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Kurtz/Bullard
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HOUSE CS FOR CS FOR SENATE BILL NO. 284(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; prohibiting expenditures and contributions by foreign nationals in state elections; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 15.13.010(b) is amended to read:

(b) Except as otherwise provided, this chapter applies to contributions, expenditures, and communications made [BY A CANDIDATE, GROUP, NONGROUP ENTITY, MUNICIPALITY OR INDIVIDUAL] for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

* **Sec. 2.** AS 15.13.030 is amended to read:

Sec. 15.13.030. Duties of the commission. The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45, and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist **all persons** [CANDIDATES, GROUPS, AND INDIVIDUALS] in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45, and AS 39.50;

(8) prepare and publish a biennial report concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change; the commission shall notify the legislature that the report is available;

(9) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62 (Administrative Procedure Act); and

(10) consider a written request for an advisory opinion concerning the application of this chapter, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50.

* **Sec. 3.** AS 15.13.040(d) is amended to read:

(d) Every [INDIVIDUAL,] person [, NONGROUP ENTITY, OR GROUP] making an **independent** expenditure shall make a full report of expenditures **made and contributions received**, upon a form prescribed by the commission, unless

exempt from reporting.

* **Sec. 4.** AS 15.13.040(e) is amended to read:

(e) **Each person** [THE REPORT] required **to report** under (d) of this section **shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by the commission. The report** must contain

(1) the name, address, principal occupation, and employer of the individual filing the report;

(2) [, AND] an itemized list of **all expenditures made, incurred, or authorized by the person;**

(3) **the name of the candidate or the title of the ballot proposition or question supported or opposed by each expenditure and whether the expenditure is made to support or oppose the candidate or ballot proposition or question;**

(4) **the name and address of each officer and director, when applicable;**

(5) **the aggregate amount of all contributions made to the person, if any, for the purpose of influencing the outcome of an election; for all contributions, the date of the contribution and amount contributed by each contributor; and, for a contributor**

(A) who is an individual, the name and address of the contributor and, for contributions in excess of \$50 in the aggregate during a calendar year, the name, address, principal occupation, and employer of the contributor; or

(B) that is not an individual, the name and address of the contributor and the name and address of each officer and director of the contributor [EXPENDITURES. THE REPORT SHALL BE FILED WITH THE COMMISSION NO LATER THAN 10 DAYS AFTER THE EXPENDITURE IS MADE].

* **Sec. 5.** AS 15.13.040(h) is amended to read:

(h) The provisions of (d) of this section do not apply to one or more expenditures made by an individual acting independently of any **other person**

[GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL] if the expenditures

(1) cumulatively do not exceed \$500 during a calendar year; and

(2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

* **Sec. 6.** AS 15.13.040(p) is amended to read:

(p) For purposes of (b), (e), and (j) of this section, "contributor" means the true source of the funds, property, or services being contributed.

* **Sec. 7.** AS 15.13.040 is amended by adding a new subsection to read:

(q) For purposes of (e) of this section,

(1) "director" means a member of the board of directors of a corporation or any person performing a similar function with respect to any organization;

(2) "officer" means a president, vice president, secretary, or treasurer, principal financial officer, or comptroller of a corporation, or any person routinely performing functions similar to those of a president, vice president, secretary, or treasurer, principal financial officer, or comptroller with respect to any organization.

* **Sec. 8.** AS 15.13 is amended by adding a new section to read:

Sec. 15.13.052. Independent expenditures; political activities accounts. (a)

Before making an independent expenditure in support of or in opposition to a candidate or before making an independent expenditure in support of or in opposition to a ballot proposition or question, each person other than an individual, candidate, or nongroup entity with an annual operating budget of \$250 or less, shall establish a political activities account. The political activities account may be a separate account in the person's general treasury. The political activities account must be administered using generally accepted accounting principles. All funds used by the person to make independent expenditures must be drawn from the person's political activities account.

(b) Records necessary to substantiate that the requirements of (a) of this section have been met must be made available for inspection by the commission.

