~~ movable property, if such loan does not exceed the purchase price of the ~~item~~ movable property which secures it.

(b) Any loan by a licensed financial institution which loans money in the ordinary course of business, provided the loan is on terms and with interest rates generally available to a member of the general public.

(c) Any liability resulting from a consumer credit transaction as defined in R.S. 9:3516(13).

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

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

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

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

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

7 ~~E. F.(1)~~ For the purposes of this Section, an individual or spouse shall not
8 transfer any asset, interest, or liability required to be disclosed pursuant to
9 ~~Subsection B~~ of this Section to any person or business for the purpose of avoiding
10 disclosure, unless such transfer is irrevocable. A transfer shall not be irrevocable if
11 there exists any contract, letter, counter letter, note, or any other legally enforceable
12 agreement or authority which if exercised or enforced would require or authorize any
13 asset, interest, or liability transferred by an individual or spouse to a person or
14 business to revert back to such individual or spouse.

15 (2)(a) The sale of property subject to owner financing shall not be a transfer
16 prohibited by Paragraph (1) of this Subsection provided that the income from the sale
17 is disclosed in accordance with the provisions of this Section.

18 (b) A recorded bond for deed contract shall not be a transfer prohibited by
19 Paragraph (1) of this Subsection.

20 (3) For the purposes of this Section, an individual or spouse must disclose
21 any asset, interest, or liability required to be disclosed pursuant to this Section even
22 if such asset, interest, or liability is held in a blind trust.

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

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

28 (2) "Income" means any income from whatever source derived, including but
29 not limited to the following items: compensation for services, including fees,

1 salaries, commissions, and similar items; income derived from business; gains
2 derived from dealings in property; interest; rents; royalties; dividends; annuities;
3 income from ~~life insurance and~~ endowment contracts; pensions; income from
4 discharge of indebtedness; distributive share of partnership income; and income from
5 interest in an estate or trust; however, income shall not include any income received
6 pursuant to a life insurance policy.

7 H. The Board of Ethics shall post on its web site on the World Wide Web a
8 list of all persons who have failed to file or failed to timely file, or who have failed
9 to disclose or accurately disclose any information required by this Section.
10 However, no person shall be included on the list for failing to disclose or to
11 accurately disclose information unless he fails to disclose or accurately disclose the
12 information by the deadline included in the notice of delinquency mailed pursuant
13 to R.S. 42:1124.1(B). A person shall be removed from the list within two business
14 days after filing or accurately disclosing the required information.

15 §1124.1. Penalties; required reports; failure to file; timely and accurate filing

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

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

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

24 (b) One hundred dollars per day for statements required by R.S. 42:1114, ~~or~~
25 ~~1114.1~~ for statements required by R.S. 42:1124 to be filed by persons other than the
26 governor, and for statements required by R.S. 42:1124.2.

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

28 B.(1) If the board discovers that a person has failed to disclose or accurately
29 disclose information required by R.S. 42:1124, 1124.2, or 1124.3, the board shall

1 mail by certified mail a notice of delinquency informing the person that the
2 information must be disclosed or accurately disclosed no later than fourteen business
3 days after receipt of the notice of delinquency. The notice of delinquency shall
4 include the deadline for disclosing or accurately disclosing the information. If the
5 person discloses or accurately discloses the information prior to the deadline
6 contained in the notice of delinquency, no penalties shall be assessed against the
7 person.

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

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

22 §1124.2. Financial disclosure; certain elected officials; voting districts of five
23 thousand or more; state boards and commissions

24 A. Each member of the state legislature, each judge, each person holding a
25 public office who represents a voting district having a population of five thousand
26 or more persons, and each member of a state board or commission which has the
27 authority to expend, disburse, or invest more than ten thousand dollars of funds in
28 a fiscal year, except any person who is required to file a financial statement pursuant
29 to R.S. 42:1124, shall annually file a financial statement as provided in this 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 prior to the deadline provided in Paragraph (1)
9 of this Subsection of his intention to do so.

