

- (2) the commission's costs of investigation and adjudication; and
- (3) reasonable attorney fees.

(c) The commission's determination under (b) of this section may be appealed to the superior court under AS 44.62 (Administrative Procedure Act).

(d) When an action has been filed in the superior court under AS 15.13.380, upon proof of the violation, the court shall enter a judgment in the amount of the civil penalty authorized to be collected by (a) of this section.

(e) If the commission or superior court finds that the violation was not a repeat violation or was not part of a series or pattern of violations, was inadvertent, was quickly corrected, and had no adverse effect on the campaign of another, the commission or the court may

- (1) suspend imposition of the penalties; and
- (2) order the penalties set aside if the person does not engage in a similar violation for a period of one year.

(f) A party who has filed a civil action under AS 15.13.380

- (1) is not entitled to trial by jury on the civil action;
- (2) is not entitled to be represented by legal counsel at public expense. (§ 6 ch 167 SLA 1976; am § 5 ch 126 SLA 1994; am § 3 ch 59 SLA 1995; am §§ 22, 23 ch 48 SLA 1996; am § 7 ch 1 TSSLA 2002)

Revisor's notes. — Formerly AS 15.13.125. Renumbered in 2000, at which time "AS 15.13.380" was substituted for "AS 15.13.120" in subsections (a), (b), (d), and (f) in order to reflect the 2000 renumbering of AS 15.13.120.

Cross references. — For criminal penalties for violations of this chapter, see AS 15.56.012 — 15.56.019.

NOTES TO DECISIONS

Penalty cannot be obviously unreasonable. — The penalty cannot be so severe and oppressive as to be wholly disproportioned to the offense and obviously unreasonable. The standard is one of obvious unreasonableness. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Statement of reasons for maximum penalties. — A statement of reasons should be given by the

commission when it imposes the maximum civil penalties under this section. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Stated in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Sec. 15.13.400. Definitions. In this chapter,

(1) "candidate"

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

- (i) a candidate's campaign treasurer and a deputy campaign treasurer;
 - (ii) a member of the candidate's immediate family;
 - (iii) a person acting as agent for the candidate;
 - (iv) the candidate's campaign committee; and
 - (v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;
- (2) "commission" means the Alaska Public Offices Commission;
- (3) "communication" means an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and

costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of

(i) influencing the nomination or election of a candidate;

(ii) influencing a ballot proposition or question; or

(iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party;

(iv) influencing the outcome of a ballot proposition or question; or

(v) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

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(8) "group" means

(A) every state and regional executive committee of a political party;

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate; and

(C) any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application under AS 15.45.020 or who file an initiative proposal application under AS 15.45.020;

(9) "immediate family" means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

(13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that

(A) cannot participate in business activities;

(B) does not have shareholders who have a claim on corporate earnings; and

(C) is independent from the influence of business corporations.

(14) "person" has the meaning given in AS 01.10.060, and includes a labor union nongroup entity, and a group;

(15) "political party" means any group that is a political party under AS 15.80.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;

(16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government including a public corporation. (§ 24 ch 48 SLA 1996; am § 39 ch 21 SLA 2000; am §§ 25 26 ch 1 SLA 2002; am § 7 ch 3 SLA 2002; am §§ 8, 9 ch 1 TSSLA 2002; am §§ 18, 19 ch 108 SLA 2003; am § 2 ch 90 SLA 2006; am §§ 7 — 9 ch 73 SLA 2010)

Revisor's notes. — Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13)-(16). Renumbered in 2002 to retain alphabet-

ical order. In 2010, in paragraph (15), "AS 15.80.010" was substituted for "AS 15.60.010" to reflect the 201 renumbering of AS 15.60.010.

Effect of amendments. — The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

The 2010 amendment, effective September 9, 2010, rewrote (4)(A); added (6)(A)(v), and made related changes; added (8)(C), and made related changes.

Editor's notes. — Under § 16, ch. 73, SLA 2010, the 2010 amendments of the provisions of paragraphs (4), (6), and (8) of this section that relate to initiative proposals apply "to an initiative, the application for

which is filed with the lieutenant governor under AS 15.45.020 on or after September 9, 2010."

Opinions of attorney general. — The statutory limit under AS 15.13.070(a) is applicable to "control groups" under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987. Op. Att'y Gen.

NOTES TO DECISIONS

Constitutionality. — Under the First Amendment, former AS 15.13.400(3)(B)(i) was unconstitutional to the extent that it limited the volunteering of professional services by individuals, but the statute was constitutional as to the ban on the provision of volunteer services by corporations. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Alaska's campaign finance law, AS 15.13.030 et seq., does not violate pro-life association's First Amendment rights because this section's definition of "electioneering communication" is not unconstitutionally

vague or overbroad either facially or as applied, and the reporting and disclosure provisions are reasonable and serve a significant state interest. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Applied in *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Quoted in *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Cited in *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

Chapter 15. Elections and Ballots.

Section

10. General administrative supervision by director
20. Date of general election
30. Preparation of official ballot
32. Use of electronically generated ballots
35. Printing of ballots and other material
40. Preparation of other election materials
50. Distribution of election materials
60. Polling places, voting booths, and supplies
70. Public notice of election required
80. Time for opening and closing polls
90. Designation of precinct polling place
100. Time off for voting
110. General duties and oath of election board
120. Filling vacancies in election board
130. Majority decision of election board
140. Permitted use of unofficial ballots
150. Official opening of polls
160. Prohibition of political discussion by election board
170. Prohibition of political persuasion near election polls
180. Keeping of register
195. Voters on official registration list
198. Voters not on official registration list
210. Questioning of voters of suspect qualification
215. Disposition of questioned votes
220. Administration of oaths
225. Voter identification at polls
230. Providing ballot to voter

Section

240. Voter assistance
250. Disposition of spoiled ballot
260. Placing ballot in ballot box by voter
270. Prohibiting the leaving of the polling place with ballot
280. Prohibiting the exhibition of marked ballots
290. Prohibiting the identification of ballots
300. Prohibiting the count of exhibited ballots
310. Official closing of polls
320. Voters in line when polls close
330. Commencement of ballot count
340. Duties, oath, and vacancies of additional election officials
350. General procedure for ballot count
360. Rules for counting ballots
361. Stickers
370. Completion of ballot count: certificate
380. Payment of election board members
390. Election expenses
400. Preparation of voter list
410. Plural voting
420. Duty to review the ballot counting
430. Scope of the review of ballot counting
440. State ballot counting review
450. Certification of state ballot counting review
460. Tie votes
470. Preservation of election ballots, papers, and materials
480. Security of ballots

Collateral references. — 26 Am. Jur. 2d, Elections, § 1 et seq.
29 C.J.S., Elections, §§ 190-220.

Admissibility of election ballots in quo warranto proceedings. 71 ALR2d 353.

Sec. 15.15.010. General administrative supervision by director. The director shall provide general administrative supervision over the conduct of state elections, and may adopt regulations under AS 44.62 (Administrative Procedure Act) necessary for the