(c) Each person who has established a political activities account under this section shall preserve all records necessary to substantiate the person's compliance

with the requirements of this section for each of the six preceding years.

* **Sec. 9.** AS 15.13.067 is amended to read:

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure that is not an independent expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and
- (4) a nongroup entity that has registered under AS 15.13.050.

* **Sec. 10.** AS 15.13 is amended by adding new sections to read:

Sec. 15.13.068. Expenditures and contributions by foreign nationals. (a) A foreign national may not, directly or indirectly, in connection with an election under this chapter, make a contribution or expenditure or make an express or implied promise to make a contribution or expenditure.

(b) In this section, "foreign national" includes

- (1) an individual who is not a United States citizen or lawfully admitted for permanent residence under 8 U.S.C. 1101(a)(20);
- (2) a foreign government, every political subdivision of a foreign government, every official, agent, or representative of a foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of a foreign government;
- (3) a person outside of the United States, unless it is established that the person is an individual and a citizen of and domiciled in the United States, or that the person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business in the United States; or
- (4) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(c) The provisions of this section prohibit a foreign national from making a contribution or expenditure in connection with a state election only to the extent

(1) that federal law prohibits a foreign national from making a contribution or expenditure in connection with a state election; and

(2) permitted by federal law.

Sec. 15.13.069. Certain expenditures that comply with charitable gaming provisions permitted. Notwithstanding another provision of this title, a charitable gaming permittee that is a qualified organization under AS 05.15.690 may use the net proceeds of a raffle or lottery to make expenditures for the purposes permitted under AS 05.15.150(a)(3).

* **Sec. 11.** AS 15.13.082(b) is amended to read:

(b) A **person, other than an individual exempt from reporting under AS 15.13.040(h),** [CANDIDATE, GROUP, OR NONGROUP ENTITY] may not make an expenditure unless the source of the expenditure has been disclosed as required by this chapter.

* **Sec. 12.** AS 15.13.084 is amended to read:

Sec. 15.13.084. Prohibited expenditures. A person may not make an expenditure

(1) anonymously, unless the expenditure is

(A) paid for by an individual acting independently of any **person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL];

(B) made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(C) made for

(i) a billboard or sign; or

(ii) printed material, other than an advertisement made in a newspaper or other periodical;

(2) using a fictitious name or using the name of another.

* **Sec. 13.** AS 15.13.090 is amended to read:

Sec. 15.13.090. Identification of communication. (a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the **person** [CANDIDATE, GROUP, NONGROUP ENTITY, OR

INDIVIDUAL] paying for the communication. In addition, **except as provided by (d) of this section, a person shall clearly**

(1) provide the person's address or the person's principal place of business;

(2) for a person other than an individual or candidate, include

(A) the name and title of the person's principal officer;

(B) a statement from the principal officer approving the communication; and

(C) identification of the name and city and state of residence or principal place of business, as applicable, of each of the person's three largest contributors under AS 15.13.040(e)(5), if any, during the 12-month period before the date of the communication

[CANDIDATES AND GROUPS MAY IDENTIFY THE NAME OF THEIR CAMPAIGN CHAIRPERSON].

(b) The provisions of (a) of this section do not apply when the communication

(1) is paid for by an individual acting independently of any **other person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER INDIVIDUAL];

(2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(3) is made for

(A) a billboard or sign; or

(B) printed material other than an advertisement made in a newspaper or other periodical.

*** Sec. 14.** AS 15.13.090 is amended by adding new subsections to read:

(c) To satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section, a communication that includes a print or video component must have the following statement or statements placed in the communication so as to be easily discernable:

This communication was paid for by (person's name and city and state of principal place of business).

The top contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(C)).

(d) Notwithstanding the requirements of (a) of this section, in a communication transmitted solely through radio or other audio media, the following statements must be read in a manner that is easily heard; the second statement is not required if the person paying for the communication has no contributors:

This communication was paid for by (person's name).

The top contributors of (person's name) are (the name of the largest contributors to the person under AS 15.13.090(a)(2)(C)).