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)(a) 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, and in which the individual or
22 spouse, either individually or collectively, owns an interest which exceeds ten
23 percent of that business.

24 (b) The name, address, brief description of, and nature of association with
25 a nonprofit organization in which the individual or spouse is a director or officer.

26 (5)(a) The name, address, type, and amount of each source of income
27 received by the individual or spouse, or by any business in which the individual or
28 spouse, either individually or collectively, owns an interest which exceeds ten
29 percent of that business, which is 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, excluding information required to be reported pursuant to
15 Subparagraph (5)(a) or (b) of this Subsection.

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

21 (6) A brief description, fair market value or use value as determined by the
22 assessor for purposes of ad valorem taxes, and the address, if any, and if no address,
23 the location by state and parish or county, of each parcel of immovable property in
24 which the individual or spouse, either individually or collectively, has an interest,
25 provided that the fair market value or use value as determined by the assessor for
26 purposes of ad valorem taxes for such parcel of immovable property exceeds two
27 thousand dollars. However, no judge or law enforcement officer, including a district
28 attorney, 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 variable annuities, variable life insurance, variable universal life insurance, mutual
4 funds, education investment accounts, retirement investment accounts, government
5 bonds, and cash or cash equivalent investments. This Paragraph shall not be deemed
6 to require disclosure of information concerning any property held and administered
7 for any person other than the individual or spouse under a trust, tutorship,
8 curatorship, or other custodial instrument.

9 (8) A brief description, amount, and date of any purchase or sale, in excess
10 of five thousand dollars, of any immovable property and of any personally owned tax
11 credit certificates, stocks, bonds, or commodities futures, including any option to
12 acquire or dispose of any immovable property or of any personally owned tax credit
13 certificates, stocks, bonds, or commodities futures. Nothing in this Paragraph shall
14 require the reporting of information concerning variable annuities, variable life
15 insurance, and variable universal life insurance.

16 (9)(a) The name and address of each creditor, and name of each guarantor,
17 if any, to whom the individual or spouse owes any liability which exceeds ten
18 thousand dollars on the last day of the reporting period excluding:

19 (b) Any loan secured by movable property, if such loan does not exceed the
20 purchase price of the movable property which secures it.

21 (c) Any liability, secured or unsecured, which is guaranteed by the individual
22 or spouse for a business in which the individual or spouse owns any interest,
23 provided that the liability is in the name of the business and, if the liability is a loan,
24 that the individual or spouse does not use proceeds from the loan for personal use
25 unrelated to the business.

26 (d) Any loan by a licensed financial institution which loans money in the
27 ordinary course of business, provided the loan is on terms and with interest rates
28 generally available to a member of the general public.

1 (e) Any liability resulting from a consumer credit transaction as defined in
2 R.S. 9:3516(13).

3 (f) Any loan from an immediate family member, unless such family member
4 is a registered lobbyist, or his principal or employer is a registered lobbyist, or he
5 employs or is principal of a registered lobbyist, or unless such family member has
6 a contract with the state.

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

9 D.(1) When an amount is required to be disclosed pursuant to this Section,
10 it shall be sufficient to report the amount by the following categories:

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

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

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

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

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

16 (2) Except for amounts required to be disclosed under Paragraph (C)(6) of
17 this Section, amounts required to be disclosed shall be valued at actual or fair market
18 value, whichever is greater.

19 E. The financial statement shall be filed with the Board of Ethics and shall
20 be accompanied by the affidavit of the individual filing it certifying that the
21 information contained in the financial statement is true and correct to the best of his
22 knowledge, information, and belief. The financial statement shall be a public record,
23 subject to the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes
24 of 1950.

