

R.S. 42:1124

Prior law provided that within 30 days after the date on which the governor entered upon the discharge of his duties, and annually thereafter, and within 30 days after the date on which the governor ceased to discharge the duties of his office, he was required to file a financial disclosure statement on a form prescribed by the Board of Ethics.

New law (informally termed "Tier 1") requires the following to file financial disclosure statements:

- (1) Statewide elected officials.
- (2) The secretaries of executive branch departments.
- (3) 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) The governor's policy director.
- (6) The executive secretary of the Public Service Commission.
- (7) The commissioner of administration.
- (8) The governor's legislative director.
- (9) The governor's chief of staff and deputy chief of staff.
- (10) The executive counsel to the governor.

Existing law requires that the financial statement include: (1) the full name and residence address of the individual who is required to file and (2) the full name of the individual's spouse, if any, and the spouse's occupation and principal business address. Additionally requires that the financial statement include the 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, owns more than 10%. New law further requires a brief description of each such business and requires reporting on certain associations with nonprofit organizations.

Existing law additionally requires that the financial statement include the 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. Prior law provided that for income derived from mental health, medical health, or legal services rendered, the individual was only required to show the amount of the income and not the identity of any individual patient or client. New law removes this exception and provides instead that for income derived from professional or consulting 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. Provides that income from disability, child support, or alimony payments is not required to be reported.

Existing law requires that the financial statement include a brief description and other information on parcels of property in which the individual and/or his spouse have an interest and which parcels are valued at over \$2,000. New law amends this requirement as follows:

- (1) New law requires disclosure of the value of the property, either fair market value or use value as determined by the assessor.

- (2) Prior law required reporting the location and address of the property. New law requires reporting the address if there is one and location by state and parish/county if not.
- (3) Prior law required reporting on real property. New law requires reporting on immovable property.
- (4) Prior law required use of fair market value to determine whether a parcel met the \$2,000 minimum value. New law requires reporting if the fair market or use value exceeds \$2,000.

Existing law additionally requires that the financial statement include a brief description, amount, and date of any purchase or sale in excess of \$1,000 of any property and of any stocks, bonds, or commodities futures, including any option to acquire or dispose of any stocks, bonds, or commodities futures. Prior law required reporting on additional transactions, such as donations, and on other forms of securities and property. New law replaces references in existing law to "real property" with references to "immovable property" and adds tax credit certificates to the disclosure requirement above. Provides that information concerning purchases and sales shall not include information concerning variable annuities, variable life insurance, or variable universal life insurance.

Existing law additionally requires that the financial statement include the 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. New 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 (a) any liability 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 and (b) any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

New law additionally requires that the following information be included in the statement:

- (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 by the individual, the spouse of such individual, or any business in which such individual or spouse owns an interest which exceeds 10% of that business if such income is received from the state or any political subdivision or from services performed for or in connection with a gaming interest.
- (3) The name, brief description, and amount of each investment security having a value exceeding \$1,000 held by the individual or spouse. Provides exclusions and exceptions.
- (4) 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.

Existing 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. Excludes from this prohibition: (a) the sale of property subject to owner financing provided the income from the sale is disclosed and (b) a recorded bond for deed contract.

Existing law provides that (except with respect to amounts of income from public and gaming sources) when an amount is required to be disclosed, it shall be sufficient to report the amount by the following categories: (1) Category I, less than \$5,000; (2) Category II,

\$5,000-\$24,999; (3) Category III, \$25,000-49,999; (4) Category IV, \$50,000-\$99,000; (5) Category V, \$100,000-\$199,999; (6) Category VI, \$200,000 or more.

Prior law defined "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.

New law defines "income" for a business to mean gross income less (a) costs of goods sold and (b) operating expenses. Defines "income" for an individual to mean taxable income and specifically excludes any income received pursuant to a life insurance policy.

New law changes the date upon which the financial 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 new law and by May 15 of the year following the termination of the holding of such office or position.

