

HB 234 - Political Contribution Limits

Office of Representative Calvin Schrage

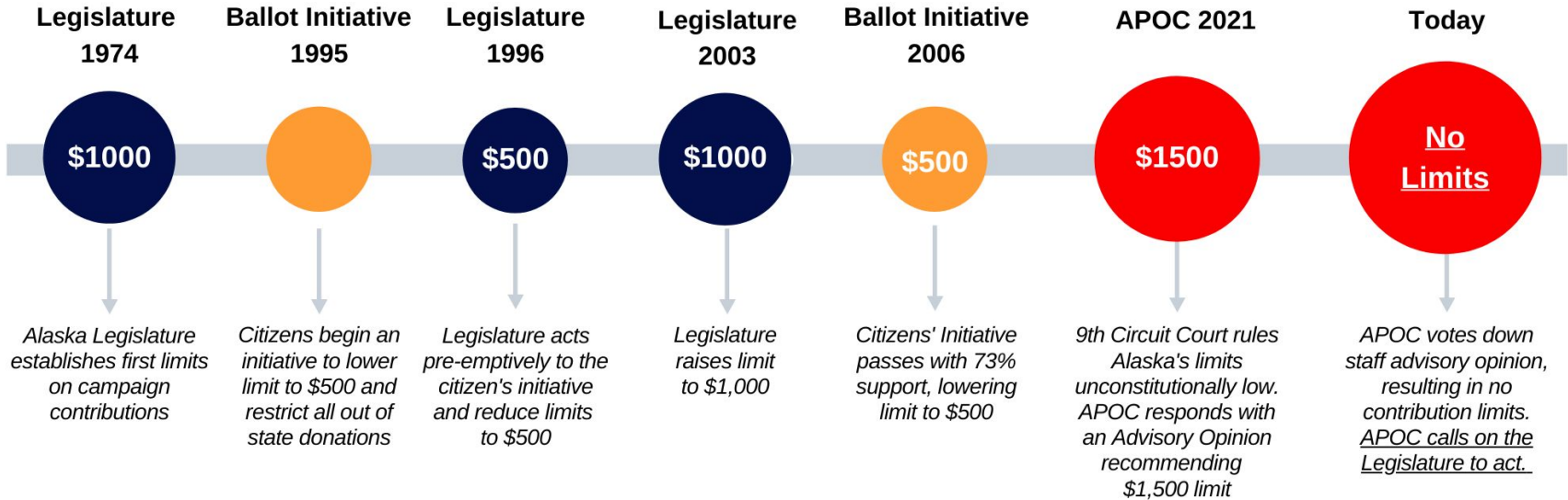


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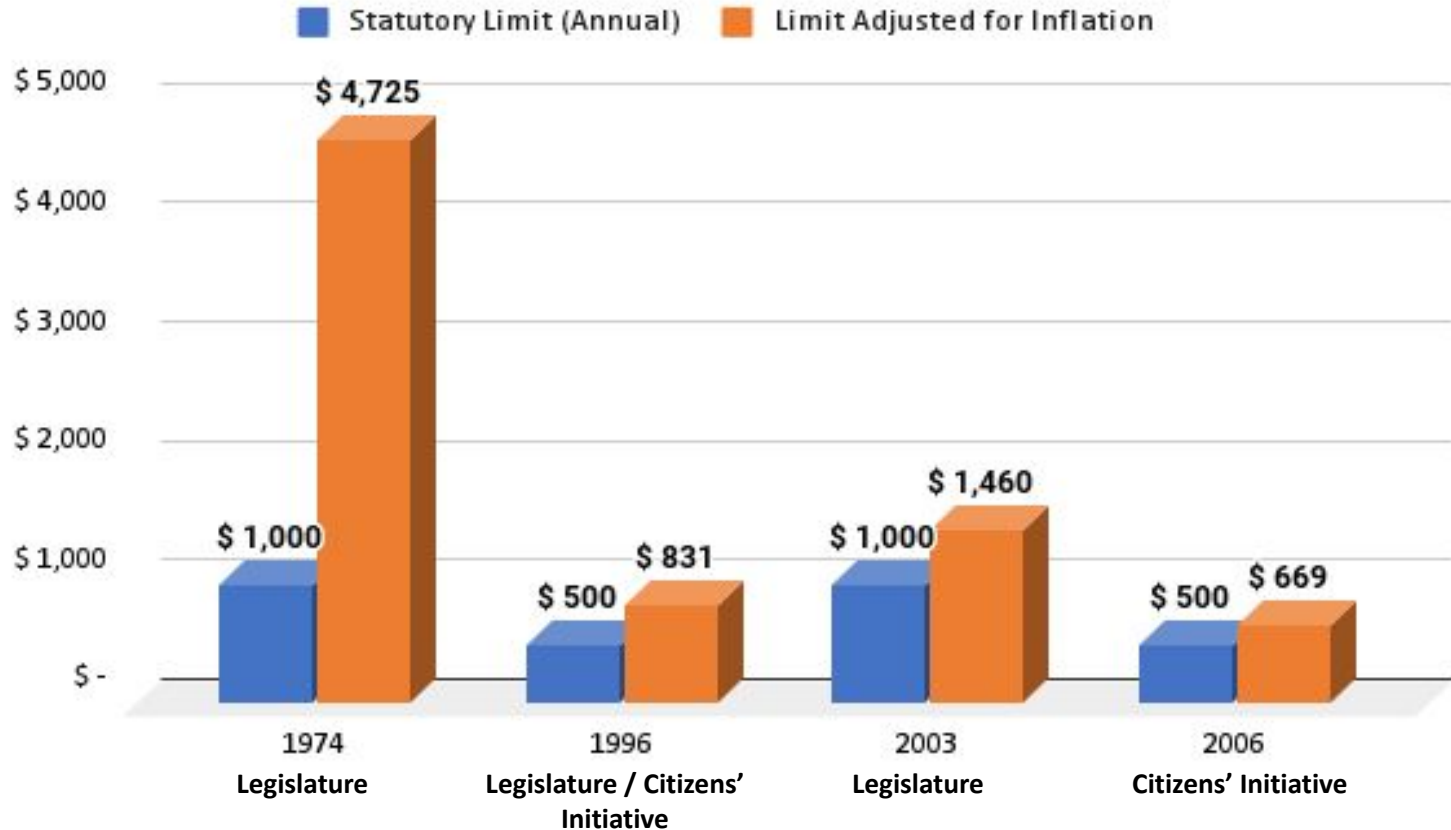
History of Alaska's Political Contribution Limits