25 F.(1) For purposes of this Section, an individual or spouse shall not transfer
26 any asset, interest, or liability required to be disclosed pursuant to this Section to any
27 person or business for the purpose of avoiding disclosure, unless such transfer is
28 irrevocable. A transfer shall not be irrevocable if there exists any contract, letter,
29 counter letter, note, or any other legally enforceable agreement or authority which

1 if exercised or enforced would require or authorize any asset, interest, or liability
2 transferred by an individual or spouse to a person or business to revert back to such
3 individual or spouse.

4 (2)(a) The sale of property subject to owner financing shall not be a transfer
5 prohibited by Paragraph (1) of this Subsection provided that the income from the sale
6 is disclosed in accordance with the provisions of this Section.

7 (b) A recorded bond for deed contract shall not be a transfer prohibited by
8 Paragraph (1) of this Subsection.

9 (3) For the purposes of this Section, an individual or spouse must disclose
10 any asset, interest, or liability required to be disclosed pursuant to this Section even
11 if such asset, interest, or liability is held in a blind trust.

12 G. For purposes of this Section, the following words shall have the following
13 meanings:

14 (1) "Business" shall have the same meaning as provided in R.S. 42:1124.

15 (2)(a) "Income" for a business shall mean gross income less:

16 (i) Costs of goods sold.

17 (ii) Operating expenses.

18 (b) "Income" for an individual shall mean taxable income and shall not
19 include any income received pursuant to a life insurance policy.

20 (3) "Judge" shall have the same meaning as provided in the Code of Judicial
21 Conduct.

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

23 (5) "State board or commission" means each board, commission, and like
24 entity created by law or executive order which is made a part of the executive branch
25 of state government by the provisions of Title 36 of the Louisiana Revised Statutes
26 of 1950, or which is placed in an executive branch department or in the office of the
27 governor or lieutenant governor by law or executive order, or which exercises any
28 authority or performs any function of the executive branch of state government.
29 "State board or commission" shall not include an entity created as a political

1 subdivision of the state or of local government or as the governing body or an agency
2 of a political subdivision.

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

6 I. The Board of Ethics shall post on its web site on the World Wide Web a
7 list of all persons who have failed to file or failed to timely file, or who have failed
8 to disclose or accurately disclose any information required by this Section.
9 However, no person shall be included on the list for failing to disclose or to
10 accurately disclose information unless he fails to disclose or accurately disclose the
11 information by the deadline included in the notice of delinquency mailed pursuant
12 to R.S. 42:1124.1(B). A person shall be removed from the list within two business
13 days after filing or accurately disclosing the required information.

14 J. Except as required by Subparagraph (5)(a), for income derived from
15 professional or consulting services rendered, including mental health, medical health,
16 or legal services, nothing in this Section shall be construed to require the disclosure
17 of the name or address of any person when such disclosure would be prohibited by
18 law or by a professional code.

19 §1124.3. Financial disclosure; certain elected officials, voting districts of under five
20 thousand

21 A. Each person holding a public office who represents a voting district
22 having a population of fewer than five thousand, except any person who is required
23 to file a financial statement by R.S. 42:1124 or 1124.2, shall annually file a financial
24 statement as provided in this Section.

25 B. The financial statement required by this Section shall be filed by May
26 fifteenth of each year during which the person holds an office included in Subsection
27 A of this Section and by May fifteenth of the year following the termination of the
28 holding of such office.

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

(1) Any and all income exceeding two hundred fifty dollars 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 ten percent, 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.

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

(1) "Business" and "income" shall have the same meanings as provided in

R.S. 42:1124.

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

* * *

§1157. Late filing fees

A.

* * *

(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).

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

* * *

1 §1167. Judges

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

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

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

11 Section 5. This Act shall become effective on January 1, 2009; however, R.S.
12 42:1124.3 as enacted by this Act shall become effective on January 1, 2010. Any reference
13 to R.S. 42:1124.3 as enacted by this Act shall have no effect until R.S. 42:1124.3 becomes
14 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.
- (9) The chief of staff of the office of the governor.
- (10) The executive counsel to the governor.

