

THE ADVISOR



SELECT COMMITTEE ON LEGISLATIVE ETHICS

NOVEMBER 2018

Advisory Opinion 18-05 Approved November 1, 2018

The Select Committee on Legislative Ethics (the committee) asked three questions related to HB 44, based on hypothetical facts provided with each question. **Follow the links to read the answers to the questions.**

[1. Does the Legislative Ethics Act \(the Act\) permit a legislator who is employed by a corporation with many subsidiary corporations, including in the extraction industry in Alaska, and who receives from that corporation more than \\$10,000 per year in income, to](#)

[A. take legislative action on a bill relaxing environmental controls on the extraction industry in Alaska, including assisting in the drafting and co-sponsorship of the bill;](#)

[B. discuss and advocate for the bill in a caucus meeting?](#)

[2. If a legislator's spouse owns rental property and receives more than \\$10,000 per year in rent, does the Act](#)

[A. permit the legislator to take legislative action on a bill with the subject of "real estate" or "landlord and tenant" on the akleg.gov website;](#)

[B. permit the legislator to discuss or advocate against the bill in a caucus meeting;](#)

[C. require the legislator to declare a conflict of interest under AS 24.60.030\(g\) before a legislative committee on which the legislator serves;](#)

[D. require the legislator -- before voting on the floor on the bill or an amendment or question relating to the bill, in the house where the legislator serves -- to declare a conflict of interest and ask to be excused from the vote?](#)

[3. Does the Act permit a legislator, who earns \\$10,000 or more annually from a business in which the legislator owns a minority interest, to](#)

[A. sponsor or take other official action on a bill that would modify the tax structure for the business;](#)

[B. testify on the bill before a legislative committee;](#)

[C. informally promote the bill to a member of the committee that may hear the bill?](#)

Follow the links to read the answers to the questions

Full text of the Advisory Opinion at <http://www.legis.state.ak.us/search/ethics/>.

Committee Members

Skip Cook, Chair

H Conner Thomas

Joyce Anderson

Deb Fancher

Lee Holmes

Sen John Coghill

Sen Dennis Egan

Rep Chris Tuck

Rep Colleen Sullivan-Leonard

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Jerry Anderson, Administrator

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1. Does the Legislative Ethics Act (the Act) permit a legislator who is employed by a corporation with many subsidiary corporations, including in the extraction industry in Alaska, and who receives from that corporation more than \$10,000 per year in income, to

A. take legislative action on a bill relaxing environmental controls on the extraction industry in Alaska, including assisting in the drafting and co-sponsorship of the bill;

No, the legislator would be prevented from taking or withholding official action or exerting official influence on the bill relaxing environmental controls -- except when voting in accordance with AS 24.60.030(g) or while participating in a public discussion or debate.

B. discuss and advocate for the bill in a caucus meeting?

Yes, if the caucus meeting is open to the public in accordance with AS 24.60.037, the exception in AS 24.60.030(e)(3) applies, and the legislator may discuss and advocate for the bill. However, if the caucus meeting is a "closed caucus" or "private, informal meeting to discuss and deliberate on political strategy," the legislator would be prohibited from exerting "official influence" or advocating for the bill in the caucus meeting.

2. If a legislator's spouse owns rental property and receives more than \$10,000 per year in rent, does the Act

A. permit the legislator to take legislative action on a bill with the subject of "real estate" or "landlord and tenant" on the akleg.gov website;

No, assuming the legislative action "could substantially benefit or harm the financial interest" of the spouse, the legislator would be prohibited from taking any official action under AS 24.60.030(e)(3)(A) and (e)(3)(D), except while participating in a public discussion or debate or voting in accordance with AS 24.60.030(g).

B. permit the legislator to discuss or advocate against the bill in a caucus meeting;

Yes, if the caucus meeting is open to the public in accordance with AS 24.60.037, the exception in AS 24.60.030(e)(3) applies, and the legislator may discuss and advocate for the bill. However, if the caucus meeting is a "closed caucus" or "private, informal meeting to discuss and deliberate on political strategy," the legislator would be prohibited from exerting "official influence" or advocating for the bill in the caucus meeting.

C. require the legislator to declare a conflict of interest under AS 24.60.030(g) before a legislative committee on which the legislator serves;

Yes, if the spouse's financial interest is substantial and "the effect on that interest of the action to be voted on is greater than the effect on the general public of the state," the legislator should declare a conflict of interest before voting on the bill in committee.

D. require the legislator -- before voting on the floor on the bill or an amendment or question relating to the bill, in the house where the legislator serves -- to declare a conflict of interest and ask to be excused from the vote?

Yes, under AS 24.60.030(g), before voting on the floor, the legislator should declare a conflict of interest and request to be excused from voting.

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You can't put someone else in charge of your morals. Ethics is a personal discipline.