R.S. 42:1124.2

Prior law (R.S. 42:1114.1) required each member of the legislature to file an annual report disclosing any and all income exceeding \$250 received during the immediately preceding calendar year by such member, the spouse of such member, or any business enterprise in which such member and/or his spouse owned at least 10% and which was received from any of the following: (1) The state or any political subdivision; and (2) Services performed for or in connection with a gaming interest as defined by the Campaign Finance Disclosure Act. Required a certification that such member had filed his federal and state income tax returns or had filed for an extension of time for filing such tax returns. Provided definitions.

Prior law provided that failure to file a report, failure to timely file a report, failure to disclose required information, or filing a false report made the member subject to penalties as provided by the Code of Governmental Ethics, and also constituted contempt of the house to which the member belonged.

New law repeals prior law and instead requires members of the legislature to file financial disclosure reports as required by new law (R.S. 42:1124.2—see below).

New law (R.S. 42:1124.2, informally termed "Tier 2") requires the following to annually file a financial statement with the Board of Ethics: (1) each member of the state legislature; (2) each person holding a public office who represents a voting district having a population of 5,000 or more persons; (3) each member of the Board of Ethics and the ethics administrator; (4) each member of the State Board of Elementary and Secondary Education; (5) each member of a state board or commission who receives compensation for such public service in the amount of \$16,800 or more per year; and (6) each member of a state board or commission which has the authority to expend, disburse, or invest \$1,000,000 or more in a fiscal year. Exempts officials required to file a financial statement under R.S. 42:1124 (Tier 1).

New law generally requires the following to be included in the statement:

- (1) The name and address of the individual and his spouse and the spouse's occupation and business address.
- (2) Specified information concerning employment of the individual and spouse.
- (3) Specified information concerning businesses in which the individual or spouse holds certain positions or certain ownership interests.
- (4) Information concerning nonprofit organizations in which the individual or spouse is a director or officer.

- (5) Specified information, including specific amounts, concerning sources of income received by the individual or spouse from the state, a political subdivision, or certain gaming interests.
- (6) Specified information concerning businesses from which the individual or his spouse receives income, including an aggregate amount.
- (7) A description of the type and amount of all other income exceeding \$1,000.
- (8) Specified information, including value, concerning immovable property valued at over \$2,000 owned by the individual or spouse.
- (9) Specified information regarding investment securities valued at over \$5,000; provides exceptions.
- (10) Specified information, including value, regarding purchases or sales of immovable property, stocks, and other securities valued at over \$5,000; provides exceptions.
- (11) Specified information concerning creditors to whom the individual or spouse owes liabilities exceeding \$10,000; provides exceptions.
- (12) A certification that the individual has filed his federal and state income tax returns or has filed for an extension of time for filing such tax returns.

New law provides that (except with respect to amounts of income from public and gaming sources) when an amount is required to be disclosed, it shall be sufficient to report the amount by the following categories: (1) Category I, less than \$5,000; (2) Category II, \$5,000-\$24,999; (3) Category III, \$25,000-\$100,000; and (4) Category IV, more than \$100,000.

New law provides that the financial statement shall be filed by May 15 of each year during which during which the person holds the office or position and by May 15 of the year following the termination of holding such office or position. Provides that the statement may be filed within 30 days after the individual files his federal tax return for the year on which he is reporting, taking into consideration any extensions filed by the individual, provided that he notifies the Board of Ethics prior to the May 15 deadline.

New law requires an affidavit to be filed with the statement certifying that the information in the statement is true and correct. Provides that each statement is a public record.

New law prohibits the transfer of assets, interests, or liabilities required to be disclosed unless the transfer is irrevocable. Excludes from this prohibition: (a) the sale of property subject to owner financing provided that the income from the sale is disclosed in accordance with new law and (b) a recorded bond for deed contract.

New law provides that "business" and "income" have the same meanings as provided in R.S. 42:1124 (Tier 1).

New law defines "state board or commission" as 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 of existing law (Title 36 of the Louisiana Revised Statutes of 1950), 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. Provides that "state board or commission" does not include an entity created as a political subdivision of the state or of local government or as the governing body or an agency of a political subdivision.

New law specifically excludes disclosure or reporting of income derived from child support and alimony payments contained in a court order or from disability payments.

