

# THE ADVISOR

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## Effective Wednesday, August 22, 2012, Changes to the Legislative Ethics Act, AS 24.60 Provisions of SB 89

Below is a short summary of the major changes. Please take a few minutes to read each section. Links are provided for backup documentation.

## CHARITY EVENT — TICKETS - AS 24.60.080(c)(10)

**NEW!** Persons who are not lobbyists may give a ticket to a pre-approved charity event and gifts to a legislator or legislative employee in connection with the charity event that have a value of \$250 or more. A disclosure is required within 60 days if the cumulative value of the gift(s) from the same person is \$250 or more in value within a calendar year.

The disclosure requirement also applies to immediate\* family members.

\*Immediate family member means spouse or domestic partner, child, including a stepchild and adoptive child of the person, a parent or sibling, if financially dependent or share a substantial financial interest with the legislator or legislative employee.

### THE NEW DISCLOSURE FORMS WILL REQUIRE THE FOLLOWING INFORMATION:

- Name of donor
  - Date of sanctioned charity event
  - Occupation of donor
  - Description of gift(s) with a value of \$250 or more
  - Address of donor
  - Name of sanctioned charity event
- \* Ticket/admission fee. Value.  
\* Other Gift(s) received. Value. List items.

### INSIDE THIS ISSUE:

Charity Event-Tickets: The New Disclosure Forms & Requirements	Cover
Gift of Travel/Hospitality Disclosures-Now Due Within 60 Days Instead of 30 Days; Written Request to Refrain from Making an Ethics Disclosure; Ethics Committee	2
Legislative Employee-Defined; Legislative Interns and Legislative Volunteers; Ethics Website Updates	3
Constituent Services-Administrative Hearings	Back

**IMPORTANT!** Lobbyists (includes an immediate family member of a lobbyist or a person acting on behalf of a lobbyist) continue to be under the prohibition limiting the value of a ticket and gifts to which the tickets may entitle the bearer to receive to less than \$250 in value within a calendar year if from the same lobbyist.

## GIFT OF TRAVEL/HOSPITALITY DISCLOSURES — NOW DUE WITHIN 60 DAYS INSTEAD OF 30 DAYS - AS 24.60.080(d)



**M**any legislative offices have called indicating costs associated with a gift of travel and/or hospitality is not always available within 30 days from the beginning date of the trip. The reporting timeframe was changed to reflect these concerns. The following gift disclosures are now due within 60 days from the beginning date of the trip.

**NOTE:** Only legislative trips started August 22 or after meet the 60 day disclosure timeframe. All trips taken prior to August 22 must be disclosed within 30 days.

Click on each subject below for a printed version of the required form.

### [Gift of Travel and/or Hospitality](#)

(Primarily for Matters of Legislative Concern)

### [Gift of Travel and/or Hospitality - Family Member](#)

(Because of Legislative Connection)

### [Gift Related to Sanctioned Charity Event](#)

### [Gift Related to Sanctioned Charity Event - Family Member](#)

(Because of Legislative Connection)

## HOW TO REQUEST TO REFRAIN FROM MAKING AN ETHICS DISCLOSURE — AS 24.60.105(d)

**A** person covered by the Act may make a written request to refrain from making a disclosure if the disclosure would violate state or federal law, including the United States Constitution and the Constitution of the State of Alaska, or a rule, adopted formally by a trade or profession, that state or federal law requires to the person to follow.

The person shall provide the committee with justification in writing. The committee shall approve or

deny the request, or require further justification. See Advisory Opinions 94-07, Violent Crimes Compensation Board, and 09-02, HIPAA.

**EXAMPLE:** A legislator or legislative employee provides medical services to a person and is paid directly by the client, although they may be eligible for reimbursement through a medical insurance benefit in some instances. Because of the financial relationship, a “close economic association” disclosure

may be required under AS 24.60.070. However, under federal and state law, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the legislator or legislative employee is required to keep certain information relating to the services confidential. The legislator or legislative employee may submit a written request to the committee outlining the reason to refrain from disclosing the association.

[ADVISORY OPINION SEARCH](#)

## ETHICS COMMITTEE— AS 24.60.131

One alternate *public* member shall be appointed to serve on the committee beginning in 2013. The alternate public member shall be selected by the Chief Justice of the Alaska Supreme Court and is subject to confirmation as required for appointment of the five regular public members.

The one alternate public member will be available to serve when a public member has a conflict due to scheduling or is disqualified under AS 24.60.130 (h).