Price Pritchett

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3. Does the Act permit a legislator, who earns \$10,000 or more annually from a business in which the legislator owns a minority interest, to

A. sponsor or take other official action on a bill that would modify the tax structure for the business;

No, the legislator would be prohibited from taking any official action under AS 24.60.030(e)(3)(D), except while participating in a public discussion or debate or voting in accordance with AS 24.60.030(g).

B. testify on the bill before a legislative committee;

Yes, if the meeting is open to the public in accordance with AS 24.60.037, the exception in AS 24.60.030(e)(3) applies, and the legislator may discuss, advocate for, or testify regarding the bill.

C. informally promote the bill to a member of the committee that may hear the bill?

No, in an informal or non-public discussion, a legislator would be prohibited from taking any official action or exerting official influence, including advocating for the bill, under AS 24.60.030(e)(3)(D).

Annual Ethics Disclosures

All legislators, legislative employees, and public members of the Ethics Committee are required to file annual financial disclosures for all associations within 30 days after the first day of session (February 14, 2019).

Terminating your employment with the Legislature?

You must submit any outstanding financial disclosures no later than 90 days following your last day of employment.

File your disclosure online. It's easy!

Go to <http://intranet.akleg.gov/> and click on "File an Ethics Disclosure."

1. Enter your credentials (your computer log-in).
2. Click on the type of disclosure you want to file.
3. Complete the form using drop down menus when available.
 - Remember to provide complete information about the donor and a description of the topics discussed, forums attended, or other pertinent information.
1. Check your completed disclosure for accuracy.
2. Submit. So easy!

Contact the Select Committee on Legislative Ethics

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PO Box 90251
Anchorage, AK 99509-0251

Physical Location:

Signature Building
745 W 4th Ave., Suite 415
Anchorage, AK 99501

PH: 907-269-0150

FAX: 907-269-0152

Email: Ethics.Committee@akleg.gov

Website: <http://ethics.akleg.gov/>

Mandatory Ethics Training in 2019

Beginning in 2019, in addition to regular ethics training, all legislators and legislative employees will be required to attend *Sexual and Other Workplace Harassment Policy Training*. The Alaska State Commission for Human Rights will conduct the training and will be administered by the Ethics Office.

Contact the Ethics Office at 907-269-0150 for more information.

Ethics Committee Public Member Vacancies

The Select Committee on Legislative Ethics has **an alternate public member vacancy**. In addition, a regular **public member term** will expire and become available for appointment in January 2019. Public members are selected by the Chief Justice of the Alaska Supreme Court and ratified by two thirds of the full membership of the legislature. Public members serve a three-year term.

Apply to be a public member of the committee by sending a letter of interest along with a resume to Chief Justice Joel Bolger, Alaska Supreme Court, 303 K St., Anchorage, AK 99501 and include your political party affiliation as noted on your voter registration on file with the Alaska Division of Elections.

Learn more about the Select Committee on Legislative Ethics at <http://ethics.akleg.gov/>.

File a Leave Slip!

Legislative employees are required to submit a leave slip within 24 hours after return to duty when taking time off from regularly scheduled work hours. Failure to do so could be a violation under the Legislative Ethics Act AS 24.60.030(a)(2). Failure of a supervisor to ensure a leave slip is filed is also a violation of that statutory section. In the event an ethics complaint is filed alleging participation in campaign or non-legislative activities on government time, the burden of proof would be on the employee to show a pre-approved work schedule *or* show leave time had been requested for the time in question.

If you need to complete late leave slip requests, contact the LAA Personnel Office at 465-3854.

From the State of Alaska Legislative Staff Employee Handbook p 65-66

Legislative employees are subject to the statutes regarding the accrual and use of personal leave. All employees who receive leave benefits accrue leave at a rate based on their prior service in the positions with leave benefits. The Legislative Affairs Agency Personnel Office should be notified by the supervisor when an employee is absent either in a memorandum or with submission of a leave slip. Leave slips should be completed by the employee, signed by the employee's supervisor and submitted to LAA Personnel immediately upon the employee's return to work.

****[ETHICS OFFICE NOTE: "Comp Time" is not an appropriate accounting for Political Legislative Staff Employees].**

From the State of Alaska Handbook for Legislative Affairs Agency Employees p 11-12

When an employee plans an absence from work, a leave slip should be submitted to the supervisor for approval. Upon return from leave the leave slip should be returned to the supervisor and submitted to the LAA Personnel Office for processing. If the absence from work encompasses a large block of time (more than a couple of days) the leave slip should be turned into the Personnel Office before the employee leaves the office. In the case of unplanned absences, such as an illness, the leave slip should be completed and submitted through the supervisor to the LAA Personnel Office as soon as the employee returns to work. If an employee has an unplanned absence such as illness, they are required to notify their supervisor as soon as possible via phone or e-mail. Preferable notification should occur prior to the start of their shift. The employer reserves the right to request a doctor's slip to accompany any absence due to illness in excess of three days or for an absence that the supervisor deems suspicious. If the employee is unable to turn in a leave slip by the pay period deadline, for whatever reason, it is the responsibility of the supervisor to fill out the leave slip and submit it to the Personnel Office. #