Present law requires that the financial statement include the following information for the preceding calendar year and proposed law makes the changes indicated:

- (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%.

Proposed law refers instead to 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 and also requires a brief description of each such business.

- (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).

Proposed law replaces the exception above and 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.

- (5) Brief description, location, the 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 requires disclosure of the fair market value or use value as determined by the assessor for purposes of ad valorem taxes of each parcel of real property in which the individual or spouse, either individually or collectively, has an interest, provided that the fair market value or use value as determined by the assessor for purposes of ad valorem taxes exceeds \$2,000. Also provides for disclosure of location, the address, if any, and if no address, the location by state and parish or county.

- (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" and adds tax credit certificates to the disclosure requirement in (6) above.

- (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". Also excepts from disclosure any loan by a licensed financial institution which loans money in the ordinary course of business, provided the loan is on terms and with interest rates generally available to a member of the general public, and any liability resulting from a consumer credit transaction as defined in present law (R.S. 9:3516(13)).

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) 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.

Present law prohibits an individual or spouse from transferring any asset, interest, or liability required to be disclosed to any person or business to avoid 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 retains present law and specifies that the sale of property subject to owner financing shall not be such a prohibited transfer provided the income from the sale is disclosed. Also provides that a recorded bond for deed contract shall not be such a prohibited transfer.

Present law defines "income" as 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.

Proposed law removes income from life insurance and specifies that "income" shall not include income pursuant to a life insurance policy.

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, each 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) 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 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 prior to the May 15 deadline that he intends to do so.

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, and in which the individual or spouse, either individually or collectively, owns an interest which exceeds 10%. The name, address, brief description of, and nature of association with a non-profit organization in which the individual or his spouse is director or officer must also be disclosed.
- (5) The name, address, type, and amount of each source of income received 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, excluding information required to be reported pursuant to Paragraphs (5) and (6) 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, excluding information required to be reported pursuant to Paragraphs (5), (6), and (7) above.
- (9) A brief description, fair market value or use value as determined by the assessor for property tax purposes, and address, or parish or county where the property is located if there is no address, of each parcel of immovable property in which the individual or spouse, either individually or collectively, has an interest, if the fair market value or use value 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 variable annuities, variable life insurance, variable universal life insurance, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. Provides that proposed law does not require disclosure of information concerning property administered for another person under certain custodial instruments.

- (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 tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. Provides that proposed law does not require disclosure of information on variable annuities, variable life insurance, and variable universal life insurance.
- (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 on the last day of the reporting period, excluding: (a) any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it; (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; (c) any loan by a licensed financial institution and which meets other specified criteria; (d) any liability from a consumer credit transaction; and (e) a loan from an immediate family member unless the family member is a lobbyist, employs or retains a lobbyist, is employed or retained by a lobbyist, or has a contract with the state.
- (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 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. Provides that such prohibition does not prohibit the sale of property subject to owner financing provided that the income from the sale is disclosed, and that a recorded bond for deed contract is not prohibited.

Proposed law provides that "business" has the same meaning as provided in R.S. 42:1124 above. Provides that income for a business means gross income less costs of goods sold and operating expenses; income for an individual means taxable income but does not include income received pursuant to a life insurance policy. 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. Provides that "state board or commission" means each board, commission, and like entity created by law or executive order which is made a part of the executive branch of state government by the provisions present law or which is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or which exercises any authority or performs any function of the executive branch of state government; it does not mean a political subdivision.

Proposed law provides that it does not require disclosure of client information that is protected by law or professional code, except as provided in Paragraph (5) above.

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.

Proposed law provides as follows with respect to both disclosure statutes described above (R.S. 42:1142 and 1142.2)

- (1) 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. (For R.S. 24:1124, Category IV is \$50,000-\$99,999; Category V is \$100,000-\$199,999; and Category VI is \$200,000 or more.) Provides that amounts required to be disclosed shall be valued at actual or fair market value, whichever is greater.
- (2) Requires that any asset, interest, or liability required to be disclosed must be disclosed even if held in a blind trust.
- (3) Requires that the board post on its website a list of persons who fail to file, timely file, disclose, or accurately disclose information required by proposed law unless such information is filed or disclosed within a time period established by a letter of delinquency from the board. Requires that names be removed from the list within two business days of filing and accurately disclosing all required information.