History of Alaska's Contribution Limits

Year	History	Individual Limit	2021 Equivalent
1974	Legislature - ch. 76 sec. 1, SLA 1974	\$1,000	\$4,725
1996	Citizens' Initiative / Legislature - SB 191	\$500	\$831
2003	Legislature - SB 119	\$1,000	\$1,460
2006	Citizens' Initiative - Ballot Measure 1	\$500	\$669
2021	APOC - Staff Issues Advisory Opinion	\$1,500	N/A
2022	APOC - Commissioners Rejects Staff Advisory Opinion	Unlimited in and out-of-state donations	N/A

Alaska's Historical Contribution Limits Indexed for Inflation



Thompson v. Hebdon

- **Plaintiffs sued** challenging Alaska's political contribution limits and aggregate out-of-state limits.
- **The District Court and Ninth Circuit Court of Appeals initially upheld the individual limits** as a “sufficiently important state interest” and “closely drawn” to that end but ruled the out-of-state contribution limits were unconstitutional.
- **The U.S. Supreme Court remanded this decision back to the Ninth Circuit** to reconsider their decision. They urged the Ninth Circuit to apply the “five factor test” in the *Randall v. Sorrell* (2006) decision which ruled Vermont's \$400 contribution limit unconstitutional.
- In 2021, **the Ninth Circuit struck down Alaska's statutory political contribution limits** on the basis that they were too low and had not been adjusted for inflation since initially implemented.

References

Thompson v. Dauphinais (2016)

Thompson v. Hebdon (2019)

Where are we now?

- In 2021, the Alaska Public Offices Commission (APOC) issued an advisory opinion under AS 15.13.374 that they would enforce annual \$1,500 individual-to-candidate and \$3,000 group-to-candidate contribution limits.

APOC's staff based the advisory opinion on the limits established by the Alaska Legislature in 2003 (\$1,000 individual-to-candidate) increased for inflation.

- On March 3rd, 2022, APOC's five commissioners voted on whether or not to accept the staff's advisory opinion. Three out of the five commissioners voted in support of the advisory opinion. Four votes were required and so the staff's advisory opinion was not accepted.

APOC in their decision "implored" the Legislature to swiftly revisit the state's campaign finance laws in order to balance the federal court's order "with the desire of Alaska voters."

- Now, without action by the legislature, **Alaska has no individual-to-candidate limits**, out-of-state contribution limits, or individual-to-group limits, **opening our state and local elections to unlimited and outside funding**.

References

APOC Staff Advisory Opinion AO 21-09-CD, Nov. 3 2021.

