

Regular Session, 2008

SENATE BILL NO. 718

BY SENATOR MARTINY

ETHICS. Provides relative to financial disclosure requirements of members of state boards and commissions. (See Act)

AN ACT

To amend and reenact R.S. 42:1124.2(A), 1124.3(A), and 1124.4(A)(1), (C)(3), and (F), and to enact 42:1124.6, relative to financial disclosure; to require certain disclosures by appointed members of boards and commissions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1124.2(A), 1124.3(A), and 1124.4(A)(1), (C)(3), and (F) are hereby amended and reenacted and R.S. 42:1124.6 is hereby enacted to read as follows:

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

A. Each member of the state legislature, each person holding a public office who represents a voting district having a population of five thousand or more persons, **except as provided in this Part, and** each member of the Board of Ethics and the ethics administrator, ~~each member of the State Board of Elementary and Secondary Education~~, each member of a state board or commission **that has rule-making authority pursuant to the Administrative Procedure Act. R.S. 49:950 et seq.,** who receives a salary or other compensation for such public service in the

1 amount of sixteen thousand eight hundred dollars or more per year or that has the  
2 authority to expend, disburse, or invest one million dollars or more of funds in a  
3 fiscal year, ~~each member of a state board or commission who receives a salary or~~  
4 ~~other compensation for such public service in the amount of sixteen thousand eight~~  
5 ~~hundred dollars or more per year, and each member of a state board or commission~~  
6 ~~which has the authority to expend, disburse, or invest one million dollars or more of~~  
7 ~~funds in a fiscal year,~~ except any person who is required to file a financial statement  
8 pursuant to R.S. 42:1124, shall annually file a financial statement as provided in this  
9 Section.

10 \* \* \*

11 §1124.3. Financial disclosure; certain elected officials, voting districts of under five  
12 thousand; **state boards and commissions**

13 A. Each person holding a public office who represents a voting district  
14 having a population of fewer than five thousand, ~~and each member of a state board~~  
15 ~~or commission~~ **that has rule-making authority pursuant to the Administrative**  
16 **Procedure Act, R.S. 49:950 et seq., who receives a salary or other compensation**  
17 **for such public service in the amount of sixteen thousand eight hundred dollars**  
18 **or more per year, and each member of a state board or commission that** ~~which~~  
19 has the authority to expend, disburse, or invest more than ten thousand but less than  
20 one million dollars, except any person who is required to file a financial statement  
21 by R.S. 42:1124 or 1124.2, shall annually file a financial statement as provided in  
22 this Section.

23 \* \* \*

24 §1124.4. Penalties

25 A.(1) If a person fails to timely file a financial statement as required by R.S.  
26 18:1495.7 or by R.S. 42:1124, 1124.2, ~~or 1124.3,~~ **or 1124.6,** or a person omits any  
27 information required to be included in the statement, or the board has reason to  
28 believe information included in the statement is inaccurate, the board shall notify the  
29 person of such failure, omission, or inaccuracy by sending him by certified mail a

1 notice of delinquency immediately upon discovery of the failure, omission, or  
2 inaccuracy.

3 \* \* \*

4 C. Penalties shall be assessed as follows:

5 \* \* \*

6 (3) Fifty dollars per day for statements required by R.S. 42:1124.3 **and**  
7 **1124.6.**

8 \* \* \*

9 F. If a person who is required to disclose information required by R.S.  
10 42:1124, 1124.2, ~~or~~ 1124.3, **or 1124.6** discovers an error or inaccuracy in the  
11 information he disclosed and files an amendment to such disclosure correcting such  
12 error or inaccuracy prior to the receipt of a notice of delinquency, no penalties shall  
13 be assessed against the person, and the board shall replace the initial disclosure with  
14 the amendment thereto in the official records of the board.

15 **1124.6. Financial disclosure; certain members of state boards and commissions**

16 **A. Each member of a state board or commission, including each**  
17 **member of the State Board of Elementary and Secondary Education, except any**  
18 **person who is required to file a financial statement by pursuant to R.S. 42:1124,**  
19 **1124.2, or 1124.3, shall annually file a financial statement as provided in this**  
20 **Section.**

21 **B. The financial statement required by this Section shall be filed by May**  
22 **fifteenth of each year during which the person holds an office included in**  
23 **Subsection A of this Section and by May fifteenth of the year following the**  
24 **termination of the holding of such office.**

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

28 **(1) The full name and residence address of the individual who is required**  
29 **to file.**

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

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

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

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

14                  (5) The name, address, type, and amount of each source of income  
15                  received by the individual or spouse, or by any business in which the individual  
16                  or spouse, either individually or collectively, owns an interest which exceeds ten  
17                  percent of that business, which is received from any of the following:

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

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

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

25                  (7) A certification that such individual or any member of his immediate  
26                  family does not have a personal or financial interest in any entity, contract,  
27                  business, or personal relationship that would in any way pose a conflict of  
28                  interest in the impartial performance of his duties as a member of the board or  
29                  commission to which such individual is appointed.