(e) Contributors required to be identified under (a)(2)(C) of this section must be listed in order of the amount of their contributions. If more than three of the largest contributors to a person paying for a communication contribute equal amounts, the person may select which of the contributors of equal amounts to identify under (a)(2)(C) of this section. In no case shall a person be required to identify more than three contributors under (a)(2)(C) of this section.

(f) The provisions of this subsection apply to a person who makes an independent expenditure for a communication described in (a) of this section. If the person paying for the communication is not a natural person, the provisions also apply to the responsible officer or officers of the corporation, company, partnership, firm, association, organization, labor organization, business trust, or society who approves the independent expenditure for the communication. A person who makes a communication under this subsection may not, with actual malice, include within or as a part of the communication a false statement of material fact about a candidate for election to public office that constitutes defamation of the candidate. For purposes of this subsection, a statement constitutes defamation of the candidate if the statement

(1) exposes the candidate to strong disapproval, contempt, ridicule, or reproach; or

(2) tends to deprive the candidate of the benefit of public confidence.

* **Sec. 15.** AS 15.13.110 is amended by adding a new subsection to read:

(g) An independent expenditure report required under AS 15.13.040(e) shall

be filed with the commission not later than 10 days after an independent expenditure has been made. However, an independent expenditure that exceeds \$250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made.

* **Sec. 16.** AS 15.13.111(a) is amended to read:

(a) Each [CANDIDATE, GROUP, NONGROUP ENTITY, OR] person required to report under this chapter shall preserve all records necessary to substantiate information required to be reported under this chapter for a period of six years from the date of the election for which the information was required to be reported, unless the records have been submitted to the commission under (c) of this section.

* **Sec. 17.** AS 15.13.135 is amended to read:

Sec. 15.13.135. Independent expenditures for or against candidates. (a) [ONLY AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY MAY MAKE AN INDEPENDENT EXPENDITURE SUPPORTING OR OPPOSING A CANDIDATE FOR ELECTION TO PUBLIC OFFICE.] An independent expenditure supporting or opposing a candidate for election to public office, except an independent expenditure made by a nongroup entity with an annual operating budget of \$250 or less, shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter.

(b) A person [AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY] who makes independent expenditures for a mass mailing, for distribution of campaign literature of any sort, for a television, radio, newspaper, or magazine advertisement, or any other communication that supports or opposes a candidate for election to public office

(1) shall comply with AS 15.13.090; and

(2) shall place the following statement in the mailing, literature, advertisement, or other communication so that it is readily and easily discernible:

This NOTICE TO VOTERS is required by Alaska law. (I/we) certify that this (mailing/literature/advertisement) is not authorized, paid for, or approved by the candidate.

* **Sec. 18.** AS 15.56.014(a) is amended to read:

(a) A person commits the crime of campaign misconduct in the second degree if the person

(1) knowingly circulates or has written, printed, or circulated a letter, circular, or publication relating to an election, to a candidate at an election, or an election proposition or question without the name and address of the author appearing on its face;

(2) except as provided by AS 15.13.090(b), knowingly prints or publishes an advertisement, billboard, placard, poster, handbill, paid-for television or radio announcement, or communication, as that term is defined in AS 15.13.400, intended to influence the election of a candidate or outcome of a ballot proposition or question without the words "paid for by" followed by the name and address of the person [CANDIDATE, GROUP, OR INDIVIDUAL] paying for the advertising or communication and, if a candidate or group, with the name of the campaign chair;

(3) knowingly makes a communication, as that term is defined in AS 15.13.400,

(A) containing false factual information relating to a candidate for an election;

(B) that the person knows to be false; and

(C) that would provoke a reasonable person under the circumstances to a breach of the peace or that a reasonable person would construe as damaging to the candidate's reputation for honesty or integrity, or to the candidate's qualifications to serve if elected to office.

* **Sec. 19.** AS 15.13.140(a) is repealed.

* **Sec. 20.** This Act takes effect immediately under AS 01.10.070(c).