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. 42:1124.3) provides that each person holding public office who represents a voting district having a population of fewer than 5,000 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" and "business" shall have the same meanings as provided in proposed law (R.S. 42:1124-see above) and "public office" shall have the meaning provided in The Election Code (see R.S. 42:1124.2 above).

Proposed law (R.S. 18:1495.7) 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.

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 business 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 business 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 subject to prosecution for a misdemeanor and upon conviction thereof shall be fined not less than \$1,000 nor more than \$10,000. 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, applicable to person who become candidates, 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.

House Floor Amendments to the reengrossed bill.

1. Makes disclosure requirements that are applicable to the governor also applicable to the governor's executive counsel and chief of staff.
2. In provisions for disclosure relative to the value of property, changes requirement to report the "value assessed for property taxes" to "fair market value or use value as determined by the assessor for purposes of ad valorem taxes". Also changes disclosure of location and address to disclosure of location, the address, if any, and if no address, the location by state and parish or county.
3. In provisions for disclosure of any purchase, sale, exchange, donation, gift, or other acquisition or disposition of immovable property and certain securities, adds tax credit certificates.
4. In provisions for disclosure of liabilities also excepts from disclosure any loan by a licensed financial institution which loans money in the ordinary course of business, provided the loan is on terms and with interest rates generally available to a member of the general public and any liability resulting from a consumer credit transaction as defined in present law (R.S. 9:3516(13)).
5. Relative to disclosure of liabilities by legislators and others required to file in the same manner, also excepts loans from immediate family members with certain specified exceptions.
6. Relative to prohibition on transfer of property to avoid disclosure, specifies that the sale of property subject to owner financing (if the income from the sale is disclosed) shall not be such a prohibited transfer and that a recorded bond for deed contract shall not be such a prohibited transfer.
7. Requires that any asset, interest, or liability required to be disclosed must be disclosed even if held in a blind trust.
8. In definition of "income" for purposes of disclosure, specifies that "income" shall not include income pursuant to a life insurance policy.
9. Requires that the posting of the list of those who have not filed or timely filed or who have not disclosed required information or accurately disclosed shall be on the Board of Ethics' web site. Provides that a person shall not be included on the list for failing to disclose or to accurately disclose information unless he fails to do so by the deadline included in the notice of delinquency. Provides that

removal from the list shall be within two business days of filing or accurately disclosing rather than "upon" such filing or disclosure.

10. Specifies that the days allowed to respond to a letter of delinquency from the board are business days.
11. Adds provision relative to candidates for office providing that a candidate is noncompliant until he discloses information pursuant to a letter of delinquency.
12. Changes reporting requirements for members of state boards and commissions from same reporting requirements as elected officials from small districts to same reporting requirements as legislators.
13. Removes imprisonment as a possible punishment for failing to disclose or accurately disclose information by the deadline in a letter of delinquency, except for candidates.
14. Changes deadline for notifying the board regarding the intent to file the financial statement after filing a federal income tax return from within five days after the May 15 deadline to the May 15 deadline (applicable to legislators and others required to file in the same manner).
15. Requires legislators and others required to file in the same manner to disclose certain associations with nonprofit organizations.
16. In provisions relative to disclosing investment securities and transactions, as applicable to legislators and others required to file in the same manner, excludes variable annuities, variable life insurance, and variable universal life insurance; also exempts property held under certain custodial instruments.
17. Redefines income as applicable to legislators and others required to file in the same manner.
18. Adds provision that proposed law does not require disclosure of names and addresses of sources of income if such disclosure is prohibited by law or professional code.