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

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

4                    **(2)(a) "Income" for a business shall mean gross income less both of the**  
5                    **following:**

6                    **(i) Costs of goods sold.**

7                    **(ii) Operating expenses.**

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

10                  **(3) "Public office" shall have the same meaning as provided in R.S.**  
11                  **18:1483.**

12                  **(4) "State board or commission" shall have the same meaning as**  
13                  **provided in R.S. 42:1124.2.**

14                  **E. In addition to the information required pursuant to Subsection C of**  
15                  **this Section, each member of a board or commission shall submit additional**  
16                  **information as required in this Subsection.**

17                  Section 2. This Act shall become effective on January 1, 2009, except that this Act  
18                  with regard to R.S. 42:1124.3 shall become effective on January 1, 2010. Any reference to  
19                  R.S. 42:1124.3 as amended by this Act shall have no effect until R.S. 42:1124.3 becomes  
20                  effective.

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

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#### DIGEST

Martiny (SB 718)

Present law requires the filing of an annual financial statement by each legislator, each person holding public office representing a voting district with a population of 5,000 or more, each member of a state board or commission receiving a salary or other compensation for such public service of \$16,800 or more per year, and each member of a state board or commission authorized to expend, disburse, or invest \$1,000,000 or more in a fiscal year. Excepts the following persons from this particular reporting ("Tier 2" - R.S. 42:1124.2) requirement: governor, persons holding statewide elected office, the secretaries of the state departments, the executive secretary of the state civil service, the superintendent of education, the commissioner of higher education, the president of a public postsecondary education system, the commissioner of administration, the policy director, chief of staff,

deputy chief of staff, and legislative director in the office of the governor, the governor's executive counsel.

Proposed law retains these provisions except that the persons receiving \$16,800 or more per year in compensation be a member of a board or commission which has rule-making authority under the Administrative Procedure Act.

Present law requires each person holding public office who represents a voting district having a population of fewer than 5,000 and each member of a state board or commission with having authority to expend, disburse, or invest more than \$10,000 but less than \$1,000,000, except "Tier 1" or "Tier 2" persons, to annually file a financial statement in compliance with "Tier 3" reporting requirements (R.S. 42:1124.3).

Proposed law also adds to the "Tier 3" reporting requirements, any member of a state board or commission that has rule-making authority under the Administrative Procedure Act and who receives a salary or compensation for such public service in the amount of \$16,800 or more per year. However, under present law, such member will report under "Tier 2."

Proposed law creates a fourth "tier" of reporting requirements for state board and commission members who are not otherwise included in "Tiers 1, 2, or 3" including each member of the State Board of Elementary and Secondary Education. Requires that these persons annually file a financial statement by May 15 of each year during which the person holds office, and by May 15 of the year following the termination of the holding of such office. The financial statement shall be filed on a form prescribed by the Board of Ethics and shall include the following information for the preceding calendar year:

- (1) The full name and residence address of the individual 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)
  - (a) 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 ten percent of that business.
  - (b) The name, address, brief description of, and nature of association with a nonprofit organization in which the individual or spouse is a director or officer.
- (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 ten percent of that business, 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).
- (6) 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.

- (7) A certification that such individual or any member of his immediate family does not have a personal or financial interest in any entity, contract, business, or personal relationship that would in any way pose a conflict of interest in the impartial performance of his duties as a member on the board or commission.

Proposed law defines "business," "income," "public office," and "state board or commission" for purposes of "Tier 4" requirements.

Proposed law is effective January 1, 2009, except that proposed law relative to members of state boards and commissions in Tier 3 is effective January 1, 2010.

(Amends R.S. 42:1124.2(A), 1124.3(A), 1124.4(A)(1), (C)(3), and (F); adds R.S. 42:1124.6)

### Summary of Amendments Adopted by Senate

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

1. Provides that only elected members of BESE fall within Tier 2 of reporting requirements.
2. Creates a fourth "tier" of reporting requirements for board and commission members who are not otherwise included in present law or in present law as amended by proposed law. Each such member of a state board or commission shall annually file a financial statement by May 15 of each year during which the person holds office, and by May 15 of the year following the termination of the holding of such office. The financial statement 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 an 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.
  - (3) A certification that such individual or any member of his immediate family does not have a personal or financial interest in any entity, contract, business, or personal relationship that would in any way pose a conflict of interest in the impartial performance of his duties as a member on the board or commission.

#### Senate Floor Amendments to engrossed bill.

1. Moves elected members of BESE from "Tier 2" and appointed members of BESE from "Tier 3" to newly created "Tier 4" for purposes of reporting requirements.

2. Adds requirement that members of a state board or commission which has rule-making authority under APA who receive \$16,800 or more in annual compensation for such public service are required to comply with "Tier 2" reporting requirements.
3. Reinserts members of a state board or commission which has authority to expend, disburse, or invest one million dollars or more in a fiscal year in "Tier 2."
4. Reinserts members of a state board or commission which has authority to expend, disburse, or invest less than one million dollars in "Tier 3."
5. Adds provisions as to what is included in the financial statement required to be filed with the Board of Ethics for "Tier 4" persons.
6. Adds penalties for "Tier 4" persons who do not timely file financial statements.