APOC Advisory Opinion Decision AO 21-09, Feb. 28, 2022

HB 234 Overview

- **Central APOC Office** - Brings statute in line with the Alaska Public Offices Commission's existing practice of having one "central location". Removes the statutory requirement for a "regional office" located in every senate district.
- **Reports and Statements Online** - Requires that reports and statements filed with the commission be made available publicly on their website and maintained at their central location.
- **Per "Campaign Period" Limits** - Moves Alaska's political contribution limits to a "per campaign period" limit, instead of a "per year" basis. This ensures candidates, regardless of when they enter the race, are on the same playing field with the same limits.
- **Limit out-of-state contributions** - Limits out-of-state contributions to 25% of the total amount raised by the candidate.
- **Increase and Index Limits to Inflation** - Updates Alaska's limits on political contributions to ensure amounts are constitutional and remain so in perpetuity. Requires the Alaska Public Offices Commission to index political contribution limits every ten years based on inflation, beginning 2031, rounded to the nearest \$50 increment.
- **Effective date** - Retroactive effective date ensures that all candidates are playing by the same rules and there is no period without limits.

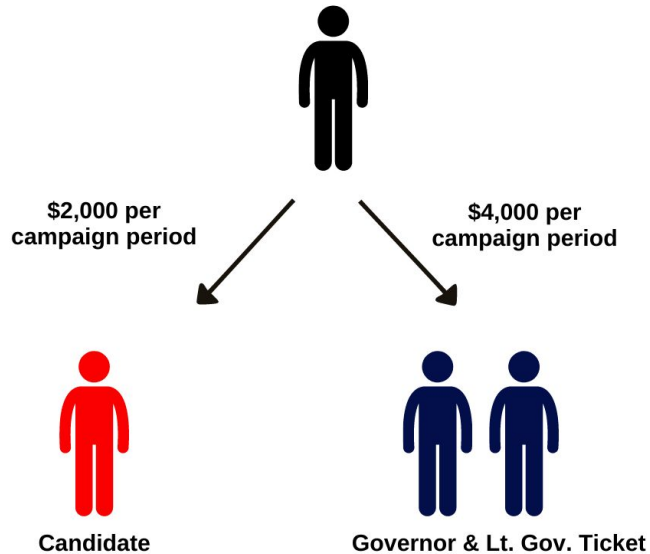
HB 234 Overview

Category	2006 BM 1 Limit	HB 234 Limit
Individual to candidate and non-political party group	\$500 per year (~\$700*)	\$2,000 per campaign period
Group to candidate, group, or non-group	\$1,000 per year (~\$1,400*)	\$4,000 per campaign period
Individual to joint campaign for Gov. & Lt. Gov	\$1,000 per year (~\$1,400*)	\$4,000 per campaign period
Out of state	\$3,000 per year (~\$4,200*)	No more than 25% of total donations

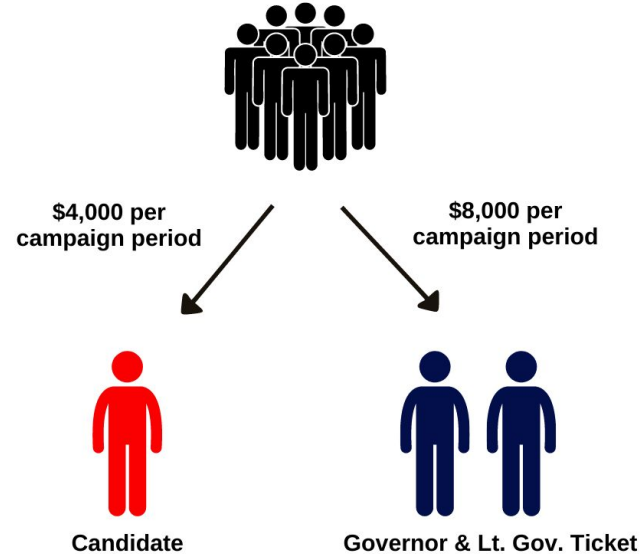
*2006 limit adjusted for inflation

Overview of HB 234 Limits Contribution Limits

Individual Donation Limits



Group and Non-Group Donation Limits



Constitutionality of HB 234 Limits

Applying the “five factor test” from the *Randall v. Sorrell* decision

2006 BM 1

HB 234

Does the limit significantly restrict the amount of funding available for challengers to run competitive campaigns? → HB 234 meets this factor by increasing limits and moving to a per campaign basis.	Yes	No
Are the political parties subject to the same low limits as individuals?	No	No
Are volunteer services counted toward contribution limits?	No	No
Are the limits indexed for inflation? → HB 234 meets this factor by indexing for inflation every ten years.	No	Yes
Is there a special justification for a uniquely low limit? → HB 234 adjusts campaign contribution limits above amounts previously upheld so that special justification is no longer required.	No	NA

Final Thoughts

Makes Alaska's Limits Constitutional - HB 234 brings Alaska's individual-to-candidate and individual-to-group political contribution limits in accordance with the concerns cited in the *Thompson v Hebdon* court decision and the *Randall v. Sorrell* Supreme Court ruling.