Board of Ethics

New law requires that in addition to the information required to be included in the statement pursuant to R.S. 42:1124.2 (Tier 2), each member of the Board of Ethics and the ethics administrator shall include the following:

- (1) 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 owns any interest, excluding a publicly traded corporation.
- (2) 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 owns an interest, excluding a publicly traded corporation, which is received from the state or any political subdivision as defined in Article VI of the Constitution of La.
- (3) The name of each governmental entity from whom the individual or his spouse derives any thing of economic value through any contract or subcontract involving a governmental entity, including the La. Insurance Guaranty Assoc., the La. Health Insurance Guaranty Assoc., La. Citizens Property Insurance Corp., the Property Insurance Association of La., and any other quasi public entity; the nature of the contract or subcontract; and the value of thing of economic value derived.

R.S. 42:1124.3

New law (R.S. 42:1124.3, informally termed "Tier 3") requires the annual filing of a financial statement by each person holding a public office who represents a voting district having a population of fewer than 5,000 persons and each member of a state board or commission which has the authority to expend, disburse, or invest more than \$10,000 but less than \$1,000,000. Exempts persons required to file a financial statement under R.S. 42:1124 (Tier 1) or R.S. 42:1124.2 (Tier 2).

New law generally requires the financial statement to be to include only information relative to income from the state, a political subdivision, or certain gaming interests (see (4) above in the discussion of Tier 2), and information relative to the filing of tax returns (see (12) above in the discussion of Tier 2).

Candidates

New law (R.S. 18:1495.7) provides that any person who becomes a candidate for one of certain offices covered by new law provisions requiring financial disclosure (R.S. 42:1124, 1124.2, or 1124.3) shall file a financial disclosure statement as required by new law for the office for which he is a candidate. Requires the statement to be filed within 10 days of the day a person becomes a candidate. Provides that if the person is required by new law provisions requiring financial disclosure (R.S. 42:1124, 1124.2, or 1124.3) to file a statement for the office for which he is a candidate, such filing shall satisfy the requirements of new law.

Existing law, as applicable to new law, provides that "candidate" means a person who seeks nomination or election to public office, excluding federal offices and party offices. Provides generally that a person is deemed to seek nomination or election to such office if he has qualified as a candidate or if he has received and accepted a contribution or made an expenditure, or has given his consent for any other person or committee to receive a contribution or make an expenditure with a view to influencing his nomination or election to office whether or not the specific public office for which he will be a candidate is known at the time the contribution is received or the expenditure is made. Also includes a public servant required to file reports under the Campaign Finance Disclosure Act.

Penalties

New law (R.S. 42:1124.4) provides relative to penalties. Provides for penalties, after receipt of a notice of delinquency, for failure to file, to provide omitted information, to correct inaccurate information, or to file a written answer prior to the deadline contained in the notice of delinquency. Penalties may be imposed for each day until the statement, omitted information, corrected information, or written answer is filed. Penalties are: \$500 per day for governor and others who report pursuant to R.S. 42:1124 (Tier 1); \$100 per day for legislators and others who report pursuant to R.S. 42:1124.2 (Tier 2); and \$50 per day for officials who report pursuant to R.S. 42:1124.3 (Tier 3). Additionally, new law provides that whoever willfully or knowingly fails to file a statement, willfully and knowingly fails to timely file a statement, willfully or knowingly omits information from a statement, or

willfully and knowingly provides inaccurate information shall be subject to prosecution for a misdemeanor and upon conviction shall be fined not less than \$1,000 nor more than \$5,000 and upon a subsequent violation of the same reporting requirement shall be fined not less than \$1,000 nor more than \$10,000. Provides that a person so prosecuted shall have a right to be tried before a jury of six persons, all of whom shall concur to render a verdict.

Effective January 1, 2009, except that provisions of new law concerning R.S. 42:1124.3 (Tier 3) become effective January 1, 2010.

(Amends R.S. 42:1124, 1124.1, 1157(A)(4)(a); Adds R.S. 18:1495.7 and R.S. 42:1124.2, 1124.3, 1124.4, and 1124.5; Repeals R.S. 18:463(B) and R.S. 42:1114.1)