An alternate member shall serve for the duration of that proceeding unless unable to participate

or disqualified under AS 24.60.130(h).

*Note: Beginning in 1999, each of the four legislative members has had an alternate legislative member appointed.*

## LEGISLATIVE EMPLOYEE—AS 24.60.990(a)(11)

Defined as follows:

**A** person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes

public members and staff of the committee; it does not include individuals who perform functions that are *incidental* to legislative functions, and other employees designated by the committee.

See Advisory Opinion [99-01](#) for parameters to determine if an independent contractor or consultant is considered a legislative employee.

**EXAMPLE:**

*Incidental* legislative functions include, but are not limited to: Capitol tour guides, teleconference moderators, casual labor, and supply movers.

## LEGISLATIVE INTERNS AND LEGISLATIVE VOLUNTEERS

- ◆ Legislative interns and legislative volunteers who work for more than 30 days in one legislature are required to complete ethics training, AS 24.60.155
- ◆ For purposes of compliance, interns and volunteers were already covered under the following statutes:

AS 24.60.030 Prohibitions related to conflicts of interest and unethical conduct

AS 24-60I031 Restrictions on fundraising

AS 24.60.033 Restrictions on employee candidacies

AS 24.60.037 Open meetings law

AS 24.60.039 Discrimination prohibited

AS 24.60.060 Confidential information

AS 24.60.080 Gifts

AS 24.60.085 Restrictions on earned income and honoraria

AS 24.60.158 Informal advice

AS 24.60.160 Advisory Opinions

AS 24.60.165 Use of information submitted with request for advice

AS 24.60.170 Proceedings before the committee; limitations

AS 24.60.176 Recommendations where violator is a legislative employee

AS 24.60.178 Recommended sanctions

## ETHICS WEBSITE UPDATES



As a result of SB 89, we've updated the following items on the Ethics website.

Take a look!

<http://ethics.legis.state.ak.us/>

*Print a copy for your records!*

*Call anytime with questions.!*

### **Disclosures**

- ◆ Disclosure Forms
  - ◇ New and Updated Forms

### **Ethics Act**

- ◆ AS 24.60, Legislative Ethics Act
  - ◇ 2008 Version
  - ◇ 2012 Version

### **Useful Informational Materials**

- ◆ Internship handout
- ◆ Sanctioned Charity Event
- Public Member Appointment and Vacancies**
- ◆ Informational handout

**SELECT COMMITTEE ON LEGISLATIVE ETHICS**

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**We're on the web!**

<http://ethics.legis.state.ak.us>

“Knowledge is the key to ethical behavior.”

—Plato

**CONSTITUENT SERVICES-ADMINISTRATIVE HEARINGS—AS 24.60.030(i)**

The language in this section of the Act has been clarified and is more explicit in pointing out what actions are prohibited and permitted. The term “administrative hearing” is also defined.

**Administrative Hearing:**

A quasi-judicial hearing before an agency (i.e., APOC, Alcoholic Beverage Control Board, Commercial Fisheries Entry Commission, Barbers and Hairdressers Board, and Board of Game, to name a few.)

*Does not include:*

- ◆ an informal ‘conference’ held by an agency before a final decision is issued
- ◆ an informal ‘review’ held by an agency before a final decision is issued
- ◆ a rate-making proceeding (i.e., RCA rate-making proceeding); or
- ◆ other nonadjudicative public hearing

A legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by ‘directly’ or ‘indirectly’ contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the matter.

Exceptions include:

- ✓ Representing another person for compensation before the hearing officer, individual, board or commission and as a professional who is licensed in the state
  - ◆ Disclosure of representation for compensation required under AS 24.60.100  
(Click [HERE](#) for Disclosure Form)
- ✓ Contact is made in the presence of all parties to the hearing or the parties representatives while...
  - ◆ Acting as a party in the matter, OR
  - ◆ Acting as a witness in the matter, OR



- ◆ Responding to a question asked by the hearing officer, individual, board or commission, AND
  - ⇒ Contact is made part of the record



- ✓ Inadvertent (unintended) and ex parte (one sided) contact
  - ◆ Promptly disclose the fact and substance of the contact
    - Directly to each party to the hearing whose identity is public information
    - Through the hearing officer whose identity is not public information
  - ◆ Fact and substance of the contact is made part of the record

Reference AO 05-01 Administrative Hearings and AO 08-03 Constituent Services for additional information.

[Advisory Opinion Search](#)