Reestablishes Limits Alaskans Support - Two times, Alaskan's have made their desire clear.

- 1996 Ballot Measure received strong support from the public, quickly gaining more than 33,000 signatures resulting in action from the legislature. In fact, in 1996, at Senator Kelly's request, Don Young added a question on campaign finance reform to his statewide poll and as of April 15th, 80.4 percent of those polled in favor.

2006 Ballot Measure passed with 73% of the vote. It's statement of support included the following excerpt: "Corruption is not limited to one party or individual. Ethics should be not only bipartisan but also universal. From the Abramoff and Jefferson scandals in Washington, D.C., to side deals in Juneau, special interests are becoming bolder every day. They used to try to buy elections. Now they are trying to buy the legislators themselves."

Immediate and Narrow - HB 234 is an immediate and narrow solution to the court's striking down of our voter approved campaign contribution limits.

References

SB 191 Election Campaign Finance Reform hearing, Senate Judiciary Committee (04/15/1996)
Alaska Division of Elections, 2006 Official Election Pamphlet

Sectional Analysis

Section 1

Amends AS 15.13.020(j) directing the Alaska Public Offices Commission to establish a central office that maintains copies of reports filed with the commission available to the public. Removes language requiring the commission to establish a regional office in each senate district.

Section 2

Amends AS 15.13.070(b) to change the limit an individual may contribute to a candidate, a write-in candidate, or to a non-group entity from \$500 per year to \$2,000 per campaign period. Changes the amount an individual may contribute to a group to \$5,000 a year.

Section 3

Amends AS 15.13.070(c) to change the limit a group that is not a political party may contribute per year to a candidate or write-in candidate from \$1,000 per year to \$4,000 per campaign period. Changes the amount a group that is not a political party may contribute to another group, nongroup entity, or political party to \$5,000 per year.

Sectional Analysis continued

Section 4

Amends AS 15.13.070(f) to change the limit a nongroup entity may contribute to a candidate, write-in candidate, or another nongroup entity from \$1,000 per year to \$4,000 per campaign period. Changes the amount a nongroup entity may contribute to another group or political party to \$5,000 per year.

Section 5

Amends AS 15.13.070(g) to change the limit an individual may contribute to a joint campaign for governor and lieutenant governor from \$1,000 per year to \$4,000 per campaign period. Changes the limit a group may contribute to a joint campaign for governor and lieutenant governor from \$2,000 per year to \$8,000 per campaign period.

Section 6

Amends AS 15.13.070 to include a new subsection (h) that states contribution limits provided under (b)(1), (c)(2), and (f) of this section do not apply to individuals, groups, or non-group entities contributing to a group or nongroup entity that makes solely independent expenditures.

Amends AS 15.13.070 to include a new subsection (i) directing the Alaska Public Offices Commission to update contribution limits every ten years, beginning the first quarter of 2031, based on consumer inflation rates for Anchorage, Alaska. These increases are rounded to the nearest \$50 increment.

Sectional Analysis continued

Section 7

Amends AS 15.13.072(e) stating that a candidate may not solicit or accept contributions from an individual who is not an Alaska resident if the amount would exceed 25% of the total contributions made to the candidate during the campaign.

Section 8

Amends AS 15.13.110(i) prohibiting the Alaska Public Offices Commission from changing the manner or format in which a candidate must file a report during the campaign period.

Section 9

Amends AS.15.13.400 to include a new paragraph (20) defining “campaign period” as the period beginning on the date a candidate becomes eligible to receive campaign contribution and ending on the date that candidate must file a final report.

Section 10

Amends AS 24.45.091 to require that reports and statements filed with the commission must be made publicly accessible on their website.

Sectional Analysis continued

Section 11

Amends 24.45.111(b) to require that copies of all statements and reports filed with the commission be preserved for a period of six years. Copies must be maintained at the commission's central location and be made available on the commission's internet website.

Section 12

Adds a new section stating that the retroactive language in Section 13 does not apply to campaign contributions made to influence the outcome of an election that occurred on or before this bill's effective date.

Section 13

Adds an effective date of March 3, 2022 to AS 15.13.070 (b), (c), (f), (g), (h) as amended in Sections 2, 3, 4, 5, 6, and 9 (respectively).

Thank you for your time and
consideration of HB 234

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